2025 Tranche 2 Regulations Consultation

Australia and New Zealand Banking Group Limited (New Zealand Branch) response to the Reserve Bank of New Zealand

24 November 2025

Introduction

Australia and New Zealand Banking Group Limited (New Zealand Branch) (**ANZ**) welcomes the opportunity to comment and provide feedback on the Reserve Bank of New Zealand's (**RBNZ**) consultation on the Deposit Takers Act Tranche 2 Regulations (**Consultation**).

CONTACT DETAILS

Please contact Penny Dell, Treasurer, ANZ Bank New Zealand Limited, at s 9(2)(a) *[personal details to be kept confidential]* if you would like to discuss the contents of this submission.

CONFIDENTIALITY

ANZ requests that the information identified in this response as requiring confidentiality is kept confidential on the grounds of protection of personal information and/or commercial sensitivity. If RBNZ receives a request to release our response under the Official Information Act, we ask that RBNZ consult with us, and our preference is that the information identified is withheld.

ANZ responses to the Consultation questions

Part A: Definition of Deposit Taker and the Regulatory Perimeter

Q1: Do you agree with our proposal to retain the existing classes of entities that have been declared not to be an NBDT under the 2015 Regulations for the purposes of the NBDT Act, if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities under clause 6 of Schedule 2 of the DTA?

We have no comments.

Q2: Are you aware of any examples or do you have any concerns relating to businesses that may be unintentionally caught by the borrowing and lending test?

Please see our comments in relation to Question 5 below.

Q3: Which other types of financial service providers, if any, should be 'declared in' or 'declared out' of the regulatory perimeter under clause 6 of Schedule 2 of the DTA and why?

Please see our comments in relation to Question 5 below.

Q4: Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level?

At this stage, we do not support the development of thresholds to help determine what constitutes 'borrowing and lending' for the purposes of section 1(1)(a) of the DTA. We note that, while low levels of unregulated lending and borrowing might not impact New Zealand's financial stability overall, depending on the nature of the entity in question, risks for individual customers might unreasonably increase. For example, the use of thresholds might operate as a regulatory loophole that enables technology firms to carry on business in New Zealand by offering both deposit and transaction accounts (mobile wallets) and credit, but without the safety of sound prudential regulation by the RBNZ.

It is unclear whether all entities would be able to rely on such thresholds (including large overseas banks), or whether any such thresholds would apply to smaller entities only, as indicated in this Consultation.

Q5: Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business in New Zealand.

We support the RBNZ's proposal to use its declare in/out powers under clause 6 of Schedule 2 of the DTA to retain the current physical presence test for overseas banks by narrowing the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business or any staff in New Zealand from being 'deposit takers' under the DTA.

For additional clarity, we request that the RBNZ also expressly provides that where an overseas bank is a 'specified overseas entity' (i.e. one with no place of business in New Zealand) that is not "carrying on any activity directly or indirectly in New Zealand" for the purposes of section 425 of the DTA, it will not be a deposit taker. This would help provide clarity that an overseas bank, which is operating in compliance with section 425 of the DTA, is not caught inadvertently under another limb of clause 6.

On a related note, we request that the RBNZ confirm in secondary legislation its long-standing policy approach[1] that an overseas bank and its registered branch (if any) should be viewed as two distinct entities. Accordingly:

- for the purposes of clause 6 of Schedule 2 of the DTA, the registered branch's place of business and staff in New Zealand would not be taken into account when determining whether an overseas bank has a place of business in New Zealand; and
- conversely, for the purposes of section 425 of the DTA, any permitted cross-border activities undertaken by the overseas bank would not be attributed to its registered branch, as would be reflected in that registered branch's balance sheet.

Q6: Do you prefer any of the other options we considered with respect to the way in which the regulatory perimeter for overseas banks might be set? If so, why?

We have assumed that this question is referring to the "alternative options" set out on page 14 of this Consultation. We support the RBNZ's preferred option to narrow the perimeter for overseas banks using the declare in/out powers. We do not support either:

- Allowing the perimeter to widen to include all overseas banks by note making regulations; or
- Using RBNZ guidance to define the perimeter (as opposed to creating regulations).

Q7: Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?

As a general principle, we support alignment between Australian and New Zealand policy frameworks. However, we do not support unlicensed activities due to the potential risks of adverse outcomes.

Part B: Other Proposals for Consultation

Q8: Do you agree with our proposal to carry over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations? If not, which other Australian public authorities should be included in the meaning of 'Australian financial authority' and why?

We support the RBNZ's proposal to carry over the existing definition of Australian Financial authority under the BPSA.

Q9: Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?

ANZ supports applying the DTA Lending Standard exclusively to residential mortgage lending, based on the current definition of 'residential mortgage loan' (RML) under RBNZ BPR131.

Q10: Do you agree with our proposal to carry over the existing form of the infringement notice and reminder notice that was prescribed under the RBNZ Act in the 2022 regulations? If not, what amendments would you suggest?

We note that some sections of the Deposit Takers Act (**DTA**) are already in force. In the event that non-compliance with those sections results in an infringement offence, sections 168 and 171 of the DTA provide that the RBNZ may issue an infringement notice in the form prescribed in regulations (which are currently the subject of this Consultation). This legislative gap creates uncertainty for deposit takers.

[1] As set out in the RBNZ's non-objection letter to ANZ dated 9 July 2009 where the RBNZ clarified its understanding of the relationship between ANZBGL and ANZ.

It would be helpful if the RBNZ clarifies how it might respond and the timeframes in circumstances where a person raises a matter relating to the circumstances of the alleged offence in accordance with Schedule 2, paragraph 7(a) and Schedule 3, paragraph 6(a) of the 2022 regulations.

18 November 2025

Reserve Bank of New Zealand
PO Box 2498
Wellington 6140

By email: dta@rbnz.govt.nz

Tēnā koutou

Thank you for the opportunity to engage on the 2025 Reserve Bank of New Zealand's (**RBNZ**) 'Second tranche of Deposit Taker Regulations under the Deposit Takers Act (**DTA**)' consultation paper (**Consultation Paper**).

ASB is committed to its purpose of accelerating progress of all New Zealanders. An appropriately set regulatory perimeter under the DTA supports this purpose, given the potential for the scope of the DTA to affect financial stability and, in turn, economic growth.

ASB is broadly supportive of the proposed regulatory perimeter for the DTA and the associated legislation (and other) changes to effect this perimeter as outlined in the Consultation Paper. We also endorse the RBNZ's intention to continue monitoring developments in the fintech sector. Ongoing oversight is vital to ensure that this sector does not inadvertently create systemic risks as it grows and evolves.

To further strengthen this oversight, we recommend that the RBNZ:

- Clearly define the scope and nature of its proposed monitoring activities;
- Specify the monitoring approach and frequency; and
- Regularly publish the outcomes of this monitoring.

These steps will enhance transparency, provide clarity for market participants, and ensure the regulatory perimeter remains fit for purpose as the sector evolves.

ASB appreciates the ability to provide constructive feedback to the RBNZ through this consultation process. We would be pleased to meet on a bilateral basis should the RBNZ wish to discuss any matters arising from this letter.

Ngā mihi

s 9(2)(a)

Andrew MacVicar
Chief Financial Officer
ASB Bank Limited

Bell Gully

Reserve Bank of New Zealand: Consultation paper on 'Restrictions on use of the word 'bank' under the Deposit Takers Act 2023

Bell Gully Submission

24 November 2025

By email: dta@rbnz.govt.nz

1. INTRODUCTION AND SUMMARY

1.1 We refer to the following consultation papers published by the Reserve Bank of New Zealand (**RBNZ**) with respect to the implementation of the Deposit Takers Act 2023 (the **DTA**):

(a) the consultation paper with the title '*Restrictions on use of the word 'bank"* dated 30 September 2025 (the **Bank Names Consultation**); and

(b) the consultation paper with the title '*Second tranche of Deposit Takers Regulations*' dated 30 September 2025 (the **Second Tranche Consultation**).

