

Submission

to the

Reserve Bank of New Zealand

on the

Consultation Document: Regulatory Stocktake of the Prudential Requirements Applying to Registered Banks

23 September 2015

Submission by the New Zealand Bankers' Association to the Reserve Bank of New Zealand on the Consultation Document: Regulatory Stocktake of the Prudential Requirements Applying to Registered Banks

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 which 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 is grateful for the opportunity to submit to the Reserve Bank of New Zealand (**RBNZ**) on the Consultation Document: Regulatory Stocktake of the Prudential Requirements Applying to Registered Banks (**the Consultation Document**).
4. NZBA welcomes the Regulatory Stocktake and would like to acknowledge the positive engagement and consultation on the Regulatory Stocktake over the past year. NZBA has been involved in the five Regulatory Stocktake industry workshops, and considers that the workshop process has been a valuable and constructive tool in this formal consultation process. NZBA welcomes the opportunity to formally submit on the matters raised in the Consultation Document.
5. We provide below responses to the issues and questions posed in the Consultation Document where we consider there to be industry consensus. We appreciate your consideration of our submission.

6. If you would like to discuss any aspect of the submission further, please contact:

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Executive summary

7. NZBA supports removing off-quarter disclosure statements entirely, subject to understanding what other regulators would require in terms of private and public reporting in place of these disclosures.
8. NZBA supports the proposed reorganisation of the Banking Supervision Handbook (**Handbook**). NZBA has received feedback from some of its members that they wish to offer RBNZ a rotating RBNZ secondment arrangement of bank employees to assist with the rework of the Handbook, and/or a smaller 'drafting review group' to review the recut versions of the Handbook before they are publicly released.
9. NZBA supports the proposed changes to RBNZ's policy making approach, and also supports:
- industry workshops at earlier stages of the consultation process;
 - the Banking Forum initiative;
 - an extension of the minimum consultation period to 6 weeks, with the standard consultation timeframe set at 8-12 weeks depending on the significance of the proposal; and
 - the ongoing reassessment of RBNZ's consultation and policy implementation timeframes (to, for example, reduce any overlap in consultations/policy implementations).
10. NZBA supports the adoption of a more focused definition of 'senior manager' that only covers certain key office holders.

Part 1: Data reporting and disclosure requirements for banks

11. NZBA supports the removal of the requirement for all banks to prepare off-quarter disclosure statements (Option 4). NZBA prefers Option 4 on the basis that:
- Our members advise the number of people using quarterly disclosure statements is limited.
 - Off-quarter disclosure statements do not play a large role in achieving market transparency in relation to financial information, because:

- i. the information they contain is historical and outdated (i.e. it describes the position of the bank as it was several months before);
 - ii. the information they contain only covers a short 3-month period (i.e. since the publication of the preceding disclosure statement); and
 - iii. the requirements to publish the more comprehensive half-year and full-year disclosure statements play the more significant role in achieving market transparency in bank's financial positions;
 - iv. for banks that are listed on an exchange, the exchange's continuous disclosure rules require more frequent and relevant information to be supplied to the market than required by the off-quarter disclosure statements.
 - c. The requirement to prepare off-quarter disclosure statements does not materially improve banks' internal governance and risk management, because:
 - i. the internal governance and risk management framework of banks is already in place for the purposes of ensuring ongoing compliance with all internal and external obligations, including those associated with Conditions of Registration (**COR**); and
 - ii. information contained in off-quarter disclosure statements is reported more frequently than once a quarter internally within banks (and regularly considered at the management and board level).
 - d. It would result in a significant cost and time savings for banks, the particulars of which our members will address in their own individual submissions.
12. NZBA's support for Option 4 is however subject to RBNZ clarifying uncertainties around this Option, including the additional reporting requirements, both public and private, imposed by RBNZ and/or other regulators (including the Financial Markets Authority (**FMA**)). Specifically, NZBA is concerned that Option 4 could impact FMA's position on existing exemptions granted to banks under the Financial Markets Conduct Act 2013 on the basis that banks are prudentially regulated (potentially relying on banks being required to prepare quarterly disclosure statements). NZBA has received feedback from its members that the removal of off-quarter disclosure statements should not affect these exemptions as the prudential regulation of banks is wider than quarterly disclosure, and the exemptions are of limited impact. We will continue to engage with FMA on any additional reporting they might require should the requirement to prepare off-quarter disclosure statements be removed or changed, but note that we would expect any additional FMA reporting to be minimal.
13. NZBA recommends that RBNZ re-consult with the industry once an option is decided on if additional reporting requirements result from the decision to adopt Option 4.
14. We note that NZBA is comfortable with what Inland Revenue has indicated it would require from banks if they were no longer required to prepare off-quarter disclosure statements.

15. NZBA members will address the costs associated with RBNZ's proposed supplemental private reporting of the quantitative components of disclosure statements in their own individual submissions. However, NZBA supports the proposal discussed at the fifth industry workshop to consider making this supplemental private reporting available to the public (or if not to the public then at least to other banks) as it is the same information that is published in the disclosure statement in a more comparable form. This would be more efficient for all disclosure statement users, including other banks.

