

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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Date: 11 February 2021

To: Minister of Finance (Hon Grant Robertson)

Deadline: Before 3.30pm, 17 February
(if any)

Aide Memoire: Upcoming decisions on the Deposit Takers Act

On 17 February you will be meeting with members of the Reserve Bank Act Review team to discuss upcoming decisions on the Deposit Takers Act (the DTA). The purpose of this meeting is to summarise the upcoming decisions, identify key issues, and test your level of comfort with the direction of travel. An A3 is included to support this discussion.

Background and timeframes

The DTA will contain the prudential framework for deposit takers and the framework for deposit insurance. The bill for the DTA will be the culmination of three rounds of public consultation.

In parallel to the DTA proposals, the Reserve Bank of New Zealand (RBNZ) Bill (currently before the Finance and Expenditure Committee) contains a number of features that directly support and complement the DTA. A key feature of the RBNZ Bill is the financial stability objective to “protect and promote the stability of New Zealand’s financial system,” which will apply to all sectors the Reserve Bank regulates. The financial stability objective is to be interpreted broadly in light of the RBNZ Act’s overarching statutory purpose to “promote the prosperity and well-being of New Zealanders and contribute to a productive economy”. Further features have sought to provide a balance between protecting the Reserve Bank’s operational independence, and providing an appropriate level of democratic influence over the Reserve Bank’s delegated financial policy making functions, as contemplated by the Review’s terms of reference. These features include:

- a requirement for you to issue a *Financial Policy Remit*, which the governance board must have regard to when developing prudential policy
- specific process requirements around the development of prudential policy, such as the publication of regulatory impact assessments and the requirement that these include how the *Remit* has been considered

- provisions to strengthen cooperation and coordination across the financial regulatory sector, including statutory recognition to the Council of Financial Regulators, and a statutory cooperation function for the Reserve Bank.

We are working to an ambitious timeline that anticipates introduction of a deposit takers bill in late 2021. A timeline is included in the A3. In order to meet this timeframe, Cabinet decisions will be required on foundational aspects of the DTA by late April 2021 so that Parliamentary Counsel Office (PCO) can begin drafting the Bill. Some parts of the DTA work programme (e.g. less material aspects, or areas still requiring further policy development) are amenable to subsequent Cabinet decisions (or managed through ministerial delegations).

On 25 February we expect to provide you with a substantial suite of recommendations for decision in order to progress the Cabinet advice. Given the breadth of this advice we are considering how best to package the large number of recommendations to Cabinet. The remainder of this paper provides an overview of these recommendations, identifies any areas of substantive disagreement between agencies, and provides insights from the Independent Expert Advisory Panel and those arising from the latest consultation.

Upcoming decisions on the DTA

Cabinet has made a number of in-principle decisions on the key features of the DTA [DEV-19-MIN-0346 and DEV-19-MIN-0161 refers], including regulating banks and non-bank deposit takers under one prudential regime, using standards for imposing regulatory requirements, increased director accountability, the establishment of a deposit insurance scheme, and designating the Reserve Bank as resolution authority.

More detailed elements of the prudential framework and deposit insurance were consulted on as part of the third consultation last year (extended by six months due to COVID-19). We will be seeking decisions from Cabinet on foundational aspects of the DTA covering the areas set out below.

- Depositor protection: the design of the deposit insurance scheme, including the scope of insured products, the functions and governance of the insurer, how the deposit insurer will be funded, and the merits of depositor preference. You agreed to extend the coverage limit for the deposit insurance scheme from \$50,000 to \$100,000, reflecting that this would help mitigate risks to competition and financial sector inclusion highlighted by small deposit takers, while also responding to broader concerns raised by stakeholders in the last two consultations (T2020/3741 refers).¹

¹ After the Deposit Takers Act is passed, there will be a substantial work programme led by the Reserve Bank to implement the new framework. You have indicated that you place a high priority on the deposit insurance scheme being implemented prior to 2023 (i.e. during the current parliamentary term). This will likely require deposit insurance to come into force before the wider Deposit Takers Act. The forthcoming advice will include a high-level timetable for implementing the scheme which could be communicated to the public, along with the risks that would come with the recommended timetable and how these could be managed.

