

**11 March 2022**

**To** David Hargraves  
Reserve Bank of New Zealand

**From** Finance Direct Limited

**By email**

[dta@rbnz.govt.nz](mailto:dta@rbnz.govt.nz)

**Dear David,**

**Deposit Takers Exposure Draft - Submission on matters relevant to RBNZ Regulated Finance Companies**

## 1.0 Introduction

General Finance Ltd is a member of the Regulated Finco Group, who along with the CUBS, are presenting a separate submission.

We support that submission and its contents.

## 2.0 Finance Direct Ltd.'s Position

- The current legislation regulating Banks, NBDTs, Credit Unions and Building Society has performed adequately, however, there is an opportunity to create significant improvements. We agree that there is a need to review the legislation that regulates the Deposit Taking Sector.
- There are a large number of laws, regulations etc. which have an impact on the entities who undertake business in the Financial Services sector. Each of these create additional costs and overheads which ultimately must be recovered from the consumer. Each regulation must have a logical reason to exist e.g., AML, RBNZ, Trustees, FMA, The Commerce Commission, MBIE, The Companies Office etc. Our view is that thought should be given as to how these can be rationalised into a simpler set of interacting rules managed by one entity.
- The participants in the NBDT sector have all mainly been “good corporate citizens” and they have performed a valuable function in a diversified financial system.

- The market believes that issues regarding poor corporate behaviour are focused on the larger end of financial services product providers, not the smaller operators. The Banking Royal Commission in Australia has moved the public's view of Banks. The issues around staff incentives to encourage sales of doubtful products, commissions, pressure selling, plus the difficulties of gaining loan approvals have recently had the market questioning whether there is enough competition and regulation in the NZ Banking system.
- We agree that there is value in the implementation of the proposed Deposit Compensation Scheme.
- We believe that it is important that the individual components of the Deposit-taker sector are assessed for their contribution to the market and focus should not simply be on size.
- We submit that if New Zealand is to be an independent country with an independent financial market it must ensure that the increase in overseas ownership of New Zealand's financial market is stabilized and slowly decreased, as New Zealand based Financial Service Providers grow and become more sophisticated. The Deposit Takers Bill **should** aid and assist this outcome and not hinder or obstruct the New Zealand- owned businesses.
- We believe that it is **critical** that the Deposit Takers Bill does not adversely impact any party who has been a law-abiding Financial Service Provider who has been running a successful entity that has provided services to the New Zealand consumers. It is self-evident that a business must have satisfied consumer needs otherwise they simply would not have survived.
- The legislation must improve the market and competition NOT make it more difficult for New Zealand participants.
- The Deposit Takers Bill should focus on matters relating **only** to Deposit-taking and it should not be a method of influencing lending nor any other economic programs. Most of the NBDT's compete with parties who use other funding structures e.g. Unit Trusts, wholesale funding etc. If any attempt is made to regulate lending it must cover the lenders as a group irrespective of what their funding mechanism is. It is wrong to include a certain lending condition on a sector when a similar lender is not obliged to follow the condition because they fund using a different method.

### 3.0 Recommendations

#### 3.1 Depositor Compensation Scheme (DCS)

- We support the establishment of the scheme.
- The maximum level must be **increased** to \$250,000.

Any figure below the Australian level will inevitably lead to capital flight to Australia or Singapore in the event of world uncertainty. An outflow of capital would create significant pressure on all participants in the New Zealand market, particularly smaller participants.

If lenders cannot raise deposits or if reinvestment ratios are reduced, then lending will dry up.

This will clearly have a spiral effect with asset values dropping, increased bad debts as enforcement action will produce lower levels of recovery. This will reduce profitability and maybe lead to defaults and claims on the Depositor Compensation Scheme.

- Non- Australasian Banks should be excluded from the scheme.  
Deposit takers who are not Australasian Head Quartered, should be excluded from the Deposit Compensation Scheme. International banks should be able to rely on their own balance sheets. International Banks can be adversely affected by issues unrelated to the New Zealand market. This may be economic, political, natural disasters, international conflict. The international reaction to the Russia/Ukraine conflict could be replicated with China/ Taiwan.  
Banking sanctions could easily create issues for New Zealand subsidiaries of international banks which in turn, could bankrupt the Depositor Compensation Scheme.  
This is a risk that should **not** be taken.

**Alternatively**, the international banks should pay a significantly increased levy to the New Zealand scheme to compensate for the “non-New Zealand” risks.

- The Calculation of the Levy  
This is a key factor for all participants. Currently we do not have sufficient information to be able to assess the impact on our business. We are concerned that the calculation of the levy may create a competitive advantage to large entities, and a competitive disadvantage to smaller entities.

We believe that the calculation of the levy is the key factor for the NBDT’s.

