

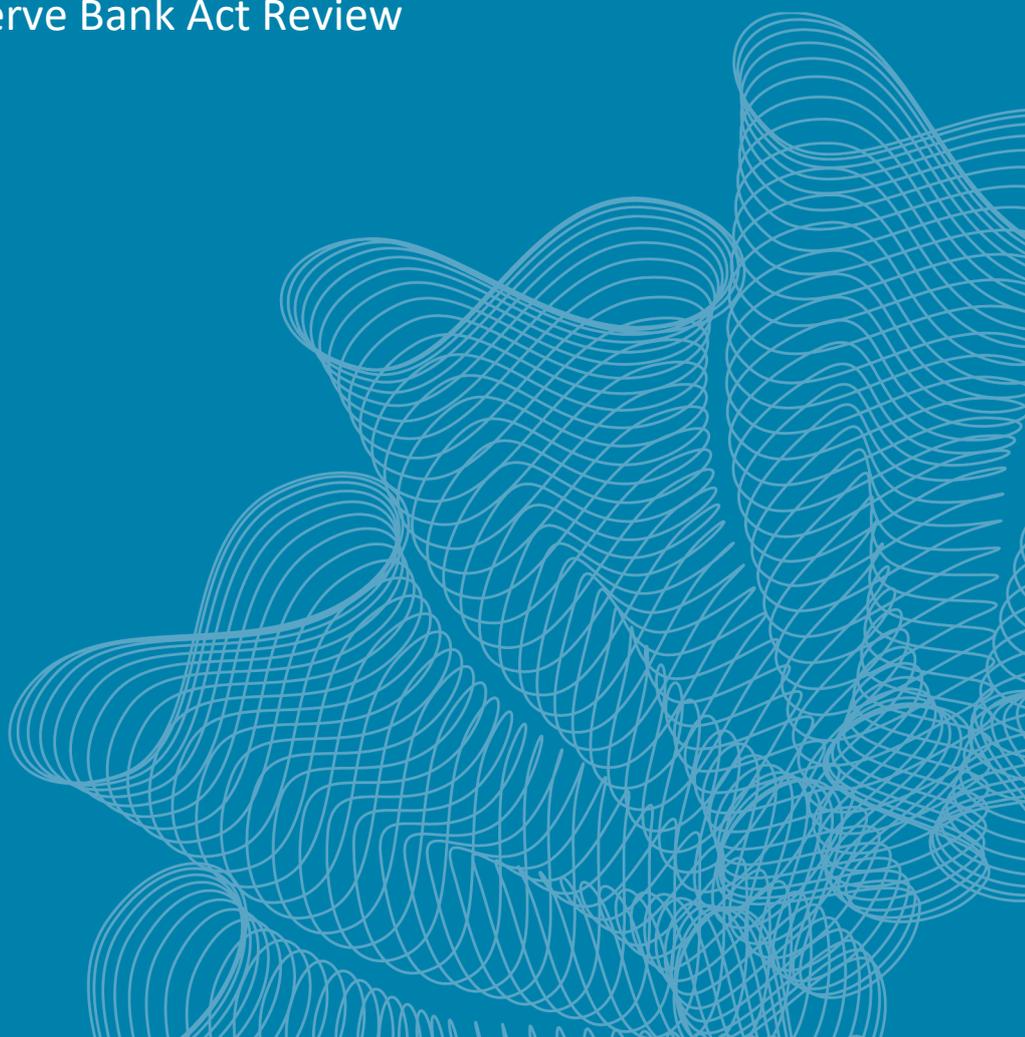
# Safeguarding the future of our financial system

---

## *Summary of Submissions – second consultation*

Phase 2 of the Reserve Bank Act Review

September 2019



© Crown Copyright



This work is licensed under the Creative Commons Attribution 4.0 International licence. In essence, you are free to copy, distribute and adapt the work, as long as you attribute the work to the Crown and abide by the other licence terms.

To view a copy of this licence, visit <https://creativecommons.org/licenses/by/4.0/>. Please note that no departmental or governmental emblem, logo or Coat of Arms may be used in any way which infringes any provision of the [Flags, Emblems, and Names Protection Act 1981](#). Attribution to the Crown should be in written form and not by reproduction of any such emblem, logo or Coat of Arms.

The Treasury URL at October 2019 for this document is  
<https://treasury.govt.nz/news-and-events/reviews-consultation/reviewing-reserve-bank-act/public-consultation>

# Contents

- Contents ..... ii**
- Introduction ..... 3**
  - Background..... 3
  - Submissions on the second consultation ..... 4
  - What happens next ..... 4
  - Where to find more information..... 5
- Summary of submissions on Consultation Document 2A ..... 6**
  - Chapter 1. Separation: Should prudential regulation remain with the Reserve Bank? ..... 7
  - Chapter 2. Objectives: What high-level financial policy objectives should the Reserve Bank have?. 8
  - Chapter 3. Governance: How should the Reserve Bank be governed, including who should make the Reserve Bank’s decisions?..... 10
  - Chapter 4. Regulatory perimeter: Which financial firms should the Reserve Bank regulate and how should the regulatory perimeter be set? ..... 14
  - Chapter 5. Depositor protection: Should there be depositor protection in New Zealand? ..... 16
- Summary of submissions on Consultation Document 2B..... 19**
  - Chapter 1. Prudential tools and powers: What prudential regulatory tools and powers should the Reserve Bank have?..... 20
  - Chapter 2. Macro-prudential policy: What role should the Reserve Bank play in macro-prudential policy? ..... 22
  - Chapter 3. Supervision and enforcement: How should the Reserve Bank supervise and enforce prudential regulation?..... 24
  - Chapter 4. Balance sheet functions: How should the Reserve Bank’s balance sheet functions be formulated?..... 28
  - Chapter 5. Crisis management: What features should New Zealand’s bank crisis management regime have? ..... 29
  - Chapter 6. Coordination: How should the Reserve Bank coordinate with other government agencies? ..... 31
  - Chapter 7. Funding: How should the Reserve Bank be funded and resourced? ..... 32
  - Other matters raised by submitters ..... 34
- Appendices ..... 35**
  - Appendix 1: Questions for consultation 2A ..... 36**
  - Appendix 2: Questions for consultation 2B..... 38**
  - Appendix 3: List of submitters ..... 42**
  - Appendix 4: List of abbreviations ..... 43**

# Introduction

## Background

This document provides a summary of public submissions received on the second consultation for Phase 2 of the Review of the Reserve Bank of New Zealand Act 1989 (the Review). The Review focuses mainly on the Reserve Bank's financial policy framework, which provides the basis for prudential regulation and supervision. It also deals with the Reserve Bank's governance arrangements. The Minister of Finance released the [terms of reference](#) for the Review on 7 June 2018.

The Review anticipates three rounds of consultation. The first consultation was conducted over 2018, and sought feedback on key topics crucial in shaping the Review's overall outcomes, such as the Reserve Bank's financial policy objectives, governance structure, the case for and against depositor protection, and whether the Reserve Bank should retain responsibility for prudential supervision. The first consultation is complete and the Minister of Finance (the Minister) made in-principle decisions on the topics covered in the first consultation. A summary of submissions from the first round of consultations can be found [online](#).

The second consultation sought feedback on the Minister's in-principle decisions, and on the remaining topics covered by the terms of reference. Two consultation documents were used to seek submissions on the second consultation:

[Consultation Document 2A](#) reports back on the Minister's in-principle decisions and considers more detailed elements of these decisions, including:

- the case for and against separating prudential supervision from the Reserve Bank
- the Reserve Bank's overarching objectives
- the perimeter for prudential regulation
- the case for and against depositor protection, and
- the Reserve Bank's institutional governance and decision-making framework.

[Consultation Document 2B](#) considers the remaining topics covered in the terms of reference, such as:

- the legal basis for bank regulation
- macro-prudential policy
- the approach to supervision and enforcement
- crisis management
- coordination with other agencies, and
- the Reserve Bank's resourcing and funding.

The consultation documents were uploaded to the Review website along with supporting materials on 24 June 2019. The closing date for submissions on second consultation was 16 August 2019 (with some tolerance for late submissions).

## Submissions on the second consultation

The second consultation received 45 public submissions, of which just over half are from organisations (including representatives of banks and non-bank deposit takers (NBDTs), among other prominent industries) and the remainder are from individuals. This document summarises these submissions according to the topics consulted on. The questions contained in the consultation documents are outlined for convenience in appendix 1 and appendix 2.

