

Submission

to the

Treasury

on

A Revised Regulatory Standards Bill

14 September 2012

**Submission by the New Zealand Bankers' Association to the
Treasury on A Revised Regulatory Standards Bill – A Treasury
discussion document with indicative legislation**

Executive Summary

1. The New Zealand Bankers' Association (NZBA) welcomes the opportunity to provide feedback on the Treasury discussion document "A Revised Regulatory Standards Bill" (Discussion Document).
2. NZBA supports efforts to identify reforms which will improve standards of regulation in New Zealand. NZBA is a strong advocate for responsible regulation that avoids the implementation of excessive or poor quality regulation.
3. In particular, NZBA requests in this submission that the Treasury consider the need for the proposed legislation to have a stronger focus on the quality of regulation developed by public bodies.
4. We would be happy to answer any questions on our submission or to expand on the matters we have raised. Should you seek further information, please contact:

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About NZBA

5. 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 safe and successful banking system that benefits New Zealanders and the New Zealand economy.
6. The following thirteen registered banks in New Zealand are members of NZBA:
 - ANZ National Bank Limited
 - ASB Bank Limited
 - Bank of New Zealand
 - Bank of Tokyo-Mitsubishi, UFJ
 - Citibank, N.A.
 - The Co-operative 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.

Responsible Regulation for Public Bodies

7. NZBA supports the development of legislation that promotes quality standards of regulation. NZBA recognises the need to improve regulatory disciplines to avoid the implementation of excessive or poor quality regulation.

Disclosure by Public Bodies

8. NZBA submits that the proposed disclosure requirements contained in Part 2 Subpart 1 of the revised Regulatory Standards Bill (particularly disclosure of general policy and explanation, and disclosure of quality assurance processes) should explicitly be extended to policy development by public bodies.
9. It is noted in the Discussion Document that Treasury's Option 5 proposal would primarily target legislative quality through influencing the transition of policy into legislation. The key element requires enhanced disclosure in the explanatory notes of Government Bills, Supplementary Order Papers and certain delegated legislation. While this development is a positive step towards responsible regulation, we are concerned that similar disclosure requirements do not extend to policy developed by public bodies such as the Reserve Bank of New Zealand or Financial Markets Authority.
10. The quality assurance process takes on significant importance for policy developed by public bodies, as it does not have to go through the scrutiny of a select committee process that is informed by public submissions. We are concerned that consultation by public bodies can currently be undertaken with either insufficient disclosure of the policy, or with an inadequate regulatory impact statement that does not provide clear analysis of the costs and benefits of the policy.
11. Public bodies can have autonomous and wide reaching powers to supervise and regulate. As a result, policy initiatives can create substantial costs for industries and have significant implications for the wider economy. When developing such policy, public bodies should be expected to maintain standards of analysis and consultation that are consistent with Government standards for developing legislation. If Part 2 Subpart 1 of the revised Regulatory Standards Bill is not extended to apply to the development of policy by public bodies, then proposed steps towards responsible regulation will fail to encompass a substantial area of the regulatory environment that requires attention.

Statement of Government Expectations

12. We note that proposed Section 18 requires a statement of Government expectations of the standards to be pursued, applied or met by public bodies. While the Government can already make such a statement, as this section requires the Government to make a formal statement, this is a positive step towards ensuring that public bodies meet expected standards. However, we submit that a Government statement should be made with more frequency than within the suggested 5-yearly independent review final report.
13. Notwithstanding, we question what result the statement is expected to provide, given that it will not limit the function, duties, or powers of the public body. There are many benefits to a strong consultation process that serves the public interest by providing an opportunity for supporting and competing views to be articulated. A strong consultation process can also aid the process of developing better regulation. However, public bodies

cannot be relied upon to undertake appropriate consultation of their own initiative. NZBA supports a more binding requirement for public bodies to meet prescribed standards of responsible policy development.

14. We submit that the proposed Section 18 statement of Government expectations should take the form of prescribed standards that outline, in addition to general expectations, required steps that public bodies must undertake when developing policy. This should include notification of the proposed policy, adequate consultation timeframes, and disclosure of a cost benefit analysis as part of a regulatory impact statement disclosed at the beginning of the consultation process.

Monitoring and Reporting

15. The regulatory standards initiative will be more effective if there is clear reporting that demonstrated whether or not requirements are being implemented by all agencies, and how they are meeting Government objectives. To assist compliance monitoring, we submit that Part 2 Subpart 1 should introduce a requirement for adequate public reporting against progress on Government Bills and public body policy.