1.2 Bell Gully welcomes the opportunity to submit on the two consultation papers.

1.3 Bell Gully is a full service law firm with offices in Wellington and Auckland. Bell Gully advises a number of local and offshore financial institutions along with a number of issuers, borrowers and other end users in New Zealand that borrow money from, or use the services of, both local and offshore financial institutions. In particular, Bell Gully advises a number of offshore financial institutions that have either opted-in to the Banking (Prudential Supervision) Act (Overseas Banks) Class Authorisation 2019 (the **Existing Class Authorisation**) or rely on an existing non-objection letter issued by the RBNZ in respect of the 'bank names' regime under the Banking (Prudential Supervision) Act 1989 (**BPSA**). However, this submission is given in our own capacity and not on behalf of any client of Bell Gully and it should not be taken to represent the views of any particular Bell Gully client.

1.4 In responding to the consultation, we have focused on the questions relevant to offshore financial institutions that provide limited services to New Zealand clients (on the basis of the Existing Class Authorisation or on the basis of a non-objection letter). However, if the RBNZ would like to discuss with us any of the other matters covered bv the consultation papers, we would be happy to do so. We have responded to specific questions below.

1.5 As a general observation, Bell Gully supports the overall tenor of the proposals in both consultation papers with respect to the approach to regulation of offshore financial institutions under the DTA.

2. THE BANK NAMES CONSULTATION

Do you agree with our proposal to retain the current authorisations approach for overseas banks undertaking limited activities in New Zealand using a restricted word in their name or title?

2.1 We support the proposal to retain the current authorisations approach for overseas banks undertaking limited activities in New Zealand using a restricted word in their name.

2.2 We advise a number of clients that rely on the Existing Class Authorisation regime and we consider this to be a well-designed regime that achieves the objectives of the DTA. We consider that the Existing Class Authorisation, together with the current guidance issued by the RBNZ, provides overseas financial institutions with an appropriate degree of legal certainty to undertake limited activities in New Zealand.

2.3 We believe that the presence of overseas banks in the New Zealand market is positive for New Zealand institutional borrowers and issuers seeking debt capital (or seeking other products and services from overseas financial institutions). From our perspective, the current regime (and associated regulatory perimeter) is well understood by a number of global banks that rely on the Existing Class Authorisation (and we would expect that those entities that currently rely on the non-objection letters are also familiar with the regime).

Are there any other wholesale activities that should be included in the scope of the class authorisation for overseas banks?

2.4 Generally, we consider that the current set of wholesale activities in the Class Authorisation is appropriate. However, we make the following suggestions:

(a) Clause 8 of the Existing Class Authorisation provides a broad authorisation for activities relating to “primary issuances”. In addition, clause 10 provides an authorisation for “trading” activities. However, clause 10 is limited to trading in “New Zealand financial products” and only where such trading is “for its own account”.

While we appreciate that, in principle, most secondary market trading of equity and debt instruments would not necessarily constitute an activity that is “carried on” in New Zealand (and therefore not be within the scope of the regime), our view is that it would be helpful if the wording of the new authorisation could be amended such that there was a general authorisation for secondary market trading activities in debt and equity instruments (or other financial products) with New Zealand investors (provided that they are all wholesale), regardless of whether the instruments are issued by that bank and regardless of whether that bank is trading on its own behalf or on behalf of a client.

(b) Generally speaking, the Existing Class Authorisation does not provide a broad authorisation for the provision of custody and other securities services (clause 9 and 12 provide such authorisations in respect of primary issuances and in respect of derivatives respectively). We consider that it would be helpful to provide a general authorisation for the provision of custody and other related securities services generally where the services are provided to wholesale customers in New Zealand.

Are there any other conditions we should impose on a new class authorisation for overseas banks, or any changes we should make to the conditions that we currently impose in this authorisation?

2.5 Anecdotally we have discussed with certain entities and they have found the obligation to provide six monthly reporting to be challenging. In particular, they have found it challenging that, where a specific branch of a bank opts into the Class Authorisation, the reporting obligation applies to the bank as a whole (as the branch may have compliance on a branch-by-branch basis). If an overseas bank was able to provide reporting for a particular branch only, we believe that would create more flexibility for others to opt-into the regime.

3. THE SECOND TRANCHE CONSULTATION

Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the

regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business in New Zealand.

3.1 We agree that overseas banks with no physical place of business in New Zealand should be excluded from the definition of 'specified overseas entity'. This approach preserves the status quo which we consider to be well understood by overseas financial institutions and supports proportionality. The "carrying on business" threshold provides less legal certainty than a "place of business" threshold. Preserving the status quo therefore provides greater legal certainty as to the perimeter of the regime for offshore financial institutions. We consider that to be positive for institutional issuers and borrowers (or other consumers of wholesale financial services) in New Zealand.

4. CONTACT DETAILS

4.1 We would be happy to assist further with any questions the RBNZ may have on this submission. Please contact:

Zac Kedgley-Foot
PARTNER
DDI +64 4 915 6820
MOB +64 21 535 253
zac.kedgley-foot@bellgully.com

Yours sincerely

s 9(2)(a)

Zac Kedgley-Foot
Partner

Response ID ANON-RWJX-XDFH-N

Submitted to Second tranche of Deposit Takers Regulations under the DTA
Submitted on 2025-10-20 14:19:12

Contact details

What is your name?

Name:
Elizabeth Rutherford

What is your email address?

Email:
s 9(2)(a)

Are you making a submission as an individual or on behalf of an organisation?

Organisation

Name of organisation (if applicable):
Commonwealth Bank of Australia, New Zealand branch

Publication of submissions

Please indicate your consent below.

I have read the above text on how submissions will be used and consent to the input being used as described above.:
Yes

Would you like to make a PDF submission or complete an online submission?

Online submission

Questions from Chapter 2 - Definition of Deposit Taker and the Regulatory Perimeter

1 Do you agree with our proposal to retain the existing classes of entities that have been declared not to be an NBDT under the 2015 Regulations for the purposes of the NBDT Act, if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities under clause 6 of Schedule 2 of the DTA?

Not Answered

Question 1 comments:

2 Are you aware of any examples or do you have any concerns relating to businesses that may be unintentionally caught by the borrowing and lending test?

Not Answered

Are you aware of any examples or do you have any concerns relating to businesses that may be unintentionally caught by the borrowing and lending test? Please select one of the options and add any additional comments below.:

3 Which other types of financial service providers, if any, should be 'declared in' or 'declared out' of the regulatory perimeter under clause 6 of Schedule 2 of the DTA and why?

Which other types of financial service providers, if any, should be 'declared in' or 'declared out' of the regulatory perimeter under clause 6 of Schedule 2 of the DTA and why?:

4 Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level?

Not Answered

Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level?:

5 Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that

have no physical place of business in New Zealand.

Yes

Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business in New Zealand.:

Yes, we support the proposal to preserve the status quo perimeter. Maintaining the current treatment of overseas banks under the BPSA provides regulatory certainty and continuity. This approach appropriately distinguishes between entities actively operating in New Zealand and those with no local footprint. It avoids unnecessary regulatory burden on offshore institutions that do not pose direct risks to the New Zealand financial system.

6 Do you prefer any of the other options we considered with respect to the way in which the regulatory perimeter for overseas banks might be set? If so, why?

No

Do you prefer any of the other options we considered with respect to the way in which the regulatory perimeter for overseas banks might be set?:

No, we do not prefer the alternative options. The other approaches, such as requiring all overseas banks to be licensed regardless of physical presence, would introduce disproportionate compliance obligations and could discourage international engagement. The current proposal strikes a balance between regulatory oversight and operational flexibility.

