

Submission

to the

The Reserve Bank of New Zealand
- Te Pūtea Matua

on the

Deposit Takers Standards –
Tranche 2 Consultation and Due
Diligence Guidance Consultation

22 May 2026



About NZBA

1. The New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) is the voice of the banking industry. We work with our member banks on non-competitive issues to tell the industry's story and develop and promote policy outcomes that deliver for New Zealanders.
2. The following seventeen registered banks in New Zealand are members of NZBA and support this submission:
 - ANZ Bank New Zealand Limited
 - ASB Bank Limited
 - Bank of China (NZ) Limited
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 - Kiwibank Limited
 - Rabobank New Zealand Limited
 - SBS Bank
 - TSB Bank Limited
 - Westpac New Zealand Limited

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Introduction

4. NZBA welcomes the opportunity to provide feedback to the Reserve Bank of New Zealand - Te Pūtea Matua (**Reserve Bank**) on its consultation on tranche 2 of the Deposit Takers Act 2023 (**DTA**) Standards and the due diligence guidance (**Consultation**). NZBA commends the work that has gone into developing this document and the technical analysis supporting it.

General comments across all Standards

5. **Scope of liability:** Noting that a number of Standards (in particular, the Governance Standard) place additional obligations on boards, we submit that the Reserve Bank needs to be mindful not to inadvertently use the Standards to expand liability for directors (and in the case of branches, the New Zealand CEO). As we note in this submission there are a number of areas where prescriptive requirements have been included for boards, areas which, generally speaking, should be regulated by the due diligence duty in the DTA.
6. **Prescriptive requirements:** The Reserve Bank has increased the number of principles-based requirements in the Standards. However, the Standards still contain many highly prescriptive requirements (particularly the Governance and Risk Management Standards). In particular, the Risk Management Standard contains a number of prescriptive details which may not be appropriate for the risk profiles of all entities (especially when comparing entities across groups 1, 2 and 3). We believe that each deposit taker's board will be best placed to assess the risks they face, and the most appropriate approach to manage those risks and prescriptive requirements could impact on the ability of these boards to effectively govern. We encourage the Reserve Bank to implement principles-based requirements and our submission identifies those areas where we believe there should be less prescription.
7. **Visibility of licence conditions:** We encourage the Reserve Bank to provide visibility and clarity on how each deposit taker's conditions of licence post-2028 will look and how they will interact with the wider framework of the Standards (noting that a number of Standards cross-refer to conditions imposed via conditions of licence). We encourage the Reserve Bank to engage with deposit takers to consult on the draft licencing questions in 2026 (potentially following the tranche 3 consultation).
8. **Focus of compliance:** Noting the technical nature of many Standards, including in particular the Reporting Standard, we submit that the Reserve Bank should focus its compliance efforts towards regulating material non-compliance. This will ensure that the Reserve Bank is able to use its resources effectively.
9. **Timing of standards:** Given the Reserve Bank intends to finalise and issue all Standards (other than the Crisis Preparedness Standard) on 31 May 2027, we repeat the request from our earlier submission on Tranche 1 Standards that the Reserve Bank consider providing final versions of Standards as they are ready prior to this date. The NZBA has raised significant concerns for all Standards where exposure drafts have been released. We also note that the interrelationship between many of the Standards, and our current lack of visibility over the conditions of licence and how they are intended to interact with the Standards, makes siloed implementation of individual Standards highly challenging. On that basis, we do not believe early implementation is possible without receiving the licence conditions and the Reserve



Bank's feedback on many of the key concerns raised in response to the Standards exposure drafts and guidance.

10. Releasing finalised versions of all Standards at the same time will put significant pressure on resourcing for deposit takers and providing some Standards earlier than mid-2027 would allow deposit takers to better manage this transition and would enable resources to be allocated more efficiently. In this regard, we appreciate the Reserve Bank's recent announcement that it intends to release the finalised Tranche 1 Standards in late 2026 and consider this a positive step towards managing the transition. We encourage the Reserve Bank to commit to the same approach in respect of the Tranche 2 Standards and the subsequent Tranche 3 standards. Further, if the Reserve Bank is unable to release final versions of the Tranche 2 or 3 Standards before mid-2027 then we encourage the Reserve Bank to release a summary of any policy decisions that vary from the various exposure drafts and associated guidance documents that are currently being consulted on, as soon as practicable. In either case, we encourage the Reserve Bank to provide greater clarity on when final draft Standards or the summary of policy decisions will be available.
11. **Expansion of requirements through guidance:** We note that certain guidance provided appears to expand requirements for deposit takers beyond what is contemplated in the corresponding Standard. We note some specific examples below in relation to both the Governance and Risk Management Standards.
12. **Defined terms:** We request that the Reserve Bank considers all terms defined in the Standards in the broader context of the DTA. Defined terms should be interpreted consistently across all Standards. Different terminology should be created where different interpretations are intended. Where a term used in the Standards is defined in the DTA or other legislation, such as the Financial Markets Conduct Act 2013 (**FMCA**), we recommend that either the relevant legislative provision is referenced in the Standard or that definition is incorporated into the Standard itself. The latter approach would protect against changes being made to non-DTA legislation that inadvertently changes the way in which terms in Standards are interpreted.

Submissions on the Governance Standard

- *Q1 What is your preferred option for the chair independence exception, option A or option B?*
- *Q2 Do you have any comments on the design features for the additional safeguards in the chair independence exception options?*
- *Q3 Do you have any comments on the exposure draft of the Governance Standard?*
- *Q4 Do you have any comments on the attached draft Guidance to support the Governance Standard? For example, are there any areas of the Standard that you think would benefit from further guidance?*



The requirements for boards are too prescriptive and should be framed in a more general manner

13. The Governance Standard exposure draft (the **Governance ED**) contains a number of prescriptive requirements for the board of a deposit taker to carry out (for example clause 11 of the Governance ED contains a number of prescriptive internal governance requirements).
14. Prescriptive governance requirements risk restricting the ability of the board of a deposit taker to effectively govern, given the varying range of business structures and strategic directions between deposit takers. Governance requirements need to be flexible enough to allow boards to manage policies and procedures as they see fit, within the scope of their due diligence responsibilities.
15. Additionally, these prescriptive requirements could cause broader issues, as boards will need to dedicate time and resources to ensuring that the proposed requirements are met. This could limit the board's ability to address other, more general, governance functions.
16. We submit that the Reserve Bank should consider revising these requirements to be more generalised (i.e. taking a more principles-based approach to board obligations), in order to give boards the ability to address these requirements within their existing governance and strategic frameworks. This approach would align with the Reserve Bank's support for a principles-based approach to the setting of the Standards.

Areas for clarification in the Governance ED

17. There are a number of points in the Governance ED that in our view, are too specific and prescriptive. We think the Reserve Bank should consider framing the following requirements in more general terms:
 - 17.1. Clause 8(2)(b) requires that deposit takers apply the requirements under clause 10 on a group-wide basis. Clause 10(2)(a) requires that the board must ensure that "the selection process for directors and senior managers is consistent with the fit and proper policy set out in clause 22". We request the Reserve Bank to clarify the application of this in the context of subsidiary boards, where often all directors will be executive directors;
 - 17.2. In clauses 8(2)(c) and 8(5) the group wide requirements for governance can be read as applying to all non-active subsidiaries. We request that the Reserve Bank provide guidance on the application of these clauses, as in our view this would be an unnecessarily high standard to set for passive entities, and it is unclear what these clauses would require a deposit taker to do to comply. Further, it is unclear how some aspects of clauses 9, 10 and 17 are intended to apply in practice to subsidiaries (particularly non-active subsidiaries), as they have their own directors responsible for the entities. For example, it should be clarified that this clause does not require each subsidiary to form its own committees;
 - 17.3. It is unclear what "effectiveness" means in the context of clause 8(3) and, additionally, how clause 8(3) is intended to interact with the board's responsibilities set out in clause 9.2(c). Should clause 8(3) refer to the "integrity" of financial statements rather than effectiveness?



- 17.4. Clause 9(2)(a)(i) sets out that the board charter must detail the “responsibilities and powers of the board collectively and in respect of each director relating to the governance of the deposit taker, such as powers of delegation”. However, as a practical matter not all boards engage in assigning responsibilities to individual directors. It is not clear whether this requirement would require boards to implement a framework for assigning responsibilities to individual directors. We request the Reserve Bank to clarify that boards are not required to alter their existing board decision making structures, particularly as they are currently achieving the necessary outcomes.
- 17.5. It is unclear whether clause 9(2)(a)(ii) requires a deposit taker to appoint a deputy chair. If there is no requirement for deposit takers to appoint a deputy chair, we request that the Reserve Bank clarify this to avoid the implication that a deputy chair is required;
- 17.6. Clause 9(2)(a)(iv) requires that the board charter set out a deposit taker’s governance processes, but it is not clear if this includes all the internal governance requirements under clause 11. We assume the intent is not for this level of detail to be included in a board charter and we would appreciate the Reserve Bank clarify this point. We submit that this provision should be amended to refer to “core” governance processes as this would more closely reflect the high-level requirements outlined in the Guidance;
- 17.7. Clause 11 uses the words “procedures” and “processes” interchangeably. Is it intended that there be a difference between these terms? Further, clause 11 should be simplified to remove any overlap/duplication with the matters already covered in table 2 of the Guidance. These terms also appear in many of the other exposure drafts of the Standards and their associated guidance. It would be helpful if these terms could be defined if it is intended that there are differences;
- 17.8. Clause 16(2)(b) requires that each committee member must be a non-executive director. In our view this is overly restrictive and there should be an option for a CEO to be a member of a committee;
- 17.9. Clause 17(2)(d) requires that the risk committee set the objectives of the CRO. We submit that this is best framed as consulting or adding input to these objectives rather than setting them; and
- 17.10. Elements of clause 21(1)(c) appear unnecessarily broad. For example, the terms “influence” in (c)(iii), “similar industry” in (c)(vii) and “professional body” in (c)(v) need clarifying in order to prevent the requirement being excessively wide.