- The purposes and principles of the Deposit Takers Act: key decisions are needed for the DTA's statutory purposes and decision-making principles which will further clarify the overarching financial stability objective.
- The regulatory perimeter: the definition of a 'deposit-taker' and the consequential treatment of entities that sit on the boundary of that definition. You have agreed that finance companies should be included in the regulatory perimeter and able to offer insured deposit insurance products (T2020/3517 refers).
- Standards and licensing: the permitted scope and process requirements for prudential standards and the licensing requirements for deposit takers.
- Liability, accountability, supervision and enforcement: the liability of entities and individuals for breaches of the DTA, and the proposed accountability framework for the directors of deposit takers. This area also includes the supervision powers of the Reserve Bank and the enforcement tools available to it to effect corrective action.
- Resolution and crisis management: the design of some key elements of the new framework, especially the powers of the Reserve Bank as the resolution authority, your role in the framework as Minister of Finance at specific decision points, the triggers for resolution and the liabilities eligible for bail-in.

More detail on each of these areas, and key issues, is included in Annex 1.

Key issues raised by agencies, the Panel and stakeholders

The Treasury and the Reserve Bank

The Treasury and the Reserve Bank are agreed on most of the recommendations although there are currently differences of views on some areas. These areas include:

- Standards: there is broad alignment between the Treasury and the Reserve Bank on the requirements that would apply to licensing and the need for robust accountability arrangements in respect of standard setting by the Reserve Bank. However, there are differences in views on some aspects of the standard setting framework which primarily reflect differences on the appropriate balance between operational independence for the Reserve Bank and the role of the Minister of Finance.
- Crisis management: the introduction of the bail-in resolution tool and the role of the Minister of Finance in crisis management are among the most significant elements being considered by the Review. While there is broad alignment in many areas, key questions currently include:
 - Whether the Minister of Finance should have a formal role in placing a deposit taker into resolution and, if so, whether a ministerial 'approval' of the Reserve Bank's determination is sufficient or whether an Order in Council is desirable.

- The ability of the Minister of Finance to direct the Reserve Bank on managing fiscal risks to the government if and when public funds are put at risk in a resolution.
- Whether there should be any legislative restriction (e.g. through regulations) on the eligibility of uninsured deposits and short-term debt for bail-in planning, given the risks associated with bailing in these types of liabilities.
- Deposit insurance: officials are working on some elements of the scheme, including the funding approach (drawing on funding models for ACC and EQC), and whether deposits should rank above other creditors.

Stakeholders

In the third consultation, stakeholders were broadly comfortable with many of the proposals, including the approach to the regulatory perimeter, the standards and licensing framework, a broader supervisory and enforcement tool kit, and the coverage of transactional and savings accounts by the deposit insurance scheme. Some common concerns were around the prominence of efficiency, the scope and impact of macro-prudential standards, the proposed duties on directors, and the deposit insurance coverage limit.

The Independent Expert Advisory Panel

The Panel provided you with a paper on 10 December advising on topics they consider relevant to the success of the review. These topics included an emphasis on the trans-Tasman elements of crisis management, greater engagement with depositors, dealing with the challenges of financial sector innovation, and greater resourcing to consider systemic issues across the financial system.

More detail on key aspects of the DTA requiring Cabinet decision, and matters raised by stakeholders and the Panel, is included in Annexes 1 and 2.

Next steps

On 25 February the Review team intends to provide you with a substantial suite of recommendations for your decision by 5 March in order to progress the Cabinet paper.

James Haughton, Programme Manager, Reserve Bank Act Review, [39]
 Tamiko Bayliss, Director, Reserve Bank Act Review, [39]

Annex 1 – Key upcoming Cabinet decisions on foundational aspects of the DTA

Depositor protection

A key issue on the deposit insurance scheme was the level of coverage, initially set at \$50,000 per depositor, per institution. The Review received substantial feedback from deposit takers and other stakeholders that the coverage limit should be higher. You agreed to extend the coverage limit for the deposit insurance scheme from \$50,000 to \$100,000, reflecting that this would help mitigate risks to competition and financial sector inclusion highlighted by small deposit takers, while also responding to broader concerns raised by stakeholders in the last two consultations (T2020/3741 refers).