7 Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?

Not Answered

Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?:

Questions from Chapter 3 - Other Proposals for Consultation

8 Do you agree with our proposal to carry over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations? If not, which other Australian public authorities should be included in the meaning of 'Australian financial authority' and why?

Not Answered

Do you agree with our proposal to carry over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations? If not, which other Australian public authorities should be included in the meaning of 'Australian financial authority' and why?:

9 Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?

Not Answered

Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?:

10 Do you agree with our proposal to carry over the existing form of the infringement notice and reminder notice that was prescribed under the RBNZ Act in the 2022 regulations? If not, what amendments would you suggest?

Not Answered

Do you agree with our proposal to carry over the existing form of the infringement notice and reminder notice that was prescribed under the RBNZ Act in the 2022 regulations? If not, what amendments would you suggest? :

Submission redactions

If you would like all or part of your submission to remain confidential, please let us know what part of your submission to redact (black out) below.

Redacted text:

24 November 2025

From: Luke Ford
Direct: +64 9 357 9298
Email: luke.ford@chapmantripp.com
Ref: /3470-8471-5329.3

Reserve Bank of New Zealand – Te Pūtea Matua
Wellington

dta@rbnz.govt.nz

By Email

Submission on Second Tranche of Deposit Takers Regulations

1 Chapman Tripp makes this submission in relation to the Second Tranche of Deposit Takers Regulations[1] (*Consultation*) published by the Reserve Bank of New Zealand – Te Pūtea Matua (*Reserve Bank*) on 30 September 2025.

2 Chapman Tripp welcomes the opportunity to submit on the Consultation, particularly as it relates to the definition of 'deposit taker' and the regulatory perimeter for issuers of securities in the debt capital markets. Our submission does not purport to represent the views of any of our clients. We have no objection to our submission being published.

3 We have provided below some specific responses to relevant questions in the Consultation (under their respective question headings). We have not sought to answer all questions in the Consultation.

4 If you would like to discuss any aspect of this submission, please contact:

Luke Ford	Alan Lester
Partner	Special Counsel
Chapman Tripp	Chapman Tripp
luke.ford@chapmantripp.com	alan.lester@chapmantripp.com

1 https://consultations.rbnz.govt.nz/dta-and-dcs/deposit-takers-regulations-second-tranche/user_uploads/consultation-paper-second-tranche-of-deposit-takers-regulations.pdf

Specific responses to Questions

Q1	***Do you agree with our proposal to retain the existing classes of entities that have been declared not to be an NBDT under the 2015 Regulations for the purposes of the NBDT Act, if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities under clause 6 of Schedule 2 of the DTA?***

Support retaining existing carve-outs in the Declared Out Regulations

5 Chapman Tripp strongly supports the Reserve Bank's proposal to retain the existing carve-outs for entities that are currently excluded from the NBDT regime by virtue of the Non-bank Deposit Takers (Declared-out Entities) Regulations 2015 (the *Declared-out Regulations*). Maintaining these exclusions under the Deposit Takers Act 2023 (the *DTA*) is critical to provide ongoing certainty for intra-group funding vehicles, certain payment facility providers, special purpose vehicles, and Public Trust, among others. The rationale for these exclusions remains valid, and their continuation will support regulatory clarity and proportionality.

Exclusion for issuers in the debt capital markets whose deposits are retail bonds

6 In addition, Chapman Tripp strongly submits that the categories of 'declared out' entities be expanded to ensure that issuers who do not take 'deposits' but wish to issue retail notes or bonds in the New Zealand capital markets are expressly excluded from the definition of 'deposit taker'. This would address a long-standing issue with the definition of "DT regulated offers of debt securities" in the DTA (and the corresponding definition of "NBDT regulated offer" in the Non-bank Deposit Takers Act 2013). This issue prevents a number of wholesale market issuers from expanding to retail participation, unnecessarily restricting the growth of New Zealand's capital markets.

7 Issuers who borrow by issuing freely tradeable securities, such as notes or bonds quoted on the NZX or other regulated exchange (or securities that are otherwise widely offered without customised terms), do not engage in traditional deposit-taking activities that pose risks to the financial system. Being in the business of issuing such freely tradeable securities is different in principle to the business of taking deposits that the DTA is seeking to regulate. Such deposits typically cannot be traded and are best characterised as personal arrangements between the customer and the deposit taker.[2]

[2] Although some term deposits and similar securities have historically technically allowed for transfer to another person (particularly in the case of debentures issued by finance companies), any such transfer would typically require issuer consent, and is unusual in practice given the individualised rates and other terms that often apply.

8 From a public perception perspective, the introduction of the Depositor Compensation Scheme (which excludes protection of any tradeable products) emphasises such products as investment products, rather than 'deposits'.

9 Further, requiring issuers of a retail bond or note to comply with the full prudential regime under the DTA, even though they do not take any true deposits, would be disproportionate given the existing regulatory protections afforded to retail bondholders under the Financial Markets Conduct Act 2013 and the oversight of the Financial Markets Authority. These protections include robust disclosure, governance, and conduct requirements designed to protect retail investors, that are analogous to a number of aspects of the prudential regime under the DTA.

10 There is also a clear current example of the benefits of such an approach, with the New Zealand Local Government Funding Agency (*LGFA*). The LGFA undertakes business of borrowing and lending, but is specifically exempted from being a non-bank deposit taker under section 7 of the Local Government Borrowing Act 2011. This has allowed the LGFA to become an extremely active issuer of retail NZX-quoted bonds in New Zealand's debt markets, increasing the size and depth of those markets (increasing the liquidity of deposit taker holdings of such securities, and in turn bolstering financial stability). We submit that such an exemption should not be limited to the LGFA alone, and should be made available to other issuers more generally.

11 We consider that such an exemption could be limited to situations where:

11.1 the issuer issues bonds or notes that are freely tradeable in accordance with their terms; and

11.2 either:

(a) the issuer will take any necessary steps to ensure that such bonds or notes are, immediately after the issue, quoted on the NZX or other regulated exchange; or

(b) the bond or notes are otherwise offered under a product disclosure statement that is not a 'continuous issue PDS' under the Financial Markets Conduct Regulations 2014. (That is, the issuer does not continuously offer the relevant bonds or notes in the ordinary course of business, which might otherwise indicate the issuer has characteristics that are more akin to a deposit taker.)

12 For completeness we note that if the Reserve Bank was concerned that a particular issuer was potentially exploiting this 'declared-out' criteria to issue bonds or notes that were effectively just 'deposits' (and not genuine tradeable instruments), the Reserve Bank would have residual power under clause 6 of Schedule 2 of the DTA to 'declare-in' that particular issuer.

Clarification as to what is "carrying on a business" for the purposes of being a deposit taker

13 Clause 2(a) of Schedule 2 of the DTA specifies that a deposit taker means a person that "carries on the business" of borrowing and lending money. However, the DTA does not define "carrying on business". The case is also the same under the current NBDT regime.

14 We appreciate that a number of factors need to be taken into account when assessing whether an entity "carries on a business", so we accept that practically it is difficult to provide a definitive definition. However, we note that in other areas formal guidance has been provided on the issue, for example in relation to the Anti-Money Laundering and Countering Financing of Terrorism regime, where guidance has been issued by the regulators to help clarify the meaning of the phrase.

15 We submit it would be helpful in the context of understanding the breadth of the definition of being a deposit taker, and in particular the extent to which an entity may meet the threshold of carrying on the business of borrowing and lending money, that formal guidance be issued by the Reserve Bank on how it interprets carrying on a business in the context of being a deposit taker under the DTA. This would include relevant factors that should be taken into account when assessing whether a particular entity is carrying on the business of borrowing and lending money.