Areas for clarification in the Governance Guidance

18. There are a number of areas in the draft guidance for the Governance Standard (**Governance Guidance**) that we submit the Reserve Bank should clarify:
 - 18.1. Paragraph 15 seems to imply that the board will be actively involved in documenting and maintaining processes and practices. We think this should be clarified to reflect that the board’s role is to provide strategic oversight.



We make further comment on this issue in the context of the Due Diligence Guidance (see our submission below);

- 18.2. Paragraph 17.6 sets out a number of points that could be included in the charter relating to a board's governance processes. We query whether it is appropriate to include these in the Governance Guidance;
- 18.3. Paragraph 20 should be clarified to more closely align with clause 9(2)(b) of the Governance ED, to emphasise that the board's focus is on strategic direction and oversight;
- 18.4. Paragraph 23 should be clarified to more closely align with clause 9(2)(c) of the Governance ED, to note the focus should be on the board ensuring that the correct processes are in place for preparing audit reports;
- 18.5. The references in paragraphs 30.8 and 30.9 to the board documenting detailed processes supporting reporting lines/flow of information (beyond what is included in the Charter and overarching governance framework documents) should be amended to reflect that the board's role is to have oversight to ensure robust processes are in place to support the obligations in the board charter and overarching governance framework documents; and
- 18.6. Paragraph 41.1 refers to the "where the Reserve Bank may approve directorships at a related entity in a business transfer, despite the fact that a director may be a director on a related entity, if it is satisfied that it would not endanger the safety and soundness of a deposit taker". The reference to "in a business transfer" is redundant here, given it automatically applies as an exception.

Board committee requirements should provide flexibility for group 2 deposit takers to choose to split or combined audit and risk committees and allow conditions of licence to specify either a split or combined audit and risk committee for group 2 deposit takers

19. Paragraph 43 of the Governance Guidance states that the conditions of licence for both group 1 and 2 deposit takers will set out that at minimum these deposit takers must establish each of an audit, risk and remuneration committee.
20. In the context of group 2 deposit takers, we submit that the Reserve Bank should reconsider these requirements in order to permit group 2 deposit takers to have the option to establish a combined audit and risk committee instead if they choose. Whilst we acknowledge that the Reserve Bank has previously reached a policy decision in favour of a split approach, we still have concerns, as explained below, and strongly encourage the Reserve Bank to adopt a more flexible approach.
21. Requiring separate audit and risk committees for all group 2 deposit takers is unnecessary and risks substantially increasing compliance costs, with limited benefits. In practice, a number of group 2 deposit takers currently maintain a combined audit and risk committee with appropriate attention given to audit and risk matters. Establishing a combined committee can prevent duplication and prevent board resources from being over allocated. Requiring these existing structures are disestablished will incur significant compliance costs, particularly for deposit takers with limited resources. Building in flexibility for group 2 deposit takers best supports proportionality for group 2 deposit takers.



References to a deposit taker’s “future risk appetite” should be reframed as being relative to the deposit takers current risk appetite

22. Clause 17(2)(a) of the Governance ED refers to the risk committee of a deposit taker advising the board on the “deposit taker’s overall current and future risk appetite and risk management strategy”. We submit that this clause should read as follows:

“(a) advise the board on the deposit taker’s overall risk appetite and risk management strategy.”

We consider that specifying “current” and “future” are too prescriptive. If these are to be retained, the reference to “future risk appetite” should be reframed as being in the context of the deposit takers current risk appetite (as is the case in clause 17(2)(b)) or the wording changed to forward looking. It also needs to be consistent with the Risk Management Standard on this issue (see clause 35 of the Risk Management Standard). Risk appetite reflects a point in time consideration and requires regular reviews in order to ensure it remains appropriate for a deposit taker in the wider context of its operating environment. It is necessary to clarify that any assessments of forward-looking risk appetite are qualified by the current operating environment. Deposit takers cannot be reasonably expected to be aware of all factors which could modify a deposit takers risk appetite in the future.

Comments on fit and proper requirements

23. **Template fit and proper certificates:** The Reserve Bank has previously indicated that a draft fit and proper certificate template would be released along with the Governance ED, however one has not been included in the consultation materials. We would appreciate if the Reserve Bank could clarify if it is still intending on releasing this draft template, and if so when it will be available.
24. **Fit and proper requirements too prescriptive:** As a general comment, the requirements in Part 4 of the Governance ED are highly prescriptive for what we consider should be a principles-based standard, which has the flexibility to allow for consistent application across deposit takers of varying size and complexity, as well as home jurisdictions.
25. **Obtaining information clarification needed:** We request that the Reserve Bank clarify what steps deposit takers must take to ensure that “all reasonable efforts to obtain information that it believes may be relevant to a fit and proper assessment” are made in accordance with clause 19(2). Paragraph 100 of the Governance Guidance suggests that deposit takers must take steps beyond self-declaration. The Governance Guidance should be amended to recognise that in some cases the appointee must first disclose the matter to the deposit taker.
26. **Materiality:** Clause 21(2)(e) requires consideration of if “the entity has contravened, may have contravened, or is likely to contravene any other prudential obligation in a material respect”. We request that the Reserve Bank clarify if the intention here is to only include “material breaches” that are (or have previously been) listed on the material breaches web page. Additionally, we query whether it is necessary to include the forward-looking limb in this test as it requires a level of projection or subjectivity that could give rise to uncertainty. It will be difficult for deposit takers to establish whether a person raises any concerns in relation to “current or previous” influence over



an entity (clause 21(1)(c)(iii)) in circumstances where the entity is likely to contravene a requirement under an applicable standard (clause 21(2)(e)).

27. **Verification difficulties:** In addition, elements of the requirements could be difficult to verify beyond asking the relevant director and senior manager to confirm details. For example, clause 22(2)(f) requires that a deposit takers fit and proper policy include “adequate provisions to ensure that a director, senior manager, or employee who discloses, in good faith, information that is permitted to be disclosed by the fit and proper policy will not suffer, or be threatened with, any detriment because of a disclosure”. Noting the above, we are unsure how a deposit taker can “ensure” this in its fit and proper policy, given information may be difficult to verify.
28. **Ability for branches to rely on home jurisdiction or Australian branch requirements:** The Reserve Bank should consider expanding clause 22(3) to cover branches relying on fit and proper policies under APRA’s CPS 520, even if the Australian branch is not the home jurisdiction of that branch. Noting the number of deposit takers that operate branches in both New Zealand and Australia and given the similarity of CPS 520 to these new requirements, branches who have dedicated resources to developing a CPS 520 compliant policy should be able to rely on this without the need for the branch to separately meet each requirement under clause 22(2).
29. Extending clause 22(3) in this way would also facilitate compliance with clause 29(1)(a), which requires a statement confirming that home jurisdiction fitness and propriety requirements have been met. Where an institution applies an equivalent APRA aligned policy (e.g., an Australian Branch Fit and Proper Policy under CPS 520), we submit that the statement under clause 29(1)(a) expressly recognise such equivalence.
30. Further, we submit that clause 22(5) should be framed in the context of proportionality, rather than the current drafting which requires the Reserve Bank to consider compliance costs. This would better reflect the risk-based approach under the DTA. We also submit that the Reserve Bank consider whether its approval rights under clause 22(5) should be in relation to those aspects of the clause 22(2) requirements that do not need to be met, rather than focusing on the fit and proper policy as a whole.
31. **Requirement to confirm fit and proper requirements met for notified branch appointments:** Clause 26(1)(c)(ii) requires a branch to confirm that the relevant person meets home jurisdiction fit and proper requirements. We submit that this should not apply to notified appointments (i.e. directors), as the Reserve Bank should be able to rely on home jurisdiction oversight without this additional confirmation being made. Further, in cases where the New Zealand CEO has been delegated full responsibility for branch operations in New Zealand, we submit that confirming the propriety of the home jurisdiction’s entity board does not provide any real benefit. Further, we note that APRA does not currently require fit and proper assessments to be carried out on the directors of branches.
32. **Fit and proper checks from other jurisdictions:** We request that the Reserve Bank clarify how clause 27(1)(e) applies, noting that the Reserve Bank currently sources these checks from other regulators directly through existing contact channels. We believe that expecting deposit takers to source these fit and proper assessments would create practical issues. If deposit takers try to source these direct from prospective directors, there is an increased risk of fraud. If deposit takers attempt to source these directly from overseas regulators, we are concerned that this might



significantly delay the fit and proper process as we would need to establish a contact with that regulator. Could the Reserve Bank please confirm that it intends to continue to manage these assessments in practice.

