

# Submission

to the

## Reserve Bank of New Zealand

on the

### Consultation paper: Revised policy proposals for the review of the outsourcing policy for registered banks

12 August 2016

## About NZBA

1. NZBA works on behalf of the New Zealand banking industry in conjunction with its member banks. NZBA develops and promotes policy outcomes that contribute to a strong and stable banking system that benefits New Zealanders and the New Zealand economy.
2. The following fifteen registered banks in New Zealand are members of NZBA:
  - ANZ Bank New Zealand Limited
  - ASB Bank Limited
  - Bank of China (NZ) Limited
  - Bank of New Zealand
  - Bank of Tokyo-Mitsubishi, UFJ
  - Citibank, N.A.
  - The Co-operative Bank Limited
  - Heartland Bank Limited
  - The Hongkong and Shanghai Banking Corporation Limited
  - JPMorgan Chase Bank, N.A.
  - Kiwibank Limited
  - Rabobank New Zealand Limited
  - SBS Bank
  - TSB Bank Limited
  - Westpac New Zealand Limited.

## Background

3. NZBA welcomes the opportunity to provide feedback to the Reserve Bank of New Zealand (**RBNZ**) on its Consultation Paper: Revised policy proposals for the review of the outsourcing policy for registered banks (**Consultation Paper**), and commends the work that has gone into developing it.
4. Rather than answering each individual question posed in the Consultation Paper, we set out below the industry's key submissions and provide answers to certain of the questions.
5. If you have any questions about this submission, or would like to discuss any aspect of the submission further, please contact:

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## Executive Summary

6. NZBA and its members consider that at a minimum the changes set out in this submission must be implemented to make the policy as proposed in the Consultation Paper operationally practicable. To this effect we make the following comments:
  - a. The banks support the retained outcomes-focus of the revised policy, and suggest only minor technical amendments to the scope of some outcomes.
  - b. Given the broad definition of outsourcing and lack of a materiality threshold, it is essential that the white list adequately captures all functions which either cannot be considered outsourcing or are not related to the outcomes of the BS11 policy.
  - c. In particular, the white list must address the treatment of software in order to prevent the non-objection process becoming unnecessarily burdensome.
  - d. In order to ensure the efficient operation of the revised policy, engagement with the RBNZ at the appropriate stage of the outsourcing process will be important.
  - e. A more practical approach is required in relation to the entry of functions into the compendium of outsourced functions to ensure that inadvertent non-compliance is to be avoided, particularly if there are to be new conditions of registration introduced in relation to the compendium process.
7. Please see our submission below.

## Submission

8. As noted above, NZBA considers that at a minimum the changes below are implemented to make the policy as proposed in the Consultation Paper operationally practicable.
9. Comments as to costs will be addressed in banks' individual submissions where possible.

## Objective and outcomes

Question 1. Do you agree that the modifications to outcomes (a) to (e) provide clarification?

10. Generally, yes. NZBA supports the redrafted BS11 outcomes (a) to (e) proposed in paragraph 47 of the Consultation Paper. We submit it is crucial that the policy is approached in a manner that ensures banks retain the ability to deliver outcomes in a prudent, effective, and efficient manner.

### Outcome (d)

11. The banks suggests that outcome (d) is amended as follows below, to reflect that 'basic banking services' will be defined in the policy and does not include all credit lines:

“The bank is able to provide basic banking services to existing customers, including but not limited to, liquidity (~~both access to deposits and to credit lines~~) and account activity reporting, first value day after the day of failure and thereafter.”

12. In relation to this definition, we query the intended scope of “account reporting activity”. If this is to be included in outcome (d), we suggest a definition be included in the policy. We interpret account reporting activity to mean account transaction history (i.e. the display of debits and credits, and payee/payer details).
13. To avoid these definitional issues, the banks submit an alternative approach would be for the outcome to just directly cross-reference the definition of basic banking services in a separate section of the policy as follows:

“The bank is able to provide basic banking services (as defined at section X of the [banking standard]) to existing customers, first value day after the day of failure and thereafter.”