16 For example, we consider that the following factors are relevant to whether an entity is carrying on the business of borrowing and lending money:

16.1 whether it carries on the business frequently and regularly;

16.2 whether it is undertaken with a profit-making motive in mind (e.g. is it a source of income for the entity);

16.3 does it involve a significant allocation of resources or staff; and

16.4 is such business a normal part of the main or other business(es) that the entity carries on, (e.g. is it a natural corollary of, or ordinarily supports, the operating activities of the entity – so, for example, if a holding company of a corporate group is engaged in a level of borrowing and lending money which it does in order to provide funding to its corporate group in the context of its overall purpose of being a holding company, then the holding company is not "carrying on a business of borrowing and lending money"). This is to be distinguished from where the borrowing and lending activity is designed to be a distinct and/or separately identifiable business.

17 We consider this issue to be separate from the proposal to provide financial thresholds to exclude entities from the regime which we discuss below. The use of such thresholds to exclude entities from the regime presupposes that the entities are carrying on the business of borrowing and lending money, whereas

the issue above deals with the threshold issue of whether the entity is in such a business at all.

Q4	***Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level?***

18 We submit that it is appropriate to include financial thresholds to exclude certain entities that are otherwise carrying on the business of borrowing and lending money. We do not have a view as to a specific appropriate financial threshold. However, we submit that, given the purpose to setting the regulatory perimeter is to bring within the DTA prudential supervision regime entities whose behaviour or failure could pose significant risks to New Zealand's financial stability and the economy more broadly, the prescribed threshold should be set at a relatively significant level.

Q5	***Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business in New Zealand?***
Q7	***Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?***

19 We support the proposal that the perimeter for overseas banks under the DTA is aligned with the current perimeter, that is, that only overseas banks that have a place of business in New Zealand or (if they carry on an activity directly or indirectly in New Zealand without a place of business in New Zealand) do not meet the requirements of the Class Authorisation Notice, should be required to be licensed. In this regard, we submit that the Class Authorisation Notice should be reviewed to ensure it is still broad enough to be fit for purpose.[3]

20 We agree with the Reserve Bank's proposal to limit the definition to persons with a physical presence in New Zealand only.[4] However, it is important that it is clear as

[3] For instance, we consider that clause 10 of the Class Authorisation Notice should refer to "any financial products" rather than "any New Zealand financial products", to be clear that a relevant bank is not restricted from trading in any financial products on its own account.

[4] In this regard, we note that a requirement to register as an overseas company under the Companies Act 1993 may still arise even if the deposit taker does not have a physical presence in New Zealand.

to what is meant by "having a physical presence in New Zealand". This should be achieved through the definition itself. While clear guidance accompanying the definition could be an alternative, we are concerned that this would be "non-binding" in nature, so would not create the same degree of certainty.

21 Overseas entities need to be able to clearly and easily identify whether they meet the threshold of having a physical presence in New Zealand and so are within the perimeter. If these entities have doubt as to whether they are outside the perimeter, and so could be exposed to a regulatory risk, they may be reluctant to consider conducting activities in New Zealand. This could adversely impact on the improvement of competition in the New Zealand banking market.

22 In light of this, we submit that the Reserve Bank should consider the Australian approach in terms of defining what amounts to having a "physical presence". So, for example, we suggest that the definition provide that, at a minimum, the overseas entity needs to maintain an office or permanent staff in New Zealand in order to have a physical presence in New Zealand.

23 However, we question whether the Reserve Bank need go further and provide for a regime in relation to "representative offices". We are not aware that there is a particular demand for overseas entities to establish New Zealand businesses to conduct liaison and/or research activities separate from banking activities that would otherwise fall within the perimeter.

Yours sincerely

Luke Ford
Partner

It should be clear that, where such a situation arises, the deposit taker can so register as an overseas company even if they have a restricted word in their title.

Response ID ANON-RWJX-XDFA-E

Submitted to Second tranche of Deposit Takers Regulations under the DTA
Submitted on 2025-11-24 11:37:26

Contact details

What is your name?

Name:
Angus Dale-Jones

What is your email address?

Email:
info@cta.org.nz

Are you making a submission as an individual or on behalf of an organisation?

Organisation

Name of organisation (if applicable):
Corporate Trustees Association

Publication of submissions

Please indicate your consent below.

I have read the above text on how submissions will be used and consent to the input being used as described above.:
Yes

Would you like to make a PDF submission or complete an online submission?

Online submission

Questions from Chapter 2 - Definition of Deposit Taker and the Regulatory Perimeter

1 Do you agree with our proposal to retain the existing classes of entities that have been declared not to be an NBDT under the 2015 Regulations for the purposes of the NBDT Act, if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities under clause 6 of Schedule 2 of the DTA?

Yes

Question 1 comments:

CTA is directly involved in the supervision of certain declared-out entities, notably those operating under the scope of the Non-bank Deposit Takers (Declared-out Entities) Regulations 2015, particularly within the charities sector and facility providers. Furthermore, we note that a CTA member, Public Trust, is currently a declared-out entity.

CTA supports RBNZ's proposal to retain the existing classes of entities that have been declared not to be an NBDT under the 2015 Regulations for the purposes of the NBDT Act, if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities under clause 6 of Schedule 2 of the DTA.

However, based on our experience supervising this type of deposit-taking entity, we suggest adjustments be made to the current financial thresholds and requirements to ensure the DTA regime is appropriately targeted and does not impose unnecessary compliance burdens on entities that pose minimal systemic risk.

Specifically, CTA proposes that the maximum total assets threshold for charities to remain declared-out entities should be increased from the current $15 million to $50 million. This adjustment reflects the natural growth of successful charitable trusts and foundations in New Zealand over the last decade and would prevent well-managed, low-risk entities from being forced into a costly and disproportionate prudential regime.

We note that payment facility providers which are supervised by CTA members are unlikely to meet the new definition of 'deposit taker', because they are not borrowing and lending (they are only borrowing). These payment facility providers that are issuing debt securities will continue to have CTA members supervise their debt security products under the FMCA.

CTA notes that a growing number of entities use a trust account to offer payment facility provider services. The same approach is also used for investment type products (similar to deposits). This approach usually involves the entity setting up a related party corporate trustee and ensuring the funds are held in a Deposit Taker trust account. This approach avoids the FMCA requirements for debt securities. The issue with this approach is it avoids any independent oversight from supervisors. The funds held in trust are only monitored by the entity itself and its related party corporate trustee company. This creates significant risk to investors in this type of product, users of the payment facilities, and Deposit Takers holding the funds. It is a significant and growing loophole that needs to be closed. CTA suggests that an independent supervisor should be required if deposits held in trust at a deposit taker exceed a stipulated level – e.g. $5m for the purpose of investment products of payment facilities. Currently, the absence of any financial limitation creates an potential gap in oversight. Setting a clear, moderate threshold ensures that as these facilities scale beyond a minor operational size, they incorporate the necessary governance protections afforded by an independent supervisor, thereby protecting consumer interests, and the Deposit Takers that the trust accounts are held with.

2 Are you aware of any examples or do you have any concerns relating to businesses that may be unintentionally caught by the borrowing and lending test?

Not Answered

Are you aware of any examples or do you have any concerns relating to businesses that may be unintentionally caught by the borrowing and lending test? Please select one of the options and add any additional comments below.:

3 Which other types of financial service providers, if any, should be 'declared in' or 'declared out' of the regulatory perimeter under clause 6 of Schedule 2 of the DTA and why?

Which other types of financial service providers, if any, should be 'declared in' or 'declared out' of the regulatory perimeter under clause 6 of Schedule 2 of the DTA and why?:

4 Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level?