33. **Information requirements for branches:** Clause 27(2) requires branches to provide documents provided in its home jurisdiction (provided they are captured under clause 27(1)). We are concerned that directors in the home jurisdiction may be apprehensive to provide their personal information, including identification records and any credit checks outside of their home jurisdiction.
34. **Requirement for senior managers to be ordinarily resident in New Zealand:** Clause 29(1)(b) requires overseas deposit takers to confirm that the senior manager is “ordinarily resident in New Zealand,” referencing clause 1(3) of Schedule 2 of the DTA. This appears to be an incorrect reference however, as under the DTA the Reserve Bank can designate someone as the New Zealand CEO or CFO if they are resident outside of New Zealand. Additionally, the Governance Guidance incorrectly notes that the DTA requires the New Zealand CEO and CFO are ordinarily resident in New Zealand. We request the Reserve Bank clarify and correct this as soon as possible. Furthermore, in instances where the Reserve Bank has approved a New Zealand CEO or CFO who is resident outside of New Zealand, the Reserve Bank should provide guidance to clarify that the confirmation under clause 29(1)(b) is not required to be made. We also submit that it would be helpful if the Governance Guidance set out the Reserve Bank’s policy for approving non-resident role holders.
35. **Timing for approvals:** Clause 30(5)(d) requires that the appointment of an interim senior manager must include a statement of “the date when the deposit taker expects to send a request for approval to appoint a person as a senior manager on a permanent basis.” This requirement could be difficult to accurately comply with, as overseas approvals may be needed for such an appointment, making selecting a timeframe difficult. The Reserve Bank should consider either removing this requirement or reframing this to require an estimated timeframe, contingent on other regulatory approvals.
36. **Exception for long past dated events:** We note that in its 2025 decision paper on the non-core standards consultation, the Reserve Bank stated that it would consider an exception for long past dated events. Can the Reserve Bank clarify if it is still considering this. In addition, can the Reserve Bank provide further guidance on how far back in time criminal record checks under clause 27(c) are required for, noting that in many cases this information can be held for decades.
37. **Financial checks:** We submit that the Reserve Bank should add a clarification in paragraph 133.5 of the Governance Guidance that only credit bureau checks are to be provided with a fit and proper certificate (consistent with clause 27(d) of the Governance ED). The current approach seems onerous, and we encourage the Reserve Bank to ensure its consistent with other jurisdictions.
38. **Use of “unexpected” in Governance Guidance:** We note that paragraphs 139 and 140 of the Governance Guidance refer to vacancies that are “unexpected”. The Reserve Bank should consider removing this reference, noting that often a vacancy could be planned as a senior manager may have a notice period, however an interim appointment might be made throughout the recruitment and fit and proper process.



General comments on the Governance ED

39. **Defined terms:** We note that the definition of “significant influence” in the Governance ED does not align with the definition used under BS14. We request that the Reserve Bank clarify the reason for this departure.
40. **Use of branch policy:** We request that the Reserve Bank clarify whether branches are able to meet governance requirements through the use of any group level policies, with necessary adaptations to comply with the Standard’s requirements. Further, we request that the Reserve Bank provides clarity on how the branch can approve group policy. Does this approval have to come as part of the group’s wider policy approval process or can the board approval be done separately (i.e. by the New Zealand CEO after the group has approved the policy).
41. **Inconsistent terminology:** Clause 15(3) requires related entity directorships to not affect the ability to promote the “safety and soundness” of the deposit taker. However, the explanatory note at the end of the Governance ED refers to “safety and security”. We request the Reserve Bank to confirm whether these are intended to mean the same thing.
42. **New Zealand CEO responsibility for branch reporting requirements:** Clause 31(2)(c) requires that the New Zealand CEO is responsible for ensuring that “financial and non-financial reporting relating to its New Zealand operations are accurate and delivered within required deadlines.” Previously the Reserve Bank decided to frame this requirement as the New Zealand CEO needing to ensure that processes are in place to obtain assurance that this is the case. We request the Reserve Bank revert this requirement to its previous decision.
43. **Cross referencing and formatting:** We note that clauses 13(2), (5) and (6) each refer to the Reserve Bank’s ability to approve exceptions in relation to clause 14(1)(a) in accordance with clause 15(3). However, the Reserve Bank’s ability to grant exceptions to clause 14(1)(a) is set out in clause 15(2) instead. Also, it appears that the clause numbering for clause 27(1) is missing.
44. **Areas for clarification:** There are several places in the Governance ED which we consider need further clarification:
 - 44.1. Clause 17(2)(e) refers to the “renewal” of the CRO. This differs from the “removal” terminology in the Risk Management ED; and
 - 44.2. It is unclear whether clause 32(2)(d)(i) relates to the delegation framework or the specific authorities and limits.
45. **Remuneration policy:** As outlined in paragraph 59.1 of this submission below, clause 12(2)(d) should be reworded to require that a Remuneration Policy includes principles to ensure the objectives and ultimate remuneration outcomes for risk and audit personnel reflect their independence and purpose and are not unduly influenced by the performance of the business activities they oversee.



Submissions on the Risk Management Standard

- *Q5 Do you have comments on the structure of the exposure draft of the Risk Management Standard?*
- *Q6 Do you have any comments on our proposed whole-of-group approach for deposit takers managing risk where part of a group?*
- *Q7 Do you have any comments on the adopted approach regarding discretionary benefits which is now more principles-based?*
- *Q8 Do you have any comments on the proposed approach to restrict group 1 and group 2 deposit takers from completely outsourcing their compliance and internal audit functions?*
- *Q9 Do you have any comments on the proposed approach to reviews?*
- *Q10 Do you have any other comments on the exposure draft of the Risk Management Standard?*
- *Q11 Do you have any comments on the attached draft Guidance to support the Risk Management Standard? For example, are there any areas of the Standard that you think would benefit from further guidance?*

The requirement for boards to encourage a sound risk culture are too prescriptive and should be generalised

46. Whilst we support the Reserve Bank's intention to adopt principles-based approaches to requirements under the Standards, clauses 35 and 37 of the Risk Management Standard exposure draft (**Risk Management ED**) detail a list of responsibilities for the board of a deposit taker. A number of these requirements are highly prescriptive, in particular clauses 37(a) through (d) contain a number of responsibilities for the board of a deposit taker to encourage a sound risk culture, some of which appear to be more appropriate for senior management. We also propose that clause 35(1)(e) be revised to reflect the distinction between board and senior management activities, i.e. the board should approve key policies only, with senior management responsible for approving processes and non-key policies.
47. As we detail above, including highly prescriptive requirements for boards in Standards risks limiting the board's ability to effectively govern and for senior management to deliver outcomes. Governance requirements should be flexible enough to allow boards to manage policies and procedures as they see fit and these requirements risk limiting that flexibility. The Reserve Bank should consider reframing these requirements to be more general in nature to enable this flexibility for the boards of deposit takers. As we note below, the Reserve Bank should consider alignment with APRA's CPS 220 on these requirements.
48. Additionally, imposing these requirements through Standards risks expanding director liability beyond the scope of the due diligence duty under the DTA. Although this appears to be unintended, this is contrary to the way the DTA was developed, being with a focus on ensuring boards have time to manage governance and strategy rather than focusing on director liability. It is not appropriate for the Standards to effectively



expand director liability and doing so is inconsistent with the DTA. The Reserve Bank should ensure that any governance requirements in the Standards are generalised and flexible enough to fit within existing governance frameworks and procedures and ultimately fall under the scope of the due diligence duty under the DTA.

49. The Reserve Bank's 2025 decision paper noted that it was intending to align with APRA's approach under CPS 220. Moreover, the paper noted that the Reserve Bank would clarify that the responsibilities of senior management are to develop the necessary processes and policies for establishing a sound risk management culture, and that the board is responsible for approving them. We request that the Reserve Bank align the Risk Management ED with APRA's approach, as it would better support governance best practice and the DTA's principles-based approach. We also recommend that the definition of risk culture in clause 4 of the Risk Management ED is more closely aligned with the definition used in CPS 220, which describes risk culture as "the shared values, attitudes and behaviours within an organisation that shape how risks are understood, managed and acted upon".

The definition of material risk needs refinement

50. The definition of material risk under clause 7(3) of the Risk Management ED focuses on the impact of a risk, but not the likelihood of a risk occurring. As a result, deposit takers could be required to dedicate a disproportionate amount of resources to assessing extremely remote risks. Deposit takers should be able to make an assessment of the remoteness of a risk.
51. The use of "more than minor" in this definition also appears broad and could apply to a large range of risks currently assessed as "moderate" in nature. Assessing these risks will require significant resources from deposit takers, which could be wasteful in the context of risks on the lower end of this spectrum.
52. In this context we note that section 85 of the DTA, which provides the legal basis for the Risk Management Standard, is limited in scope to the risks stated in section 85(a). The 'material risk' definition should be read in view of the parameters of section 85 and we ask that this point is included in the "Material risks" section of the Risk Management Guidance as the current drafting of the Risk Management Guidance refers to a much broader range of risks. Relatedly, we request that consistent terminology is used in the Risk Management Guidance when referring to 'risk', 'risk category' and types of risk.

The requirement for internal audit to regularly review the risk management function should be removed

53. Clause 30(1)(e) of the Risk Management ED requires that the deposit takers risk management function is subject to regular review by the internal audit function. We submit that this requirement be removed.
54. Deposit takers should be able to take a risk-based approach to the third line review of risk management functions as part of routine internal audit planning, being the same as for any other business or function of the deposit taker. This allows for flexibility and targeting of the review undertaken. Additionally, at a broader level we question whether it is appropriate to have internal audit functions integrated into what is, ultimately, an operational matter for deposit takers. Further, internal audit reviews should be risk based, aligned to a deposit taker's strategic objectives, and responsive to the full spectrum of risks that could impact performance and resilience. The Risk



Management ED however frames the requirement for an internal audit plan in the context of compliance with its policies and processes. This is narrow in scope, and the Reserve Bank should clarify its intended scope here.

55. To this end, we submit that the Reserve Bank should add a reference in clause 34 of the Risk Management ED to internal audit plans being consistent with a risk-based approach to internal audit. This would better align with established professional standards (e.g. those of the Institute of Internal Auditors) for internal audit matters and ensure that internal audit functions deliver both assurance and insight into a deposit taker's operations.
56. Requiring internal audit to regularly review the risk management function will have material compliance costs, which as detailed above is unnecessary as a blanket requirement. Whilst internal audit review may be appropriate in some cases, this will depend on the deposit takers individual risk profile so requiring this for all deposit takers is inappropriate.
57. Additionally, this requirement does not align with the Reserve Bank's policy decisions paper from July 2025, where the Reserve Bank confirmed that instead of reviewing the risk management function, deposit takers must have internal audit review the methodology for implementing the risk management framework to confirm that it is followed adequately. We also recommend clarifying in the Risk Management Standard that the results of the review should be reported to the audit or risk committee.