Further decisions are needed on the design of the deposit insurance scheme. Key areas include:

- *The scope of insured products:* clear and transparent rules defining the level and scope of coverage are necessary for the scheme to be able to promptly reimburse depositors, and support public confidence in the event of failures. We will recommend that products covered by the scheme are set in legislation with the intention to capture transactional, savings and term deposits offered by licensed deposit takers. Debt securities will not be insured deposits and there are likely to be additional exclusions for more sophisticated depositor types. The legislative framework will be supported by a power to set detailed eligibility rules through secondary legislation, and ongoing monitoring of the boundary by the deposit insurer.
- *Depositor preference:* the Review has consulted on whether the deposit insurance scheme should be complemented by a depositor preference. We will recommend that insured deposits will rank above unsecured creditors, meaning that they would be paid ahead of these creditors during a liquidation (this is known as ‘insured depositor preference’). This approach will support the effectiveness of resolution tools and reduce the likelihood that the deposit insurance scheme faces losses (which has influenced the design of the funding framework). You will also receive advice on whether this model should be extended so that uninsured deposits rank above other uninsured creditors. Industry stakeholders expressed concerns about the impact of a preference on wholesale funding costs.
- *Funding strategy:* adequate funding arrangements are critical to a credible scheme. The funding approach will affect the extent to which governments will have to lend public funds to the scheme in the event of a failure, and how the costs of deposit insurance are distributed across deposit takers over time. We will recommend that the Minister will be required to set and publish a *Funding Strategy* for the deposit insurance scheme, including how levies will be used to manage the Crown’s contingent liability arising from the scheme. The legislation will include a number of principles that the Minister must have regard to when

developing the *Funding Strategy*, and the Minister must also have regard to the strategy when setting levies on a regular basis. The Review has drawn on the funding models for ACC and the recommended future framework for EQC in developing these proposals.

- *Governance of the deposit insurance function*: the third consultation proposed that the Reserve Bank be responsible for deposit insurance with a narrow range of functions to avoid costly duplication of supervision and resolution functions. We will recommend that the functions of the deposit insurer include promptly reimbursing depositors in a liquidation, promoting public awareness, and monitoring risks to the deposit insurance scheme. There may be a need to create a legally separate entity within the Reserve Bank to undertake some or all deposit insurance functions.

The purposes and principles of the Deposit Takers Act

Key decisions are needed for the DTA's statutory purposes and decision-making principles which will further clarify the overarching financial stability objective in the RBNZ Bill and the exercise of prudential powers:

- *Purposes*: financial stability is broad and encompasses both macro and micro considerations. The way in which financial stability should be achieved is through the following proposed purposes for the DTA:
 - to promote the safety and soundness of deposit takers
 - to promote public confidence in the financial system, and
 - to mitigate the risks that arise to and from the financial system.
- *Principles*: principles are proposed that have been designed to guide the exercise of powers and duties under the DTA, and ensure that a wide range of factors are taken into account by the Reserve Bank when pursuing the statutory objectives. This includes ensuring that financial stability is not pursued at all costs (for example, efficiency-related considerations) and that longer-term risks are considered (for example, the risks associated with climate change).

A key theme in submissions was concern around the roles of efficiency and wellbeing. Several submitters expressed concern that efficiency (and related concepts such as competition, allocative efficiency and dynamism, market diversity, and growth and innovation) have been relegated in the hierarchy. These submitters suggested that efficiency should be a key consideration because an efficient financial system is key to growth and therefore economic and social wellbeing. Although we agree that efficiency concepts should be a key consideration, experience has shown that efficiency and financial stability are difficult to balance. Unpacking efficiency concepts across several of the principles retains efficiency as a key influence in prudential regulation while also making it easier to apply in practical terms.

