

The Treasury

Additional Documents Related to Phase 2 of the Reserve Bank Act Review - December 2019 to April 2021 - Proactive Release

June 2021

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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:

- [7] 6(e)(ii) - to prevent serious damage to the economy of New Zealand by disclosing prematurely decisions to change or continue government economic or financial policies relating to the regulation of banking or credit
- [27] 9(2)(ba)(ii) - to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely otherwise to damage the public interest
- [29] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [33] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment
- [36] 9(2)(h) - to maintain legal professional privilege
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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Reference: T2020/442

MC-1-7-3-1-13

Date: 27 February 2020

To: Minister of Finance
(Hon Grant Robertson)

Deadline: None

Aide Memoire: Deposit Takers Act consultation document

A Cabinet paper seeking approval to publicly consult on the Deposit Takers Act has been finalised for consideration by the Cabinet Economic Development Committee on 4 March 2020. Final versions of the Cabinet paper and consultation document have been uploaded into CabNet for lodgement by your Office.

Suggested talking points for the Cabinet committee are attached as **Annex 1**.

Amendments to the consultation document

A number of relatively minor changes have been made to the consultation document to resolve the remaining issues that had been raised during interagency consultation, in particular:

- updates to the content on the role and scope of the Financial Policy Remit to align with advice provided to you on 20 February 2020.
- amendments to the content on aligning the Financial Markets Authority's (FMA's) on-site inspection power with that proposed for the Reserve Bank. These amendments incorporate changes requested by the Minister of Commerce and Consumer Affairs, who we understand is now comfortable with this matter being included in the consultation document.
- changes to the discussion of funding arrangements for deposit insurance to provide a general overview of the implications of potential target fund size. The target fund size will be the subject of further consultation prior to implementation of the scheme.
- changes to the material on statutory bail-in (to address Reserve Bank feedback), and on the proposed exclusion for deposit takers from the scope of statutory management under the Corporations (Investigation and Management) Act 1989 (to address FMA and MBIE concerns).

Review team members have also worked with the Reserve Bank and Treasury staff to prepare a separate briefing on the current role of the finance company sector and implications of the potential options for its treatment under the Deposit Takers Act. We understand that this briefing will be provided to your Office on 28 February 2020.

David Hargreaves, Principal Advisor, Reserve Bank Act Review, [39]
Tamiko Bayliss, Director, Reserve Bank Act Review, [39]

Annex 1: Talking points for the Cabinet Economic Development Committee

- I am seeking Cabinet approval to release a consultation document on the design of a new regulatory framework for deposit takers and the new deposit insurance scheme.
- This consultation is part of the review of the Reserve Bank Act, being jointly led by the Treasury and the Reserve Bank, supported by an Independent Expert Advisory Panel.
- The goal of the overall review is to modernise New Zealand's monetary and financial stability policy frameworks and the Reserve Bank's governance and accountability settings.
- We initially completed high-priority improvements to the monetary policy framework (Phase 1). Phase 2 is a broad review of the Reserve Bank's governance and accountability framework and its financial regulatory powers.
- Changes to the governance of the Reserve Bank are being progressed as part of a separate Institutional Act, which I expect to introduce into Parliament in the middle of this year.
- This consultation paper builds on the in-principle decisions on the regulation of deposit takers that Cabinet made in June and December 2019. These included:
 - that the Reserve Bank would retain responsibility for prudential regulation and supervision
 - the creation of a single, flexible prudential regulation regime for banks and other deposit takers
 - the introduction of a deposit insurance scheme with a maximum coverage of \$50,000 per depositor per institution
 - increased accountability requirements for directors of deposit takers
 - strengthened crisis management and resolution tools and powers for the Reserve Bank.
- The consultation document covers the broad range of policy decisions that will need to be made in order to progress legislation. While many of these issues are relatively detailed, some will have significant implications for regulated firms and their customers.
 - [Paragraph 20 of the Cabinet paper provides an overview of the contents of the consultation paper]
- Stakeholders are likely be most interested in:
 - the regulatory approach to finance companies and wholesale-funded lenders

- the scope of the Reserve Bank's standard-setting power, including in relation to macro-prudential standards such as loan-to-value ratios
 - the specification of new accountability duties on directors of deposit takers
 - the products that would be covered by deposit insurance
 - the implications for depositors, other creditors and industry of deposit preference and future funding arrangements for deposit insurance.
- A six week consultation period is proposed, through to the week commencing 20 April 2020. While this timeframe is tight, it is necessary to allow policy decisions on the Deposit Takers Act to be made prior to the election.
 - I intend to report back to Cabinet with final policy decisions for the Deposit Takers Act in early August 2020, with a view to releasing an exposure draft of the legislation in early 2021 and introducing legislation to Parliament in the first half of 2021.