General comments on the Risk Management Standard in relation to branches

58. We note there are a number of points in relation to the Risk Management Standard and branches that need clarification and/or amendments:
 - 58.1. As a practical matter, we submit that the Reserve Bank should consider including an express provision in the Risk Management Standard to allow branches to meet the requirements of the Standard on a global basis, rather than just at a branch level. This would better reflect the reality that branches are often only a small component of a much larger group, where risks are managed at a group level;
 - 58.2. The Risk Management ED imposes a number of requirements, without reference to the size and complexity of branches. The Reserve Bank should amend the requirements for branches across the Risk Management ED to scale based on the size and complexity of the branch. In particular, these requirements should be framed to prevent unnecessary duplication of group-level policies and processes;
 - 58.3. We think the Reserve Bank should clarify that branches are entitled to resource its risk management function from its home entity (or its Australian branch) and should include guidance to this effect. This change would be consistent with the Reserve Banks earlier policy decisions;
 - 58.4. Similar to the point made above in the context of the Governance Standard, that branches should be able to rely on home jurisdiction or Australian branch requirements, we request that the Reserve Bank confirm that branches are able to rely on group, home jurisdiction or Australian branch documents, including the relevant group risk frameworks (including where the Australian office is not its home jurisdiction). Where the branch has



complied with APRA's CPS 220, we submit that the branch should be able to utilise the same document and extend it to the New Zealand Branch provided that the risks of the New Zealand business are appropriately considered;

- 58.5. Generally, guidance is needed on how branches can rely on group frameworks and settings, and, in particular, whether branches can rely on group risk and remuneration frameworks. Further, in the context of branch governance, guidance is needed on how group policies apply in the context of responsibilities allocated to the New Zealand CEO under the Risk Management ED. This will be particularly relevant if the Reserve Bank does not include an express provision in the Risk Management Standard to allow branches to meet the requirements of the Standard on a global basis (see the comment at paragraph 58.1 above);
- 58.6. Clause 26 of the Risk Management ED should be amended to clarify that it does not apply to branches, given they are exempted from stress testing requirements under clause 25;
- 58.7. We request that the Reserve Bank clarify the requirements of clause 31(2)(b) of the Risk Management ED, which indicate that the CRO must "have no other leading role in the organisation". Where, for example the CRO is also the CRO of another overseas branch, and/or a director of some subsidiary entities, we submit that the requirements of clause 31(2)(b) should not restrict the CRO having such roles. Further, in relation to the CRO role, we request the Reserve Bank clarify how the clause 31 CRO requirements can be met without needing a New Zealand based CRO;
- 58.8. We note that clause 31(2)(d) of the Risk Management ED requires that the CRO "must have access to the board". The Reserve Bank should clarify that in the context of branches, that this should refer to the New Zealand CEO;
- 58.9. Furthermore, we submit that rather than requiring that the CRO have a reporting line to the CEO, the CRO instead be required to have unfettered access to the CEO (irrespective of whether they have a direct reporting line), given the CRO is part of the overall risk management function, with reporting lines independent of the business;
- 58.10. Clause 32(3) of the Risk Management ED requires that a "deposit taker must not outsource its compliance and internal audit function", however it should be clarified that branches are entitled to outsource these operations outside of its New Zealand operations (including to outside of its home entity, per previous policy decisions). The Reserve Bank should also clarify that for the purposes of internal audit, that using resources from other group entities would not be considered "outsourcing"; and
- 58.11. Clause 33 of the Risk Management ED is framed in the context of domestic deposit takers and the Reserve Bank should clarify its application in the context of branches.

Other general comments on the Risk Management ED

59. We note the following points in relation to the Risk Management ED that need clarification:



- 59.1. Clause 21(2) of the Risk Management ED sets out a number of specific remuneration requirements. However we query whether these are best framed in the context of the clause relating to the management of conflicts of interest. This clause should instead require that a remuneration policy includes principles to ensure the objectives and ultimate remuneration outcomes for risk and audit personnel reflect their independence and purpose, and are not unduly influenced by the performance of the business activities they oversee. Further the Reserve Bank should ensure that any requirements imposed by this clause do not overlap with the requirements proposed under clause 12(2)(d) of the Governance ED as it relates to setting a remuneration policy;
- 59.2. The Reserve Bank should consider whether clause 6 would be more appropriately placed in guidance. This clause is general in nature and could be read as prescribing steps for deposit takers to take when designing fit for purpose and proportionate compliance, that would require evidencing for each requirement in the Risk Management Standard;
- 59.3. The Reserve Bank should consider clarifying that clause 8(1)(a) is amended to refer to events with a more than minor impact on the business. The current drafting of this clause is broad and could require that minor risks are assessed unnecessarily;
- 59.4. Clauses 17 to 20 seem to overlap somewhat, and we would appreciate if the Reserve Bank could clarify how they are intended to function together. Further, can the Reserve Bank clarify what constitutes “risk components” under clause 17(a) and “contingency arrangements under” clause 17(c) and 20? We wish to understand how this relates to (or overlaps with) the Operational Resilience Standard and the Crisis Preparedness Standard, which are yet to be issued. We question whether this requirement may be better located in one of those standards;
- 59.5. Clause 19 should be reframed to refer to where remediation is applicable, as this may not be practical for some exposures. The Reserve Bank should also clarify whether the reference to “problem assets” is intended to apply only to credit assets (for example, non-performing and restructured loans) or to all asset classes;
- 59.6. The Reserve Bank should consider revising clause 23 to reflect that reviews should be carried out by persons with sufficient operational independence from the element of the framework that is under review, rather than requiring operational independence from the risk management function which would limit reviewers to internal audit. This would allow more flexibility for reviews, enabling a more proportionate approach while maintaining operational independence;
- 59.7. Clause 25(1)(b) requires that stress testing programmes must include consideration of all risk types listed in section 85(a) of the DTA. The risk types in this section of the DTA include a number of specific risks, including model risk. Whilst we are supportive of including all risks listed in the DTA, we request the Reserve Bank clarify if each risk, as listed in the DTA, is expected to require its own standalone scenario analysis or if this can be addressed proportionately through a deposit takers model risk programme



and including a list of model assumptions/limitations with the stress testing results;

- 59.8. Clause 25(2)(a) refers to scenario analysis and sensitivity analysis with reference to specific risks. This should be clarified to note that a separate stress test is not required for each material risk, which aligns with paragraph 97 of the Risk Management Guidance;
- 59.9. The annual review requirement of the internal control framework under clause 29(2) seems excessive, given internal controls are part of the broader risk management framework, which will already be subject to regular reviews;
- 59.10. Clause 30(1)(b)(i) should be clarified to refer to the risk management function being responsible for overseeing the “risk management of the deposit taker’s core business functions”, rather than overseeing the core business functions themselves;
- 59.11. The Reserve Bank should consider whether clause 32(2) should refer to “core business functions” as is consistent with clause 30(1)(b)(i), rather than the current drafting of “business lines”. It is unclear whether the risk management function would be captured as a business line, and if it is, the independence requirement would prevent the compliance function from being part of the risk management function; and
- 59.12. Clause 35(1)(e) refers to board approval of “risk management policies and processes developed by the senior management of the deposit taker”. This policy should only apply to risk management policies that have a specific regulatory requirement for board approval, in order to effectively manage the time Boards have to assess these policies. Consequently, the Reserve Bank should also consider removing the wording “approved by the board” from clauses 36(a) and (b) if the above changes are adopted.

The review requirements for a deposit takers risk management strategy and risk appetite statement should be aligned with the tri-yearly review cycle of the risk management framework

- 60. Clause 22(1)(b) of the Risk Management ED requires that a person with sufficient operational independence carry out an annual review of a deposit takers risk management strategy and risk appetite statement. This review will be in addition to the annual review and update that is completed by the risk management function (and ultimately approved by the board).
- 61. As a result of these concurrent reviews, a deposit taker’s risk management strategy and risk appetite statement are likely to be in a near constant state of review, with potentially overlapping timelines for introducing any changes from either the independent or management review. This could also result in a double review of the risk management strategy and risk appetite statement every third year, which would appear to be an unintended consequence.
- 62. Noting this, we think the Reserve Bank should consider aligning the requirement for a person with sufficient operational independence to review a deposit takers risk management strategy and risk appetite statement with the three-year review cycle for the risk management framework under clause 22(1)(a) of the Risk Management ED,



whilst risk specialists internally carry out annual reviews. This approach also enables deposit takers to update their risk management strategy and risk appetite statement as needed (outside of an annual review) in response to changes such as new and emerging risks, changes within the organisation, or other influences.

63. Further, clause 15 of the Risk Management ED requires that deposit takers submit their risk management framework and risk appetite statement to the Reserve Bank within 10 days. The Reserve Bank should clarify if this is working days or calendar days (noting that the use of calendar days could be problematic over holiday periods).

Outsourcing of compliance and internal audit functions

64. Clause 32(3) of the Risk Management ED provides that a deposit taker is not permitted to outsource its compliance and internal audit functions. In order to fully assess the impact of this requirement, industry will need further details on what is meant by “outsourcing” in this context.
65. Moreover, industry understood that the policy approach on this issue was that a level of outsourcing would be permitted, as detailed in the Reserve Bank’s summary of submissions and policy decisions on the non-core standards consultation.¹ The Reserve Bank should seek to align the final Risk Management Standard with its previous policy decisions. Further, clarification is needed that outsourcing restrictions should only refer to external service providers and not intra-group service arrangements (i.e. where a function is carried out by an offshore affiliate of a branch).

Other points on the Risk Management Guidance

66. In Table 2 (on page 10 of the Risk Management Guidance), the Reserve Bank should consider removing the reference to the ICT security function within the second line function description, as this could be interpreted as implying that ICT security is expected to sit in the second line. In many deposit takers, ICT security is a first line operational function with second line oversight.
67. Paragraph 124.1 of the Risk Management Guidance refers to the CRO having “responsibility for all risk types”. The Reserve Bank should consider changing this to “oversight of the risk management framework” given the day-to-day risk management responsibilities sit within Line 1.
68. We have noted the following minor typographical points:
 - 68.1. paragraph 37 in the Risk Management Guidance should refer to ‘related entities’ where it refers to ‘related parties’; and
 - 68.2. paragraph 138 in the Risk Management Guidance refers to ‘clauses 32-24’, where it should be ‘clauses 32-34’.

