

The Treasury

Phase 1 RBNZ Act Review Information Release

December 2018

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Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act).

Where this is the case, the relevant sections of the Act that would apply have been identified.

Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to sections of the Act under which information has been withheld:

- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;
- [2] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand;
- [3] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials;
- [4] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions;
- [5] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice;
- [6] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice;
- [7] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage.
- [8] Not Relevant

Where information has been withheld, a numbered reference to the applicable section of the Act has been made, as listed above. For example, a [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

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The Supplementary Order Paper referenced as an Annexure is not included as it has been published on the Legislation website at:
<http://www.legislation.govt.nz/sop/government/2018/0176/latest/whole.html#LMS135177>.

Treasury Report: Proposed Supplementary Order Paper to Reserve Bank Amendment Bill

Date:	15 November 2018	Report No:	T2018/3109
		File Number:	MC-1-7-3-1-13

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Agree to proposed supplementary order paper	30 November 2018

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Angus Hawkins	Senior Analyst, Macroeconomic and Fiscal Policy	[7]	[1] ✓
Renee Philip	Manager, Macroeconomic and Fiscal Policy		

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury.

Instruct PCO to print the SOP (subject to Minister's agreement)

Note any feedback on the quality of the report

Enclosure: Yes (attached)

Treasury Report: Proposed Supplementary Order Paper to Reserve Bank Amendment Bill

Executive Summary

We expect the Reserve Bank of New Zealand (Monetary Policy) Amendment Bill (**the Bill**) will have its second reading on 29 November following the report back of the Finance and Expenditure Committee to the House on 14 November.

We have identified three technical amendments to improve the bill. The effect of these is to:

- Resolve a conflict that may arise if the Minister of Finance were to direct foreign exchange intervention while the economic objectives of monetary policy were temporarily suspended or altered.
- Clarify that only an ownership interest in a bank (not, for example, a current account) would be grounds for removal of the Governor or Deputy Governor.
- Include explicitly that Monetary Policy Committee members can be prohibited from taking part in decisions where they have a conflict of interest.

In our view these amendments are technical improvements which do not substantially change the effects of the Bill, and do not require agreement from Cabinet.

We recommend they are included in the Bill by a Supplementary Order Paper (SOP) at the Committee of the Whole House stage.

Recommended Action

We recommend that you:

- a **agree** to print the attached Supplementary Order Paper drafted by PCO, and lodge it at the Committee of the Whole House stage of the Bill

Agree/disagree

Renee Philip
Manager, Macroeconomic and Fiscal Policy

Hon Grant Robertson
Minister of Finance

Treasury Report: Proposed Supplementary Order Paper to Reserve Bank Amendment Bill

Purpose of Report

1. The Finance and Expenditure Committee (FEC) has reported the Reserve Bank of New Zealand (Monetary Policy) Amendment Bill (the **Bill**) back to the House on 14 November 2018.
2. We have, following a further technical review, identified a number of further small amendments that we recommend be made to the Bill.
3. A draft Supplementary Order Paper (SOP) reflecting the amendments described in this Report is attached for your agreement.