### Outcome (a)

14. We query the inclusion of “other time critical obligations” in outcome (a). As we understand it, daily settlement is intended to include the following components:
  - *clearing*: the time a payment/transaction that results in a payment enters a system in preparation for settlement, i.e. within a bank;
  - *settlement*: the exchange of value between two parties (i.e. within a bank, or between banks);

- *payment*: customers' ability to issue payment instructions to the bank in a timely manner. The bank must be able to receive these instructions in order to facilitate the transaction through the clearing and settlement phases.
15. Banks consider this to be a comprehensive view of daily settlement obligations, and submit that the reference to "other time critical obligations" be removed.

### ***Functions that are generally not captured by the outsourcing policy ("white list")***

Question 3. Are there any other services that should be included in the above lists, but have not yet been captured?

#### Materiality

16. As previously submitted, the best approach to excluding functions which are not relevant to the RBNZ's regulatory outcomes is a clearly articulated materiality threshold for outsourced functions. A materiality threshold would ensure that outsourcings which are clearly outside the scope of the BS11 policy would not require a short form application for non-objection from the RBNZ, avoiding the unnecessary consumption of time and resources from both banks and the RBNZ.
17. On the basis that the RBNZ continues to retain a very broad definition of outsourcing and rules out the possibility an explicit materiality threshold, the white list becomes fundamental as the means of avoiding a regulatory gridlock. The draft white list requires considerable work to ensure that the application and non-objection process is not required for out of scope functions, discussed in more detail below.

#### White list

18. We submit there are three categories of function which should be captured through a combination of the definition of outsourcing and the white list. These are:
1. Functions which are not outsourcing;
  2. Outsourced functions which are not relevant for BS11 purposes; and
  3. Outsourced functions that require a short form application for BS11 purposes.
1. Functions which are not outsourcing
19. As noted at paragraph 73 of the Consultation Paper, a number of the functions on the draft white list "should never be expected to be included in the definition of outsourcing" but have been included for completeness. We consider that this conflates the definition of outsourcing and confuses the issue. A refinement to the outsourcing definition would help to remove these superfluous functions.
20. The proposed outsourcing definition is very broad with no link to the provision of financial services or the financial stability of a bank. NZBA submits that outsourcing should be tied more specifically to the fundamental business activities of a bank (i.e. the business of carrying on a bank), rather than a general reference to activities that could be undertaken by a bank. Obvious functions that are clearly not fundamental business activities of a bank include uniforms, general office products and catering services, amongst others.

21. Further comfort can be taken from the condition of banks' registration that they not engage in non-financial activities that in aggregate are material relative to their total activities, which restricts banks from engaging in such non-financial activities anyway (and noting further that there is unlikely to ever be a financial incentive to do so).

*Payments, clearing and settlement systems and card schemes*

22. We also submit that a payments switch is not something that is a fundamental banking activity, and should not be captured by the outsourcing policy even though in theory, it is something that a bank could do. For example, a bank could invest in building a switch that processes card payments. However, given a card switch is expensive and technically difficult, it is highly unlikely that it would. The fact that no bank in New Zealand has operated its own switch since the 1980s (and in that instance it was on a limited bilateral basis) should provide comfort that this is not within the normal operations of a bank in New Zealand. Therefore, banks rely on appropriate specialised external providers for this function (currently either Paymark Limited or Verifone NZ). The cards eco-system background and the way in which it operates is also an important factor to consider. Banks consider that a card scheme is also not something that is a fundamental banking activity, as there are robust and efficient operating models best suited to the New Zealand payments eco-system which is seamlessly connected to the global card switches Visa and MasterCard.
23. In the banks' view, we purchase payments switching and card schemes services from these providers because they have specialist capability in their respective fields, maintaining global best practice in terms of operational resiliency and efficiency, and at a reasonable cost. A centralised service such as this brings efficiency and commonality for all, and banks are not in a position to match such offerings without bringing greater risk cost and unintended consequences to global financial systems. Associated contractual terms and conditions, systems upgrades, rules and standards raise the bar to a level that a single bank could not compete with.
24. Finally, banks are not qualified and do not have the capability, to run a multilateral clearing and settlement system. Continuous Linked Settlement (CLS), for example, which is global by nature, multilaterally nets the settlement of 18 currencies. It is not conceivable how any NZ bank, would replicate this service to a level that would provide ongoing stability or continuity of any sort. Therefore, if the same logic is applied and CLS services are an accepted white list service then there are a range of other service providers who also fit this category. For example; banks believe RBNZ's Exchange Settlement Account System (ESAS) is a service, along with NZClear, which banks would not be in a position to provide. RBNZ's ability to provide real-time gross settlement clearing and settlement services, within ESAS, brings robust expertise, centralised insight and benefit to the NZ financial system. Accordingly, banks believe the efficiency and risk profile associated with the current provider far outweighs any thought of using an alternative provider, let alone consider bringing such functionality in house. This provision of this service, can be applied equally in the context of all global markets and central banks and is not considered to be outsourced, even though it is material to the outcomes of the policy.

