



Significant Acquisitions Policy

Prudential Supervision Department

Document BS15

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A. INTRODUCTION

1. This Significant Acquisitions Policy sets out the Reserve Bank of New Zealand's (Reserve Bank's) policy with regard to significant acquisitions by New Zealand incorporated registered banks.
2. The Reserve Bank has powers under Part 5 of the Reserve Bank of New Zealand Act 1989 (the Act) to register and undertake prudential supervision of registered banks.
3. Section 68 of the Act requires the powers under Part 5 of the Act to be exercised for the purposes of:
 - (a) promoting the maintenance of a sound and efficient financial system; or
 - (b) avoiding significant damage to the financial system that could result from the failure of a registered bank.
4. Significant acquisitions and business combinations by banks have the potential to affect the risk profile that the acquiring bank faces. The objective of this significant acquisitions policy is to strengthen the Reserve Bank's supervisory oversight of significant acquisitions.
5. The rest of this document is as follows:
 - (a) part B provides an overview of the condition of registration on significant acquisitions to which this policy pertains;
 - (b) part C provides the meaning of key terms;
 - (c) part D provides the information required on notification;
 - (d) part E provides guidance on the assessment process and assessment criteria for a notice of non-objection; and
 - (e) the appendix sets out the wording of the standard condition of registration.

B. CONDITION OF REGISTRATION

6. Section 74 of the Act permits the Reserve Bank to impose conditions of registration that relate to, among other things, the matters referred to in section 73(2)(b) of the Act, namely the size and nature of the registered bank's business or proposed business.
7. Locally incorporated registered banks are generally subject to a standard condition of registration relating to significant acquisitions. This standard condition of registration is set out in the appendix to this policy.
8. Broadly speaking, this condition requires the registered bank to:
 - (a) notify the Reserve Bank before giving effect to a qualifying acquisition or business combination if the notification threshold in this policy is met; and
 - (b) obtain a notice of non-objection from the Reserve Bank before giving effect to a qualifying acquisition or business combination if the non-objection threshold in this policy is also met.
9. The meaning of qualifying acquisition or business combination, notification threshold and non-objection threshold are set out in part C of this policy.
10. Although the Reserve Bank will generally impose a standard condition of registration regarding significant acquisitions and business combinations uniformly on all New Zealand incorporated registered banks, the Reserve Bank may impose a non-standard condition of registration on a registered bank where special circumstances apply.
11. The condition of registration relating to significant acquisitions does not apply to any New Zealand registered bank that operates in New Zealand as a branch of an overseas-incorporated bank.
12. Despite the issuance, or intended issuance, of a notice of non-objection, the Reserve Bank may impose new conditions of registration under section 74 of the Act in relation to a significant acquisition.
13. A notice of non-objection is in the nature of a negative assurance, rather than a positive affirmation as to the prudence of a transaction. The primary responsibility for ensuring that the risks arising from the transaction are adequately identified and managed lies with the Board of directors of the registered bank.

C. MEANING OF KEY TERMS

Qualifying acquisition or business combination

14. A qualifying acquisition or business combination is any acquisition or business combination that is not specifically excluded in this part of the policy.
15. Acquisition includes obtaining by way of purchase, gift or exchange and includes the acquisition of an interest in a joint venture. Business combination is as defined in standard 3 of the New Zealand equivalents to international financial reporting standards (NZ IFRS) – Business Combinations (NZ IFRS 3).
16. The following acquisitions or business combinations are excluded:
 - (a) transactions that require approval under section 77A of the Act;
 - (b) transfers of assets within the banking group of the registered bank that do not result in a material change or transfer of risk outside that banking group;
 - (c) transfers of assets to or from a special purpose vehicle for the purposes of securitisation or covered bonds arrangements;
 - (d) the acquisition of debt instruments issued by the central government of any country with a long-term credit rating of A- or A3 or above, or its equivalent;
 - (e) the acquisition of debt instruments issued by Public Sector Entities, as defined in subpart 4B of the Banking Supervision Handbook document BS2A; and
 - (f) the acquisition of debt instruments issued by any bank with a long-term credit rating of A- or A3 or above, or its equivalent.

Notification threshold

17. The notification threshold is met where there is a single transaction, or series of related transactions, for which either:
 - (a) the total consideration is or exceeds 15% of the tier 1 capital of the banking group of the registered bank; or
 - (b) the value of the assets acquired is or exceeds 15% of the value of the total assets of the banking group of the registered bank.

18. Notification is only required of individual transactions in a series of related transactions at the point in time when the total value of the individual transactions included in the series exceeds the notification threshold.