Proposed Amendments

4. We have identified three amendments that we recommend be made to the Bill.

Replacing a Remit while a Section 12 Order in Council is in force

5. Under the Bill, monetary policy is directed to achieve and maintain stability in the general level of prices over the medium term, and support maximum sustainable employment.
6. However, under section 12 of both the Bill and the Act the Governor-General may temporarily set other economic objectives by Order-in-Council on the advice of the Minister of Finance. Under the Bill, the Order-in-Council must also include a new remit, which is to remain in force while the Order is in force.
7. Separately, under sections 17 and 18 of the Act, the Minister may direct the Reserve Bank to deal in foreign currency to influence the exchange rate, including fixing a specific exchange rate. The Governor may “push back” against such a direction under section 19(4) if they consider it would be inconsistent with their operational objectives.
8. The Bill adapts these “push-back” powers of the Governor to work with the remit. The Bill specifies that if the Governor pushes back on a direction, the Minister is required to recommend substitution of the remit within 1 month.
9. The problem is that this requirement to recommend substitution of the remit will not work if a section 12 Order-in-Council setting different economic objectives is in force. This is for two reasons:
 - a First, the Bill provides that a remit made under a Section 12 Order-in-Council must remain in force while the order is in force. Requiring that the remit be substituted while the order is in force would introduce a contradiction in the Bill.
 - b Secondly, a remit issued under section 12 is contained within the Order-in-Council rather than as a separate instrument. It therefore cannot be substituted without also replacing the Order-in-Council.

10. We recommend that section 19(4) is amended to require that, if the Governor advises the Minister that giving effect to a section 17 or 18 direction would be inconsistent with the operational objectives, the Minister give advice for a new Order-in-Council to be made within 1 month. This change resolves both the existing internal conflict, and ensures that any replacement remit continues to form part of any section 12 Order-in-Council (as also contemplated by the Bill).
11. Neither sections 12 nor 19 in the existing Act have ever been used, and the situation described above would be highly exceptional. However, this amendment is necessary to ensure these sections work together, if required.

Removal of the Governor or the Deputy Governor on account their interests in Banks

12. Under the existing Act, the Governor and the Deputy Governor may be removed if (among other things) he or she:
 - a holds any other office of profit
 - b is engaged in any other occupation for reward
 - c had an interest in a registered bank or a licensed NBDT or a licensed insurer, or
 - d had an interest in a bank carrying on business outside New Zealand.
13. The term 'interest' is ambiguous, and could be taken to include current accounts at regulated banks, or investments at those or overseas banks. It is not the intent that this should be grounds for removal of a Governor or the Deputy Governor.
14. We recommend points (c) and (d) above are amended to "ownership interest". This clarifies that the types of 'interest' noted above are out of scope of this provision. A similar change would also be required to the grounds on which the Board may recommend removal of the Governor or the Deputy Governor.
15. There is a risk that the term "ownership interest" will not cover other financial products (such as contingent convertible bonds) that could give a material interest in a regulated entity without any ownership stake. However, such products are covered in the Bank's existing conflict of interest requirements, which will prevent such an issue arising.

Prohibiting MPC members from decision making

16. The Bill provides for a code of conduct for members of the MPC that will govern, among other things, rules for managing and avoiding conflicts of interest. The Bill states that the rules about conflicts of interest may provide for "regulating participation of an interested member in decision making".
17. The phrase "regulating participation" may not allow the code of conduct to fully prohibit a conflicted member from involvement in decision making. For example, if a temporary conflict of interest arose, it would be desirable to prevent an MPC member participating in Official Cash Rate decisions until that conflict was resolved.
18. In practice, we expect the situation where MPC members will be prohibited from taking part in decision making will be extremely rare. Any conflicts of interest should be notified prior to the appointment of members, and, as provided for in the code of conduct, any arising conflicts should be notified to the chair of the MPC as soon as possible. However, the flexibility to prohibit members with conflicts of interest from participating in specific monetary policy decisions due to conflicts of interest is desirable to have should it be required.

Next Steps

19. Your office has received a version of the Bill from PCO with these amendments incorporated. PCO require your instructions to print an SOP.
20. As these amendments to the Bill are minor and technical improvements, we do not consider it necessary for you to refer these to the Cabinet Legislation Committee for approval but you may wish to consult with your Associate Ministers of Finance.
21. If you are in agreement with the small amendments to the Bill discussed in this report, then your office will need to instruct PCO to print the SOP to the Bill ahead of the Committee of the whole House stage. This stage is currently expected to commence on 4 December and the SOP needs to be lodged at least twenty four hours in advance.
22. We will include material on the SOP on these issues in your House pack for the Committee of the Whole House stage.