¹ See page 88.



Submissions on the Business Transfers, Holding Entities, and Restricted Activities Standard

- *Q12 Do you support the proposed reduction in the threshold for notifying the Reserve Bank of large transactions from 15% to 10%?*
- *Q13 Do you have any comments on the draft provisions related to business transfers?*
- *Q14 Do you have comments on the suitability of the term 'financial service' in relation to the restriction on non-financial activities?*
- *Q15 Do you have any comments on the draft provisions related to holding entities?*
- *Q16 Do you have comments on the approach to provide a temporary exemption for material non-financial business for certain deposit takers?*
- *Q17 Do you have any other comments on the attached exposure draft of the Business Transfers, Holding Entities, and Restricted Activities Standard?*
- *Q18 Do you have any comments on the attached draft Guidance to support the Business Transfers, Holding Entities, and Restricted Activities Standard? For example, are there any areas of the Standard that you think would benefit from further guidance?*

We are supportive of the proposed threshold for notifying the Reserve Bank of business transfers

69. Whilst we are supportive of the proposal in the Consultation to reduce the threshold for notifying the Reserve Bank of large transactions from 15% to 10% of total assets to CET1, we request that the Reserve Bank further explain its rationale for this change (beyond aligning with the approach taken by APRA).
70. We request that the Reserve Bank clarify that the exemption in clause 6(1) of the Business Transfers, Holding Entities, and Restricted Activities Standard exposure draft (**Restricted Activities ED**) applies to transfers to an SPV. In our view it would be appropriate to exempt transfers to an SPV that is a member of the group for the purposes of securitisation arrangements or covered bond arrangements.
71. Further, we request that the Reserve Bank clarify how the exemption in clause 6(1) of the Restricted Activities ED would apply in the context of intra-group transfers, rather than just transfers between subsidiaries. Some deposit takers may have entities who are treated as "controlled entities" for reporting purposes rather than subsidiaries. We request that the Reserve Bank consider expanding this exception to all transfers within a deposit taker group (rather than just to a subsidiary) in order to bring these types of entities in scope for the exception.

The limits on issuing covered bonds should be increased from 10% to 12% of total assets

72. We are supportive of increasing the limits on the total cover pool property for covered bonds from 10% of total assets to 12% of total assets. This would align with the



current proposal from APRA to increase the covered bond limit for Australian ADIs from 8% of total assets to 12% of total assets. Increasing this limit would help support contingent funding during crisis events or challenging market conditions where funding availability is stretched.

73. We note the Reserve Bank could choose to increase this limit on a discretionary basis (i.e. by including drafting in clause 22 of the Restricted Activities ED to allow the Reserve Bank discretion to increase the limit). Including drafting to this effect would allow the Reserve Bank flexibility during crisis events, where amending the Restricted Activities Standard itself would be impractical (noting the timing required to amend a Standard) and potentially reduce reliance on central bank funding facilities during these times.
74. We also note the following additional drafting points in clause 22 of the Restricted Activities ED:
- 74.1. the reference to “total cover pool property” should be framed in the context of “total cover pool *assets*”. This would ensure consistency between this and the total asset’s measure it is being tested against; and
- 74.2. the reference to a deposit takers balance date could be restrictive if deposit takers assets grow over the financial year. We submit that the Reserve Bank should amend this to refer to a more regular measurement of a deposit taker’s assets such as the date provided under the Reporting Standard.

General comments on the Restricted Activities ED

75. **Application of debt security transfer exemptions:** We request that the Reserve Bank clarify that clauses 7(e) and (f) apply to the relevant deposit taking entity itself or if this also includes any related entities? Further we think it might be helpful to include a definition of investment grade for clarity (being BBB-/Baa3 or better).
76. **Points for clarification:** We request that the Reserve Bank clarify the following:
- 76.1. Whether the use of “series of transactions” in clause 11 is intended to align with the BS15 definition; and
- 76.2. For the purposes of clause 21(1), what constitutes a “deposit-taking business in an overseas jurisdiction”.
77. **Application to branches:** Clause 19 refers to total assets of the deposit taker; however this does not align with the Reserve Bank’s earlier policy decision which sets out that total assets for branches should be calculated by reference to the total assets of the New Zealand business. A similar point applies in relation to “material information” in clause 20. The Reserve Bank should clarify this in the final Restricted Activities Standard and provide guidance for dual-operating branches (including, potentially, worked examples of how this would apply in intra-group transaction scenarios).
78. **References to other legislation:** The Restricted Activities ED includes a number of definitions which are included in the DTA and the Financial Markets Conduct Act. For ease of use, the Reserve Bank should consider replicating these definitions in the Standard itself, rather than using cross references. This would be particularly helpful in the context of using definitions from the Financial Markets Conduct Act, where the legislation could be amended without consideration for the DTA and Standards



framework. Including definitions in the Standard would avoid changes being made inadvertently.

79. **Fair value of assets:** Clause 9 requires that for the purposes of determining total assets or consideration the value to be is fair value of the total assets or consideration under NZ GAAP, however not all assets are “fair valued” under NZ GAAP. The Reserve Bank should consider changing this to just refer to the value being determined in accordance with NZ GAAP (i.e. without the reference to fair value).
80. **Scope of licensed deposit-taker group:** We note the explanatory note on Part 3 includes holding companies when describing members of a licensed deposit-taker group. We consider that there is some confusion in the context that it is used and suggest that the Reserve Bank delete the reference to “in its licensed deposit taker group” from clause 17 for clarity.
81. **Errors in guidance:** We note that there are a number of erroneous references to the Disclosure Statements Standard on page 4 of the guidance for the Restricted Activities ED.
82. **Use of “subsidiaries” versus “controlled entities”:** The term “subsidiaries” is used throughout the draft Standard. We understand this reflects terminology used in the Companies Act 1993 and the Financial Markets Conduct Act 2013. However, this differs from the terminology commonly used for financial reporting and assurance purposes, where references are typically to “controlled entities”. For example, external audit and assurance reports often refer to entities controlled by the parent, rather than to “subsidiaries”. This difference in terminology creates potential ambiguity in scoping and interpretation. The Reserve Bank should consider clarifying this.

Submissions on the Disclosure Statements Standard

- *Q19 Do you have any comments on the drafting of the requirements for a disclosure policy?*
- *Q20 Do you have any comments on the drafting of the remuneration disclosure requirements?*
- *Q21 Do you have any comments on the requirements related to the Dashboard?*
- *Q22 Do you have any comments on the drafting of the requirement for disclosures related to the Lending Standard and the Liquidity Standard?*
- *Q23 Do you have any other comments on the attached exposure draft of the Disclosure Statements Standard?*
- *Q24 Do you have any comments on the attached draft Guidance to support the Disclosure Statements Standard? For example, are there any areas of the Standard that you think would benefit from further guidance?*

Linking of dashboard

83. We are supportive of the proposal to have a general statement about the availability of the financial strength dashboard, but as we note below clarity is needed on how this applies to entities not on the dashboard (see our comment in paragraph 103.10



below). We understand the proposal is for the link to the dashboard to be provided on the deposit taker's website only (not in the disclosure statement itself). Subject to our comments below regarding the prescribed wording, we support this approach as we consider that this reduces the risk of unintended assurance/due diligence expectations or obligations as compared with the earlier proposals put forward on this issue.

84. We have some concerns around the drafting of the prescribed wording in clause 16 of the Disclosure Statements Standard exposure draft (the **Disclosure Statements ED**). In particular the line "The purpose of the dashboard is to help the public access and compare information about the financial and prudential condition of licensed deposit takers" could be problematic in the context of deposit takers who include disclosure statements as part of their funding document disclosures. As an initial point, the data presented on the dashboard is prepared for prudential reporting purposes and is not directly comparable with the financial information disclosed in the disclosure statement. Additionally, for these deposit takers it is possible that investors may take into account the information presented on the dashboard when deciding what investments to make, despite an individual deposit taker not having control or visibility over the information presented on the dashboard. It is not sufficiently clear from the prescribed wording that deposit takers do not directly control what is published on the dashboard.
85. Given the above, the Reserve Bank should consider reframing the prescribed wording to make it clear that the Reserve Bank is the person publishing the information on the dashboard, rather than individual deposit taking entities. We suggest the prescribed wording read as follows:

"Further information, including historical information, is available on the Financial Strength Dashboard published by the Reserve Bank of New Zealand. *Information that the Reserve Bank of New Zealand publishes on the dashboard is designed to help the public access and compare information about the financial and prudential condition of licensed deposit takers. It provides current and historical information (back to 2018) where available.*"
[Italics added to show changed text]

Disclosures on liquidity and lending risk

86. We are generally supportive of the proposed disclosures relating to liquidity and lending risk as set out in the Consultation, subject to the comments below.

We do not support the disclosure of remuneration of senior management

87. As we have submitted previously, we do not support the disclosure of the remuneration of senior management. This level of disclosure does not support the principles in the DTA and could cause issues, particularly in relation to branches where information may be identifiable (given there are only two senior management roles at some branches).
88. Further, these requirements are not aligned with the NZX's corporate governance code recommendations for listed entities, potentially increasing compliance burden for listed entities. We also question how useful/material this information could be, compared to the compliance cost in making the disclosure.
89. If the Reserve Bank does intend to retain these requirements we request they clarify the following:



- 89.1. Any expectations on the level of detail required when describing a remuneration policy under clause 29 of the Disclosure Statements ED. We note that the list in clause 29(2) could result in much of the remuneration policy itself being copied into disclosure statements;
 - 89.2. Whether disclosure under clause 30(3)(b)(iii) of the Disclosure Statements ED should exclude percentage increases for new appointments (not including replacements). We are unsure if such granular information is necessary given readers can review year on year changes by reference to previous disclosure statements; and
 - 89.3. Whether clause 30(3)(d) of the Disclosure Statements ED is necessary, noting that disclosures of this nature could require disclosure at an individual level and this would raise significant privacy concerns.
90. In this context we note that the Reserve Bank has intentionally included a definition of “senior manager” in clause 3 that is broader than the definition of “senior manager” in section 6 of the DTA (see Box 1 on page 12 of the Disclosure Statements Guidance). We submit that limb (a) of the definition of senior manager in clause 3 is removed (i.e. [a manager] “who reports directly to the New Zealand CEO”). Given the size and nature of branches, they typically have a flat management structure, with many roles reporting to the New Zealand CEO that are not ‘executive’ roles in substance. We submit that adopting this approach provides flexibility for branches and their different structures and addresses the following:
- 90.1. avoids disclosing the remuneration of potentially just 2 individuals; and
 - 90.2. avoids disclosing everyone who reports directly to New Zealand CEO (some of whom may not be ‘executive-equivalent’ roles).