For stakeholders who made submissions on Consultation Document 2A, there was generally broad support for:

- an overarching financial stability objective (provided that efficiency continues to be considered)
- the governance board model proposed by the Consultation Document
- a single deposit takers regulatory framework, and
- depositor protection in New Zealand (with some concerns that the coverage limit should be higher).

For stakeholders who made submissions on Consultation Document 2B, there was generally broad support for:

- a standards-based approach to prudential rulemaking
- the continued use of macro-prudential policy (subject to consultation for “distributional” tools)
- increased scope in the Reserve Bank supervisory model
- consultation with the Treasury where quantitative easing is being considered by the Reserve Bank
- the crisis management regime proposed by the Consultation Document
- increased information sharing and coordination between the Reserve Bank and other agencies and,
- increased resourcing to the Reserve Bank.

## What happens next

This feedback from stakeholders will be used by the review team in providing advice to Minister on decisions to progress the Review further. We currently anticipate providing a public update on progress and next steps in November.

## Where to find more information

A series of papers and information related to the Review can be found on the Treasury [website](#). This information includes the individual submissions underpinning this summary (subject to some redactions made at the request of submitters).

# Summary of submissions on Consultation Document 2A

This section summarises the submissions received on Consultation Document 2A according to the topics consulted on. These topics are:

- Chapter 1. Separation: Should prudential regulation remain with the Reserve Bank?
- Chapter 2. Objectives: What high-level financial policy objectives should the Reserve Bank have?
- Chapter 3. Governance: How should the Reserve Bank be governed, including who should make the Reserve Bank's decisions?
- Chapter 4. Regulatory perimeter: Which financial firms should the Reserve Bank regulate and how should the regulatory perimeter be set?
- Chapter 5. Depositor protection: Should there be depositor protection in New Zealand?

## Chapter 1. Separation: Should prudential regulation remain with the Reserve Bank?

Chapter 1 of Consultation Document 2A discussed the institutional arrangements for financial sector regulation in New Zealand. The Minister's in-principle decision to not "separate" prudential regulation from the Reserve Bank maintains the current "twin peaks" institutional structure, whereby the Reserve Bank is responsible for the prudential peak, and the Financial Markets Authority (FMA) for financial market conduct peak.

There were no explicit follow-up questions on this in-principle decision to retain the status quo. As a result only a small number of submitters chose to provide any feedback on the Minister's decision.

Those that chose to comment either did so by acknowledging the decision in passing, or to express their support. No stakeholders objected directly, although one thought that in an "ideal world" one might question the need for a separate prudential and conduct regulator (the New Zealand Financial Services Authority (NZFSA) option outlined in the Consultation).

Several submitters noted the dependency between the Minister's decision and other potential outcomes from the Review, including more resourcing for the Reserve Bank's prudential function, clearer objectives, improved governance arrangements, and opportunities for better alignment between New Zealand and Australia on prudential regulation.

## Chapter 2. Objectives: What high-level financial policy objectives should the Reserve Bank have?

Chapter 2 of Consultation Document 2A concerned the scope of high-level financial policy objectives afforded to the Reserve Bank. Broadly, the relevant questions sought stakeholder opinions on current objectives, whether there would be merit in additional objectives, and more technical aspects such as the hierarchy and specificity of financial policy objectives.

24 submissions were received that related to this topic. Common themes from these submitters include:

- support for a financial stability objective
- some concerns over dropping the efficiency consideration
- a lack of support for a specific climate change objective (while recognising that climate change is an important consideration)
- some support for additional objectives (e.g. micro-prudential objectives) and,
- some concerns on the clarity and legislative grounding of additional objectives.

One submitter also noted generally that regulatory consistency with Australia should be considered.

### Financial stability and efficiency objectives

About half of submitters reiterated their support for a financial stability objective. However, one third of the 24 submissions that discuss financial policy objectives also expressed their concern over efficiency not being included as a primary consideration for the Reserve Bank.

These stakeholders preferred that efficiency be retained either as a primary objective, or as a secondary objective or consideration. Reasons for retaining efficiency as a consideration by the Reserve Bank are that efficiency acts as a natural constraint in the pursuit of financial stability, leading to net benefit decision-making by the Reserve Bank; and, that efficiency is a core part of financial stability. These submissions particularly noted that efficiency as an additional objective will ensure that regulatory burdens are minimised and justified.

One stakeholder also noted that the Financial Market Infrastructure (FMI) Bill has a soundness and efficiency objective, and that this Bill will need to align with any changes to the Reserve Bank Act.

### Additional objectives

#### Climate change as an objective

Almost half of the submissions regarding financial policy objectives discussed the possibility of a climate change objective for the Reserve Bank, and agreed for the most part that climate change is an important consideration of the Reserve Bank. However, the majority of the relevant submissions did not support climate change as a primary objective, and preferred that climate change be a

strategic consideration. A number of large stakeholders (including Financial Services Federation (FSF), Bank of New Zealand (BNZ), Financial Services Council (FSC), and the Insurance Council of New Zealand (ICNZ)) expressed their opinion that the risks of climate change on financial entities are already captured by the concept of financial stability.

### **Other objectives**

A number of additional secondary objectives and considerations were proposed by stakeholders. The most common of these were the introduction of an objective concerning the efficiency of regulatory burdens and compliance costs to firms; and an objective concerning the micro-prudential soundness of individual entities. The latter of these secondary objectives was supported by submissions from the Trustees Corporation and FSC, who commented that supervision of NBDTs by the Reserve Bank may disregard smaller entities.

Additional secondary objectives suggested by a small number of stakeholders were:

- financial literacy
- competition and,
- land price inflation and debt.

## **Clarity and legislative grounding**

### **Clarity of objectives**

Clarity of objectives was important to several submitters, who noted that there should only be a small number of primary and secondary financial policy objectives in order to avoid an overly prescriptive and inflexible regime. The New Zealand Bankers' Association (NZBA) noted that too many objectives risks policy becoming overly prescriptive, and removes the discretion of the Reserve Bank to interpret its objective as necessary. NZBA further noted that objectives should only outline *why* the Reserve Bank is executing policy, and not the matter of *how*.

### **Remit-type document**

Three separate submissions expressed their support for a remit type document, provided that this document was bounded by well-defined legislative objectives. The NZBA, however, does not support a document of this type, citing more specifically that they do not support the government providing direction on policy execution that may confuse the Reserve Bank's core purpose.

## Chapter 3. Governance: How should the Reserve Bank be governed, including who should make the Reserve Bank's decisions?

Chapter 3 of Consultation Document 2A concerned the governance of the Reserve Bank, and sought feedback on the design of and processes for the proposed governance board, as well as other governance matters. Feedback was specifically requested on delegation, monitoring, board membership, and other factors that may be important for an effective governance board.

21 submissions were received that related to this topic. Common themes from these submitters include:

- support for the proposed governance board model
- support for majority non-executive board membership
- support for delegation of responsibility for day to day operations to the Governor by the board
- support for reclassifying the Reserve Bank as a Crown entity
- support for the Treasury monitoring the Reserve Bank
- some concern regarding the creation of FMA and/or Treasury positions on the board and,
- mixed suggestions for the appointment of board membership.

### Governance board model

Over half of the relevant stakeholders expressed an opinion regarding the proposed governance board model for the Reserve Bank. Overall, stakeholders were supportive of the proposal to establish a governance board, with nine submissions (including the NZBA, ICNZ, FSF and FSC) expressing their support for the proposal. A further submission noted their support for alignment with the FMA model. Three submissions did not directly comment on the proposed governance framework, but noted their concerns or dissatisfaction with the current governance arrangements.

Two submissions expressed opposition to the new governance model. One submitter was opposed to the proposed model on the basis that: it does not account for the Reserve Bank's commercial functions; it does not address conflicts arising out of the FMI Bill; and the Reserve Bank is different to the FMA and requires different governance arrangements. The second submitter had more general concerns around the Crown entity governance model.

Another stakeholder did not directly express a view on the proposed arrangements, but approached changes to governance in the context of the FMI Bill and the potential for conflicts of interest. This submitter suggested referring to the Bank of England (BoE) model.

## Governance board composition

### Executive and non-executive board members

There was broad support for the majority of board members to be non-executive. Three submitters were of the view that the board must be fully non-executive. A further five submitters thought that the board should be majority non-executive (or were happy with a fully or majority non-executive board). One submitter referred to the BoE and Reserve Bank of Australia (RBA) models and noted that the board needs to be majority non-executive with a non-executive chair. The same submitter also noted, however, that the “best practice” model is to have a fully non-executive board.

There was mixed support for the inclusion of the Governor on the board. Four submitters thought including the Governor on the board is a possibility.

