

Submission

to the

Reserve Bank of New Zealand

on the

Consultation paper: Review of the Default Option for Publication of Submissions

2 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: Review of the Default Option for Publication of Submissions (**Consultation Paper**), and commends the work that has gone into developing it.
4. 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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Options in the Consultation Paper

5. NZBA members will address the two policy options outlined in the Consultation Paper in their own individual submissions, and will express their preferences on either Option One (the status quo) or Option Two (a revised policy).

Consultation on the form and structure of final documents

6. While not specifically raised in the Consultation Document, NZBA wishes to take this opportunity to submit that in future, RBNZ should, as a matter of course, provide the form and structure of the final document that it intends to publish (for example, an exposure draft) as part of its consultation process.
7. While RBNZ consults on its policy positions, it generally does not consult on the final policy to be published. NZBA submits that the structure and specific words/requirements of the final policy can often lead to different or unintended outcomes or approaches in implementation.
8. NZBA submits that as there is a general shift amongst other New Zealand regulators, government departments and agencies towards the use of exposure drafts when consulting on complex legislative and regulatory reform, policy and guidance, and as this shift has resulted in more meaningful discussions, quality feedback and better outcomes overall, RBNZ should adopt the same approach.

Unintended outcomes or approaches in implementation

9. NZBA submits that where RBNZ has previously not provided the form and structure of the final document that it intends to publish, the structure and specific words/requirements of the final RBNZ policy adopted have often led to different or unintended outcomes or approaches in implementation.
10. For example, RBNZ did not provide the final form and structure of the changes to loan-to-value ratios which took place in 2014 and 2015. NZBA submits that the flow-on changes to capital requirements which resulted were not adequately forecasted, and the extent of the changes only became apparent some months later when policy decisions were being announced and draft conditions of registration were being circulated for comment. This necessitated a significant amount of “last minute”, and potentially avoidable, industry clarification with RBNZ.
11. NZBA submits that such unintended outcomes could have been more easily projected and more adequately planned for had RBNZ published an exposure draft of its final policy. NZBA submits that certainty, and reasonable lead times, can only be positives in the context of such important policy changes.

More meaningful discussions, quality feedback and better outcomes

12. NZBA also submits that where there has been consultation on the form and structure of the final document, this has led to more meaningful discussions, quality feedback and better outcomes.
13. For example, during the Regulatory Stocktake RBNZ published an “Outline Draft Statement of the Reserve Bank’s Policy Making Approach” for discussion. Although the content of this draft statement was relatively uncontroversial, this was a useful process and a good example of the industry being afforded the ability to comment directly on sections of the paper in submissions, and in the Regulatory Stocktake workshops.

14. We note that the Financial Markets Authority have adopted the approach of consulting (either publicly or on a targeted basis) on the form and structure of the final document they intend to publish, which our members have found most helpful and consider results in better discussions, feedback and outcomes overall.
15. Furthermore, almost all major financial services regulation over the last few years (for example, the Credit Contracts Credit Contracts and Consumer Finance Act 2003 and the Financial Markets Conduct Act 2013) has been subject to the exposure draft process. This has been very much welcomed by the banking industry and has enabled quality discussions about the appropriate regulatory approach, without the related time pressure where the relevance and/or impact of change becomes conclusively known. In particular, it has enabled Select Committee processes to be appropriately focussed (for example, on technical points or major areas of concern), which generally leads to better outcomes.
16. NZBA submits this process would be particularly useful in consultations such as RBNZ's Review of the outsourcing policy for registered banks. In particular, the exact interrelation of the different sections in the second consultation are not clear, which has required significant discussion and interpretation as a result.