25. We have updated the white list on the above basis. Appendix 1 sets out our suggested changes and gives examples of each type of whitelisted function.

2. Outsourced functions which are not relevant for BS11 purposes

26. Given the apparent limited RBNZ appetite for a materiality clause, it is important that the white list acts as an effective gate to prevent an inefficient application process. To this end we have included a number of new items on the white list and refined and elaborated on others (see Appendix 1). The addition of software and other white list changes to capture client funds management and insurance functions are detailed further below.

*Software*

27. The key omission from the draft white list is a category to capture software utilised by a bank in its operation. Given the varying ownership, licensing, use and customisation possibilities in this space, there are a range of structures which should be considered. This is a fast developing area, so any definition needs to be flexible enough to be open to emerging technologies. The only likely effective method of defining software for the purposes of BS11 is via the software’s ownership/licensing structure, rather than by its content or function, given the apparent limited appetite for a materiality clause. To this end, the provision of software can be categorised as follows:

Type of Ownership/Licensing	Features
1. Proprietary Software	100% NZ bank-owned
2. Software licensed in perpetuity (un-customised)	Licensed “Off the shelf” Provider has no termination rights in crisis event
3. Software licensed in perpetuity (customised)	Licensed Has customised “add-on” or other alteration Provider has no termination rights in crisis event
4. Licensed software (un-customised)	Licensed “Off the shelf” Provider could have termination rights in crisis event
5. Licensed software (customised)	Licensed Has customised “add-on” or other alteration Provider could have termination rights in crisis event

28. We consider that category 1 above (proprietary software) is not an outsourced function, as it is software that a bank may have produced itself or purchased, and owns outright with no risk of termination in a crisis event. Categories 2 and 3 are similar in that they are licensed in perpetuity without termination rights, and are equally immovable in a crisis event. We envisage categories 4 and 5 will require a short form application to the RBNZ for non-objection under the new BS11 policy (unless there are certain mitigating factors, outlined in points 2, 4, and 5 – see paragraph 31 below).
29. There will be a range of factors which may mitigate the risk of a particular software provision structure outlined above. These include where the software is hosted (i.e. in which jurisdiction), who the licensor of the software is (i.e. related party entity or otherwise), a bank’s capacity to service the software in-house, the ease of transition to another provider in the event of a software or provider failure, and the extent of back-up arrangements.
30. Given the vast number of software licenses that a bank might have, we submit that BS11 should pre-empt a number of the arrangements that would require a short form application, and provide the RBNZ comfort that these arrangements will be adequately accounted for in a crisis event.
31. Therefore, for the purpose of a definition for the white list, we propose the following categories of software should be added to the white list:
1. Proprietary software or software licensed in perpetuity with no termination rights that is hosted on bank<sup>1</sup> systems, and there is no reliance on a third party for support or maintenance (other than for routine standard support offering from the software vendor);
  2. Licensed software (term or subscription) that is hosted on the bank’s systems, is licensed to the bank directly, there is no reliance on a third party for support or maintenance (other than for routine standard support offering from the software vendor), the provider does not have termination rights in a crisis event, and either:
    - a. could be transitioned to an alternate provider; or
    - b. has escrow arrangements for source code.
  3. Use of cloud services to the extent it exclusively relates to one or more white listed functions;
  4. Licensed software to the extent it exclusively relates to one or more white listed functions;
  5. Support or maintenance of either proprietary or licenced software to the extent it exclusively relates to one or more white listed functions.
32. In our view, this list accurately distinguishes the types of software provision structures that are either out of scope for BS11, or provide comfort that sufficient

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<sup>1</sup> Note that for the purpose of these definitions, we consider “bank” to refer to the New Zealand subsidiary bank only. Software provided under license (or otherwise) by a parent bank would be required to be treated in the same manner as third party software providers.

backup capabilities have been factored into the licensing structure to mitigate any outsourcing risk.