Yes

Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level?:

CTA recommends that the RBNZ should implement a quantitative size threshold that entities must meet before they are required to be licensed as a Deposit Taker under the DTA and gain eligibility to participate in the Depositor Compensation Scheme (DCS). We propose that this initial licensing and DCS eligibility threshold be set at $50 million in deposits.

Entities operating below this proposed size threshold would still be subject to appropriate market regulation. They would be required to comply with the Financial Markets Conduct Act 2013 (FMCA), with the exception of the CoFI regulations, on the basis that they are issuing debt securities. Crucially, these smaller entities would also retain the current requirement for a trustee/supervisor, similar to the existing Non-bank Deposit Taker regime. Entities below the threshold would not qualify for the DCS.

This threshold approach offers several compelling benefits for the New Zealand financial system:

1) it provides a viable and managed regulatory solution for current NBDTs that may face challenges in meeting the intensive prudential and cost criteria of the RBNZ's full DTA licensing regime, allowing them a clear path forward without immediate disruption.

2) it is designed to encourage competition and provide a genuine opportunity for smaller, New Zealand-based entities to launch and operate, fostering diversity in the financial sector. New startups are given the space to gain necessary operational experience and scale before incurring the full financial and resource costs associated with the stringent prudential requirements.

3) it aligns broadly with the RBNZ's suggested minimum dollar value capital amount for deposit takers, set at $5 million, by creating a proportionate pathway for growth (i.e. a Deposit Taker with $50m in assets would have approximately $5m in capital).

4) it functions effectively as a regulatory 'sandbox' mechanism, providing a suitable starting point for new and creative financial technology (fintech) firms, allowing them to innovate under a responsible oversight structure without immediate exposure to the highest regulatory burden.

5) it protects the DCS from the risk of failure form small / startup entities (which are statistically more likely to fail).

6) it allows for monitoring on the sector by Supervisors who can report regularly to the RBNZ (as they do now for NBDTs).

7) it will reduce the cost of RBNZ supervision function as smaller entities require a disproportionate amount of supervision time compared with their size.

8) Finally, this approach significantly enhances regulatory proportionality, allowing the RBNZ to focus its supervisory resources on entities that truly pose a systemic risk to the New Zealand financial system.

The consultation paper notes "an important consideration is the extent to which any threshold imposes compliance costs on deposit taking entities and the extent to which it may be difficult to monitor and enforce compliance with the threshold." CTA's proposed approach will have significantly lower compliance costs for deposit takers than the DTA regime and lower compliance costs than the current NBDT regime. Supervisors will monitor and enforce compliance with the threshold. CTA members have significant experience with small deposit takers and working in co-regulatory environments (particularly with RBNZ and FMA).

5 Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that

have no physical place of business in New Zealand.

Not Answered

Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business in New Zealand.:

6 Do you prefer any of the other options we considered with respect to the way in which the regulatory perimeter for overseas banks might be set? If so, why?

Not Answered

Do you prefer any of the other options we considered with respect to the way in which the regulatory perimeter for overseas banks might be set?:

7 Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?

Not Answered

Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?:

Questions from Chapter 3 - Other Proposals for Consultation

8 Do you agree with our proposal to carry over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations? If not, which other Australian public authorities should be included in the meaning of 'Australian financial authority' and why?

Not Answered

Do you agree with our proposal to carry over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations? If not, which other Australian public authorities should be included in the meaning of 'Australian financial authority' and why?:

9 Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?

Not Answered

Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?:

10 Do you agree with our proposal to carry over the existing form of the infringement notice and reminder notice that was prescribed under the RBNZ Act in the 2022 regulations? If not, what amendments would you suggest?

Not Answered

Do you agree with our proposal to carry over the existing form of the infringement notice and reminder notice that was prescribed under the RBNZ Act in the 2022 regulations? If not, what amendments would you suggest? :

Submission redactions

If you would like all or part of your submission to remain confidential, please let us know what part of your submission to redact (black out) below.

Redacted text:

FINANCIAL SERVICES FEDERATION

24 November 2025

Reserve Bank of New Zealand
Wellington
dta@rbnz.govt.nz

Dear Madam/Sir,

Re: Second Tranche of Deposit Takers Regulations

The Financial Services Federation ("FSF") is grateful to the Reserve Bank of New Zealand ("RBNZ") for the opportunity to respond on behalf of our members to the second tranche of deposit takers regulations under the Deposit Takers Act 2023 ("the Consultation").

By way of background, the FSF is the industry body representing specialist lenders operating in New Zealand. We have nearly 100 members (a list of which is attached as Appendix A) which include motor vehicle finance providers, specialist housing lenders, Non-Bank Deposit Takers (NBDTs), the larger finance companies operating in New Zealand, fleet leasing providers, commercial asset leasing and finance providers, credit-related insurers and Affiliate members which include internationally recognised legal and consulting partners.

Our members provide their products and services to more than 1.5 million New Zealand consumers and businesses. Data relating to the extent to which FSF members (excluding Affiliate members) contribute to New Zealand consumers, society and the economy is attached as Appendix B.

Introductory Comments

Overall, we are supportive of the proposals put forward in the Consultation. We will go into further detail in the consultation questions below:

1. Do you agree with our proposal to retain the existing classes of entities that have been declared not to be an NBDT under the 2015 Regulations for the purposes of the NBDT Act, if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities under clause 6 of Schedule 2 of the DTA?

   We agree with the RBNZ's assessment that there should not be a size threshold for the perimeter. In particular because while smaller entities may not pose systematic risks, they do pose contagion risks. As such we support the RBNZ's preferred option of retaining the existing classes of entities that have been declared not to be an NBDT under the Non-bank Deposit Takers (Declared-out Entities) Regulations 2015 if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities by Order in Council under clause 6 of Schedule 2 of the DTA.

We would also like to explicitly state that we support the fact that RBNZ are not currently looking to bring non-deposit taking lenders under prudential regulation. We agree with RBNZ's risk assessment that there is currently not a strong case to bring them inside of the regulatory perimeter.

2. Are you aware of any examples or do you have any concerns relating to businesses that may be unintentionally caught by the borrowing and lending test?

   No.

3. Which other types of financial service providers, if any, should be 'declared in' or 'declared out' of the regulatory perimeter under clause 6 of Schedule 2 of the DTA and why?

   See above, we are happy with RBNZ's assessment that the existing classes of entities should be retained.

4. Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level?

   See above, we are happy with RBNZ's assessment that the existing classes of entities should be retained.

5. Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business in New Zealand.

   We have no comment on this question

6. Do you prefer any of the other options we considered with respect to the way in which the regulatory perimeter for overseas banks might be set? If so, why?

   We have no comment on this question.

7. Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?

   We have no comment on this question.

8. Do you agree with our proposal to carry over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations? If not, which other Australian public authorities should be included in the meaning of 'Australian financial authority' and why?

We agree with this proposal.

9. Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?

   Based on the previous consultation on the non-core standards, group 3 deposit takers will not be required to comply with the lending standard. As we said in our submission at the time we support this as:

   - Group 3 deposit takers are not systemically significant;
   - Group 3 deposit takers do not have the same level of resources as larger deposit takers and requiring compliance with this standard would have significant compliance costs; and
   - The imposition of the Lending Standard on Group 3 deposit takers would discourage the entry of new small-sized deposit takers into the market, to the detriment of contestability and competitiveness in the industry, with adverse impacts on consumers.

   As such we have no comment on this question.

10. Do you agree with our proposal to carry over the existing form of the infringement notice and reminder notice that was prescribed under the RBNZ Act in the 2022 regulations? If not, what amendments would you suggest?

    We agree with this proposal.

Please do not hesitate to reach out if you wish for us to speak further on any of the points made in this submission.

