



TE TAI ŌHANGA
THE TREASURY



Phase 2 of the Reserve Bank Act Review – submissions and ongoing work towards introduction

To	Hon Grant Robertson Minister of Finance	Date	17 March 2022
Authorised by	Christian Hawkesby Deputy Governor / GM Financial Stability, RBNZ Mary Llewellyn-Fowler Team Leader, Financial Markets The Treasury	Report no	RBNZ #5918 T2022/603
Prepared by	David Hargreaves Manager, RBNZ	Security	In-Confidence

Action Sought

Action sought	Deadline
Agree to the approach to the introduction of the Deposit Takers Act (DTA) discussed in this paper, with Cabinet authorising introduction of the DTA Bill in July 2022, and provide feedback as appropriate Indicate if you would like a meeting with officials.	

Reserve Bank Contact for Telephone Discussion (if required)

Name	Position	Telephone
David Hargreaves	Manager, Financial System Policy and Analysis	s9(2)(a) [REDACTED]

Actions for the Minister's Office Staff

Note any feedback on the quality of the report.

Phase 2 of the Reserve Bank Act Review – submissions and ongoing work towards introduction

Purpose

1. This report provides an update on progress towards the Deposit Takers Act (DTA) since we last discussed the timetable (1 July 2021 – RBNZ #5832). While the DTA exposure draft was released prior to Christmas (a key milestone), it was around 6 weeks later than planned. Since then, we have had significant feedback, and requests for extensions and/or further engagement from industry. We propose an approach to this without another round of formal industry consultation (as some submitters have requested), but with some leeway for further technical engagement with industry and their technical advisers prior to introduction. This implies introducing the Bill around July 2022. Our central case is still for the Deposit Compensation Scheme (DCS) to be operational in around 6 months after that, as explained below.
2. There are also changes and final matters we hope to add to the Bill, partly as a result of industry feedback. We consider it likely that a further Cabinet paper will be required to make these changes (once finalised). Taken together, these factors imply we will next report to you after budget in May, with a report and draft Cabinet paper. This report outlines the key issues we expect to be seeking feedback on at that time.

Update on Submissions and the Exposure Draft Process

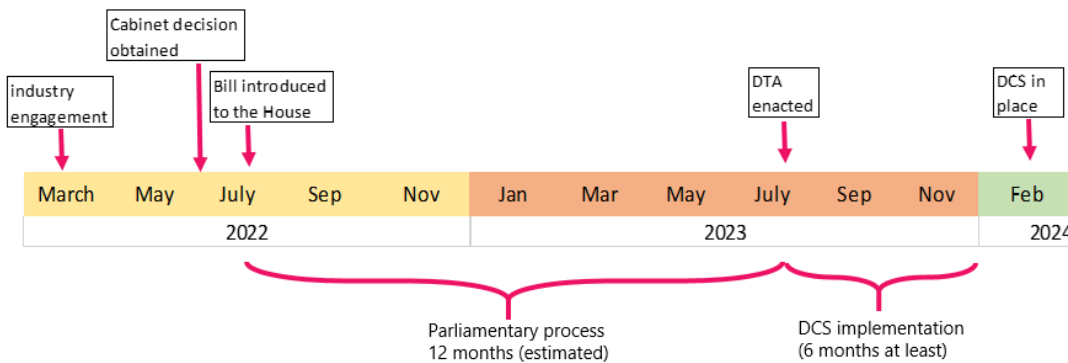
3. The exposure draft was released for consultation on December 6, 2021 and formally open until February 21, 2022. As part of the submission process, we ran consultative Hui with banks and non-bank deposit-takers (NBDTs), and also met individually with several firms. To date, 20 submissions were received, from a mixture of observers, industry bodies (e.g. New Zealand Bankers' Association) and legal firms. We have also recently received substantive feedback from the Legislative Design Advisory Committee (LDAC) and experts at the IMF.
4. There are limited showstoppers in the feedback, but a wide variety of feedback on technical matters relating to
 - a. Prudential powers (parts 1-5) - a lot of requests for further implementation detail, requests for weakening of certain obligations and penalties, and some technical/definitional feedback.
 - b. The DCS (part 6) including product and customer eligibility, and the interaction of the DCS and resolution tools like Open Bank Resolution (OBR) that partly pay depositors.
 - c. Aspects of resolution such as the direction power of Minister and Statement of Resolution Approach.