#### *Cloud*

33. The banks understand that RBNZ's position on the use of cloud services is that these should be assessed as outsourcing, in accordance with the BS11 policy. The banks note that this approach, including some of the treatments that would be required under the RBNZ's proposed outsourcing policy, is significantly out of step with international precedent, including recently released guidelines from the Monetary Authority of Singapore (MAS). These guidelines clearly set out that cloud is permissible provided appropriate protections applicable to any kind of outsourcing arrangements are in place<sup>2</sup>. In addition, these guidelines clarify that MAS does not require prior notification of cloud services outsourcing. Notification requirements only apply where there is an adverse development, such as a prolonged service failure or a cybersecurity incident, and the bank must notify MAS as soon as possible. To alleviate the burden of the current outsourcing policy proposed by RBNZ, the banks therefore believe there is a reasonable case to include 'cloud services related exclusively to white listed functions' as noted above.
34. However, the banks do believe that RBNZ could go further. Accordingly, the banks submit that the RBNZ's new outsourcing policy should include specific guidelines related to the use of cloud services, setting out explicitly what is required of banks. We submit that the approach taken by MAS should provide sufficient guidance for RBNZ to determine an appropriate policy position in relation to banks' use of cloud services.

#### *Funds Management and Insurance Functions and Discretionary Investment Management Services*

35. The large banks source insurance and managed funds products from multiple providers for their customers. These will typically include a combination of related party entities and third party providers.
36. All of the large banks have separate entities established to develop and manage life insurance and managed fund offerings. These entities will all be licensed under either the Insurance (Prudential Supervision) Act or the Financial Markets Conduct Act (FMCA) (and in the case of managed funds subject to their own oversight of outsourcing under the licensing regime). Without these licenses, we note that registered banks are not legally able to provide these services and would therefore be caught by that provision of the white list. All the large banks are required under the Capital Adequacy framework to make disclosure that insurance and managed fund products are not issued, underwritten or guaranteed by the registered bank.

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<sup>2</sup> Monetary Authority of Singapore, Guidelines on Outsourcing, 27 July 2016  
<http://www.mas.gov.sg/~media/MAS/Regulations%20and%20Financial%20Stability/Regulatory%20and%20Supervisory%20Framework/Risk%20Management/Outsourcing%20Guidelines%20Jul%202016.pdf>

Such disclosures make it clear that these are not core banking products, and not part of the basic banking services definition.

37. We note that discrete investment advisory services which are client-related (including functions which relate solely to the provision of Discretionary Investment Management Services as defined in section 392 of the FMCA), whether they ultimately relate to an investment decision or not, will not fall within the definition of a basic banking service and should therefore be factored into the white list.
38. We have made suggestions to the white list in Appendix 1 to reflect these changes.
39. 3. Outsourced functions that require a short form application for BS11 purposes  
We understand the RBNZ will update the white list on an ongoing basis as certain functions are determined to be not relevant to BS11. We submit that the details of the practical operation of the white list should be addressed in the final policy. In particular, the timeframes for updating should be specified, and we submit a publicly available page should be created on the RBNZ website to provide a flexible forum to maintain the living white list. We consider that when a function has been determined as non-BS11, that function should be added to the white list within 20 working days to provide certainty for banks that the white list as published can be relied upon.

### ***Prohibited functions and the appropriateness and robustness of back-up capability***

40. NZBA notes that banks will need to be able to engage with RBNZ to confirm whether a function is regarded as 'integral', at an early stage in the process, as the application of the 'robust and sustainable arrangement' requirements is likely to affect the desirability of outsourcing the function.
41. We suggest that the proposed requirements of a 'robust and sustainable' arrangement need the following amendments:
  - Clarifying that loss of transactions relates to permanent loss, or loss preventing the delivery of the outcomes
  - Aligning the switch over timing with the delivery of the outcomes – which might be agreed with the RBNZ on a case by case basis
  - Giving more flexibility on the frequency of testing of the 'robust and sustainable' arrangement and on the nature of the testing (i.e. it can occur in a test environment)
  - Reflecting that internal audit is an appropriate auditor and that a 4 yearly timeframe aligns more closely with internal audit processes
  - Allowing the function to be outsourced to certain related parties where an appropriate ownership structure in which rights are shared equally between parties is used.

Question 8. Are there any features that are not on the list above that should be added?

