

Treasury Report: Retail Deposit Guarantee Scheme – Collective Investment Schemes Policy Guidelines

Date:	3 November 2008	Report No:	T2008/2122
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Action Sought

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Minister of Finance (Hon Dr Michael Cullen)	<p>a Agree to the policy guidelines attached.</p> <p>b Agree that the policy guidelines be made publicly available, including being published on the Treasury website.</p> <p>c Refer this report to the Prime Minister.</p>	By 12 noon Tuesday 4 November 2008

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Jeremy Salmond	Senior Solicitor	917 6155 (wk)	<i>[deleted – privacy, OIA s9(2)(a)]</i> ✓
Joanna Gordon	Manager, Regulation and Market Performance	917 6939 (wk)	<i>[deleted – privacy, OIA s9(2)(a)]</i>

Minister of Finance's Office Actions (if required)

None.

Enclosure: Yes

Treasury Report: Retail Deposit Guarantee Scheme - Collective Investment Schemes Policy Guidelines

Summary

This report seeks your approval to the attached policy guidelines for Collective Investment Schemes applying to be covered by the Retail Deposit Guarantee Scheme. These guidelines will be used by the Secretary to the Treasury when exercising the discretion (acting under the delegation) to extend the Retail Deposit Guarantee Scheme to certain Collective Investment Schemes.

Policy Guidelines

On 13 October 2008 you delegated to the Secretary of the Treasury authority under section 65ZD of the Public Finance Act 1989 to give in writing guarantees as part of the management and administration of the Crown's Retail Deposit Guarantee Scheme, such guarantees to be in such form as the Secretary to the Treasury may from time to time determine (T2008/2051 refers).

You also confirmed that coverage under the Crown's Retail Deposit Guarantee Scheme should be offered to Collective Investment Schemes that invest solely in debt securities of the New Zealand government and/or debt securities covered by the Retail Deposit Guarantee Scheme.

Collective Investment Schemes that wish to have their investments covered by the guarantee may apply to the Crown to enter into a nomination deed.

The policy guidelines for determining whether a nomination deed should be offered to a Collective Investment Scheme are attached for your approval.

Once you approve these we recommend that they be made available prominently on our website (with appropriate communications messages and legal qualifiers). This will enable applicants to better understand the application process and may stem the number of applications (and queries) from entities that clearly fall outside the intent of the scheme.

We will also be able to refine our operational procedures around these guidelines.

Communications

We are also proposing the policy guidelines be made publicly available (on the website) to assist potential applicants in determining whether to apply for coverage under the scheme or not.

Recommended Action

- a **agree** to the policy guidelines attached;

Agree/disagree.

- b **agree** that the policy guidelines be made publicly available, including being published on the Treasury website; and

Agree/disagree.

- c **refer** this report to the Prime Minister.

Agree/disagree.

Joanna Gordon

Manager, Regulation and Market Performance

Hon Dr Michael Cullen

Minister of Finance

CROWN RETAIL DEPOSIT GUARANTEE SCHEME COLLECTIVE INVESTMENT SCHEME - POLICY GUIDELINES

On 13 October 2008, the Minister of Finance:

- (a) delegated to the Secretary to the Treasury authority, under section 65ZD of the Public Finance Act 1989, to give in writing guarantees as part of the management and administration of the Crown's Deposit Guarantee Scheme, such guarantees to be in such form as the Secretary to the Treasury may from time to time determine; and
- (b) confirmed that coverage under the Crown's Deposit Guarantee Scheme should be offered to collective investment schemes that invest solely in debt securities of:
 - (i) the New Zealand government; or
 - (ii) institutions covered by the Crown's Deposit Guarantee Scheme,

subject to a limitation that no collective investment scheme could increase its economic exposure to any non-bank guaranteed institution above the level prevailing as at 12 October 2008.

Specimen forms of guarantee have been prepared. These forms anticipate the extension of the Crown Deposit Guarantee Scheme to cover certain "Nominated Beneficiaries", including qualifying Collective Investment Schemes that would not otherwise be covered.

These guidelines relate to the exercise of the Secretary to the Treasury's discretion regarding the form of guarantees and the extension of those guarantees under Nomination Deeds to cover certain Collective Investment Schemes.

Discretion

The decision to enter into a Nomination Deed regarding a Collective Investment Scheme is at the sole discretion of the Crown.

Overarching Principles

The entry into a Nomination Deed regarding a Collective Investment Scheme must be "necessary or expedient in the public interest."

The key "public interest" factors, when considering the entry into a Nomination Deed, include:

- a the maintenance of public confidence in New Zealand's financial system; and
- b maintaining the confidence of general public depositors in New Zealand financial institutions.

Entities Eligible to Apply for a Nomination Deed for a Collective Investment Scheme

An Entity is eligible to apply for a Nomination Deed for a Collective Investment Scheme involving:

- a an arrangement or scheme to which a participatory security (within the meaning of section 2(1) of the Securities Act 1978) relates;
- b a superannuation scheme (within the meaning of section 2A(1) of the Superannuation Schemes Act 1989); or
- c a unit trust (within the meaning of section 2(1) of the Unit Trusts Act 1960),

that invest exclusively in:

- d New Zealand government securities; and/or
- e Debt Securities issued by entities covered by the Crown Deposit Guarantee Scheme.

Debt Securities mean any interest in or right to be paid money that is, or is to be, deposited with or lent to any person (whether or not the interest or right is secured by a charge over any property); and includes—

- a Debenture, debenture stock, bond, note, certificate of deposit, and convertible note; and
- b An interest or right that is declared by regulations to be a debt security for the purposes of the Securities Act 1978; and
- c A renewal or variation of the terms or conditions of any such interest or right or of a security referred to in paragraph (a) or paragraph (b) of this definition;—

but does not include—

- d An interest in a contributory mortgage where the interest is offered by a contributory mortgage broker; or
- e Any such interest or right or a security referred to in paragraph (a) or paragraph (c) of this definition that is declared by regulations not to be a debt security for the purposes of the Securities Act 1978.

Relevant Criteria

The following considerations are relevant in the exercise of the Secretary's discretion, namely entities applying for a Nomination Deed for a Collective Investment Scheme should:

- a be in the business of borrowing and lending, or providing financial services, or both;

- b carry out a substantial portion of their business in New Zealand;
- c have at least 20 investors; and
- d not have any investors that, together with associated persons, hold more than 20% of the units of the scheme.

Other factors that may be considered in exercising discretion to offer, or refuse to offer, a Nomination Deed

- a The size of the Entity;
- b The credit worthiness of the Entity, including any rating agency reports on the Entity;
- c The number of depositors in the Entity;
- d The Entity's investment policy;
- e Any related party exposure of the Entity;
- f The quality of the information provided by the Entity;
- g Whether the accounts of the Entity are audited;
- h That the business practices of the Entity meet reasonable standards;
- i That the individuals with control of the Entity are of good character;
- j That the individuals with control of the Entity have the business experience and acumen relevant to the operation of the Entity;
- k The length of time the entity has been in business;
- l The track record of the entity with respect to such matters as whether it has met its payments as they fell due and maintained solvency;
- m The importance of the entity to the New Zealand financial system; and
- n Any other factors relevant to:
 - the maintenance of public confidence in New Zealand's financial system; and
 - maintaining the confidence of general public depositors in New Zealand financial institutions.