### Board size

Of the three submitters that commented on the size of the board, one suggested that it be composed of up to nine members, while another suggested seven to eight. The third submitter suggested the creation of a separate financial policy committee with a board composed of the Governor, Deputy Governor and six non-executive members with expertise in particular areas.

### FMA and/or Treasury representation on the board

Two stakeholders were opposed to creating a requirement for Treasury and FMA representation on the board. In particular, the NZBA queried the benefits associated with FMA representation, and did not want this to be at the expense of non-executive directors. Two other submitters were supportive of FMA non-executive members being on both boards, but did not support the creation of an *ex officio* position.

### Board member skills, experience and other prerequisites

Comments on the skills, experience and other prerequisites for board members were wide ranging. It was suggested that members have expertise or experience in areas including:

- banking
- financial markets
- prudential regulation
- insurance (including the “specialist expertise needed to administer IPSA”)
- risk management
- governance
- technology or cyber security skills and,
- logistics.

The FSF particularly emphasised the importance of appointing members with “diversity of views, independent challenge, and accountability”. This sentiment was shared by the NZBA who thought that the members would need “to be able to challenge the Governor”, as well as “understand, and interrogate analysis provided by the Reserve Bank staff”.

## Governance board processes

### Appointment of board members

Five submissions related to the appointment of board members. One submitter was of the view that the appointment process for the board and MPC needs to be reconsidered. This submitter went on to support an independent nominations committee. The NZBA supported either: the Minister appointing the board based on board recommendations; or using an independent nominating committee based on the Guardians of New Zealand Superannuation model. The Institute of Directors (IOD) also emphasised the importance of an independent appointment process and suggested that the board Chair should be involved. ICNZ noted the need for the appointment process to provide “appropriately skilled and unconflicted members”.

One submitter thought that the Minister should appoint the board. The NZBA suggested that if the Minister were to appoint the board, then this should be subject to statutory requirements with regard to board member skills and experience.

### Appointment of the Governor

Two submitters noted their support for board appointments of the Governor (one noting that this should be in consultation with the Minister). The NZBA also expressed support for the board having “a significant, if not determining, role in the appointment of the Governor”. Another submitter suggested that the board should have a role in a decision to remove the Governor.

One submitter noted that he does not see a “strong case” for the board having responsibility for the appointment of the Governor.

### Delegations

Three submitters did not think that there should be legislative restrictions on delegations by the board. The NZBA, in particular, noted that the board should have the ability to make changes to delegations as circumstances change. Four submitters further noted that they envisage that the Governor would have delegated responsibility for the day to day operations of the organisation. One of these submitters noted that it was important that the Governor have sufficient delegated responsibility to be able to act swiftly in “times of stress”, while another noted that the Governor needs sufficient delegated powers to be able to respond to events in a “timely” manner.

### Conflicts of interest

Two stakeholders noted the importance of avoiding conflicts at a board level. One suggested managing this via the appointment process and the other via appointing sufficient numbers of board members. Two other submitters commented on the potential for conflicts at a board level, one specifically in relation to the FMI Bill, and the other in terms of the complex and wide-ranging areas the board will be responsible for.

### Monitoring

Five submitters (including the NZBA, ICNZ, FSF, FSC and the Wellington Chamber of Commerce) expressed their support for the Treasury taking on the role of the Reserve Bank’s monitor, while an additional submitter expressed support for the Treasury taking on the role of administering the Reserve Bank’s act.

Those that did not support a monitoring role for the Treasury suggested alternatives that include: Ministry of Business, Innovation and Employment (MBIE); the Finance and Expenditure Select Committee; an independent statutory oversight body; and an international or Trans-Tasman oversight body.

## Other governance matters

### **Crown entity designation**

There was general support for reclassifying the Reserve Bank as a Crown entity (six submissions, including the NZBA, ICNZ and FSC). One submitter noted that he did not have a “strong view” on the question, while another noted that the accountability arrangements for the Reserve Bank are most aligned with that of a Crown entity.

One stakeholder was opposed to the reclassification of the Reserve Bank as a Crown entity, arguing that the Crown entity model is “too corporate”.

Two stakeholders emphasised the importance of designating the Reserve Bank as an independent Crown entity (as opposed to a Crown agent or an autonomous Crown entity).

### **Removal of statutory role of Deputy Governor**

One submitter noted his support for this proposal. There were no other submissions on this point.

## Chapter 4. Regulatory perimeter: Which financial firms should the Reserve Bank regulate and how should the regulatory perimeter be set?

Chapter 4 of Consultation Document 2A concerned the nature of the firms that the Reserve Bank may regulate, and the firming of a “regulatory perimeter” around these specified firms. The document outlined the Minister of Finance’s announcement of an in-principle decision to form a single “licensed deposit taker” framework that unites the two currently separate regulatory regimes for banks and non-bank deposit takers. Feedback was sought on further detail relating to the Minister’s in-principle decision including on:

- the definition of a deposit taker
- the ability of the Reserve Bank to monitor non-licensed entities, and
- proposals for supporting an adaptable and flexible perimeter.

16 submissions were received that related to this topic. Common themes from these submitters include:

- majority support for the single deposit takers framework (with some stakeholders raising significant concerns)
- support for an activities-based definition of deposit takers
- majority support for monitoring of an outer perimeter of lenders by the Reserve Bank, and
- mixed views on applying macro-prudential standards to non-deposit taking lenders.

### Single Deposit Takers framework

The majority of submissions, including the NZBA, supported the in-principle decision on the basis that it will create a more consistent and forward-looking regime, and is necessary to align with any deposit protection arrangements. A notable minority of submissions, including from a number of NBDTs and the Trustee Corporations Association, raised significant concerns about the in-principle decision. Key concerns included:

- that increased costs on NBDTs may result in them leaving the market, reducing competition
- that further consultation with the sector is required on the requirements that would be imposed before progressing further with a single framework
- that some NBDTs are offering services that are significantly different from banks and should not be subject to the same regulatory regime and
- that trustees are better placed to supervise smaller entities than the Reserve Bank.

Submitters generally noted that significant flexibility would be required to accommodate both large banks and small NBDTs in a single regime, although some argued that there should not be materially different rulebooks for different classes of deposit takers.

## Defining deposit takers

The submissions that supported the creation of a single deposit takers regime also supported an activities-based definition of deposit takers. These stakeholders particularly supported a definition focussed on the activity of *taking deposits*, as opposed to the activity of issuing debt securities. Five submissions addressed the question of whether issuers of longer-dated debt securities should be captured by this definition as well. All relevant submissions supported excluding issuers of longer-dated debt securities from the definition of a deposit taker.

## Outer perimeter, designation powers and scope of macro-prudential policy

The majority of submissions supported the Reserve Bank monitoring an outer perimeter of lenders for financial stability risks. A few of these specifically supported reporting requirements on these entities. Two stakeholders were specifically opposed to the Reserve Bank having any role in relation to entities it does not directly supervise, noting that the proposed amendments to the Credit Contracts and Consumer Finance Act would already provide sufficient protection.

The majority of submissions supported the Reserve Bank and/or the Minister being able to designate entities as deposit takers, as the perimeter must be “flexible”. A few were opposed to any designation powers, on the basis that these entities are already regulated in relation to their lending activities or that the regulatory perimeter should only be extended via primary legislation.

A narrow majority of submitters (including the banks) supported applying macro-prudential standards to non-deposit taking lenders, on the basis that this provides an importantly competition-neutral environment and allows for the management of broader financial stability risks. A few submissions were opposed to applying macro-prudential requirements to non-licensed entities, on the basis that their lending is appropriately regulated under the Credit Contracts and Consumer Finance Act.

## Chapter 5. Depositor protection: Should there be depositor protection in New Zealand?

Chapter 5 of Consultation Document 2A concerned the provision of depositor protection by the Reserve Bank in the event of a failed deposit-taking institution(s). Following the first round of consultation, the government announced an in-principle decision to introduce a formal regime to protect depositors in New Zealand, including through a deposit insurance scheme with a coverage limit in the range of NZ\$30-50,000. The second consultation sought public feedback on several follow-up issues to inform the approach and design of the protection regime, including:

- its role in New Zealand’s wider financial safety net
- its public policy objectives
- its coverage limit, and
- whether there should be depositor *preference* (in addition to insurance).

29 submitters commented on depositor protection (around 60% of the total 45). These submissions were received from a broad cross section of New Zealanders, including the general public, lawyers, consumer representative groups, business groups, special interest groups, deposit takers, and academics.