Yours sincerely,

s 9(2)(a)

Katie Rawlinson
Legal and Policy Manager
Financial Services Federation

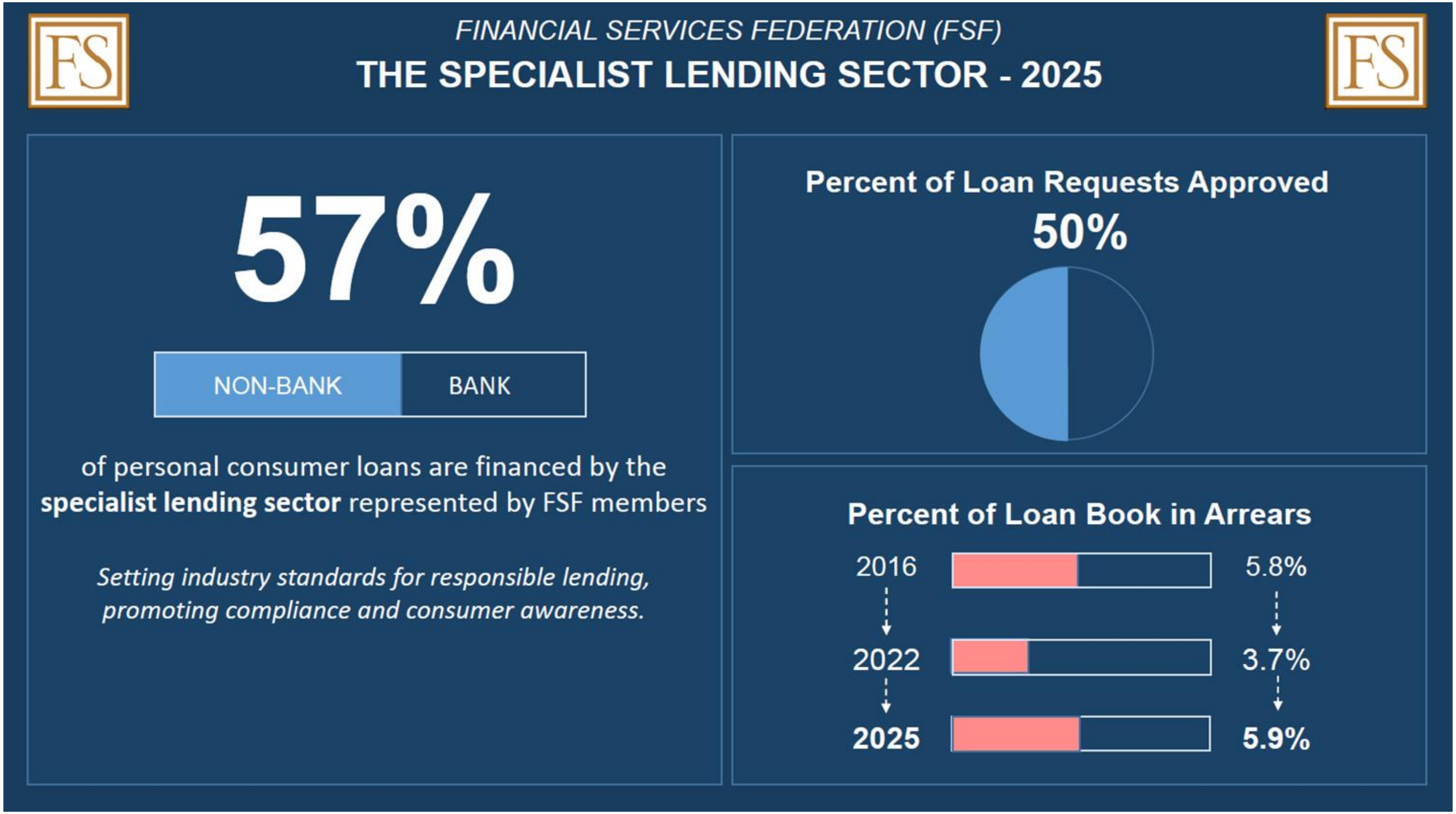
Appendix A

FINANCIAL SERVICES FEDERATION

FSF Membership List as at October 2025

Non-Bank Deposit Takers, Specialist Housing/Property Lenders, Fleet Leasing Providers	Vehicle Lenders	Finance Companies/ Diversified Lenders	Finance Companies/ Diversified Lenders contd./ Social Impact Lenders, Credit-related insurers	Insurance Premium Funders, Affiliate Members	Affiliate Members contd.
Non-Bank Deposit Takers Finance Direct Limited ➢ Lending Crowd General Finance (BB) Mutual Credit Finance (B) Welcome Limited Credit Unions/Building Societies First Credit Union (BB) Nelson Building Society (BB+) Police and Families Credit Union (BB+) Specialist Housing Lenders Basecorp Finance Limited First Mortgage Managers Ltd. Pepper NZ Limited Resimac NZ Limited Fleet Leasing Providers Custom Fleet Euro Rate Leasing Limited Fleet Partners NZ Ltd ORIX New Zealand SG Fleet	Auto Finance Direct Limited BMW Financial Services ➢ Mini ➢ Alphera Financial Services Community Financial Services Daimler Truck Financial Services AU Pty Ltd Honda Financial Services Kubota New Zealand Ltd Mercedes-Benz Financial Motor Trade Finance Nissan Financial Services NZ Ltd ➢ Mitsubishi Motors Financial Services ➢ Skyline Car Finance Onyx Finance Limited Scania Finance NZ Limited Toyota Finance NZ ➢ Mazda Finance Yamaha Motor Finance	AfterPay American Express Avanti Finance ➢ Branded Financial Basalt Group Blackbird Finance Caterpillar Financial Services NZ Ltd Centracorp Finance 2000 DebtManagers De Lage Landen Limited Finance Now Future Finance Geneva Finance Harmoney Humm Group Instant Finance ➢ Fair City ➢ My Finance Latitude Financial Lifestyle Money NZ Ltd Mainland Finance Limited Metro Finance	Nectar NZ Limited NZ Finance Ltd Partners Finance Personal Loan Corporation Pioneer Finance Prospa NZ Ltd Speirs Finance Group (L &F) ➢ Speirs Finance ➢ Speirs Corporate & Leasing ➢ Yoogo Fleet Turners Automotive Group ➢ Autosure ➢ East Coast Credit ➢ Oxford Finance UDC Finance Limited Yes Finance Limited Zip Co NZ Finance Limited Social Impact Lenders Money Sweetspot Ltd Credit-related Insurance Providers Protecta Insurance Provident Insurance Corporation Ltd	Arteva Funding NZ Ltd Clearmatch Elantis Premium Funding NZ Ltd Financial Synergy Limited Hunter Premium Funding IQumulate Premium Funding Rothbury Instalment Services Affiliate Members Alfa Financial Software AML Solutions Limited Buddle Findlay Chapman Tripp Credisense Ltd Deloitte EY FinTech NZ Finzsoft Happy Prime Limited KPMG Loansmart Ltd	Match me Money Ltd Motor Trade Association Odessa Technology Inc. PWC Sense Partners Simpson Western Solifi Pty Limited Symphonix Credit Reporting, Debt Collection Agencies, Centrix Credit Corp ➢ Baycorp ➢ Collection House Creditworks Indebted (was Debtworks) Equifax Gravity Credit Management Limited Illion Quadrant Group (NZ) Ltd Recoveries Corp NZ Ltd Total 99 members

Appendix B



FINANCIAL SERVICES FEDERATION (FSF)
THE SPECIALIST LENDING SECTOR - 2025
57%
NON-BANK
BANK
of personal consumer loans are financed by the **specialist lending sector** represented by FSF members
Setting industry standards for responsible lending, promoting compliance and consumer awareness.
Percent of Loan Requests Approved
50%
Percent of Loan Book in Arrears
2016
5.8%
2022
3.7%
2025
5.9%