General comments on the Disclosure Statements ED

91. We have the following general comments on the Disclosure Statements ED:
- 91.1. **Prescribed headings and format:** We request that the Reserve Bank provide clarity on the flexibility deposit takers will have to add entity specific information to the prescribed headings. Deposit takers should be able to explain their specific circumstances and the Reserve Bank should ensure that the prescribed headings do not prevent this.
 - 91.2. **Duplication of disclosure:** We request that the Reserve Bank provide guidance on how requirements can be met if a disclosure is already included in the accompanying financial statements (i.e. are cross references to this information able to satisfy the disclosure requirement). We submit that the Reserve Bank should provide guidance on where similar information disclosed in financial statements can be carried over (or cross-references made) in disclosure statements (for example remuneration disclosures required under NZ IAS 24) in order to prevent unnecessary duplication across preparing disclosure statements and financial statements;
 - 91.3. **Definition of “board”:** The definition of “board” in clause 3 includes “the board of directors (or other persons or body exercising powers of management, however described)”. However, the role of the board of directors is governance, rather than “exercising the powers of management”.



We submit that the Reserve Bank should distinguish between these functions in the definition;

- 91.4. **Definition of “new qualifying credit”:** In relation to the definition of “new qualifying credit” in clause 3, can the Reserve Bank clarify that it refers to commitments rather than drawdowns;
- 91.5. Further, it is not clear how this would apply in the context of branches and for roles with “equivalent duties” to the direct reports of the New Zealand CEO or for those in acting roles. There is also a potential issue where a person’s role only partly consists of senior management duties in the context of remuneration disclosures. We submit that the Reserve Bank should clarify this;
- 91.6. **Audit requirements:** Clause 11 states that interim financial statements contained in the half-year disclosure statements “do not need to be audited”. However, clause 18 requires “an auditor’s report or limited assurance report” on the interim financial statements. We request the Reserve Bank clarify its intention here and, if necessary, amend clause 18 to remove this reference;
- 91.7. In addition in relation to clause 11, the change in terminology to “the deposit taker and its subsidiaries” could limit the scope of disclosure. Is this intended by the Reserve Bank?
- 91.8. **Clause 15:** Clause 15 may limit the ability for deposit takers to include additional information, including disclosures around Companies Act reporting requirements. We request that the Reserve Bank clarifies that this can be included;
- 91.9. **Clause 24:** We submit that clause 24(4) should be clarified to only refer to material changes in the legally enforceable restrictions already disclosed in the disclosure statement;
- 91.10. **Committee disclosures:** Clause 28 has a number of disclosures around the audit, risk and remuneration committee of a deposit taker that must be included in the year-end disclosure statement, including how members are selected, how conflicts are managed, the functions of the committee and how the committees carry out those functions. We request that the Reserve Bank provide further clarity on how these disclosures are to be met, in particular the level of detail required to ensure compliance (noting that we are requesting the removal of remuneration disclosures);
- 91.11. Separately, we note that the clause 28 requirements apply also to branches, whilst the committee requirements under the Governance ED do not apply to branches. We would appreciate if the Reserve Bank could provide clarity on how these requirements apply to branches and in particular how they are expected to make the disclosures in subclauses (2) and (3), given their licence conditions will not have the required committees that domestic deposit takers will have;
- 91.12. **Credit rating disclosure:** The requirements under clause 31(2) appear to apply to a deposit takers’ senior issuer credit rating only, however deposit takers may have more than one credit rating (as required under section 59 of the DTA). Is the intention here for all these credit ratings to be disclosed?



- 91.13. **Disclosure of licence conditions:** Clause 32 requires disclosure of licence conditions applying to the deposit taker in both the year-end and half year disclosure statements. We question the need to include the list of conditions in the half year disclosure statements, when these documents are intended to be read in conjunction with the last year-end disclosure statement and there is a separate requirement to describe any changes since the last disclosure statement;
- 91.14. **Clause 46:** Can the Reserve Bank confirm if the use of “and interest” in clause 46(2)(b) is intended? Further is subclause (3) intended to only capture the liabilities of the branch or is this intended to include the liabilities of other New Zealand incorporated deposit takers (i.e. the New Zealand business of an overseas deposit taker)?
- 91.15. **Further information from overseas licenced deposit takers about asset quality:** We request that the Reserve Bank clarify whether the information to be disclosed in clause 60 is in respect of the overseas deposit taker as a standalone entity or on a consolidated basis, noting that the equivalent requirement in Schedule 7 of the Order in Council was in respect of the registered bank’s overseas banking group;
- 91.16. **Part 13 - Disclosure Statement policy:** While we are generally supportive of the proposals in relation to the content and review of the disclosure statement policy in Part 13, there are several unclear aspects to Part 13 which we request that the Reserve Bank clarify:
- (a) **Clause 61** - do separate disclosure statement policies need to be adopted for related deposit takers?
 - (b) **Clause 61** – how the responsibility for the disclosure statement policy in respect of overseas deposit takers aligns with existing financial reporting requirements (including any board and director signoff expectations for full year financial statements, where operational responsibility for the NZ business may rest with the NZ CEO)?
 - (c) **Clause 61** - the practical implications of the proposed accountability framework where responsibility for approving the disclosure statement policy sits with the New Zealand CEO of an overseas deposit taker, but the disclosure statement policy is intended to cover the broader New Zealand business (per subclause 61(3)(b)), which includes entities outside the direct management or control of the New Zealand branch;
 - (d) **Clause 61** - it is unclear what the practical impacts of the accountability framework could be in the context of branches, where the parent board may set the disclosure statement policy, but accountability rests with the New Zealand CEO;
 - (e) **Clause 61** - clause 61(5) defines a “relevant person or body” in relation to clauses 61 and 62. However this term is not used in clause 62 and is instead used in clause 63;



- (f) **Clause 64** - in relation to clause 64, we request that the Reserve Bank clarify who can be the responsible person, particularly in the context of dual registered group structures where offshore executives may be appropriate for this role; and

91.17. **Provisions not carried over from the Orders in Council:** We note a number of provisions **have** not been carried over from the existing Registered Bank Disclosure Statements (New Zealand Incorporated Registered Banks) Order 2014 (the **OiC**). We request that the Reserve Bank reconsider including these, or if they have been intentionally excluded clarify why this is the case. These include:

- (a) Clause 9(1(b)(jj)) of the OiC allows the Reserve Bank to extend the deadline for publishing half-year disclosure statements to three months if it considers there are reasonable grounds for not being able to comply with the two-month deadline;
- (b) Clause 18 of the OiC prevents deposit takers from stating or implying a person intends to become a shareholder or member of its banking group without also stating whether that person guarantees any obligations of the group;
- (c) Clause 41(3) of the Disclosure Statements ED requires disclosure of mismatch and core funding ratios for all quarters during the reporting period for year-end disclosure statements. This departs from the approach under clause 15 of Schedule 1 of the OiC where these ratios are disclosed in relation to the last two quarters only. This could cause operational issues, particularly if there is an error in the half year disclosures that would require restatement in the year-end disclosure statement;
- (d) Clauses 5(3)(b) and 5(4) of the OiC allow the Reserve Bank to determine the half year length for a deposit taker if they change their balance date. The Disclosure Standard ED does not include this discretion;
- (e) Clause 15 of the OiC requires a registered bank must, if due to systems limitations or circumstances beyond its control, state those limitations or circumstances in their disclosure statement; and
- (f) Clause 1(2) of Schedule 5 of the OiC excludes disclosure of related party balances of key management personnel in half year disclosure statements.

Transition Period

92. We request that the Reserve Bank give consideration to providing a transition period for deposit takers that have a requirement to issue a disclosure statement very shortly after the Disclosure Statement Standard comes into force on 1 December 2028. Such deposit takers would, in effect, have to be complying with the Disclosure Statement Standard earlier than 1 December 2028, given they would need to start preparing a disclosure statement for the new requirements before the new standard is in force.



Submissions on the Reporting Standard

- *Q25 Do you have any comments on the structure and application of the exposure draft of the Reporting Standard?*
- *Q26 Do you have any other comments on the exposure draft of the Reporting Standard?*
- *Q27 Do you have any comments on the attached draft Guidance to support the Reporting Standard? For example, are there any areas of the Standard that you think would benefit from further guidance?*
- *Q28 Do you have any comments on the attached data collection templates or associated definitions documents?*

The required statement on the financial strength dashboard needs refinement

93. Under Part 3 of the Reporting Standard exposure draft (**Reporting ED**) deposit takers are required to include the prescribed statement about the financial strength dashboard prominently on their website. We note however that the prescribed statement does not refer to where customers can access the dashboard on the Reserve Banks website. In this regard we note that clause 27 of the Reporting ED does not require the deposit taker to publish the link on its website to the financial strength dashboard along with the statement. Does the Reserve Bank intend that there should be such an obligation?
94. The Reserve Bank should consider whether it is appropriate to add the web address for the financial strength dashboard to the prescribed wording (or if preferred as a more future-proofed approach were the URL to change, just a reference to finding the information on the Reserve Banks website).