Of the relevant submissions, around 60% indicated their support or acceptance of the general direction of the proposals, although the majority of these submitters thought that depositor protection should have a higher coverage limit than the proposed \$30-50,000 range. Around one quarter of relevant submissions were opposed to any protection regime, either because they believe that the low risk of bank failure in New Zealand does not justify the cost and effort of developing a regime, or because of concerns about moral hazard. A small number of stakeholders preferred an alternative way of protecting New Zealanders from banking sector risks through risk-free transactional accounts.

### Depositor protection as part of the financial safety net

A majority of submissions agreed that deposit protection is a key element of an effective financial safety net, even in the presence of stricter capital requirements. Comments in support of depositor protection included that this insurance is “long over-due”, and that New Zealand is an “outlier” for not already having such provisions. These submitters encouraged officials to continue to consider the interactions between depositor protection and the other safety net elements in order to ensure that they are calibrated appropriately.

Of the submitters who opposed depositor protections, the reasons cited include that capital requirements would better protect the financial system; that New Zealand is already safe and sufficiently protected; and that stakeholders would prefer to see more information on the net benefits of depositor protection before pursuing such a policy. One submitter noted that the need for protection must be balanced against the need to maintain the attractiveness of New Zealand to foreign investors.

## Public policy objectives

There were 12 submissions from stakeholders concerning the public policy objectives of depositor protection. The majority of these submitters preferred a dual mandate of depositor protection and public confidence. Most stakeholders argued that a key objective is to avoid depositor loss in the event of a bank failure, and that financial stability and public confidence is equally, if not more, important as an objective of New Zealand's depositor protection regime.

The issue of public confidence was particularly important to stakeholders in order to avoid bank runs, which would have further implications on financial stability. Some stakeholders commented that the provision of depositor protection is useful in the sense that it provides a “predictable and clear path” to resolution in the event of bank failure, which may reduce the severity of crisis cost and instability in New Zealand.

## Coverage limit

Of the 17 stakeholders that commented on the coverage limit, the majority had concerns on the coverage limit proposed by the Minister's in-principle decision. These submissions considered the NZ\$30-50,000 range inadequate, and considered this range to not be sufficient to achieve public policy goals of confidence and stability. Several submissions also noted that this range is low by international standards (such as Consumer, who noted that many OECD countries have coverage limits of up to \$150,000). The NZBA noted that the coverage amount is low compared to other jurisdictions, and that the proposed coverage level would increase the risk that deposit insurance would fail to prevent bank runs. However, the submission also recognised that the coverage limit decision is not straightforward. Westpac also noted that 10% of their customers would still be vulnerable at the \$50,000 coverage limit, including many customers over 65 years in age.

Some stakeholders noted their concerns over the operation and credibility of the scheme, suggesting that the low limit may lead to imbalances between large and small banks (as larger banks tend to have larger deposits), and may also encourage depositors to split their balances (thereby increasing total account costs).

One submission noted that they are comfortable with the \$30-50,000 range, as a higher range would expose public funds to excessive levels and exacerbate the moral hazard issue.

## Depositor preference

The 10 submissions on depositor preference were evenly divided on its merits. Some of those in support of depositor preference mentioned that many NBDTs already have such a provision, and that market discipline will be enhanced by this formalisation. A number of banks noted the potentially higher costs of wholesale funding that is associated with preference. Some submitters noted that they were opposed to adding complexity to New Zealand's creditor hierarchy, and were concerned about unintended consequences of depositor preference.

## Other matters

Several industry submitters offered to assist in the detailed design of the protection regime. Submitters also suggested that, once in place, the regime should be subject to scheduled periodic reviews to ensure its design and settings remained appropriate.

# Summary of submissions on Consultation Document 2B

This section summarises the submissions received on Consultation Document 2B according to the topics consulted on. It also notes submissions on some miscellaneous topics. These topics are:

- Chapter 1. Prudential tools and powers: What prudential regulatory tools and powers should the Reserve Bank have?
- Chapter 2. Macro-prudential policy: What role should the Reserve Bank play in macro-prudential policy?
- Chapter 3. Supervision and enforcement: How should the Reserve Bank supervise and enforce prudential regulation?
- Chapter 4. Balance sheet functions: How should the Reserve Bank's balance sheet functions be formulated?
- Chapter 5. Crisis management: What features should New Zealand's bank crisis management regime have?
- Chapter 6. Coordination: How should the Reserve Bank coordinate with other government agencies?
- Chapter 7. Funding: How should the Reserve Bank be funded and resourced?
- Chapter 8. Other matters raised by submitters

## Chapter 1. Prudential tools and powers: What prudential regulatory tools and powers should the Reserve Bank have?

Chapter 1 of Consultation Document 2B concerned the nature and design of regulatory tools that are available to the Reserve Bank. This chapter sought views on:

- the balance between primary legislation and delegated rule-making powers
- the suitability of existing rule-making powers, and
- the level of executive accountability provided by prudential rules.

20 submissions were received that related to this topic. Common themes from these submitters include:

- support for a standards-based approach to prudential rulemaking
- support for a proportional liability framework, and
- support for an executive accountability regime.

### Rule-making powers

Consultation Document 2B proposed three broad models for prudential rulemaking: an “enhanced status quo” model, a standards model, or a regulations model.

All of the submitters who addressed the issue supported a *standards-based* approach to setting prudential rules, with parliamentary oversight and review processes. Most of these submitters also emphasised that procedural requirements should apply to the creation of standards as well. Some favoured introducing a merits review for standards and other decisions affecting individual entities (as opposed to classes of entities).

There was a broad acknowledgement from stakeholders that prudential rules will need to be flexible enough to accommodate a broad range of entities and for the Reserve Bank to be able to respond to identified risks. Some submitters, including the NZBA, noted that matters of particular policy significance should be dealt with through regulations rather than standards. A related submission noted that clear regulatory roles are important in maintaining regulator accountability.

### Liability framework

Consultation Document 2B proposed that the liability model be adjusted from a criminal to a civil approach. All stakeholders who addressed the relevant issue supported a shift to a more proportional liability framework, including limiting criminal liability to deliberate or reckless conduct.

## Executive accountability

The majority of submissions supported the introduction of a “senior managers-type” executive accountability regime. A number qualified their support by noting the importance of creating an integrated regime for prudential and conduct and the need for clear guidance on expectations, and that a long lead-in time may be required. A number of submitters also noted the range of different existing liability frameworks for both directors and executives across both existing and proposed legislation and argued for a focus on consistent and integrated obligations.

Three submissions opposed imposing direct accountability on executives, instead preferring enhancements to the status quo and a focus on director’s obligations. Bank submissions in particular offered qualified support for an executive accountability regime, noting that it should aim to provide transparency to regulators and to promote accountability within institutions, rather than providing grounds for additional personal liability on directors and executives.

## Chapter 2. Macro-prudential policy: What role should the Reserve Bank play in macro-prudential policy?

Chapter 2 of Consultation Document 2B concerned the role of the Reserve Bank in executing macro-prudential policy, particularly concerning the objectives, tools, and conduct of the relevant policies. Stakeholders were asked to share their views concerning the previous conduct of macro-prudential policy in New Zealand.

Around a third of total submissions dealt with macro-prudential policy substantively. Common themes from these submitters include:

- support for the use of macro-prudential policy
- support for more consultation and oversight, particularly for “distributional” tools, and
- the belief that macro-prudential policy has been conducted less forcefully than desired over the last 5 years.

### Macro-prudential objectives and scope

The majority of the relevant submissions were supportive of macro-prudential policy, including loan-to-value ratios (LVRs), and many recommended that debt-to-income ratios (DTIs) also be empowered as a macro-prudential tool. One submitter agreed that it should be clearer that lending standard policy should be aimed at “systemic risk” or financial stability, rather than a narrower objective of ensuring the solvency of individual lending institutions. Another suggested objectives for the Reserve Bank specifically related to avoiding “asset bubbles”.

A couple of submitters noted the non-bank (especially wholesale funded) lending sector and suggested that it is not necessary to extend lending standard rules like LVRs to those lenders, since they are a very small part of the lending market and any financial difficulty they encounter would not create financial stability risks.

### Macro-prudential tools

A number of submitters agreed that macro-prudential policy should involve more consultation and oversight than “standard” prudential tools. Some suggested that additional oversight is particularly needed for distributional tools such as LVRs and DTIs, while one submitter specifically suggested that this oversight be extended to all time-varying tools. There were various views on the appropriate nature of that oversight:

- Several submitters agreed that a framework document approved by the Reserve Bank board would be useful (some noted the Reserve Bank had recently published one).
- A number agreed that the Minister of Finance (or the Treasury) should be consulted prior to the use of certain macro-prudential tools.
- Other submitters (including the NZBA and a number of banks) suggested that there should be a “measured approach” (NZBA) or “sensible oversight” (ASB), without further specifications.