42. No.

### ***Engagement process***

Question 9. How many outsourcing proposals do you anticipate filing annually? Please note that this engagement process would not capture existing outsourcing arrangements that are covered by the transitional path to compliance, it would only cover new outsourcing proposals.

43. NZBA believes that both the banks and the RBNZ will become more efficient in processing notifications as they gain experience with the process and there is greater certainty in anticipating the RBNZ's interpretations and requirements. This will ensure that over time the types of arrangements that require more detailed applications will become clearer to the banks, while the non-material functions can be confirmed as out of scope and added to the white list. However, there will always be novel proposals and an iterative process in these situations is inevitable. We note that up front, there is likely to be significant inefficiencies in this process and anything that can be done at this stage to minimise these should be considered.
44. If prior notification is going to be required under the policy, it is important that the notification process does not frustrate or delay contractual negotiations with suppliers. The banks should be able to seek non-objection from the RBNZ at an appropriate stage in the contractual negotiation process so that any RBNZ requirements can be taken onto account before negotiations are finally concluded. We recognise the RBNZ concern that seeking non-objection too early in the process could mean details may not be finalised and could change significantly after non-objection is obtained. We consider that the appropriate point in time for application is when the bank has a clear intention to proceed with the outsourcing arrangement, has a proposal in place and high level internal approval subject to RBNZ non-objection, but is still in negotiation with the supplier. Such a proposal could include (as necessary) relevant internal risk stakeholder approval, legal and practical control considerations, and an articulation of possible business continuity planning proposals. At the point of application, the RBNZ would therefore have comfort that the bank had turned its mind to such arrangements, but leave room for the commercial details and legal negotiations to be agreed between the parties. The RBNZ could then approve an application subject to the agreed legal and practical controls being included. Suppliers will be extremely frustrated if they believe that they have negotiated the contract into its final form, only to be told that a bank seeks to re-open negotiations because of unanticipated conditions being imposed by the regulator. Therefore, we submit that the policy should be clarified to specifically allow for applications to be made with internal approval that is subject to RBNZ non-objection.
45. The proposed 20 working day timeframe for RBNZ to consider notifications of outsourcing arrangements represents quite a long period in the context of the

commercial negotiation of the majority of these agreements. Therefore, it is important that the RBNZ is adequately resourced, including with personnel with relevant technical knowledge and skill, to consider notifications within the proposed 20 working day timeframe. Failure to do so could result in material disruption to the banks' commercial negotiations with third parties and delays may result in material increases to budgeted project costs and delays in getting new projects and services to market. The banks note that the RBNZ has given assurances that it is already adequately resourced.

## *Compendium*

Question 10. Please provide comment on whether the draft condition of registration would work as envisaged?

46. NZBA does not consider the keeping of a compendium of outsourced functions to be of equivalent regulatory status as banks' capital ratio requirements, and banks continue to be of the view that this does not warrant the creation of a new condition of registration. We understand that RBNZ considers this requirement to be central to the new BS11 policy and we acknowledge the RBNZ's efforts in trying to address the banks' concerns by amending the original proposals regarding the compendium requirement. However, we consider that the revised proposals give rise to new issues and should be considered further, as outlined below.

### *Scope of the compendium*

47. If the condition of registration proposed is retained, we note that it requires a bank to keep a 'compendium of its outsourcing arrangements'. Given the penalties attaching to a breach of the condition, the wording should be clarified so that it refers only to those matters within the scope of the policy and those matters which the RBNZ has considered material to the outcomes i.e. those which have been the subject of 'long form' consideration. A condition requiring inclusion of matters outside the policy, or which the RBNZ considers by short-form is not material to the outcomes does not appear proportionate.

### *Requirement that compendium be updated within 5 working days*

48. The five working day timeframe for the compendium to be updated is regarded as impractical and is likely to give rise to inadvertent non-compliance. Although controls will be put in place to ensure that contracts are entered into the compendium as soon as practicable after execution by all parties, sufficient time must be allowed for this to occur. In large organisations where dozens, and in some cases, hundreds of arrangements may be entered into over the course of a year (especially noting comments above on the lack of a materiality threshold), it is not practical for all of these arrangements to be entered into a compendium within 5 working days. Although the RBNZ has amended its proposals so that it now requires that a bank have "appropriate processes" in place, it is not clear what the situation would be if a bank discovers that all but a few of its contracts, or even one contract, have not made it on to the compendium within the required time. In these situations is it expected that the directors would be able to attest that the bank had appropriate

processes in place? We understand that the RBNZ does not intend this to be considered a breach of the condition, but this should be made clear in the policy.