General approach to reporting and the use of templates

95. **Rationalisation of template information:** We submit that it would be helpful if the Reserve Bank undertakes a review of all reporting requirements once the relevant information categories have been finalised in order to rationalise and appropriately categorise the information deposit takers are expected to provide in respective reporting templates. This would avoid the need for unnecessary duplication and lessen the compliance burden of reporting without impacting outcomes.
96. **Timing for updating templates:** The Reporting ED definition of “data collection template” notes that the Reserve Bank may update any templates from “time to time”. Industry thinks it would be helpful if the Reserve Bank could include a requirement for the Reserve Bank to notify deposit takers of any new templates before they are implemented, say giving a minimum of 90 days’ prior notice or longer (noting that for some changes a period of up to six months may be appropriate) if the Reserve Bank is requiring new data fields to be included as a consequence of the update or if the consequences of making the change would otherwise benefit from having a longer notice period. This would give deposit takers the time necessary to review and update any internal reporting systems, in order to enable them to maintain compliance. Ideally, industry requests that template changes are notified within a reasonable timeframe before they are required to be used. Additionally, we encourage the



Reserve Bank to consult with industry on the timing for finalising and updating and reporting templates. As deposit takers will need to organise resourcing in relation to this, they would appreciate the Reserve Bank clarifying whether it would be comfortable granting extensions around holiday periods etc. Deposit takers will need time to identify any difficulties in providing data and develop the reporting solution prior to the reporting requirement coming into force.

97. **Information categories for branches:** We note that branches are subject to the default information reporting categories of cyber-capability, cyber-incident, large credit exposures, statement of financial performance and statement of financial position. In addition, the Reserve Bank may also designate additional categories for branches. We encourage the Reserve Bank to clarify if it intends to designate any additional reporting categories for branches. Additionally, it would be helpful if the Reserve Bank could provide guidance on the circumstances in which it would designate additional categories. Having a degree of predictability in this area would help branches in terms of planning and implementation and would help to ensure that there was adequate resource allocation so that system changes are proportionate and done in a timely manner.
98. **Clarity on requirements relating to board-approved strategies and application to Branches:** Under the Reporting ED, certain of the information reporting requirements include whether there is a board-approved strategy relating to incidents and their risks (e.g. cyber-capability requirements and the reporting of cyber incidents). In the context of branches, this should also refer to the New Zealand CEO as being the person who can approve the strategy.
99. Having said that, the Reserve Bank should also clarify that branches can rely on policies approved just by the group board. Where branches rely on group frameworks which are approved at a “group” board level, there should be no need for specific/separate New Zealand CEO approved strategy as well, and, if possible, group level data should be able to be used for reporting as a general requirement, with specific branch data only being required where necessary. Further clarification is needed if branch-level data is not available.
100. **Reporting deadlines:** We submit that the Reserve Bank should consider whether it is appropriate to embed reporting deadlines in the Schedule to the Reporting ED, particularly given holiday periods could impact the ability of deposit takers to fully consolidate and submit reporting. This could cause issues, given the difficulty in amending secondary legislation quickly and risks overprescription. The Reserve Bank should consider either removing these from the final Standard or including some general guidance around how non-compliance with these deadlines will be treated.

The Reserve Bank should provide guidance on any audit/review requirements for information supplied under the Reporting Standard

101. The guidance provided with the Reporting ED notes that the Reserve Bank may require any information supplied under the Reporting Standard is subject to auditing or further review in accordance with section 105 of the DTA.
102. Industry encourages the Reserve Bank to provide further guidance on any audit and/or review requirements it might require. In particular it would be helpful to understand the potential scope and usage of the section 105 powers. Given the deadlines for reporting under the Standard, it would be helpful for industry to have an indication on what areas may be subject to any audit requirements. It would also be helpful if the



Reserve Bank could provide guidance as to whether it will adopt a proportionality approach to the use of audit/reviews depending on the different types of deposit taker groups.

Specific comments on reporting requirements

103. We make the following submissions in relation to specific matters contained in the Reporting ED and associated reporting templates:
- 103.1. **Use of examples in the Reporting ED:** Clauses 13(2) and 14(2) set out a number of example details for capital adequacy information. As a general comment, we prefer that examples of this nature are included in guidance, rather than being hard-wired into the Standard, which could make it difficult for the Reserve Bank to amend/update the requirements quickly.
 - 103.2. **Clarification on the use of “class” in the Reporting ED:** Clause 5 refers to a “class of deposit taker”. We would appreciate if the Reserve Bank could clarify in the guidance that this is referring to the groups of deposit takers under the Proportionality Framework.
 - 103.3. **Treatment of existing surveys not included in the Reporting ED:** We encourage the Reserve Bank to clarify how it intends to treat existing surveys which have not been carried over to the Reporting ED, and in particular whether they may be required in future.
 - 103.4. **Resident and non-resident definitions in the balance sheet definitions:** The balance sheet data collection definitions use definitions of resident and non-resident that include references to tax residency, which could misalign with other residency definitions used by deposit takers. The Reserve Bank should consider providing additional clarification here.
 - 103.5. **Timeframes for cyber reporting:** The Reserve Bank should consider adding guidance to clarify that the timeframes for cyber reporting in the Schedule of the Reporting ED will only apply to “large”: entities under the cyber framework, whilst the periods in the standard itself in clause 12(2)(a) will be applied to “smaller” entities through conditions of licence.
 - 103.6. **Specific comments on the capital adequacy (supplementary details) information template:** We note that tab B, row B5.19 (equity exposures) could be calculated using other information in the template with a formula. Additionally, we note that tab C, row C11.0 refers to a “New Zealand Business Growth Fund (up to specified cap)”, and would appreciate if the Reserve Bank could clarify if this fund will be implemented.
 - 103.7. **Specific comments on the definitions for the DCS Aggregate Information Survey:** We note the following:
 - (a) Paragraph 5 incorrectly references row 27 of the guidance table rather than row 37;
 - (b) It is unclear whether the A1: number of depositors referred to in paragraph 6 should include “0” balance account holders;



- (c) Should the “period ended” field be changed to “Aggregate Data Date” or “Aggregate Data as at [date]” in order to better reflect the point in time nature of the data?
 - (d) It is unclear as what the Reserve Bank considers to be “significant variances and estimations”, given the aggregate report is point in time and balances naturally fluctuate on a daily basis. Could the Reserve Bank please clarify this?
 - (e) It is unclear as to what should be captured under “Revisions”? Does this cover situations where data from previous reports has been rerun and needs to be corrected? Could the Reserve Bank please clarify this?
 - (f) It is unclear as to what is meant by “changes in practice”? Does this refer to changes in how the aggregate report or SDV is produced, rather than routine operational fluctuations? Could the Reserve Bank please clarify this? and
 - (g) Where the standard refers to providing aggregate reporting for the “quarter ending [date]” does this mean data as at that date, rather than data covering the full quarter?
- 103.8. **Related Party definition:** Clause 24 refers to the concept of “related parties”. We note this replaces the current BS8 Connected Exposures Policy which uses the definition of a “connected person”. In order to fully assess the requirements of this standard, and the impacts on reporting, industry will need further details on the definition and scope of the term “related party”, and how it fits with the existing connected person definition. Accordingly, we request that the Reserve Bank provide further clarity on this.
- 103.9. **Cyber incident definitions:** Clause 16 provides examples of cyber-incident information by reference to internal outages and service failures but does not make mention of other cyber security events such as data breaches or ransomware. We submit that the Reserve Bank should provide further clarity on this and consider expanding the scope of the examples provided in clause 16.
- 103.10. **Application of dashboard requirements:** Part 3 of the Reporting ED requires that statements are included about the financial strength dashboard. However, branches that do not have a locally incorporated subsidiary are not shown on the dashboard. The Reserve Bank should expressly clarify these branches are excluded from this requirement.
- 103.11. **Areas for clarification:** We submit that the Reserve Bank should clarify the following areas:
- (a) Clause 7 – There is no equivalent to the current new credit flows survey, and loan level data has not been included in clause 7 despite being included in Part 2;
 - (b) Clause 9 – Subclause (3)(a) appears to require reporting on the deposit taker’s whole New Zealand business, rather than just the branch itself;



- (c) Clause 12 – We think it would be helpful for the Reserve Bank to clarify that the Reserve Bank can use licence conditions to modify reporting requirements;
- (d) Clause 14 – We submit that clause 14(1) should refer to the information that supplements that information provided under clause 13(1) to prevent repetition;
- (e) Clause 21 – The 12-working day deadline for loan level data does not reflect the current approach of a working file being provided on day 12 with a final resubmission being provided after 25 working days; and

Submissions on Due Diligence Guidance

- *Q1 Do you have any general comments on the Guidance?*
- *Q2 Do you have any comments on the interactions between the duty and other prudential obligations, including the distinction between the duty and the collective obligations on boards and deposit takers?*
- *Q3 Do you have any comments on how we have set out the respective roles and responsibilities of directors and senior managers in the Guidance?*
- *Q4 Do you have any comments on the sections relating to “Evidence of compliance” and “Approach to enforcement”?*
- *Q5 Do you have any comments on the examples provided?*

Q1 - Do you have any general comments on the Guidance?

104. The draft Due Diligence Guidance uses the terms ‘procedures’, ‘processes’, ‘practices’ and ‘systems’ interchangeably. We note that common industry practice is to refer to high-level or overarching framework documents as ‘policies’ whereas ‘procedures’ and ‘processes’ generally describe the lower-level implementation of Policies and are more operational in nature. It would be useful if the Reserve Bank took a consistent approach to the use of these terms so that industry has a better understanding of the Reserve Bank’s expectations in relation to deposit takers’ approach to the Due Diligence Guidance and can apply the requirements proportionately. This is particularly so given that section 95 of the DTA refers just to ‘procedures’. For example, in paragraph 37 of the draft Due Diligence Guidance, it is unclear whether the reference in the first bullet to ‘system’ is intended to refer to procedures or something different.
105. In relation to the application of the Due Diligence Guidance to the CEOs of branches, we submit that the Due Diligence Guidance should more expressly take into account overseas branch operating models, including by allowing branches to rely on group governance, risk and control frameworks.