Conversely, one submitter suggested that LVRs and DTIs are somewhat simplistic “rules of thumb” that may distract from good supervisory practice (which the submitter feels should involve deeper measurement of risk on bank balance sheets) and, consequently, did not favour any ongoing use of LVRs and DTIs.

Some submitters suggested that LVRs and DTIs should be applied more aggressively than they have been to date. Others suggested that tool settings should be permanent due to a concern around the extent of private credit creation in recent decades, and the focus of that private credit on residential property.

### **Previous conduct of macro-prudential policy**

The consultation paper asked for views on the conduct of macro-prudential policy over the last 5 years. As noted above, a number of contributors felt that macro-prudential policy should have been more forceful. One submitter had some more specific concerns. Firstly, they considered that the initial LVR policy did not restrict investor borrowing as much as was appropriate. They believed the 60% LVR threshold applied to investor lending in 2015 was desirable and should have been left in place permanently. The same submitter expressed concern that the high LVR loan capacity available under the speed limit might not be well allocated by the banks.

## Chapter 3. Supervision and enforcement: How should the Reserve Bank supervise and enforce prudential regulation?

Chapter 3 of Consultation Document 2B concerned the supervision and enforcement model employed by the Reserve Bank. Stakeholder views were sought on whether the Reserve Bank should shift to an “enhanced status quo” verification model to underpin the supervision function, or to a number of other verification options tied to a new statutory power for the Reserve Bank to undertake “on-site” inspections at the premises of regulated entities (“spot-check inspections”, “regular on-site inspections”, or “continuous monitoring” with supervisors embedded within regulated entities). The chapter also canvassed the merits of additional enforcement tools that the Reserve Bank could use to facilitate corrective action – either to help address emerging concerns in a more timely manner, or to address non-compliance with regulatory rules more effectively.

In the second round of consultation 34 submitters chose to comment on the Reserve Bank’s approach to supervision and enforcement, either directly by engaging with the material in Chapter 3, or as observations tied to other topic areas across both 2A and 2B (e.g. perimeter, objectives, coordination, funding).

From these submissions there was a general consensus that the Reserve Bank needed to increase the intensity and intrusiveness of its supervisory model, supported by a more graduated suite of enforcement powers. A clear message from stakeholders was the need for the Reserve Bank to address an apparent lack of resourcing in order to improve the underlying capability and capacity to perform its prudential responsibilities.

### Support for improvements to the supervisory and enforcement model

Most submitters supported the proposition that the Reserve Bank’s approach to the monitoring of regulated entities, and ensuring their compliance with prudential rules needed to improve.

However, few stakeholders engaged specifically with a preferred verification model from those options that were laid out in the consultation document. The NZBA, for example, chose not to offer a view on a preferred model on behalf of their members. Those that did engage directly with the options tended to be receptive to regular or routine on-site inspections, and to a lesser extent, spot-checks. There was little or no support for the continuous monitoring model.

There was also widespread support for the view that the Reserve Bank needed a broader suite of enforcement tools, with a relative de-emphasis on the role of criminal penalties. However, only a handful of submitters had views on the specific merits of the four individual additional tools proposed in the consultation document. For example, a couple of submissions question the efficacy of infringement fees as a sanctioning tool. A number of submitters discussed enforcement in the context of potential sanctions tied to options laid out in Chapter 1 of Consultation Document 2B for improvements to the individual liability provisions of the Act (e.g. executive accountability).

## Justification for changes to the supervisory and enforcement model

Support for improvements to the Reserve Bank’s approach to supervision and enforcement was based on a number of concerns with the current approach.

A number of stakeholders cited various examples of specific supervisory issues and “failings” such as ANZ’s non-compliance with the Reserve Bank’s internal model requirements, and the failure of insurer CBL. In this vein some submitters expressed a growing distrust of the banking sector based on recent issues with the lack of assurance of compliance through the bank director attestation process, as well as the broader outcomes of the Conduct and Culture Review undertaken by the Reserve Bank and the FMA.

Some stakeholders thought that Reserve Bank supervisory staff did not have a thorough enough understanding of regulated entities’ business, and that both supervisory and policy staff responded too slowly to approvals, authorisations, and other requests. A lack of capability and capacity for the prudential function was emphasised in individual bank submissions and by the NZBA.

Other stakeholders referenced lessons from the global financial crisis more generally from other jurisdictions, and considered that a more intrusive and intensive supervision is required to align the Reserve Bank’s approach with international standards, as highlighted by the International Monetary Fund’s (IMF’s) 2016/17 FSAP for New Zealand.

Several submissions noted that the enforcement regime is disproportionate, or “blunt and unsophisticated” according to one submitter.

## Suggestions on how to improve the supervisory and enforcement model

A number of stakeholders provided specific insights and suggestions on how best to improve the Reserve Bank’s supervisory and enforcement model. These suggestions include:

- **Resourcing:** this was a clear theme cutting across a number of submissions. More funding is required to help give Reserve Bank’s supervisors a better understanding of a regulated entity’s business. More resourcing would not only improve current desk-based (off-site) monitoring, but also support the Reserve Bank adopting some form of “on-site” inspection regime, where such inspections are very resource intensive. A lack of resourcing is also reflected in the Reserve Bank struggling to respond to regulated entities in a timely manner, or being reactive, rather than proactive (i.e., adopting a “wait and see” approach) to new emerging risks, or the adoption of global regulatory standards). One submitter thought that it would be worthwhile undertaking an Independent Capability Review to determine the specific gaps in skill sets and capability, in order to better understand the required increase in resourcing (similar to the recent Australian Prudential Regulatory Authority (APRA) Capability Review). Another stakeholder thought that supervisory resources might need to be doubled or tripled, but even that sort of increase was relatively small as judged against the banking system’s annual profits.
- **Coordination:** several submitters emphasised the benefits of greater coordination and cooperation, both domestically and internationally (the latter with Australia in particular).
- **Objectives:** several submitters thought that changes to the supervisory model should be supported by an additional statutory objective to regulate or supervise *individual* financial

institutions (so the Reserve Bank takes appropriate account of smaller regulated entities in its approach).

- **Prudential requirements:** some submitters thought that a more intensive approach to supervision should be supported by published guidance and regulatory benchmarks (against which to assess non-compliance), a clear prudential rulebook, and a clear framework type documents to provide stakeholders with a guide to how powers will be used in certain circumstances.
- **Data:** one submitter thought that the Reserve Bank needed to exploit opportunities such as “RegTech” (e.g. automated data collection) in order to support the supervision function.

### **Qualified support for changes to the supervisory and enforcement model**

While most submitters expressed a general desire for a better resourced supervisory and enforcement function to support a more intrusive and intensive approach, this support was often qualified in certain respects.

The NZBA and a number of banks expressed a view that any changes to the supervisory approach needed to be considered in the context of other changes to the financial safety net (e.g. the introduction of deposit insurance and the Reserve Bank’s current capital proposals). Furthermore, the NZBA noted that more intensive supervision does not always guarantee good outcomes – the case for New Zealand will need a realistic assessment of the contribution that any changes would make to financial stability. One submitter noted that even a more orthodox prudential regulator like the APRA that has a long history of doing on-site inspections has had to revamp its approach to supervision in the aftermath of the Royal Commission.

Some thought the necessary increase in supervisory (and policy) resource could be challenging over a short time frame.

The ICNZ, while supportive of a more intensive approach in general, thought the Reserve Bank needed to be mindful of differences across the sectors the Reserve Bank regulates (e.g. that between deposit-takers and insurers).

One submitter was concerned that any shift to more intensive supervision should not undermine current incentives for effective self-discipline (while others note that these incentives could be enhanced by changes to executive accountability).

Some submitters from the NBDT sector thought that on-site inspections for this sector (tied to the in-principle decision to integrate the bank and NBDT sectors into a single regime) could impose significant costs for small entities. However, this was balanced by others who thought the in-principle decision might result in under-supervision for the sector (relative to the current trustee model) if the Reserve Bank only focussed on larger entities.

## Support for the Reserve Bank's current approach

A small number of submitters expressed their support for the current model and did not support major changes to the Reserve Bank's supervisory and enforcement approach.

Several submitters thought that the Reserve Bank's current capital proposals designed to make banks safer, made any change to supervision unnecessary.