Part 2: Format and structure of the Banking Supervision Handbook

16. NZBA agrees with the problems with the Handbook identified in the Consultation Document and supports the proposed reorganisation of the Handbook. NZBA notes that this will be a substantial exercise. NZBA supports RBNZ's proposed staged approach to the implementation of the relevant changes, as this will enable banks to update their documents and processes which refer to, or incorporate references from, the Handbook over time.
17. The Consultation Document suggests that in some cases, for significant or complex initiatives, RBNZ may hold targeted workshops with industry to solicit or elaborate on more detailed feedback on specific matters. However, it may be that these workshop groups will be too large for the tasks associated with the proposed restructure of the Handbook.
18. NZBA has received feedback from some of its members that they wish to offer RBNZ, and set up, a rotating RBNZ secondment arrangement of bank employees to assist with the rework of the Handbook, and/or a smaller 'drafting review group' to review the recut versions of the Handbook before they are publicly released.
19. We note that while we are supportive of RBNZ reorganising the *format and structure* of the Handbook, care must be taken to not alter the *substance* of the rules. For example, paragraph 157 of the Consultation Document would appear outside the scope of the simple reformatting or restructuring of the Handbook. A detailed change register would be beneficial in that it would highlight where changes have been made, and outline the extent of those changes to assist with banks' internal change management projects.

Part 3: Capital requirements

20. NZBA looks forward to future engagement and consultation on capital adequacy requirements.

Part 4: The RBNZ's policy making approach

21. NZBA supports the steps RBNZ is taking to address the issues regarding RBNZ's policy making approach raised during the Regulatory Stocktake.
22. NZBA has observed, and commends, recent improvements in RBNZ's policy making approach. NZBA submits that RBNZ industry workshops at earlier stages of the consultation process (such as those held for the Regulatory Stocktake consultation) are an effective method to assist with the development of policy.
23. NZBA considers that there is still scope for further consideration of the amount of regulatory change and supervision to which banks are subject from a range of regulators and supports the Banking Forum initiative (a meeting of which NZBA recently attended). NZBA notes that the volume and timing of legislative and regulatory change impacts on its members' frontlines and their ability to absorb and effect the required changes. We support a combined 'radar' of upcoming consultation and implementation across the Banking Forum members, and suggest that a calendar format may be the most useful way to present this information.
24. NZBA submits that the minimum consultation period for consultations should be 6 weeks (not 4 as currently proposed), and that the standard consultation timeframe should be 8-12 weeks depending on the significance of the proposal. Retaining flexibility to adopt a shorter consultation period (of 4 weeks) is important for rare cases where the circumstances require a faster response. NZBA considers, however, that it is very challenging for submitters (in particular for NZBA who must take into account and aggregate all of its members' views) to meaningfully and robustly analyse, consider and submit on proposed policy changes within a 4 week period. We consider that agreed criteria for departure from minimum timeframes would provide certainty on this point.
25. NZBA also considers that on-going reassessment of RBNZ's consultation and policy implementation timeframes would be beneficial to reduce any overlap in consultations/policy implementations (a recent example of this is the delay in the Outsourcing policy consultation which has resulted in it overlapping with the implementation of the LVR restriction changes, the Regulatory Stocktake consultation, the proposed changes to BS5 (Guidelines on Anti-Money Laundering and Countering Financing of Terrorism) and the balance sheet collection project).

Part 5: Differentiated regulatory approaches in the banking prudential regime

26. NZBA has no comments on RBNZ's analysis of the points of differentiation in RBNZ's regulation for banks. NZBA members will address this analysis in their own individual submissions.

Part 6: Miscellaneous changes to Bank policies and regulations

Refinements to the existing suitability assessment process for the directors and senior managers of banks

27. NZBA agrees with the problems identified by RBNZ with the suitability assessment process of a bank's directors and senior managers, and supports the adoption of a more focused definition of 'senior manager' that only covers certain key office holders.
28. NZBA agrees with RBNZ's preferred option for changes to the definition of senior manager (Option 2) as we consider that the four roles noted in the Consultation Document – Chief Executive Officer, Chief Financial Officer, Chief Operating Officer and Chief Risk Officer (or persons with equivalent responsibilities) – are the appropriate senior manager roles for the purposes of the policy. NZBA prefers a definition which references role(s), and submits a definition such as that proposed under Option 3 could create uncertainty and lead to inconsistent approaches across regulated entities. For example, does the "significant influence over the management or administration of the bank" relate to significant influence over the business as a whole, or is sufficient influence in the area in which that individual operates enough? However, we note that for the sake of certainty, the "or persons with equivalent responsibilities" component of the definition should be consistent, and not be used as a catch-all provision.
29. NZBA members will address the ongoing assessment of directors and senior managers' suitability in their own individual submissions.

Disclosure and reporting of breaches

30. NZBA's members continue to support private reporting of breaches of COR to RBNZ.
31. NZBA members support either a materiality threshold applying to disclosure of breaches or more clearly defined COR so that non-material (i.e. operational) matters are not required to be disclosed. NZBA's members will make their own suggestions as to these approaches in their individual submissions.