

Consultation paper: Exposure draft for BS11: the Outsourcing Policy for Registered Banks

The Reserve Bank invites submissions on this consultation paper by 26 May 2017.

Submissions and enquiries about the consultation should be addressed to:

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Publication of submissions

Important Disclosure Statement

All information in submissions will be made public unless you indicate you would like all or part of your submission to remain confidential. Submitters who would like part of their submission to remain confidential should provide both a confidential and public version of their submission. Apart from redactions of the information to be withheld (i.e. blacking out of text) the two versions should be identical.

Submitters who request that all or part of their submission be treated as confidential should provide reasons why this information should be withheld if a request is made for it under the Official Information Act 1982 (OIA). These reasons should refer to section 105 of the Reserve Bank of New Zealand Act 1989, section 54 of the Non-Bank Deposit Takers Act, section 135 of the Insurance (Prudential) Supervision Act 2010 (as applicable); or the grounds for withholding information under the OIA. If an OIA request for redacted information is made the Reserve Bank will make its own assessment of what must be released taking into account the submitter's views.

The Reserve Bank may also publish an anonymised summary of the submissions received in respect of this consultation Paper.

21 March 2017

Background to the exposure draft

1. The Reserve Bank's outsourcing policy (BS11) was introduced in 2006. The current outsourcing policy sets out a range of outcomes that banks need to be able to deliver on an on-going basis. It currently applies to any locally incorporated bank whose liabilities, net of amounts due to related parties, exceed \$10 billion (a "Large Bank"). In 2014, the Reserve Bank undertook a stocktake of banks' outsourcing arrangements, which found that banks had inconsistent interpretation and application of the existing policy. Following that, two rounds of consultation on revising the outsourcing policy were undertaken in 2015 and 2016.
2. [Final policy decisions](#) on the revised outsourcing policy were released in February 2017. The final policy decisions were shaped by the earlier consultation papers, and from numerous engagements with industry and other stakeholders. The Reserve Bank is now consulting on an exposure draft of the new policy before it is finalised.

Purpose of the consultation

3. The Reserve Bank would like to know all instances where stakeholders believe the wording of the exposure draft is unclear, could be interpreted in more than one way, or differs in substance to what is set out in [Final policy decisions document](#). The Reserve Bank will consider any concrete drafting suggestions made by submitters that are aimed at clarifying the wording of the policy. However, submitters should keep in mind that the substance of the revised policy is finalised and that the Reserve Bank is not seeking feedback on the policy decisions it has made.
4. The remainder of this document provides an explanation to the various sections of the exposure draft.

Format of the exposure draft

5. The revised policy has been developed using a format the Reserve Bank is planning to change all of its Banking Supervision Handbooks to. The Reserve Bank would like feedback on the proposed format as part of the submissions.
6. However, the ultimate decision on the final format of the Banking Supervision Handbook will be made at a later date and will not impact on the consultation on this exposure draft. If required, BS11 will be updated at a later stage when the final format has been decided upon.

Sections of the exposure draft

7. The exposure draft is divided into twelve sections and includes two appendices. The sections and appendices are as follows:
 - a. Introduction;
 - b. Definitions and explanations for the policy;
 - c. Application of the policy, including the objectives and required outcomes;
 - d. Back-up capabilities;
 - e. Engagement process;

- f. List of pre-approved functions and services;
- g. White list;
- h. Compendium;
- i. Contractual terms;
- j. Separation plan;
- k. Path to compliance and external review;
- l. Three-yearly external review;
- m. Appendix one: Conditions of registration; and
- n. Appendix two: Application template.

Introduction

8. The introduction sets out the purpose of the document and the legal powers under which the policy is developed and the conditions of registration are made. It also notes that the policy takes into account section 68A of the Reserve Bank of New Zealand Act 1989 (the Act). In the absence of that section the Reserve Bank's requirements for the outsourcing policy would be more stringent.

Definitions and explanations for the policy

9. This section contains the definitions that are relevant for the policy. It includes the definition of outsourcing, the definition of Large Bank, and the definition of basic banking services. It also includes the minimum list of basic banking services that banks must be able to provide under the policy.
10. It also contains a definition of legal and practical ability to control, which is largely unchanged from the existing outsourcing policy.
11. The section also contains a number of other definitions that are relevant for the policy.

Application of the policy, objectives and outcomes

12. This section outlines the application of the policy, noting that it will apply to Large Banks.¹ It also sets out the policy objectives and outcomes. There have been a few minor modifications to these, though they are intended to only clarify the drafting in the final policy.

¹ Locally incorporated banks with liabilities, net amounts owed to related parties, of \$10 billion or more.