49. The proposed timeframe is also inconsistent with the RBNZ's Regulatory Stocktake policy decision in relation to the future approach for drafting conditions of registration. That review found that conditions of registration should be drafted in such a manner so as to reduce the risk that genuinely trivial matters result in technical breaches. We consider the proposed draft condition introduces elements that result in purely technical breaches.
50. Further to this, it is not clear why such a brief period is regarded as necessary, particularly as the RBNZ would have had pre-notification of all relevant arrangements. The risk of a bank not complying with the timeframe requirement seems disproportionate to any risk to the financial system of a contract not making it to the compendium within the specified time. If this requirement is necessary, we propose as an alternative that the timeframe be extended to 20 working days.
51. We also have a more minor drafting point. It should be clear that the specified time period only applies once a bank is aware that the arrangements have been entered into. Where a bank has signed a contract and is waiting for the other party to sign, it may be that "the arrangements have been entered into" before the other party has sent the bank a copy of the signed contract.

*Requirement for quarterly review of the compendium by the bank's internal audit function*

52. The RBNZ is also proposing that a bank's processes must include a "quarterly review of the compendium by the bank's internal audit function to ensure it is up to date".
53. We submit that this requirement is a disproportionate use of internal audit resources and a disproportionate regulatory response. The requirement does not appear to reflect the risk associated with the obligation. Again, the RBNZ will have been notified of the proposed outsourcing arrangements in advance of the contract being entered into.
54. When considering the totality of the conditions of registration with which banks must currently comply, it is not clear why the RBNZ considers that the compendium requirement warrants this heightened scrutiny. The requirement would appear to be of little or no benefit to New Zealand's financial system stability and will divert valuable internal audit resources from other tasks.
55. Directors' attestations are a fundamental plank in the RBNZ's supervisory regime. They provide an assurance that a bank is complying with all its conditions of registration. We do not consider the existing director attestation process to be inadequate in any respect, either for the existing conditions of registration nor the proposed new compendium condition. We regard the extra level of assurance that would be provided by an internal audit review of the maintenance as being

unnecessary and out of alignment with the sign-off process for compliance with other conditions of registration.

### ***On the transitional path***

Question 12. Do you agree with the new proposed transitional period?

56. Yes, to the extent that the suggestions made in this submission are reflected in the exposure draft. Banks welcome the revised transitional timeframe proposed by the RBNZ. However, depending on what the final requirements for 'robust and sustainable' arrangements are and what the 'integral' or 'critical' functions are that must meet these requirements, the banks suggest that it would be appropriate for RBNZ to retain discretion to provide a longer transitional timeframe should that be necessary for a particular function.
57. In the context of potential competition between banks for scarce IT resources, IT contract specialists, and finance, risk and payment specialists required to execute these sorts of arrangements it may be that more time is required for certain functions or by particular banks. Despite best endeavours to become compliant, some circumstances (such as a delay in a large technology build) may require flexibility in terms of the transitional compliance timeframes.

### **Other comments**

#### *Exposure draft of the revised policy document*

58. We understand that, subject to consideration of the consultation responses, the RBNZ currently intends to issue an exposure draft of the policy in early 2017 with a short period to comment on any minor text amendments. This must occur, at the very least, to ensure that our understanding of the revised banking standard is correct. We believe that the final banking standard would also benefit from a flowchart to assist with common understanding of navigation between the decision points and actions. This could be included as guidance in accordance the RBNZ's Regulatory Stocktake banking standard structuring decisions in 2015.

#### *Opportunity cost that would be forgone in investing in innovation and new technology*

59. We accept that there is a case for outsourcing to be regulated. However, the revised outsourcing policy needs to recognise that outsourcing of any activity is legitimate if risks can be managed appropriately. It will hamper the ability of banks to be innovative and more efficient if they cannot take advantage of changing technologies and increasing specialisation by providers. The policy should therefore be flexible and enabling rather than restrictive. If banks cannot take advantage of emerging disruptive technologies there is a risk that unregulated providers will be able to do so, thereby exposing the financial system to greater risk than if a registered bank provided that service.
60. The revised policy needs to be future proof. More and more activity is being outsourced to new ecosystems in different locations and multiple jurisdictions. There

is a risk that the revised policy might become a barrier to innovation, efficiency and risk mitigation, if it prevents banks from taking advantage of emerging opportunities. Information security against denial of service attacks represents a current example of where outsourcing is reducing a more immediate and probable risk.