Q2 - Do you have any comments on the interactions between the duty and other prudential obligations, including the distinction between the duty and the collective obligations on boards and deposit takers?

106. On the interaction between the duty and other prudential obligations, we seek clarity on the reference in paragraph 11 of the draft Due Diligence Guidance which describes the Due Diligence Guidance as primarily relating to prudential obligations that arise under the Standards and licence conditions. As obligations under the DTA and its Regulations are also prudential obligations (see the box on page 5), it is unclear how these categories are intended to be treated differently for the purposes of the due diligence duty.
107. Boards are collective decision-making bodies, with all directors having responsibilities to act individually in accordance with their duties and work together as a collective, by drawing on their individual skills and competencies. The specific roles directors are appointed for under the deposit takers' governance frameworks (e.g. Chair roles and Committee appointments), variances in the nature of their directorship (e.g. executive, non-executive and independence), and any specific delegations made by the Board of the deposit taker, should be appropriately described in governance framework documents such as charters. Given this, it would be useful if:
- 107.1. Example 2 of the draft Due Diligence Guidance described these specific roles by reference to how they are described in those governance documents; and
- 107.2. the Due Diligence Guidance reiterated that collective decision-making remains central to the role of directors, while recognising legitimate differences in contribution, inquiry, and reliance. We submit this would better align the Due Diligence Guidance with existing governance best practice and support consistent, proportionate application of the duty across boards of varying size and complexity.

Q3 - Do you have any comments on how we have set out the respective roles and responsibilities of directors and senior managers in the Guidance?

108. As a general comment we submit that it would be helpful if the Due Diligence Guidance (including the examples) more explicitly acknowledged that, while the board is responsible for setting and overseeing prudential frameworks and policies (i.e. it has a strategic and oversight role), responsibility for detailed procedures and operational processes appropriately sit with management.
109. In addition, the Due Diligence Guidance should make it clear that directors are not expected to approve every policy or process supporting each prudential obligation, but rather take reasonable steps such as setting the framework or policy for:
- 109.1. how processes are established;
- 109.2. requiring staff to follow the framework or policy;
- 109.3. ensuring processes are tested and reported on; and
- 109.4. ensuring remediation where the processes are not followed.



110. Instances in the draft Due Diligence Guidance that imply the board is expected to be more directly involved in setting or approving detailed operational procedures or processes than is consistent with its role include:
- 110.1. paragraph 21 of the draft Due Diligence Guidance refers to directors “designing the systems and processes contemplated under section 95 of the DTA”. For consistency with the directors’ oversight and governance role, we submit that the Due Diligence Guidance should refer to directors ensuring that the systems and processes are in place, rather than designing them;
 - 110.2. the introduction of paragraph 37 of the draft Due Diligence Guidance refers to section 95(a) providing “procedures giving effect to the due diligence duty”. We submit that without further clarification this could be interpreted as meaning that the duty is a more operational one than strategic (noting our comments above in paragraph 104);
 - 110.3. the reference in paragraph 40 of the draft Due Diligence Guidance to “ensuring that the deposit taker has processes” should be amended to make it clear that the board is responsible for the overarching framework or policy that sets requirements for documenting, communicating, training on the individual procedures, rather than the individual procedures and processes (noting our comments above in paragraph 104);
 - 110.4. in the first bullet point of paragraph 69 of the draft Due Diligence Guidance there is reference to directors “approving policies and procedures”. This suggests a level of approval expectation by the board that is beyond strategy, frameworks and policies;
 - 110.5. paragraph 71 of the draft Due Diligence Guidance helpfully reinforces the distinction between the board and management, stating that “We do not expect directors to carry out management-like functions. For example, while the board must approve the fit and proper policy, it is not their responsibility to write nor operationally implement the policy.” However, the paragraph then refers to procedures being approved by the board, which seems inconsistent with the first statement; and
 - 110.6. in the first bullet point of Example 10 of the draft Due Diligence Guidance, “formalised procedures” are referred to as being “approved policies and processes” and there is reference to “controls approved by the board”. We submit that, in both cases, approval of these should not ordinarily be a board role.

Q5 – Do you have any comments on the examples provided?

- 111. As a general comment, it would be useful if the Due Diligence Guidance included more examples that illustrate the difference in approach between small/straightforward deposit takers and large/complex deposit takers, particularly in relation to approving policies and processes. Directors of large/complex deposit takers cannot be expected to approve each process that supports a prudential obligation (which in practice could amount to hundreds or thousands of processes).
- 112. We submit that the Due Diligence Guidance should make it clear that taking ‘reasonable steps to put in place the systems and procedures required to ensure those obligations are being complied with’ (as specified in paragraph 7 of the draft Due



Diligence Guidance) can be interpreted to mean setting the overarching framework for achieving compliance with prudential obligations. As indicated above, we submit that it is not appropriate that directors approve each individual policy or process supporting each prudential obligation.

113. In relation to the examples in the draft Due Diligence Guidance, we have the following specific comments:

113.1. *Example 1* - it would be useful for the Due Diligence Guidance to elaborate on the implications of the factors described in this example and be clearer as to what the Reserve Bank's expectations are depending on the size and complexity of a deposit taker. For the third point, where there may be a wider set of reports, assurance and internal functions to rely on, the intended implication is not clear. If the intent is to explain that directors of larger deposit takers will need to have oversight at a higher level (over a more complex business model) than is the case for a smaller organisation (who by implication may have less comprehensive governance and compliance procedures), then this should be clarified further. It would also be useful if the Due Diligence Guidance noted that directors of large, complex businesses could establish requirements for procedures, so that, rather than being required to approve all procedures, they could instead use a risk assessment to determine which procedures require more oversight. To that end we submit that this example would work better if it was recast as a functional example rather than a list of potential factors;

113.2. *Example 2 - Chair example* - the Chair's specific role should be as set out in the deposit taker's board charter, so the example should define the role by reference to the deposit taker's charter. In terms of decisions being properly recorded, all directors are responsible for approving the minutes and being satisfied that they are an accurate reflection of the meeting, not just the Chair. This is ultimately a collective responsibility. Again, this should be reflected in the example;

113.3. *Example 2 - Committees example* - Committees may not necessarily 'produce reports' for the board in the same way management does. The example would be more accurate if it described the committees as reporting to the board on relevant matters and making recommendations;

113.4. *Example 2 - Executive directors example* - the last sentence regarding executive directors being expected to be in a stronger position to assess employee reliability and competency may be more nuanced in practice, given the executive director is often the CEO and their direct reports will be presenting reports to the board;

113.5. *Example 2 - Non-executive directors example* - the example could be refined, as all directors should make proper inquiry, and it is not clear whether the reference to "proper inquiry" relates to information provided by the executive director or otherwise (e.g. executive officers/senior management). We consider that the latter is more appropriate as this aligns better with section 96(2)(a) of the DTA;

113.6. *Examples 3 to 7* – We recommend elaborating on examples 3 to 7. As illustrations of what amounts to a breach of the due diligence duty, they appear to be overly generalised, lack context, and fail to take into account key factors that would need to be considered when determining whether a



breach of duty has occurred. One key factor should be the materiality of any regulatory breach or deviation from the Board approved policies and frameworks. A material breach or deviation that is not remedied promptly would be a stronger indication of a breach of duty as opposed to a non-material breach or deviation. Without such detail we question the helpfulness of the examples; and

- 113.7. *Example 10* - given the example relates to a duty of the directors referred to in paragraph 74 of the draft Due Diligence Guidance, we assume that the reference to 'more broadly, minutes and other documents that may show decisions, actions and other reasonable steps taken to ensure that the deposit taker complies with its prudential obligations' (fourth bullet point) is intended to those involving the board of directors. This could be made clearer.

Other Comments on the draft Due Diligence Guidance

114. We have the following additional comments on particular provisions of the draft Due Diligence Guidance:

114.1. *Paragraph 33* - In paragraph 33 we submit that it would be useful to set out some examples of the "other steps" that due diligence could include;

114.2. *Paragraph 48* - We submit that it would be helpful to include some clarity in paragraph 48 where two concepts appear to be conflated. Specifically:

- (a) the paragraph refers to an expectation that directors will act promptly to ensure remediation (for example, requiring a remediation plan within a certain timeframe);
- (b) however, this is discussed in the context of the statutory definition of due diligence in section 95(c) of the DTA which refers to the director due diligence duty as including taking reasonable steps to ensure that a deficiency is promptly remedied.

The latter is different to the directors acting promptly to ensure remediation, as compliance with the duty will depend on the nature of the deficiency and what is a "prompt" remedy in the circumstances;

114.3. *Paragraph 67* - We submit it would be helpful if the Reserve Bank clarified in paragraph 67 what aspects of compliance with directors' and senior managers' fitness and propriety requirements will ensure that suitable persons are responsible for implementing, supervising, and remedying the procedures for compliance (beyond senior managers); and

114.4. *Paragraph 75* - We query whether it is correct to say in paragraph 75 that *all* materials included in Example 10 are normally shared with the Reserve Bank in the course of supervision. Rather, it may be more accurate to say 'many' of the materials are shared.

Consultation with other bodies

115. Pursuant to section 97(3)(b) of the DTA, the Reserve Bank is required to consult with a professional body on the Due Diligence Guidance. Has that consultation occurred yet? If not, is the consultation being done in parallel with the current consultation or



will it occur after receipt of submissions on the current consultation? It would be helpful for industry to understand the process that the Reserve Bank has adopted (or intends to adopt). For example, industry would be interested in the views of, say, the Institute of Directors on the draft guidance (if that is the professional body that the Reserve Bank intends to consult with).