

## Regulatory stocktake project – terms of reference

### *Objectives*

The objectives of the project are to ensure the consistency, clarity, and efficiency of the existing stock of prudential regulations, and to identify any improvements that can be made to the current processes for introducing or amending prudential regulations.

The project will explore whether there is scope for simplifying or removing any specific prudential requirements without compromising the soundness and efficiency of the financial system,<sup>1</sup> or changing the fundamental shape of the current regulatory framework.

The aim of the project is not to alter the fundamental shape of the existing regulatory framework, but to ensure that it operates efficiently and does not impose unnecessary costs.

### *Scope*

Which institutions?

- In scope: registered banks and non-bank deposit takers (NBDTs).
- Out of scope: insurers (except in the limited respect noted below); payment and settlement systems; other financial entities that are not regulated under the RBNZ Act or NBDT Act.

Which areas of regulation / supervision for banks?

- In scope: content and drafting relating to prudential requirements and disclosure requirements for banks. This includes everything in the Banking Supervision Handbook, the disclosure Orders in Council, and any other requirements set in Conditions of Registration.
- Out of scope: the legislative framework of Part 5 of the RBNZ Act (such as purposes, functions, and powers for supervisory activities, restrictions on use of the name “bank” and words derived from “bank” (covered by Part 4 of the RBNZ Act); and anti-money laundering requirements, except where these have been imposed under Part 5 of the RBNZ Act.

Which areas of regulation/ supervision for NBDTs?

- In scope: anything relating to the content of the prudential requirements for NBDTs, whether contained in the NBDT Act or related regulations.
- Out of scope: everything else in the legislative framework of the NBDT Act and related regulations (i.e. the licensing and supervisory framework for NBDTs, and the enforcement and crisis management powers in the Act).

Insurers: linkage to separate review of solvency standards. Where possible, and always recognising the fundamental differences between the sectors, the stocktake should have regard to consistency

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<sup>1</sup> The objectives of prudential regimes for banks and NBDTs are to promote the maintenance of a sound and efficient financial system, and to avoid significant damage to the financial system that could result from the failure of a bank or NBDT. Promoting the maintenance of a sound and efficient financial system may involve the use of both prudential and macro-prudential policies.

between the treatment of capital instruments and other balance sheet items in the insurance solvency standards, and in bank capital requirements.

The specific regulatory documents, regulations, and legislative provisions that are within the scope of the project are set out in the appendix.

The project overlaps to a limited extent with the NBDT review that was carried out in 2013. However, that review was primarily focused on the legislative framework of the NBDT Act and related regulations, rather than the specific prudential requirements applying to NBDTs. This project provides an opportunity to review these specific prudential requirements in more detail.

### *Project deliverables*

The first outcome of the project will be changes (if needed) in the prudential regulation framework which –

- cut or simplify requirements where this can be done without compromising financial stability objectives
- change requirements to make them more efficient (ie delivering similar benefits at lower cost)
- present requirements in a different way to improve their user-friendliness and/or clarify their scope and nature

The project will focus both on the detail of individual prudential standards, their presentation, and the way they interact as a whole.

The stocktake could recommend follow-up work on potentially adding or substituting new prudential requirements, if any were identified as necessary to improve consistency, clarity or efficiency, but that work would be carried out as a separate project.

The second outcome will be improvements, where any are identified, in the Reserve Bank's processes for developing these prudential regulation requirements. These processes cover such matters as –

- identification of threat to financial stability to be mitigated, or nature of inefficiency in current requirements to be reduced (problem definition)
- formulation of proposed approach for addressing the problem
- ex ante and ex post analysis of the intended and actual impact of the changes and of the costs they impose
- consultation with stakeholders
- approach to communication
- implications for the Reserve Bank's and stakeholder's resources

### *Context*

The Reserve Bank views the following outcomes as the fundamental building blocks of maintaining New Zealand financial system soundness, and as such these will still need to be achieved after any changes made as a result of the stocktake –

- Sufficient capital for the risks in each firm’s business, to reduce the risk of the firm’s insolvency to an “acceptable” level
- Sufficient liquidity in each firm to minimise the risk that an immediate cash-flow problem brings down an otherwise sound firm
- Assurance of the competence and probity of directors, controllers and senior management of regulated firms
- Firms have boards whose size and composition are appropriate given the nature and complexity of their business.
- Entities have in place robust risk management systems and policies
- Regulated entities’ transactions with related parties are limited in scale and strictly on arms’ length terms
- Adequate public disclosure of each firm’s business and risk profile
- The larger banks are positioned to avoid any loss of direct control by the NZ board of financial resources and key business functions. (currently promoted by the local incorporation policy, outsourcing requirements, and aspects of the corporate governance policy)
- There is failure management capability that achieves financial stability objectives and, as a rule, minimises the contingent claim on the Crown (and moral hazard issues that might arise)
- The Reserve Bank is able to implement macro-prudential tools within the current macro-prudential policy framework.

These outcomes are and should remain risk-based; that is, the degree to which each outcome is met will depend (where firm-specific) on the size and nature of the firm.