On the role of wellbeing, several submitters expressed concern that the overarching statutory purpose in the RBNZ Bill should be better integrated within the legislative

framework for the DTA. We consider the wellbeing purpose to be a key element of the framework and will work with the drafters to ensure that it is carried across to the DTA.

The regulatory perimeter

The DTA will provide for a new prudential regulatory regime for firms that are in the business of borrowing and lending. Firms that offer transactional ‘banking’ services (such as banks, credit unions and some building societies) are included within this regulatory perimeter. A key issue consulted on was whether finance companies (lenders that issue retail debt securities, but do not take on-call deposits or offer transactional services, and typically have higher risk operational models), should also be included within this regulatory perimeter. You have agreed that finance companies should be included in the regulatory perimeter and should be able to offer insured deposit insurance products, with the Reserve Bank managing moral hazard by imposing sufficiently robust regulatory requirements and risk-based pricing for deposit insurance (T2020/3517 refers).

Other recommendations that we expect to make on the regulatory perimeter include:

- capturing some wholesale deposit takers within the perimeter, but excluding lenders who solely borrow from certain wholesale sources, such as wholesale capital markets.
- limiting the use of the word ‘deposit taker’ (and similar) to licensed deposit takers and the use of the word ‘bank’ (and similar) to a subset of deposit takers.
- confirming the scope of the Reserve Bank’s exemption and designation powers.

Standards and licensing

Key aspects in this topic are set out below.

Standards: Cabinet has agreed that ‘standards’ as a secondary legislative instrument administered by the Reserve Bank will become the main tool for imposing prudential requirements. There is broad alignment between the Treasury and the Reserve Bank on the requirements that would apply to licensing and the need for robust accountability arrangements in respect of standard setting by the Reserve Bank. However, there are differences in views on some aspects of the standard setting framework, which primarily reflect differences on the appropriate balance between operational independence for the Reserve Bank and the role of the Minister of Finance.

The prudential framework within the RBNZ Bill and the DTA is premised on giving the Reserve Bank a strong financial stability objective and delegated prudential policy responsibilities. Delegating prudential policy responsibilities to an independent decision-maker deals with problems associated with ‘time inconsistency’ and ensures a credible pre-commitment to the objectives of prudential policy. The benefits of prudential policy in terms of financial stability are long-term in nature, while the costs of tighter bank lending and lower growth are more immediate. An undue focus on the short-term costs rather than the long-term benefits, can lead to an inaction bias, where

decision-makers may effectively renege on any commitment to the long-run policy goal. The framework also recognises the need for political legitimacy through the financial policy remit which is designed to provide an appropriate level of democratic influence over the significant policy making functions of the Reserve Bank. Accountability is further provided under the new framework for setting standards, including the requirement to prepare regulatory impact assessments (which must demonstrate how the remit has been taken into account), consultation and public notification requirements.

Licensing: all regulated entities will need to obtain a licence from the Reserve Bank to undertake the business of borrowing and lending. They will also have to comply with any conditions attached to this licence, and with various prudential requirements set out through standards. Primary legislation will provide clarity over the specific areas where the Reserve Bank may impose standards, with the scope of standards able to be expanded over time through regulations via an Order in Council.

Lending standards and Macro-prudential policy: the DTA will explicitly provide for the Reserve Bank to set requirements that regulate property lending (e.g. residential mortgage, rural and commercial property) using prudential tools such as loan-to-value (LVR) and debt-to-income (DTI) restrictions. However, the permitted scope of any lending standards will be set out in regulation, with the standard itself containing the specific calibration.

The decision-making process associated with ‘macro-prudential policy’, which is designed to mitigate the build of systemic risk in the financial system, will be the same as for any prudential requirement – i.e. the responsibility of the Reserve Bank board, taking into account the relevant content of the Financial Policy Remit and the specific process requirements laid out in primary legislation. The Reserve Bank’s ability to impose lending standards over particular types of property, and through particular tools, will be constrained by the relevant regulations made by Order in Council.

Liability, accountability, supervision and enforcement

Key aspects in this topic are set out below.