Several submitters from the NBDT sector were generally against the proposal to integrate banks and NBDTs into a single regime, and the associated shift of the supervisory function away from trustees to the Reserve Bank. According to this perspective, trustees have built up a close and intimate working knowledge of their business that would be lost if supervision shifted to the Reserve Bank.

## Options to increase supervisory independence

Only a handful of submitters commented on the option to enhance the Reserve Bank's supervisory independence by removing the role of the Minister in the de-registration of banks, and in consenting to the issuance of directions by the Reserve Bank. Of those that did provide comments, opinion was fairly evenly balanced. Those against removing the role played by the Minister included the NZBA who thought such a role provided a useful safeguard.

## Chapter 4. Balance sheet functions: How should the Reserve Bank's balance sheet functions be formulated?

Chapter 4 of Consultation Document 2B concerned the balance sheet functions of the Reserve Bank, particularly concerning its role as a lender of last resort, and the potential implementation of unconventional monetary policy. Stakeholder views were sought on the legislative details and scope of decision-making by the Reserve Bank in balance sheet matters. Around a third of submissions related to the Reserve Bank's balance sheet. Common themes from these submitters include:

- acceptance of the increased likelihood of quantitative easing in New Zealand
- consultation with the Treasury where quantitative easing is being considered by the Reserve Bank, and
- some support for bounds on the types of assets that may be purchased under balance sheet functions.

### Quantitative easing

A number of stakeholders recognised the increasing possibility that the Reserve Bank might consider undertaking quantitative easing (QE) if the economy weakened further. A common theme in several submissions was that this possibility should be discussed with the Treasury, so that the Treasury could consider complementing QE by recommending increased Government spending in support of the economy (e.g. infrastructure spending). Submitters noted that this approach would make the stimulatory effects stronger, since it would not rely on the potential for QE to stimulate private credit growth. It would also limit any tendency for QE to drive up existing asset prices like house prices.

Several submitters were of the view that QE should be an autonomous decision of the Reserve Bank. These submitters also supported the boundary proposed in the paper such that the Reserve Bank would only buy safe public assets domestically (e.g. Government debt), and would only consider buying private domestic financial instruments with the approval of the Minister of Finance. One submitter disagreed with the former points, and suggested that even buying Government debt should only be done with the Minister's permission due to the potential distributional effects of QE.

### Other balance sheet crisis functions

One submitter outlined some scenarios where the Reserve Bank might be required to take additional risks (beyond buying safe domestic assets). The submitter was of the view that these "crisis" actions should not be constrained by the accounting capital of the Reserve Bank, but did agree that these actions should be discussed with Government and not take place if the Government did not approve.

## Chapter 5. Crisis management: What features should New Zealand's bank crisis management regime have?

Chapter 5 of Consultation Document 2B concerned the crisis management regime in New Zealand, particularly regarding the Reserve Bank's role, objectives, and powers in the event of the failure of a regulated banking entity. Stakeholder views were sought on reforms to New Zealand's bank crisis management regime including:

- designating the Reserve Bank as a resolution authority
- specifying clear objectives for the resolution of a failing bank
- ensuring that a sufficient range of tools is available to resolve a failed bank in an orderly manner without causing severe systemic disruption and without relying on taxpayer funds or putting taxpayer funds at risk;
- establishing protections for creditor property rights
- ensuring funding is available to support a resolution if necessary, and
- rebalancing the role of the Minister of Finance in bank crisis management, including ensuring that the Minister is able to prudently manage fiscal risk and Crown balance sheet implications in situations where taxpayer funds are at risk.

20 submissions were received that related to this topic. Common themes from these submitters include:

- support for the proposed crisis management reforms
- the need for reforms to crisis management, the introduction of deposit insurance, and regulatory capital requirements to be considered together to ensure policy coherency, and
- lack of support for an industry-funded resolution fund.

### Proposed bank crisis management regime

#### Support of proposed features

Most stakeholders who submitted on bank crisis management were supportive of the proposed direction of reform to the crisis management regime. The NZBA and all banks that submitted individually on crisis management were supportive of the proposed direction. The NZBA, banks, and industry legal practitioners supported an "overhaul" of crisis management policies in New Zealand, including the role of statutory management, the Reserve Bank's OBR option, and the existing outsourcing policy.

Some of the other key themes mentioned by submitters in their support for the proposed crisis management reforms included:

- support for bail-in as long as depositors were excluded from it (i.e., apply bail-in only to institutional investors)
- the need to enable effective coordination with home authorities (especially Australia) in a cross-border situation

- scepticism about the efficacy of the existing statutory management regime, and
- support for the proposed general alignment with international best practise, and the Financial Stability Board (FSB) Key Attributes in particular.

### **Opposition to proposed features**

Four submitters were not supportive of the proposals on the grounds that they favoured more radical approaches to crisis management (like nationalisation) or to banking generally that would effectively make a special resolution regime redundant.

Among other submitters, there was a consistent lack of support for an industry-funded resolution fund.

### **Comments on linkages to other reviews**

Several submitters, including banks, the NZBA, and industry legal practitioners, emphasised their wish for deposit insurance, crisis management, and capital requirements (all parts of the financial safety net) to be considered together to ensure policy coherency.

Payments NZ (an FMI) devoted its submission to noting the linkages between the Phase 2 review and the draft FMI Bill, especially in crisis management, and suggested that these and other Phase 2 outcomes be incorporated into the FMI Bill before it is introduced into the House. This view was also supported by an industry legal practitioner familiar with the FMI Bill process.

## Chapter 6. Coordination: How should the Reserve Bank coordinate with other government agencies?

Chapter 6 of Consultation Document 2B concerned the coordination of the Reserve Bank with other government agencies in overseeing New Zealand's financial sector and broader economy (such as the Treasury, MBIE, the FMA, and the Commerce Commission, among others). Stakeholder views were sought concerning the potential reforms including:

- coordination via a letter of expectations from the Minister
- the ability to share information through legislative provisions, and
- allocating additional resources for coordination either within or across agencies.

17 submissions were received that related to this topic. Common themes from these submitters include:

- consistent acknowledgement of the importance of regulatory coordination
- support for increased information sharing between the Reserve Bank and other agencies, and
- support for an enhanced status quo (rather than a legislative role) concerning the Council of Financial Regulators.

### General comments on coordination

All of the relevant submissions noted the importance of regulatory coordination, and the need for greater resourcing and focus on this matter. In particular, many of these stakeholders emphasised the importance of close coordination on legislative policy and development, noting the range of reforms currently underway across the sector. A subset of stakeholders also acknowledged the importance of greater coordination with overseas regulators, including coordination on home-host arrangements. Other notable comments include the need for greater coordination between the Treasury and the Reserve Bank concerning macro-economic and macro-prudential matters.

All stakeholders who commented on information sharing were in support of greater information sharing between the Reserve Bank and other regulators. A few submissions noted that consideration should be given to consolidating the number of regulatory and policy agencies involved in the regulatory system, including shifting financial regulatory policy responsibility to a single agency. One submission in particular argued for more explicit acknowledgement of consumer credit regulation and the role of the Commerce Commission within the financial regulatory system.

### Council of Financial Regulators (CoFR)

All of the submissions that addressed the role of CoFR supported an enhanced status quo, rather than legislating for CoFR's role.

## Chapter 7. Funding: How should the Reserve Bank be funded and resourced?

Chapter 7 of Consultation Document 2B concerned the resourcing and funding of the Reserve Bank, with a particular focus on having the appropriate balance of budgetary independence and accountability checks. Stakeholder views were sought on potential reforms to the existing funding mechanism, including transparency requirements, the role of the Minister of Finance, and the source of funding for the Reserve Bank. Views were not sought on the appropriate level of funding for the Reserve Bank.

16 submissions were received that related to this topic. Common themes from these submitters include:

- agreement with the issues identified in the consultation paper
- support for increased resources to the Reserve Bank (particularly in its prudential function)
- support for increased transparency of spending and funding, and
- support for some of the costs associated with the Reserve Bank's prudential functions to be recovered from the industry through fees or levies backed up by sufficient industry consultation.

### General comments

Most of the relevant 16 submitters agreed with the potential issues outlined in the consultation paper, with some highlighting a lack of flexibility and limited transparency. The majority of submissions noted that the Reserve Bank is under-resourced, or should be provided with more resources, with a particular focus on the prudential function. There was strong support for levies or fees provided there is associated industry consultation and transparency. There was also general support of more accountability and transparency on the Reserve Bank's spending and funding.