Non-objection threshold

19. The non-objection threshold is met where there is a single transaction, or series of related transactions, for which either:
- (a) the total consideration is or exceeds 25% of the tier 1 capital of the banking group of the registered bank; or
 - (b) the value of the assets acquired is or exceeds 25% of the total assets of the banking group of the registered bank.
20. A notice of non-objection is only required for an individual transaction in a series of related transactions where the transaction is intended to be given effect to at a point in time after the total value of the individual transactions included in the series exceeds the non-objection threshold.

Value of capital, assets and consideration

21. The value of tier one capital and the total assets of the banking group are to be taken from the most recently published disclosure statement. The value of the assets acquired and consideration are measured in accordance with NZ IFRS. Where a portion of the consideration is payable at a later date, an estimate of the net present value of later payments should be included in the value of consideration.

Series of related transactions

22. A series of transactions is a series of related transactions if the transactions occur within a 12 month period and one or more of the following applies:
- (a) the transactions relate to the assets or capital of a single person;
 - (b) the transactions relate to the assets or capital of related parties, as defined by NZ IFRS;
 - (c) a transaction has been completed with a person, A, and the assets or capital of A are transferred to another person with whom subsequent transactions are completed.
23. The Reserve Bank may determine a transaction is not related to other transactions and provide a notice to that effect.

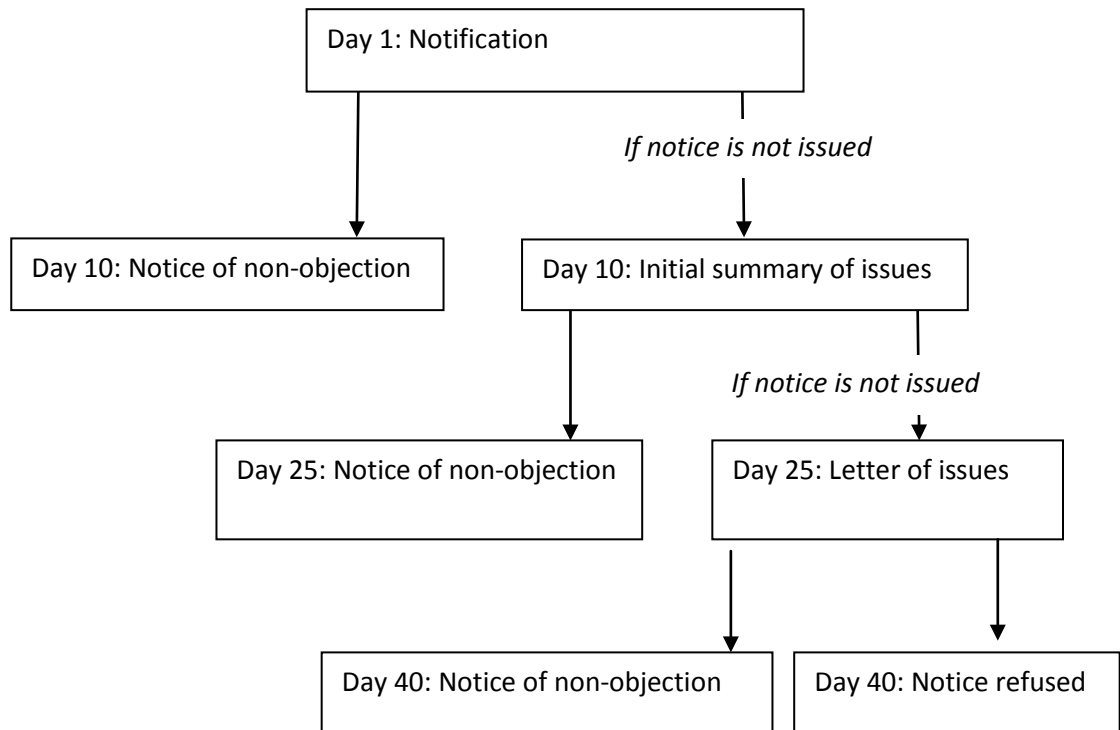
D. INFORMATION TO BE INCLUDED WITH NOTIFICATION

24. Subject to paragraph 25, when notifying the Reserve Bank of an intended acquisition or business combination, a registered bank must supply the following information:
- (a) a description of the proposed transaction;
 - (b) draft heads of agreement, tender documents or equivalent legal documentation;
 - (c) value of the assets being purchased and, where relevant, indicators of the quality of the assets such as the value of past due or impaired assets;
 - (d) an explanation of the impact of the transaction on the financial position of the bank, including an estimate of the impact on the tier one capital ratio and risk weighted assets;
 - (e) whether there is likely to be any material change in the risks facing the bank, such as material changes in asset concentration or liquidity risk;
 - (f) any risks of the bank not meeting its conditions of registration;
 - (g) proposed commercial timeframe and timeframes for any other regulatory applications; and
 - (h) for a series of related transactions, the information in (a) – (f) must relate to all of the transactions in the series.
25. Where a registered bank is unable to supply any part of the information above at the time of notification, the registered bank must provide the Reserve Bank with written reasons as to why that information cannot be supplied and must supply that information if it becomes available at a later date. Notwithstanding the requirements of this paragraph, the 10 day period specified in paragraph a(i) of the applicable condition of registration will be considered to start at the time of the initial notification.
26. The Reserve Bank will not, without the consent of the registered bank, make public any information that could be regarded as commercially sensitive. All information supplied will be subject to the confidentiality provisions under section 105 of the Act.