Civil pecuniary penalties: the DTA will set out the liability of entities and individuals for non-compliance with their prudential obligations. This will include a significant civil pecuniary penalty for breaches of prudential standards by deposit takers, and criminal offences for more egregious and intentional wrongdoing. This is in line with the previous in-principle Cabinet decision to rely on civil pecuniary, rather than criminal, offences as these are seen as more appropriate in the regulatory context.

Positive duties on directors: we are proposing an accountability framework for the directors of deposit takers.² Directors will have a direct (or ‘positive’) duty to ensure

² The proposals consulted on were closely modelled on Australia’s ‘Bank Executive Accountability Regime’ (BEAR) which currently applies across the directors and executives of deposit-taking entities regulated by APRA (the Australian Prudential Regulation Authority). This regime is currently being extended to a

there are adequate systems, processes and policies in place to ensure the entity complies with its obligations. There will be a pecuniary penalty for breaches of this duty by directors. The justification for this duty is the high social and economic costs of imprudently run deposit taking institutions, particularly large and systemically important banks.

Greater supervision and enforcement tools: the objective is to provide the Reserve Bank with an empowering and flexible set of tools to allow it to proactively monitor deposit takers, and enforce compliance, within a framework that promotes a legitimate use of discretion, including appeal rights. New or modified supervisory and enforcement tools will include:

- The Reserve Bank would have a power to enter and remain on the premises of licensed entities (including insurers) for the purpose of an on-site inspection. This will provide assurance that firms are meeting their obligations. This proposed power is consistent with Cabinet's earlier in-principle decision to enable the Reserve Bank to undertake thorough examinations of regulated entities and better align New Zealand's supervisory framework with international practice.
- The Reserve Bank will have the power direct licensed entities to mitigate prudential risks, consistent with Cabinet's earlier in-principle decision that directions would no longer require ministerial consent.
- Licensed entity would be required to report breaches of their obligations to the Reserve Bank.

Stakeholders have generally welcomed the shift in emphasis away from direct liability for directors under the current attestation regime, and the focus on civil pecuniary penalties rather than criminal offences.

Appeal rights: the DTA will empower the Reserve Bank to set standards, apply exemptions and designations (secondary legislation) and exercise a range of administrative decision-making powers, including assessing applications for a deposit taking licence and making subsequent changes to an entity's licence conditions. A system of appeal acts as a procedural safeguard and accountability mechanism to ensure parties whose rights or interests are affected by an administrative decision of the Reserve Bank are afforded a right of recourse to challenge that decision. Appeal rights ensure decisions are in accordance with the law and incentivise decisions, at first instance, that are of the highest possible quality. The system of appeal within the prudential framework needs to strike the right balance between protecting the interests of affected parties against enabling the Reserve Bank to pursue its statutory mandate efficiently and effectively.

wider set of financial institutions including insurers, and will cover both prudential and market conduct failures. A similar broadly-scoped accountability regime is envisaged for New Zealand, but this is not being progressed through the Review.

Resolution and crisis management

We expect to make a range of recommendations on the features of New Zealand's crisis management and resolution regime for banks and other deposit-takers. The recommendations will build on Cabinet's in-principle decision to designate the Reserve Bank as the resolution authority for deposit takers, with clear statutory functions and objectives, and the ability to restore to solvency or to recapitalise a failed deposit taker using statutory bail-in. The introduction of the bail-in resolution tool, and a review of the role of the Minister in crisis management, are among the most significant elements of the crisis management piece in the Phase 2 Review. The resulting statutory framework needs to strike a workable balance between the desirability of the Reserve Bank to act swiftly and independently, the ability for the Minister to manage fiscal and wider social and economic impacts, and the desirability of presenting to stakeholders a credible alternative to taxpayer bailouts.