KEY FACTS: THE SPECIALIST LENDING SECTOR

FSF Members (as at 31 Mar 2025)

Number of Members	100
Number of Employees	3,162
Total Value of Loans	$22.25B
Applications Processed	1,187,492
Loan Requests Approved	588,671
Percent of Loan Book in Arrears	5.9%
Loan Disputes Upheld	TBC

Bank Sector (as at 31 Mar 2025)

Value of Mortgage Loans	$369B
Value of Consumer Loans	$7.6B
Value of Business Loans	$127B

Specialist Lending Sector Share (Mar 2025)

% of Total Mortgage Loans	0.5%
% of Total Consumer Loans	57.2%
% of Total Business Loans	7.4%

Insurance Credit Related (as at 31 Mar 2025)

Number of Employees	174
Number of Policies	285,371
Gross Claims (annual)	$13.2M

Consumer Loans (as at 31 Mar 2025)

Total Value of Loans	$12.0B
Number of Customers	1,383,344
Number of Loans	1,488,692
Average Loan Size	$8,070

Total Value of Loans:	
Mortgage	$1,839M
Vehicle Loan	$4,850M
Unsecured	$4,772M
Other Security	$541M
Lease Finance	$11M

Average Value of Loan:	
Mortgage	$293,661
Vehicle Loan	$15,719
Unsecured	$4,280
Other Security	$9,244
Lease Finance	$38,981

Business Loans (as at 31 Mar 2025)

Total Value of Loans	$10.2B
Number of Customers	137,075
Number of Loans	226,820
Average Loan Size	$45,146

Total Value of Loans:	
Mortgage	$3,033M
Vehicle Loan	$3,033M
Unsecured	$441M
Other Security	$1,960M
Lease Finance	$1,773M

Average Value of Loan:	
Mortgage	$824,431
Vehicle Loan	$35,177
Unsecured	$29,182
Other Security	$42,184
Lease Finance	$23,532

NBDTA
Non-Bank Deposit Takers Association

Submission to RBNZ on regulatory perimeter consultation

Submission to the Reserve Bank of New Zealand on Regulatory Perimeter Consultation

INTRODUCTION

1. This submission is made by the Non-Bank Deposit Takers Association (NBDTA) in response to the Reserve Bank of New Zealand's consultation paper (the Consultation Paper) on the second tranche of Deposit Takers Regulations under the Deposit Takers Act 2023 (DTA).

2. This submission is made in conjunction with the NBDTA's submission on the consultation paper on restrictions on use of word 'bank' under the DTA (Bank Name Consultation Paper). As with our Submission on the Bank Name Consultation Paper, our submissions focus on the regulatory perimeter in relation to firms that have a place of business in New Zealand. The NBDTA expresses no views on the regulatory perimeter for overseas banks, nor on the definition of Australian financial authority or the lending standards, as these matters are unlikely to impact our members' businesses.

SUMMARY OF KEY POINTS

1. We support the proposal to define the regulatory perimeter under the DTA based on entities in the business of borrowing and lending while retaining the category of declared-out entities.

2. This approach will appropriately capture the activities that the provisions of the DTA are designed to regulate, which will maintain the integrity of the regime.

3. We agree with the RBNZ's proposal not to introduce any thresholds to exclude smaller entities from the regulatory perimeter. We consider that supporting new entrants into the business of borrowing and lending is better achieved by introducing limited licencing regimes.

DETAILED SUBMISSIONS

3. We support the RBNZ's proposal on the regulatory perimeter under the DTA and, in particular:

   (a) the proposal that only entities that are in the business of borrowing (i.e. issuing debt securities to retail investors) and lending be included in the regulatory perimeter; and

   (b) that there is no threshold below which entities in the business of borrowing and lending be excluded from the regulatory perimeter.

Business activities within the regulatory perimeter

4. We agree with the proposed approach of defining the regulatory perimeter by the base definition in the Deposit Takers Act (DTA) while retaining the current categories of declared-out entities. The base definition of a deposit taker under the DTA—a person that carries on the business of borrowing (i.e., making regulated offers of debt securities) and lending—appropriately captures the activity of maturity transformation that the provisions in the DTA are designed to regulate.

5. We agree that certain activities may need to be brought within the regulatory perimeter in the future and note in particular the examples provided in the Consultation Paper of other jurisdictions applying prudential regulation to payment service providers. In our view, consistent with these overseas examples, the minimum requirement for licensing **under the** DTA should be that the entity is taking

deposits (i.e., issuing debt securities), as opposed to, for example, facilitating deposits with another institution.

6. Our reasons for this position are the same as those set out in our submission to the Bank Name Consultation Paper. The primary driver for entities seeking to fall within the perimeter that otherwise would not is often to enable them to call themselves a bank. Allowing this without a fit-for-purpose regulatory regime to manage activity-specific risks would undermine the credibility of the DTA framework and create contagion risk without adequate mitigants. While we strongly support proportionality, we believe payment service providers should be subject to their own tailored regime—similar to the e-money institution licence in the United Kingdom—and that this regime should not permit those entities to use the term “bank.”

Threshold

7. We agree with the RBNZ’s proposal not to introduce any thresholds to exclude smaller entities from the definition of carrying on the business of borrowing and lending under the DTA. All entities engaged in credit intermediation should be subject to prudential regulation, as even small-scale operators can create contagion risks and undermine confidence in the financial system.

8. The appropriate way to support innovation and new entrants is through a proportionate licensing regime, such as limited or restricted licences, rather than carving out exemptions that could weaken the integrity of the regulatory perimeter. A limited licence will also likely be more beneficial to new entrants because it provides the credibility of being regulated while ensuring compliance obligations remain proportionate.

9. Thresholds may, however, have a role in relation to activities that are later declared into the regime, such as payment service providers. In these cases, the risk to financial stability arises primarily from scale rather than the nature of the activity. A size-based threshold could therefore be appropriate for determining when such entities should be brought within the perimeter, while maintaining a consistent approach for all entities engaged in borrowing and lending.

On behalf of the Non-Bank Deposit Takers Association.

Submission

to the

The Reserve Bank of New Zealand - Te Pūtea Matua

on the

Second tranche of Deposit Takers Regulations under the Deposit Takers Act 2023 Consultation Paper

24 November 2025

NEW ZEALAND BANKING ASSOCIATION – TE RANGAPŪ PĒKE
PO Box 3043, Wellington 6140, New Zealand
www.nzba.org.nz

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
   - Bank of New Zealand
   - China Construction Bank (New Zealand) Limited
   - Citibank N.A.
   - The Co-operative Bank Limited
   - Heartland Bank Limited
   - The Hongkong and Shanghai Banking Corporation Limited
   - Industrial and Commercial Bank of China (New Zealand) Limited
   - JPMorgan Chase Bank N.A.
   - KB Kookmin Bank Auckland Branch
   - Kiwibank Limited
   - Rabobank New Zealand Limited
   - SBS Bank
   - TSB Bank Limited
   - Westpac New Zealand Limited

Contact details

3. If you would like to discuss any aspect of this submission, please contact:

Antony Buick-Constable
Deputy Chief Executive & General Counsel
s 9(2)(a)

Sam Schuyt
Policy Director & Legal Counsel
s 9(2)(a)

Introduction

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

5. This submission does not address the definition of deposit taker and the regulatory perimeter discussed in Chapter 2 of the Consultation. It focusses just on the other proposals discussed in Chapter 3. However, our members may choose to submit on the matters in Chapter 2 separately.

Submissions on Chapter 3 (Other Proposals for Consultation)

Definition of Australian financial authority

- *Q8. Do you agree with our proposal to carry over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations? If not, which other Australian public authorities should be included in the meaning of 'Australian financial authority' and why?*

6. We are supportive of the proposal in the Consultation to carry over the existing definition of Australian financial authority from the Banking (Prudential Supervision) Act 1989, which will prescribe the Australian Prudential Regulation Authority (**APRA**) as the sole Australian financial authority.