E. GUIDANCE

Assessment process for notice of non-objection

27. The Reserve Bank will follow the process below in determining whether to issue a notice of non-objection. The Reserve Bank will use best endeavours to meet the stated timeframes, however, actual timeframes will depend on the complexity of the transaction and the quality of the information provided to the Reserve Bank.



28. Registered banks are encouraged to engage with the Reserve Bank as early as is practicable. Once there is a good faith intention to proceed, the registered bank should formally notify the Reserve Bank of the intended acquisition or business combination and provide the Reserve Bank with the information set out in part D of this policy.
29. Following notification the Reserve Bank will, within 10 working days, either issue a notice of non-objection or issue a written initial summary of issues. The initial summary of issues will set out any concerns that the Reserve Bank may have and any further information required. The registered bank will have 5 working days to provide the information requested unless a longer time frame is agreed.
30. Within 25 working days the Reserve Bank will either provide the registered bank with a notice of non-objection or provide, in writing, a letter of issues. The letter of issues will set out any remaining issues to be resolved and any further information the Reserve Bank may require.

31. The Reserve Bank will generally make a final decision on all applications by the end of 40 working days. Applicants may at any stage in the process provide the Reserve Bank with information or request a meeting.

Assessment criteria for notice of non-objection

32. In assessing significant acquisitions or business combinations, the scope of the Reserve Bank's consideration is restricted to matters relevant under section 68 of the Act, namely:

- (a) promoting the maintenance of a sound and efficient financial system; and
- (b) avoiding significant damage to the financial system that could result from the failure of a registered bank.

33. In considering an application for a notice of non-objection the Reserve Bank may give consideration to any of the matters that the Reserve Bank is empowered to consider under sections 73 or 78 of the Act. Without limiting those considerations the Reserve Bank is likely to take into account whether:

- (a) the banking group will continue to hold adequate capital in relation to the risks arising from the assets it holds;
- (b) the banking group will maintain sufficient legal and practical ability to control and execute any business to meet the outcomes set out in paragraph 4 of the Banking Supervision Handbook document BS11;
- (c) the acquisition exposes the banking group to any new material risks, such as concentrations of credit or liquidity risk;
- (d) the banking group will have adequate risk management systems and policies for the type of business being acquired; and
- (e) the banking group will have internal controls and systems that are appropriate for the type of business to be conducted.

Other matters relating to notification

34. The Reserve Bank does not expect to take any further action following notification of a significant acquisition which does not meet the non-objection threshold. However, for the avoidance of doubt, the Reserve Bank has powers under the Act to take certain steps if the Reserve Bank considers, on reasonable grounds, that the business of the bank has not been, or is not being, conducted in a prudent manner or the circumstances of the registered bank are such as to be prejudicial to the soundness of the financial system. For a full description of the Reserve Bank's powers see the Banking Supervision Handbook document BS1 Bank Registration and Supervision.

Appendix: Standard Condition of Registration

In general, New Zealand incorporated registered banks will be subject to the following condition of registration. The condition will normally apply at banking group level.

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- (a) no member of the banking group may give effect to a qualifying acquisition or business combination that meets the notification threshold, and does not meet the non-objection threshold, unless:
 - (i) the registered bank has notified the Reserve Bank in writing of the intended acquisition or business combination and at least 10 working days have passed; and
 - (ii) at the time of notifying the Reserve Bank of the intended acquisition or business combination, the registered bank provided the Reserve Bank with the information required under the Reserve Bank of New Zealand Banking Supervision Handbook document “Significant Acquisitions Policy” (BS15) dated December 2011; and

- (b) no member of the banking group may give effect to a qualifying acquisition or business combination that meets the non-objection threshold unless:
 - (i) the registered bank has notified the Reserve Bank in writing of the intended acquisition or business combination;
 - (ii) at the time of notifying the Reserve Bank of the intended acquisition or business combination, the registered bank provided the Reserve Bank with the information required under the Reserve Bank of New Zealand Banking Supervision Handbook document “Significant Acquisitions Policy” (BS15) dated December 2011; and
 - (iii) the Reserve Bank has given the registered bank a notice of non-objection to the significant acquisition or business combination.

For the purposes of this condition of registration, “qualifying acquisition or business combination”, “notification threshold” and “non-objection threshold” have the same meaning as in the Reserve Bank of New Zealand Banking Supervision Handbook document “Significant Acquisitions Policy” (BS15) dated December 2011.