We expect to make recommendations in the following key areas:

- Triggers for resolution. There will be a clear distinction between triggers for early interventions (e.g. the use of direction powers) and triggers for placing an entity into resolution where resolution powers can be used.
- The Reserve Bank will have broad powers as a resolution authority – e.g. to carry out 'bail-in', or to use the powers currently available to a statutory manager.
- We are proposing that liabilities eligible for bail-in will be broadly in line with international practice. The Reserve Bank will also be able to set minimum requirements for institutions to hold bail-inable liabilities that can be readily bailed in without interrupting critical financial services or access to deposit accounts.
- The Reserve Bank will be required to prepare a general 'statement of approach to resolution' alongside individual resolution plans for each deposit taker. The Minister of Finance will be consulted on the general statement of approach and have an opportunity to express views (e.g. on whether the approach adequately addresses wider economic and social impacts and protects public funds). There will also be an expectation that the Minister will remain informed where an institution is experiencing financial distress and there is a likelihood that it will be resolved.
- Officials are still working through details of the resolution framework. Key issues currently include:
 - Whether the Minister of Finance should have a formal role in placing a deposit taker into resolution and, if so, whether a ministerial 'approval' of the Reserve Bank's determination is sufficient or whether an Order in Council is desirable
 - The ability of the Minister of Finance to direct the Reserve Bank on managing fiscal risks to the government if and when public funds are put at risk in a resolution

- Whether there should be any legislative (e.g. through regulations) restriction on the eligibility of uninsured deposits and short-term debt for bail-in planning given the risk associated with bailing in these types of liabilities.

Annex 2 – The Independent Expert Advisory Panel and Stakeholder views

The Independent Expert Advisory Panel

Following a meeting between the review team and the Panel on 4 December, the Panel provided you with a paper outlining topics that they considered critical to the success of the review. These topics included:

- *Trans-Tasman Perspective on Crisis Management:* the no-creditor worse off provision is particularly important and should apply to all resolution tools. This will help provide reassurance and hence reduce the banks' cost of doing business in normal times. The Panel would like clarity on how Open Bank Resolution will work with other resolution tools in a time of crisis. Resolution manuals across both sides of the Tasman are useful although the Panel would like New Zealand to be clearer about the use of public funds in a resolution.
- *Greater engagement with depositors:* the importance of depositor involvement during the design and select committee stages of the DTA Bill to promote and build public trust in those directly affected by the DTA.
- *The challenges of financial sector innovation:* the role of technology and the rapid growth in innovation in the financial sector needs to be carefully considered given that legislation is unlikely to keep pace. Consideration could be given to CoFR having a horizon scanning role and the Government's approach to these issues could be highlighted in the Reserve Bank's letter of expectation.
- *Greater resourcing to consider systemic issues impacting the financial system:* the Panel has emphasised the multi-faceted dimensions of ensuring financial stability, including the interaction with monetary and macro-prudential policy. The Panel would like to ensure that sufficient resources are available (including to CoFR) to properly model, analyse, and then provide advice on addressing, some of the systemic economic and financial system challenges.

A further meeting between the Review team and the Panel will take place on 23 February to discuss these topics further and the proposed recommendations.

Stakeholder views

Submitters were broadly comfortable with many of the proposals made on C3 including the approach to the regulatory perimeter, the standards and licensing framework, a liability regime more focussed on civil pecuniary penalties, a broader supervisory and enforcement tool kit, and the coverage of transactional and savings accounts by the deposit insurance scheme. Some common concerns were also raised including:

- *Purposes and principles*: although some submitters were supportive, many suggested that concepts of efficiency and the overarching statutory purpose need more prominence.
- *Macro-prudential standards*: several submitters suggested the decision-making framework for lending standards should better reflect the overarching purpose of promoting prosperity and well-being of New Zealanders.
- *Clarity and coherency*: a few submitters emphasised the need for a clear and coherent framework across all parts of the new prudential framework, particularly for the liability, director accountability and crisis management frameworks.
- *Deposit insurance*: some submitters expressed concern that the in-principle decision to set the coverage limit at \$50,000 limit is too low, supporting a higher coverage limit.

We have earlier provided you a summary of submissions to the third consultation, which contains more detail on stakeholder views (T2020/3484 refers).