61. Each year the banks invest substantial amounts in technical innovation and building the resilience of the services they offer to their customers. This is necessary to meet customer demands and counter emerging risks, including anti-money laundering, counter terrorism and cyber security. Complying with the proposed revised policy is likely to require a substantial increase in the banks' capital investment and operational costs. We also consider that such a stringent requirement to obtain non-objection from the RBNZ for so many functions is likely to inhibit banks' ability to respond to market changes in an agile way, lessening our ability to compete with each other in the way that we do currently, to the benefit of the New Zealand financial system.
62. There is also a risk that there will be intensive competition for limited technical and specialist resource if all the banks are attempting to implement their paths to compliance at the same time. This could prejudice the ability of the banks to meet the path to compliance timeframes proposed by the Consultation Paper as well as the ability of the banks to roll out other technology projects.

## APPENDIX 1 – REVISED WHITE LIST

### Revised White List in Mark-Up against the Consultation Paper

1. Telecommunication services, equipment and public utilities (including predictive dialler and automated voice recording services);
2. Discrete advisory services (e.g. legal opinions, ~~certain~~ client-related investment advisory services ~~that do not result directly in investment decisions~~); *[We consider that even if an outsourced investment advisory service does result in an investment decision, this is not considered a basic banking service and therefore outside the scope of BS11. Important part is treasury investment advisory, which the “client-related” proviso maintains]*
3. Share, domestic note and bond registry and management services;
4. Securities trading agent/provider;
5. Independent audit reviews;
6. Independent consulting;
7. Sales, promotional and direct marketing products and activities;
8. Sponsorship, brand or promotional arrangements;
9. Fleet leasing services;
10. Rental property leases;
11. Temporary help and contract personnel;
12. Generic or specialised recruitment and training services, and other incidental human resources-related activities;
13. Repair, support and maintenance of fixed assets (whether owned or leased);
14. General business utility services;
15. Security system, premises access and guarding services;
16. Market information and data services (e.g. Moody’s, Bloomberg, Standard and Poor’s, Fitch, Reuters or equivalent), including market research and analysis services;
17. Title search and security/collateral registration services;
18. Real estate appraisal and valuation services;
19. Reference and background check services;
20. Debt collection;
21. Production of ~~plastic credit cards~~ payments-related collateral (e.g. plastic cards, cheques);
22. Products and services that the registered bank is not legally able to provide; *[note this includes insurance products]*
23. Custodial services
24. Sales and distribution arrangements such as mortgage brokers, financial planners and other commission-based arrangements;
25. Reinsurance contracts;
26. Software (as defined below)
  - a. Proprietary software or software licensed in perpetuity with no termination rights that is hosted on bank systems, and there is no reliance on a third party for support or maintenance (other than for routine standard support offering from the software vendor);
  - b. Licensed software that is hosted on the bank’s systems, is licensed to the bank directly, there is no reliance on a third party for support or maintenance (other than for routine standard support offering from the software vendor), the provider does not have termination rights in a crisis event, and either:

- i. could be transitioned to an alternate provider; or
    - ii. has escrow arrangements for source code.
  - c. Use of cloud services to the extent it exclusively relates to one or more white listed functions;
  - d. Licensed software to the extent it exclusively relates to one or more white listed functions;
  - e. Support or maintenance of either proprietary or licenced software to the extent it exclusively relates to one or more white listed functions.
27. Fraud and forensic detection and monitoring services
  28. Agency and trustee arrangements for treasury programmes and syndicated loan facilities
  29. Wealth and insurance functions
  30. Data mining, customer surveying and rewards programmes
  31. Data matching services, including personal information matching, valuation data and credit reporting
  32. Storage of static data (including customer data), excluding transactional processing
  33. Clearing and settlement arrangements between members or participants of clearing and settlement systems
  34. Credit card scheme providers
  35. Document storage, scanning, archiving, destruction and deeds management services
  36. Internet and network security services, including penetration testing
  37. Corporate insurance
  38. Compliance and operational risk management systems
  39. Sanctions filtering systems
  40. Accountancy and payroll bureaux services facilitated by banks on behalf of the service providers
  41. Payment and e-commerce switches
  42. ~~Supply and service of leased telecommunication equipment for phone line and internet; [supply covered in 1, service covered in 11]~~
  43. ~~Predictive dialler and automated voice recording services; [now caught by 1]~~
  44. ~~Printing services for marketing materials; [now caught by 6]~~
  45. ~~Specialised recruitment; [caught by revised 10]~~
  46. ~~Specialised training [caught by revised 10]~~
  47. ~~Interior finishing and furnishing and remodelling services; [caught by revised 11]~~
  48. ~~Property and facility maintenance services. [caught by revised 11]~~
  49. ~~Corporate uniforms; [not a fundamental business activity of a bank]~~
  50. ~~Postal and courier services; [not a fundamental business activity of a bank]~~
  51. ~~Travel-related activities and services, e.g. accommodation and transport. agency and transportation services; [not a fundamental business activity of a bank]~~
  52. ~~Catering services; [not a fundamental business activity of a bank]~~
  53. ~~Accommodation services; [not a fundamental business activity of a bank]~~
  54. ~~Event management services and facilities; [not a fundamental business activity of a bank]~~
  55. ~~Meeting facilities; [not a fundamental business activity of a bank]~~
  56. ~~General office products and consumables; [not a fundamental business activity of a bank]~~
  57. ~~Furniture, fittings and furnishing; [not a fundamental business activity of a bank]~~
  58. ~~Commercial and office building construction services; [not a fundamental business activity of a bank]~~

## Revised White List – Clean

1. Telecommunication services, equipment and public utilities (including predictive dialler and automated voice recording services)
2. Discrete advisory services (e.g. legal opinions, client-related investment advisory services)
3. Share, domestic note and bond registry and management services
4. Securities trading agent/provider
5. Independent audit reviews
6. Independent consulting
7. Sales, promotional and direct marketing products and activities
8. Sponsorship, brand or promotional arrangements
9. Fleet leasing services
10. Rental property leases
11. Temporary help and contract personnel
12. Generic or specialised recruitment and training services, and other incidental human resources-related activities
13. Repair, support and maintenance of fixed assets (whether owned or leased)
14. General business utility services
15. Security system, premises access and guarding services
16. Market information and data services (e.g. Moody's, Bloomberg, Standard and Poor's, Fitch, Reuters or equivalent), including market research and analysis services
17. Title search and security/collateral registration services
18. Real estate appraisal and valuation services
19. Reference and background check services
20. Debt collection
21. Production of payments-related collateral (e.g. plastic cards, cheques)
22. Products and services that the registered bank is not legally able to provide
23. Custodial services
24. Sales and distribution arrangements such as mortgage brokers, financial planners and other commission-based arrangements
25. Reinsurance contracts
26. Software
  - a. Proprietary software or software licensed in perpetuity with no termination rights that is hosted on bank systems, and there is no reliance on a third party for support or maintenance (other than for routine standard support offering from the software vendor)
  - b. Licensed software that is hosted on the bank's systems, is licensed to the bank directly, there is no reliance on a third party for support or maintenance (other than for routine standard support offering from the software vendor), the provider does not have termination rights in a crisis event, and either:
    - i. could be transitioned to an alternate provider; or
    - ii. has escrow arrangements for source code.
  - c. Use of cloud services to the extent it exclusively relates to one or more white listed functions
  - d. Licensed software to the extent it exclusively relates to one or more white listed functions

- e. Support or maintenance of either proprietary or licenced software to the extent it exclusively relates to one or more white listed functions.
- 27. Fraud and forensic detection and monitoring services
- 28. Agency and trustee arrangements for treasury programmes and syndicated loan facilities
- 29. Wealth and Insurance functions
- 30. Data mining, customer surveying and rewards programmes
- 31. Data matching services, including personal information matching, valuation data and credit reporting
- 32. Storage of static data (including customer data), excluding transactional processing
- 33. Clearing and settlement arrangements between members or participants of clearing and settlement systems
- 34. Credit card scheme providers
- 35. Document storage, scanning, archiving, destruction and deeds management services
- 36. Internet and network security services, including penetration testing
- 37. Corporate insurance
- 38. Compliance and operational risk management systems
- 39. Sanctions filtering systems
- 40. Accountancy and payroll bureaux services facilitated by banks on behalf of the service providers
- 41. Payment and e-commerce switches