

# The Treasury

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

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- [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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# Deposit Takers Act: April Cabinet 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 complements 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 – DEV 14 April and Cabinet 19 April – needed to meet this timeframe.

## Upcoming Cabinet advice – roadmap

Area	Key features and issues
<b>Depositor Protection</b>	<ul style="list-style-type: none"> <li>• Coverage - \$100,000 per depositor, per institution.</li> <li>• Products covered - transactional, savings and term deposits. Debt securities not covered.</li> <li>• Deposit preference – maintain status quo creditor hierarchy.</li> <li>• Funding – the strategy to fund the scheme is being worked on.</li> <li>• Governance and functions – the scheme will have a statutory purpose to promptly reimburse depositors in a liquidation.</li> </ul>
<b>Purposes and principles</b>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Principles – designed to ensure a wide range of factors are taken into account including efficiency and longer-term risks.</li> <li>• Concerns about efficiency – some stakeholders thought efficiency should be given more prominence.</li> </ul>
<b>Regulatory perimeter</b>	<ul style="list-style-type: none"> <li>• Coverage - firms that offer ‘banking’ services (such as banks, credit unions and some building societies) and finance companies.</li> <li>• 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.</li> <li>• Exemption and designation powers</li> </ul>
<b>Standards and licensing</b>	<ul style="list-style-type: none"> <li>• Prudential requirements – standards will be the main prudential tool. All regulated entities will require a license.</li> <li>• Macro-prudential policy – the Reserve Bank will be empowered to set requirements that regulate property lending using standards but the type of any lending (e.g. residential mortgages, commercial and rural property) will be set in regulation. RBNZ will have ‘instrument independence’ – i.e. ability to choose which tool (e.g. LVRs, DTIs) to best meet its statutory mandate.</li> <li>• Various process requirements include informing the Minister, consulting with CoFR agencies, public consultation and preparing regulatory impact assessments (that also must reference the Minister’s Financial Policy Remit).</li> </ul>
<b>Liability, accountability, supervision and enforcement</b>	<ul style="list-style-type: none"> <li>• A positive duty on directors to ensure adequate systems, processes and policies are in place to ensure compliance.</li> <li>• A greater reliance on civil pecuniary, rather than criminal, offences.</li> <li>• New supervisory and enforcement tools including on-site inspection powers.</li> </ul>
<b>Resolution</b>	<ul style="list-style-type: none"> <li>• The Reserve Bank will have broad resolution powers as resolution authority (most existing powers and new powers like bail-in).</li> <li>• Clear triggers for early intervention and resolution.</li> <li>• The Reserve Bank will be able to set minimum requirements for institutions to hold liabilities that may readily be bailed-in.</li> <li>• Reserve Bank may initiate ‘open’ resolutions that only impact those minimum requirements. Other resolutions require authorisation from Minister.</li> <li>• The Reserve Bank will be required to prepare a general ‘statement of approach to resolution’ alongside individual resolution plans.</li> <li>• Minister may spend without appropriation in a financial crisis; may direct resolution where public funds at risk.</li> </ul>

## 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 (new RBNZ Bill)

- 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