Deposit Takers Act: Forthcoming advice

Context:

- Three rounds of consultation covering the Reserve Bank’s institutional arrangements, prudential framework, and deposit insurance.
- The new DTA will contain the prudential framework for deposit takers and the framework for deposit insurance.
- The RBNZ Bill compliments and supports the DTA and contains the Reserve Bank’s institutional arrangements and other central bank functions.
- Target date for introduction of the DTA Bill is late 2021. Cabinet decisions needed by late April in order to meet this timeframe.

Upcoming advice roadmap

Area	Key features and issues
Depositor Protection	<ul style="list-style-type: none"> • Coverage - \$100,000 per depositor, per institution. • Products covered - transactional, savings and term deposits. Debt securities not covered. • Deposit preference - insured deposits will rank above unsecured creditors. • Funding – the strategy to fund the scheme is being worked on. • Governance and functions – the scheme will have functions including promptly reimbursing depositors in a liquidation, promoting public awareness, and monitoring risks to the deposit insurance scheme.
Purposes and principles	<ul style="list-style-type: none"> • Purposes - building on from the RBNZ’s financial stability objective, a set of purposes will further clarify the way in which financial stability should be achieved. • Principles – designed to ensure a wide range of factors are taken into account including efficiency and longer-term risks. • Concerns about efficiency – some stakeholders thought efficiency should be given more prominence.
Regulatory perimeter	<ul style="list-style-type: none"> • Coverage - firms that offer ‘banking’ services (such as banks, credit unions and some building societies) and finance companies. • Restricted words - Limiting the use of the word ‘deposit taker’ (and similar) to licensed deposit takers and the use of the word ‘bank’ (and similar) to a subset of deposit takers. • Exemption and designation powers
Standards and licensing	<ul style="list-style-type: none"> • Prudential requirements – standards will be the main prudential tool. All regulated entities will require a license. • Macro-prudential – the Reserve Bank may set requirements that regulate property lending using standards but the scope of any lending standard will be set in regulation. • Agency views on the role of the Minister – there are differences in views on some aspects of the framework which primarily reflect differences on the appropriate balance between operational independence for the Reserve Bank and the role of the Minister.
Liability, accountability, supervision and enforcement	<ul style="list-style-type: none"> • A positive duty on directors to ensure adequate systems, processes and policies are in place to ensure compliance. • A greater reliance on civil pecuniary, rather than criminal, offences. • New supervisory and enforcement tools including on-site inspection powers.
Resolution	<ul style="list-style-type: none"> • The Reserve Bank will have broad resolution powers as resolution authority. • Clear triggers for early intervention and resolution. • The Reserve Bank will be able to set minimum requirements for institutions to hold liabilities that may readily be bailed-in. • The Reserve Bank will be required to prepare a general ‘statement of approach to resolution’ alongside individual resolution plans. • Further recommendations being worked on include: <ul style="list-style-type: none"> ○ The role of the Minister in placing an institution into resolution. ○ The ability of the Minister to issue directions if public funds are at risk. • Whether there should be any eligibility restrictions on liabilities for the purposes of bail-in planning.

Related matters:

Previous Cabinet in-principle decisions

- The merger of banks and non-bank deposit takers into a single prudential regime
- Standards as the primary tool for imposing regulatory requirements
- Increased director accountability requirements
- A more graduated enforcement and penalty framework
- The establishment of a deposit insurance scheme funded by levies on deposit takers
- The designation of the Reserve Bank as the resolution authority, with statutory functions, objectives, and powers (including statutory bail-in)

Institutional Act work

- Provides for a governance board responsible for financial policy
- Gives the Reserve Bank a new financial stability objective
- Provides for a financial policy remit
- Provides for accountability mechanisms, such as statements of prudential policy and regulatory impact statements
- Promotes regulatory coordination, including a mandate for CoFR

Themes arising from consultation

Broad support for many of the proposals although concerns around:

- prominence of efficiency
- the scope and impacts of macro-prudential standards
- the proposed duties on directors
- the deposit insurance coverage limit

Independent Expert Advisory Panel

- Trans-Tasman elements of crisis management
- Engagement with depositors
- Challenges of financial sector innovation
- Greater resourcing to consider systemic issues across the financial system.

Timeline for the Depositor Takers Act