The levy must consider:

- The likelihood of a claim on the DCS.
- The impact on the financial market of the entity failing (Domino effect).
- The ability of the entity to attract new capital.
- The attractiveness of the entity’s loan book i.e., is the loan book a saleable asset?
- The skill of the management to manage in difficult markets.
- How well did the business perform under Covid-19 lockdown? Was it able maintain or increase its liquidity in a stressed market?
- Would it be a logical acquisition target if it was to have liquidity issues?
- The contribution the entity makes to the community.
- Non-New Zealand events that may impact the entity.
- Plus, standard financial ratios.

We strongly recommend that consultation continues with the industry on the setting of levies.

This must be with parties actively involved in the sector not just parties involved in other sectors. Accountants and Bankers are poor managers of the sale/winding up of loan books. This was clear after the GFC where they performed very poorly in the recovery process.

### 3.2 Recommended Structure

We are sure that all parties accept that it is not logical to have a concept of "one size fits all".

There is a significant variation in size and hence we recommend that there are specific categories created to allow for better regulation.

We suggest 5 categories.

#### Category 1: Large Australasian Banks

- These Banks dominate the NZ Banking market
- They fund domestically and internationally
- They must be included in the DCS
- Their lending is so significant to the NZ economy that the regulators must have the right to influence lending for the greater good of the economy.

#### Category 2: Large International Banks

- Normally NZ is a very small component of a major international bank
- The amount of funding they undertake in NZ is irrelevant to their global business but maybe significant in a NZ context.
- They will be significantly impacted by world events.
- They can transfer funds in and out of NZ.
- They do have the ability to "game" international jurisdictions.
- A failure could Bankrupt the DCS particularly in the early stages before the Fund is built up.
- They should **Not** be included in the DCS

#### Category 3: Local Banks and other New Zealand Banks

- Generally, NZ risk exposure is their dominant component.
- Significant NZ retail funding
- Most depositors are NZ based persons.
- They must be Included in the DCS

#### Category 4: Neo Banks

- NZ Owned
- NZ retail Funded

- Been in business at least 10 years
- Grandfathered from NBDT's
- Proven record of compliance with regulation
- They must be Included in the DCS
- Must have access to ESAS/RBNZ accounts so as not to be vulnerable to the other banks for liquidity reserves. NB: This category should be required to hold liquidity of 8% of Total Assets and hence it should be able to do so with absolute safety.

#### Category 5 NZ Deposit Takers.

- This group cannot use the word Bank.
- They retain the current concept of the current regulation, Trustees etc. plus the NBDT (or similar) name.

A member of this group can move from Category 5 to category 4 if they have been a satisfactory participant for 2 years and they meet the minimum financial criteria.

#### Category 5 is critical to New Zealand for the following reasons:

1. Some of the participants in this category provide valuable community services that contribute a return to the community that is **greater** than just a financial return.
2. Many of the New Zealand banks have components which were once NBDT's e.g.
  - Heartland Bank (ABS, Marac, Southern Cross),
  - ANZ (United Building Society and Countrywide),
  - COOP Bank (PSIS) and
  - SBS Bank (Southland Building Society)
  - RaboBank (Wrightsons acquisition)

Plus, several others.

Since deregulation in the 1980's there have been a string of takeovers and mergers. It is clear that the NBDT category has allowed the creation of a number of banks, and has assisted the growth of some banks which have allowed them to get to critical mass. This category is key to future growth of a NZ based banks

3. A party may find that they do not wish to continue as a Category 4 entity. They should be able to return to another category if they find that their chosen niche is not suitable for a Neo Bank. We note this has been the case in Australia.
4. There should be no prohibition or restriction in stopping the movements between categories. We may find that due to takeovers or mergers that will occur as corporate activity takes place. The Deposit Takers Bill should not be an inhibitor to the natural flow of capital in the sector. The entities should select the structure that best meets their objectives.

#### 4.0 Summary

The Australian system is working well, and it gives NZ a base to work from. There should be differences to the ADI system, due to the size of the NZ market. The suggestions above will make the ADI system more appropriate for New Zealand. We reiterate that we agree and support the submission made by the regulated FINCO's and the CUBS.

#### **Who Is Finance Direct ?**

Finance Direct was registered in 1999. We continue to meet all obligations to regulators over this period. We have raised capital and made investments in the business for the long term.

In example,

- We have a Peer-to-Peer lending license ( Lending Crowd Limited ) as NBDT.
- The peer-to-peer business, Lending Crowd and Finance Direct, are a Designated Business Group (DGB) for the purposes of AML/ CFT and is already supervised by the RBNZ.
- We complete 6-monthly full audited accounts.
- We employ quality, long-standing and experienced staff.
- We have sacrificed short-term shareholder returns whilst we built the business.
- We have focused on a niche market, and have innovated through our investment into technology to build significant expertise that drives down the cost of borrowing money.
- We have a long standing and strong Boards of Directors with strong Accounting, lending, legal and Corporate Governance.

For and on behalf of Finance Direct Limited.

Kind Regards,



Wayne Croad

Managing Director