### Degree of budgetary independence (role of the Minister) and accountability

There was general agreement that there are issues with the current funding agreement, and that the agreement has not delivered sufficient resources to the Reserve Bank. Some submitters noted that the potential issues with the funding agreement relate to the *use* of the model rather than the *design*. That is, they noted that the current agreement design provides for flexibility and amendments, but that in actual use, funding agreements are only amended rarely. A small number of submitters endorsed a particular funding model, with four submitters supporting an "agreement" model and two submitters supporting a "consult" model.

A number of submitters noted weaknesses in the current accountability arrangements associated with funding, and supported enhancements including improved governance, reporting, consultation, and performance audits by the Auditor-General.

## Source of funding

Concerning the source of funding for the Reserve Bank, there was strong support within the relevant submissions for some costs to be recovered from industry via fees or levies. This was most commonly viewed as appropriate to fund the prudential supervision function. The NZBA was supportive of levies, provided that this results in a more capable regulator, and provided that the funding is appropriately targeted, ring-fenced, and accounted for transparently. There was strong support for broad consultation on the calibration of such levies or fees, and a number of submitters noted that public sector guidance and practice should be adhered to when setting such charges.

A few submitters noted their concerns about the increasing costs of financial regulation. Concerns raised include increases to the FMA levy, trustee fees and the potential for a deposit insurance levy and resolution fund. In particular, smaller financial institutions and insurers were concerned that increasing costs could impact the viability of some firms. Some submitters noted that increases in costs could be passed on to customers. However, some of these submitters did note that the possible removal of trustee fees for NBDTs would offset some of the cost of any new prudential levies.

## Other matters raised by submitters

There were a small number of other matters raised by submitters in the second consultation that are not covered by the topics above. Of these, there were some stakeholders who identified potential short fallings of the proposed reforms; some stakeholders who submitted suggestions and academic references on the functioning of the Reserve Bank; and some stakeholders who requested specific policy changes.

### Comments on short -comings in current Institutional arrangements

One submitter brought attention to the current gap in accountability provisions concerning the Reserve Bank's operational independence and prudential policy powers.

One submitter representing the NBDT sector noted the difficulties that may arise in applying current regulatory rules to NBDTs, such as capital requirements and liquidity rules, under a single regulatory regime. The representative emphasised that NBDTs operate under simple capital rules that may inappropriately designate certain instruments as tier 1 capital, and that NBDTs generally operate with shorter liquidity requirements than banks.

One submitter noted that the board's responsibilities for prudentially regulating payment systems presents a conflict of interest given that the Reserve Bank is currently running a systemically important payment systems (Exchange Settlement Account System and NZClear). The submitter suggested the Bank of England model in order to overcome any conflicts of interest.

### Policy requests

One submitter requested that the capital ratio for trading banks be increased to 33% of risk-weighted assets, and for other interventions proposed by the Consultation Document to be put aside as unnecessary given "sufficient" existing regulation and supervision.

One submitter requested that climate change be considered throughout the entirety of the Reserve Bank's governance, prudential, and structural reforms (rather than only in reforms on the objectives of the Reserve Bank).

### Other suggestions

One submitter offered references to two articles concerning regulatory capture, and suggests the establishment of an assessment board in order to avoid such an outcome in New Zealand.

One submitter would like to see greater concern for derivatives and international distortions in financial stability policy in New Zealand.

One submitter believed that the Reserve Bank should be given a greater range of tools and powers, and thereby reduce its reliance on the official cash rate. This submitter is concerned with the low level of interest rates currently seen in New Zealand (and globally).

One submitter noted that the reforms proposed by the relevant documents should bear greater mind to land price inflation and land-based debt in New Zealand as a systemic, harmful issue.

One submitter suggested that the Reserve Bank should issue a new form of currency known as "sovereign money", and be funded through this currency.

# Appendices

# Appendix 1: Questions for consultation 2A

## Chapter 1: Should prudential regulation remain with the Reserve Bank?

No follow-up questions.

## Chapter 2: What financial policy objectives should the Reserve Bank have?

2.A What other objectives should the Reserve Bank have?

- Which of the objectives discussed in Chapter 2 should feature in the Reserve Bank Act, and why?
- Are there any other objectives not covered in Chapter 2 that should be considered?

2.B Should the Reserve Bank be given a more explicit climate change objective? If so, what would be your preferred mechanism for achieving this?

2.C Where in the legislative hierarchy should any additional objectives sit – as ‘secondary objectives’, or as ‘considerations’ that the Reserve Bank must look at?

2.D How should the Reserve Bank’s objectives be specified? Do you see a role for a ‘financial policy remit’? If so, what should it include?

2.E What is your view on creating a new ‘Deposit Takers Act’ that combines material from the NBDT Act with the Reserve Bank Act’s banking regulation material?

2.F Looking at the example of the Reserve Bank’s objective set, which elements do you support and which would you change, and why?

## Chapter 3: How should the Reserve Bank be governed?

3.A What factors are most important for achieving the establishment of an effective governance board with responsibility for all the Reserve Bank’s decisions outside of monetary policy?

3.B What is the appropriate degree of delegation from the board to the Governor? Are there any decisions that should be reserved for the board?

3.C What approach should the Treasury adopt in monitoring the Reserve Bank? What should the Treasury’s monitoring responsibilities be? Should the Treasury’s monitoring responsibilities be different for the MPC?

3.D Do you think there is merit in reclassifying the Reserve Bank as an independent Crown entity?

3.E For the new governance board:

- what should the split of executive and non-executive members be?
- what skills and expertise should non-executive members have? Is there merit in having representation from the FMA and/or the Treasury?
- how should members be appointed and removed? Should the board be able to appoint the Governor as CEO?

3.F Are there any aspects of the board's operation would benefit from legislative clarity or guidance?

## **Chapter 4: How should the regulatory perimeter be set?**

4.A What is the appropriate definition of 'deposit taker'? Do you agree that the definition should be framed around entities that take retail 'deposits' and lend? If not, what approach do you consider would be preferable?

4.B Should the Reserve Bank's ability to monitor non-licensed entities be enhanced, for example through increased data reporting requirements? What do you consider would be the costs and benefits of such an approach?

4.C Should the Reserve Bank be given discretion to extend the perimeter within clearly specified parameters to avoid regulatory arbitrage (such as designating in entities with business models economically similar to deposit takers)? Do you agree that changes that are more significant may be more suited to legislative change, supported by pre-positioning?

4.D Should tools that are not linked to licensing have a different perimeter? For example, it is common internationally for non-bank lending institutions to be subject to macro-prudential lending tools, even though they do not take deposits.

## **Chapter 5: Should there be depositor protection in New Zealand?**

5.A Are the interactions between depositor protection and the other parts of the financial safety net set out in Part I of Section 2 described appropriately?

5.B What objectives should the depositor protection regime in New Zealand have? Should its objectives be:

- to protect depositors from loss?
- to contribute to public confidence and financial stability?
- both of these?
- something else?

5.C The Minister has made an in-principle decision that the depositor protection regime should have a limit in the range of \$30,000-\$50,000. Given your answer to 5.B, what coverage level would be best within this range?

5.D How would your preferred limit affect depositor wellbeing, public confidence, and depositors' responsibilities for their financial choices?

5.E Do you think the New Zealand depositor protection regime should be supported by a preference for insured depositors? How would this affect the costs and benefits of a depositor protection regime in New Zealand?

# Appendix 2: Questions for consultation 2B

## Chapter 1: What prudential regulatory tools and powers should the Reserve Bank have?

1.A Do you agree that the broader Reserve Bank Act model strikes an appropriate balance between primary legislation and delegated powers? If not, why not?

1.B Are there any areas of the Reserve Bank Act where changes to the model are required, such as the introduction of greater safeguards?

1.C Does the chapter appropriately identify the key issues with the current framework for setting prudential rules? If not, what is missing?

1.D What are your views regarding the potential options proposed for setting the core prudential instrument? Are there any other changes to the rule-making framework that should be considered?

1.E What do you see as the costs and benefits of introducing enhanced process rights for administrative decisions? If you consider there is a case to introduce these rights, how should they be framed?

1.F Is there a case to change the breach reporting and liability models that apply to regulated entities in the Reserve Bank Act? If so, what models would be preferable?

1.G Is there a need to increase executive accountability?

1.H If so, which of these models would be most effective in doing so, and why?

## Chapter 2: What role should the Reserve Bank play in macro-prudential policy?

2.A Does the Reserve Bank's framework document (Ovenden, 2019) present its expected macro-prudential strategy in enough detail to allow monitors to ensure the Reserve Bank is following the strategy and predict future macro-prudential actions?