The project needs to have regard to the international context, including –

- implementing international minimum standards (from bodies such as the Basel Committee) where they make sense for New Zealand, but departing from them where a principled case can be made for doing so (in line with the established approach);
- taking account of the fact that many registered banks are branches or subsidiaries of overseas banks, and that greater consistency with a bank’s home country prudential regulations may deliver efficiency gains.

### *Consultation*

In the first stage of the project, the RBNZ will carry out its internal stocktake of the existing suite of prudential regulations, and develop any resulting proposals for change. During this stage, the RBNZ will take informal soundings from those with a particular interest in the project (such as regulated

entities, and relevant government departments and agencies<sup>2</sup>). As part of this process, the RBNZ will also provide stakeholders with a copy of the terms of reference for the project, and establish an expert group of external stakeholders to test ideas with as the project progresses.

As the second stage of the project, the RBNZ will issue for public consultation a paper proposing options to make any of the changes that have been identified as desirable. The RBNZ will also consult with the expert group, and interested departments and agencies, on an initial draft of this discussion document, and the preliminary conclusions that are reached once submissions on this discussion document have been analysed.

During the course of the project, the RBNZ will also hold regular workshops to seek industry views and keep industry updated about the progress of this work.<sup>3</sup>

#### *Steering group*

The project will be overseen by an RBNZ internal steering group, chaired by Deputy Governor Grant Spencer.

#### *Indicative timetable*

Informal discussions with stakeholders on matters that could/should be considered as part of the project	July 2014
On the record speech	22 July 2014
Industry workshop and discussions with NBDT industry bodies	Late July 2014
Establishment of expert panel	Late July 2014
Discuss scope of the project and initial ideas with expert panel	Early August 2014
Meetings of internal RBNZ steering group to work through subject matter	August 2014 – February 2015
Industry workshop / discussions with NBDT industry bodies / Expert panel meeting	October 2014
Industry workshop / discussions with NBDT industry bodies / Expert panel meeting	February 2015
On the record speech	Late February 2015 / Early March 2015

<sup>2</sup> Specifically, the Treasury, Ministry of Business, Innovation and Employment, and Financial Markets Authority).

<sup>3</sup> We note that interested departments and agencies will also be invited to these workshops (specifically, the Treasury, Ministry of Business, Innovation and Employment, and Financial Markets Authority).

Discussion document completed	March 2015
Consultation on draft discussion document with expert panel and interested departments and agencies	April 2015
Discussion document out for comment	May-June 2015
Industry workshop / discussion with NBDT industry bodies	May 2015
Analysis of submissions	July 2015
Internal steering group formulates preliminary conclusions	August 2015
Preliminary conclusions discussed with expert group	August 2015
Industry workshop / discussions with NBDT industry bodies	Late August 2015
Conclusions finalised	September 2015
Summary of submissions and report on conclusions published	September 2015
Conclusions implemented	October 2015 – a later date

## **Appendix: Specific regulatory documents, regulations, and legislative provisions being reviewed as part of the regulatory stocktake**

### *Registered banks*

- BS1: Statement of principles – bank registration and supervision
- BS2A: Capital adequacy framework (standardised approach)
- BS2B: Capital adequacy framework (internal models based approach)
- BS3: Application for status as a registered bank: Material to be provided to the Reserve Bank
- BS4: Audit obligations
- BS5: Guidelines on Anti-Money Laundering and Countering Financing of Terrorism
- BS6: Market risk guidance notes
- BS7: Registered bank disclosure regime – overview of Orders in Council and related documents
- BS7A: Registered bank disclosure regime – explanatory information on Orders in Council
- BS8: Connected Exposures Policy
- BS9: Application for consent to acquire or increase significant influence over a registered bank: Material to be provided to the Reserve Bank
- BS10: Review of Suitability of Bank Directors and Senior Managers
- BS11: Outsourcing Policy
- BS12: Guidelines on a Bank’s Internal Capital Adequacy Assessment Process (“ICAAP”)
- BS13: Liquidity Policy
- BS13A: Liquidity Policy Annex: Liquid Assets
- BS14: Corporate Governance
- BS15: Significant Acquisitions Policy
- BS16: Application for capital recognition or repayment
- BS17: Open Bank Resolution (OBR) Pre-positioning Requirements Policy
- BS18: Registration of Covered Bonds: process and information requirements
- BS19: Framework for Restrictions on High-LVR Residential Mortgage Lending
- Registered Bank Disclosure Statements (New Zealand Incorporated Registered Banks) Order 2014 (as amended)
- Registered Bank Disclosure Statements (Overseas Incorporated Registered Banks) Order 2014 (as amended)

### *Non-bank deposit takers*

- Deposit Takers (Credit Ratings, Capital Ratios, and Related Party Exposure) Regulations 2010
- Deposit Takers (Liquidity Requirements) Regulations 2010
- Sections 25-26, Non-bank Deposit Takers Act 2013 (Governance requirements)
- Sections 27, Non-bank Deposit Takers Act 2013 (Risk management requirements)