Back-up capabilities for functions outsourced to an overseas parent or related party

13. This section outlines the requirements for back-up capabilities a bank must have in place when it has an outsourcing arrangement with an overseas parent or related party.
14. This section also explains that the timeframes in the revised outsourcing policy do not affect obligations under any other conditions of registration for a bank. For example, if the requirements of BS17—Open Bank Resolution (OBR) Pre-positioning Requirements Policy—are more stringent than those in the revised BS11 the BS17 requirements are not overruled and vice versa.
15. Finally, this section sets out how the Reserve Bank may also consider alternative arrangements to the back-up capability requirements where a New Zealand bank has an arrangement with a related party that is under the control of the New Zealand bank. The matters the Reserve Bank will look to in when considering such applications are also listed.

Engagement process

16. This section sets out how banks should apply for Reserve Bank non-objection for outsourcing arrangements that are with or through a related party.

List of pre-approved functions and services

17. The Reserve Bank will maintain a list of functions and services which have been pre-approved for non-objection. That is, a bank will not need to notify the Reserve Bank should they wish to enter into an arrangement captured by the list. However, other requirements of BS11, such as entry into the compendium and inclusion of certain contractual terms will still apply.
18. This list will sit outside of the main BS11 document on the Reserve Bank website. Banks may apply to have additional functions and services added to the list.

White list of functions and services that are not subject to the policy

19. The Reserve Bank will also maintain a list of functions and services that will not be subject to any part of BS11. These services and functions will not have to comply with the requirements of the outsourcing policy.
20. As with the list of pre-approved functions, this list will sit outside of the main BS11 as a separate document on the Reserve Bank website. Banks may apply to have additional functions and services added to this list.

Compendium

21. This section sets out the requirements for banks to have compendiums of outsourced arrangements under the revised BS11 and the requirements concerning keeping the compendium up-to-date and in a form so that it can be easily shared with the Reserve Bank.

Contractual terms

22. This section sets out the contractual matters that must be addressed in all outsourcing arrangements that are subject to the policy.

Separation plan

23. This section sets out the requirement for a bank which is subject to the outsourcing policy and also a member of a foreign-owned banking group to have a separation plan. The content a separation plan must contain is also set out in this section alongside the requirement that a separation plan receive Reserve Bank non-objection when first created and whenever materially altered.
24. The requirement of banks that are members of foreign-owned banking groups to have separation plans will be made under a separate condition of registration relating to section 78(1)(e) of the Act. This section sets out that in determining whether an applicant for registration as registered bank is carrying out business in a prudent manner the Reserve Bank should confine its consideration, among other matters, to:
- separation of the business or proposed business from other business and from other interests of any person owning or controlling the applicant or registered bank.*
25. The exposure draft also contains a specific condition of registration for the separation plan. Given the importance of the separation plan to ensuring that banks can meet the outcomes of the policy the Reserve Bank considered that a separate condition of registration is necessary.

Three-yearly external review following the transition path to compliance

26. This section sets out how for the first five years following issuing of the revised BS11 and the associated conditions of registration, any affected bank will have to have annual external reviews of its progress towards full compliance with the policy. The external reviewer will need to be approved by the Reserve Bank but will be paid for by the bank in question. The external reviews will also consider whether new outsourcing arrangements, or existing arrangements where any non-commercial terms are modified, are compliant with the policy.
27. After the five year transition path, external review of a bank's compliance with the revised policy will have to occur at least once every three years. Again, the external reviewer must be approved by the Reserve Bank but will be paid by the bank in question.
28. If an external review finds any arrangement a bank has entered into to be non-compliant with the policy, it will have to be amended. Other supervisory and enforcement action may also follow.

Appendix I: Conditions of registration

29. This section contains the conditions of registration that will ordinarily be imposed on Large Banks to require them to comply with the revised outsourcing policy. There is also separate condition of registrations specifically regarding the compendium and separation plans respectively.
30. This section also notes that the Reserve Bank may in special circumstances impose a non-standard condition of registration relating to the outsourcing policy on a bank. The Reserve Bank envisages this to be situations where a bank previously under the Large Bank threshold first exceeds it. The bank in question may be granted a transition path to full compliance, similar to what the policy allows for existing Large Banks.

Appendix II –template for engagement with the Reserve Bank

31. This appendix sets out the template banks should use when first applying to the Reserve Bank for an outsourcing arrangement with or contracted through a parent or related party.

Next steps

32. The consultation period on the exposure draft for the revised outsourcing policy will run until close of business 26 May 2017. Following that the Reserve Bank will review the submissions received. The Reserve Bank expects to release a final version of the revised BS11 and implement changes to banks' conditions of registration by July 2017. The five-year transition path begins from the date the new conditions of registration are issued. Banks will need to work with the Reserve Bank of implementing their transitional path to compliance.