2.B What are your views on the conduct of macro-prudential policy in the past five years? It may be useful to read the recently released framework document (Lu, 2019) and the sub-questions below:

- Are there any lessons to be learned from New Zealand's experience with loan-to-value ratios (LVRs) to date?
- Do you think LVR policies that have greater impacts on certain buyers (e.g. investors) or regions than on others are appropriate?
- Has the Reserve Bank's 'speed limit' approach reduced risks without affecting too severely buyers who may need high LVR loans owing to special circumstances?
- Would a greater use of macro-prudential tools other than LVRs have been appropriate during the recent housing boom?

2.C Is it appropriate to regulate lending standards (e.g. LVRs)? How broad should these powers be (should they include other tools such as debt-to-income restrictions)?

- Should lending standards apply only to deposit takers or to all lenders?
- Should there be special governance arrangements for these tools?
- Should the Reserve Bank reconsider its view that these tools should only be applied temporarily?

2.D Other than lending standards, when the Reserve Bank makes time-varying use of standard prudential tools such as capital ratios, are there any concerns or reasons for wider political oversight?

### **Chapter 3: How should the Reserve Bank supervise and enforce prudential regulation?**

3.A What do you think are the strengths and weaknesses of the Reserve Bank's current approach to supervision and enforcement?

3.B Do you think that the Reserve Bank's planned approach to the supervision and management of climate change-related risks is appropriate and adequate? Do you think that the Reserve Bank's approach to climate change would be different if it was given a more explicit climate change objective, as considered in question 2B of Consultation Document 2A?

3.C In what areas do you think the Reserve Bank could improve its approach to supervision and enforcement? How could this be best achieved (e.g. through legislative change, resourcing, relationships with regulated entities)?

3.D Do you think the Reserve Bank should take a more intensive approach to verifying supervisory information? If so, which verification model do you favour?

3.E What are the appropriate enforcement tools for the Reserve Bank? Which tools in particular should be added to the toolkit?

3.F Is the Minister's role in issuing directions and deregistration appropriate?

### **Chapter 4: How should the Reserve Bank's balance sheet functions be formulated?**

4.A Should more detailed principles for the Reserve Bank's LoLR function be set out in legislation? Do the principles and governance considerations in Chapter 4 seem appropriate? Would you add others?

4.B If the Reserve Bank were to launch an asset purchase programme (quantitative easing), do you believe it should be able to make its own decisions to purchase government debt, but require ministerial consent to purchase other assets? Are there other implementation issues around asset purchase programmes that should be considered?

4.C How much power should the Minister have in determining the scope and objectives of the Reserve Bank's foreign exchange interventions? Should the current arrangements – which will give

some decision-making power to the Minister, the MPC and the new Reserve Bank governance board – be broadly retained, or should the Reserve Bank’s autonomy be increased?

4.D Do you have any other comments on the balance sheet functions described in Chapter 4?

## **Chapter 5: What features should New Zealand’s bank crisis management regime have?**

5.A What are the most important objectives for New Zealand’s resolution authority? Should they be ranked in order of importance? Would the objectives suggested above strike the right balance between providing guidance and accountability for the Reserve Bank and flexibility for the Reserve Bank to deal effectively with a crisis?

5.B Is the proposed resolution authority function for the Reserve Bank specified appropriately? Do you see any alternatives to the Reserve Bank as resolution authority?

5.C Should the current requirements for ministerial consent be replaced with an ability for the Minister to direct the Reserve Bank when public funds could be at risk? Are there additional circumstances in which the Minister should be able to direct the Reserve Bank on a resolution if public funds are not at risk?

5.D Should the Reserve Bank, as the resolution authority, have resolution powers (instead of only statutory managers having these powers)?

5.E In principle, should the Reserve Bank have the power to ‘bail in’ specified categories of unsecured liabilities (with details of eligible liabilities to be determined and subject to creditor property rights safeguards – see below) in order to recapitalise a failing large bank after its owners have absorbed maximum losses, and to minimise the need for taxpayer support? Alternatively (or in addition), should the recapitalisation of a failing large bank be funded through industry-wide levies?

5.F Do you agree with the proposal to allow continuous disclosure-to-market requirements to be suspended temporarily, subject to conditions and safeguards? Are the suggested conditions and safeguards appropriate, or should there be others?

5.G Should the resolution authority always be required to respect property rights (including the hierarchy of creditors in liquidation)? Or should it have discretion to override property rights as long as compensation is made available to creditors left worse off than they would have been in a liquidation? Or should no change be made to the protection of creditor property rights?

5.H Should an industry-funded resolution fund be established (alongside any deposit insurance scheme fund)?

5.I Do any other aspects of cross-border resolution need to be considered in the design of New Zealand’s crisis management framework?

## **Chapter 6: How should the Reserve Bank coordinate with other agencies?**

6.A What do you see as the main pros and cons of the existing coordination arrangements, and why?

6.B What would you change about current arrangements, and why?

6.C Which, if any, of the options above for enhancing support for status quo coordination arrangements do you consider would be desirable, and why?

6.D Do you think that a high-level coordination objective would be an appropriate way to ensure that the Reserve Bank is coordinating with non-financial sector agencies (for example on climate change)?

6.E Which is your preferred option for the structure of CoFR and why?

6.F Do you agree with the analysis of the pros and cons of the different options?

6.G Are there any other specific coordination mechanisms, bodies, or transparency requirements that the Review should consider?

## **Chapter 7: How should the Reserve Bank be funded and resourced?**

7.A Do you agree with the potential issues identified in the current funding model? Are there any additional issues with the current funding model?

7.B How should the Reserve Bank report its funding and spending? Do you have any comments on the transparency of, or accountability for, the Reserve Bank's funding and spending, including the possible channels to strengthen arrangements?

7.C Given the in-principle decisions to change the Reserve Bank's governance framework as outlined in Consultation Document 2A, what role should the Minister have in the Reserve Bank's funding model? Should it be different for prudential and non-prudential functions?

7.D Should the Reserve Bank continue to be fully funded from revenue (seigniorage and investment income) and fees, or should other funding sources be considered? In particular, should the Reserve Bank have the option to introduce an industry levy to fund the Reserve Bank's prudential supervisory function?

7.E Do you have any comments on the illustrative options in Figure 7C and Table 7B? Are there other options, combinations, or additional design features that should be considered?

## Appendix 3: List of submitters

The table below is a chronological summary of all submissions made for phase 2 of the consultation.

#	Organisation / Submitter	#	Organisation / Submitter
1.	Institute of Financial Professionals in New Zealand	31.	Ben Thirkell-White
2.	[Anonymous]	32.	Bank of New Zealand
3.	Chris Lee	33.	Alister Barry
4.	J. McLaran	34.	Financial Services Council
5.	Bill Foster	35.	Institute of Directors
6.	Andy Schmulow	36.	NZ Super Fund
7.	Alistair Coster	37.	ASB
8.	Andrew Body	38.	New Zealand Bankers Association
9.	Stuart Bramhall	39.	Westpac
10.	Simon Jenson	40.	Heartland Bank
11.	Murray Jackson	41.	Philip McIntyre
12.	NZ Initiative	42.	Bruce White
13.	Te Arawa Federation of Maori Authorities	43.	Dr Graham Scott
14.	NBDT Sector	44.	Justine Sefton
15.	NZX	45.	Rose
16.	Kay Robertson		
17.	Payments NZ		
18.	Positive Money New Zealand		
19.	Carbon Neutral New Zealand Trust		
20.	Insurance Council of New Zealand		
21.	Trustee Corporations Association		
22.	Mutual Credit Finance		
23.	Business Central		
24.	Commerce Commission		
25.	KPMG		
26.	Grant Spencer		
27.	Consumer		
28.	Martin Taylor		
29.	David Archer		
30.	Financial Services Federation		

## Appendix 4: List of abbreviations

Full form	Abbreviation
Australian Prudential Regulatory Authority	APRA
Bank of England	BoE
Bank of New Zealand	BNZ
Council of Financial Regulators	CoFR
Financial Markets Authority	FMA
Financial Market Infrastructure	FMI
Financial Stability Board	FSB
Financial Services Federation	FSF
Financial Services Council	FSC
Insurance Council of New Zealand	ICNZ
International Monetary Fund	IMF
Institute of Directors	IOD
Ministry of Business, Innovation and Employment	MBIE
New Zealand Bankers' Association	NZBA
New Zealand Financial Services Authority	NZFSA
Non-Bank Deposit Taker	NBDT
Quantitative Easing	QE