5. Some firms asked the Reserve Bank to commit to a further consultation round on how the DTA will operate in practice before submitting it to the Parliamentary process. They envisaged this would include transitional arrangements, future licensing regime, supervisory approach, and consultation on standards. We don't agree this is necessary (and the schedule, shown below, does not allow for it). Instead:
 - a. The Reserve Bank will do further informal technical engagement prior to introduction.
 - b. The parliamentary process will give industry another opportunity to engage.
 - c. Secondary instruments like standards will clearly involve future rounds of consultation.

6. We intend that this technical engagement with industry will lead to a joint report and draft Cabinet paper in late May. The aim would be for the Cabinet process (including authorisation of the Bill for introduction) to follow in July. The key issues we expect to cover (alongside more detailed responses to feedback) in that report are below.

Issue	Description and Status
Resolution powers (including Direction power and Minister touchpoints)	The Treasury and Reserve Bank have now come to an agreed position on the scope and design of this power. The final proposed policy position will be detailed in the Joint Report in late May for your agreement. This paper will include a number of scenarios to illustrate the potential scope and use of the power. A few other important resolution matters (including the relationship of the resolution manager and the RBNZ) are still being considered.
Resolution Levy	Cabinet has agreed that “the Bill may include a resolution levy to recover losses by the Crown in supporting an entity in resolution for financial stability reasons”. We got little feedback on this idea, possibly because of respondent overload, and will try to test it further with key submitters.
Details on DCS eligibility	Submitters have raised a range of questions about the definitions in the Bill that determine which holders and accounts are entitled to compensation. While some of this can be addressed via regulations, the actual legislation needs some scrutiny and probably related Cabinet decisions.
Transitional matters	The Bill needs work on how different provisions are commenced, and consequences for industry. Some smaller firms (finance companies) have raised the possibility of being exempted from the DTA or being capture under DTA without access to deposit insurance. This is a variant of an idea considered last year and rejected (T2020/3517 refers) but at that stage stakeholders were not in favour.

7. This introduction timeline is three months later than envisaged in RBNZ #5832. The following diagram shows the envisaged timeline. The most important milestone is to get the DTA enacted in or around July 2023, to avoid it still being in the process at the time of the election. After that, we would need another 6 months or so for implementing the DCS (including finalising relevant regulations, consulting and finalising the Statement of Funding Approach, consulting and finalising levy regulations, public educational campaign, etc.). We note that this six-month period may coincide with the pre-election period, which could cause some further delay to the operational start date for the DCS.



8. As shown above, the DCS would thus indicatively be operational in early 2024, if delays associated with the election are limited. Conversely, it may still be possible to achieve late-2023 introduction of deposit insurance, particularly if the parliamentary process is compressed slightly from the 12 months we have expected, though the challenges discussed in #5832 would be more intense and the election period could also create issues with that schedule.
9. There are benefits to delaying introduction of the Bill until July 2022. The industry engagement we plan to carry out in the next two months will provide meaningful feedback to the Bill, especially on fundamental eligibility rules for DCS and transitional arrangements for the existing registered banks and NBDTs. This is to reduce the likelihood of having a prolonged select committee, should those issues remain live when the Bill is introduced to the House. The industry engagement will also provide officials with valuable insights for developing relevant regulations under the Bill (for example, the detailed treatment of complex deposit accounts), and therefore will potentially save time for consulting and finalising those regulations after the Bill is enacted.

Next steps

10. The table below sets out the key upcoming dates for delivering the DTA based on the recommendations in this report.

	Milestone
Late May 2022	Joint Report on final changes (including those based on exposure draft) and draft Cabinet paper
Early/mid July	Cabinet decisions
July	Penultimate draft bill available
Late July	Introduction of DTA Bill


Recommendation

11. We recommend that you:

- a) **note** that this report sets out progress since our last reporting on the DTA timetable, including the exposure draft and feedback received, and our intended approach from here to introduction of the DTA
- b) **agree** to this revised approach, with Cabinet authorising introduction of the DTA Bill in July 2022.

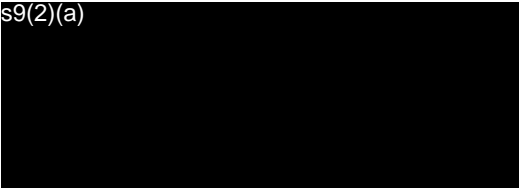
Agree / disagree

- c) **indicate** if you would like a meeting with officials.

s9(2)(a) 

Hon Grant Robertson
Minister of Finance

Christian Hawkesby
**Deputy Governor / GM Financial Stability
 Reserve Bank of New Zealand**

s9(2)(a) 

Mary Llewellyn-Fowler
**Team Leader, Financial Markets
 The Treasury**