7. We agree that, given where the term the "Australian financial authority" is used in the Deposit Takers Act 2023 (**DTA**), the existing definition is fit for purpose, and we consider that APRA remains the relevant Australian public authority that should be prescribed under the regulations.

Classes of lending in relation to lending standard

- *Q9. Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?*

8. We agree that the Lending Standard should only apply to residential mortgage lending and encourage the Reserve Bank to provide clarity on the definition of residential mortgage lending.

9. It is critical that the definition of residential mortgage lending is well-defined and clearly delineates what types of lending are included so that deposit takers have certainty about what types of lending will be captured under the Lending Standard. There should be clear parameters that outline any sub-classes of residential mortgage lending and the definition should be consistent with the Capital Standard.

10. Additionally, the Reserve Bank should clarify whether housing developments developed by community housing providers or governmental entities are included in the definition of residential mortgage lending.

11. More generally in the context of the question, we note that the Reserve Bank released its consultation on tranche 1 of the DTA exposure draft standards (including an exposure draft of the Lending Standard) on 30 October 2025. Given that that consultation closes on 30 January 2026 (after the close of this Consultation on 24 November 2025), additional changes to these regulations may be required to reflect submissions on the exposure draft Lending Standard. In particular, we note that the exposure draft of the Lending Standard materially differs in structure and terminology from BS19 and BS20 (including using different key defined terms, such as the term "residential housing loan" rather than the current definition of "residential mortgage loan" in BPR131). We strongly submit that the Reserve Bank should consider submissions made on the Lending Standard when further developing these regulations to develop a consolidated approach to the definition and scope of "residential mortgage lending" (or "residential housing loan" as applicable), and should then hold a short targeted consultation on that coordinated approach. We anticipate this could take place in early 2026.

Form of infringement and reminder notices

- *Q10. Do you agree with our proposal to carry over the existing form of the infringement notice and reminder notice that was prescribed under the RBNZ Act in the 2022 regulations? If not, what amendments would you suggest?*

12. We are generally comfortable with the proposal in the Consultation to carry over the existing form of infringement notice and reminder notice prescribed by the Reserve Bank of New Zealand Act 2021 and contained in the Reserve Bank of New Zealand (Infringement Notice and Reminder Notice) Regulations 2022.

13. However, there are some aspects of the regime that we submit that the Reserve Bank should clarify:

    13.1. First: both the infringement notice and reminder notice recognise that persons may ask the Reserve Bank to consider any matter relating to the circumstances of the alleged offence (at paragraphs 7(a) and 6(a) respectively). However, the notices are silent on the potential consequences if a person does raise a matter, such as when the Reserve Bank will take steps to issue a reminder notice or commence court proceedings. This creates uncertainty. By way of an example:

    > *A bank receives a reminder notice. Within 28 days of service of this notice, it writes to the Reserve Bank asking it to consider further matters under paragraph 6(a). However, the Reserve Bank does not have sufficient time to respond substantively before the expiry of the 28 days for the bank to pay the infringement fee. Is the bank entitled to wait for the Reserve Bank to respond on the matters it has raised before making payment, or is it expected to nonetheless pay the infringement fee on the basis the Reserve Bank will refund the fee (in whole or part) if it accepts the matters raised?*

    13.2. In this context, we request that the Reserve Bank provide guidance on how it will respond when a person raises a matter, and the obligations on persons subject to a notice pending the Reserve Bank's response. The guidance could be included in the notices or issued separately as part of the Reserve Bank's broader Enforcement Framework.

13.3. Second: paragraph 3 of the infringement notice states "*[p]lease note that in some circumstances if you do not receive a reminder notice you may still become liable to pay a fine and court costs as set out in paragraph 4*." We assume this is a reference to s 78C of the Summary Proceedings Act 1957, that a defendant is not eligible to rely on non-receipt of a reminder notice for an application under s 78B if the Registrar is satisfied that the defendant was personally served with the infringement notice to which the reminder notice relates. However, that is not clearly expressed in paragraphs 3 and 4 of the infringement notice. We encourage the Reserve Bank to clarify this point, either in the infringement notice, or in accompanying guidance.

14. We also note that some sections of the DTA are already in force. In the event that non-compliance with those sections results in an infringement offence, sections 168(1)(b) and 171 of the DTA provide that the Reserve Bank may issue an infringement notice in the form prescribed in regulations. Given that the form of this notice is the subject of this Consultation, it would appear that currently there is no applicable infringement notice regime in relation to the DTA. Accordingly, any infringement offences can only currently be proceeded with under section 168(1)(a) by the filing of a charging document. We request that the Reserve Bank confirm that this reflects its understanding of the current position.

Rabobank New Zealand Limited
Level 4 / 32 Hood Street, Hamilton 3204
PO Box 19 373, Hamilton 3244
phone: 0800 500 933
rabobank.co.nz

The Reserve Bank of New Zealand – Te Pūtea Matua ("**RBNZ**")
https://consultations.rbnz.govt.nz

24 November 2025

Submission on the Second tranche of Deposit Takers Regulations under the Deposit Takers Act 2023 Consultation Paper

1. We are Rabobank New Zealand Limited ("**Rabobank**"). We welcome the opportunity to provide feedback to RBNZ on its consultation paper "Second tranche of Deposit Takers Regulations under the Deposit Takers Act 2023" (the "**Consultation**").[1] We consent to the publication of this submission.

About Rabobank and our policy

2. Rabobank has been operating in New Zealand since 1998. Our mission is to support New Zealand agribusiness. There are two sides to what we do. Rabobank lends to New Zealand's farmers and producers, and we work with these rural businesses to help them be successful, resilient and sustainable. New Zealanders can also save with us, knowing that 100% of the money they deposit with us goes in to help fund New Zealand agribusiness. That money is helping grow agribusinesses and support rural communities. Town and country, growing a better New Zealand together. Today, Rabobank is one of the leading banks supporting New Zealand farmers and other food production.[2]

3. As it is Rabobank's policy to lend only to farmers and other agribusiness, we do not offer consumer credit[3] or residential mortgages.

The scope of this submission

4. This submission is supplemental to the concurrent submission made by the New Zealand Banking Association (which includes Rabobank).

5. This submission relates specifically to section 3.3 of the Consultation (Classes of lending in relation to lending standard). It also relates, indirectly, to the exposure draft of the Lending Standard.[4]

6. We refer to Consultation question Q9:

[1] https://consultations.rbnz.govt.nz/dta-and-dcs/deposit-takers-regulations-second-tranche/user_uploads/consultation-paper-second-tranche-of-deposit-takers-regulations.pdf
[2] See https://www.rabobank.co.nz/
[3] Per the meaning of "consumer credit contract" under the Credit Contracts and Consumer Finance Act 2003
[4] https://consultations.rbnz.govt.nz/dta-and-dcs/dta-standards-exposure-drafts-tranche-1/user_uploads/deposit-takers--lending--standard.pdf

Q9	Do you agree with our proposal that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only? If not, what other classes of lending should the Lending Standard apply to and why?

We **agree** with the proposal that regulation is made under section 83 of the Deposit Takers Act 2023 (the "**DTA**") to specify that the Lending Standard applies to residential mortgage lending only.

Definitions under BS19/BS20

7. Currently, Rabobank's lending does not attract mandatory compliance with loan-to-value ratios ("**LVRs**") under BS19[5] or debt-to-income ratios ("**DTIs**") under BS20.[6] This is because "residential mortgage loan" (RML) is defined in BPR131[7], which provides:

C3.2 Meaning of RML

1. **RML** means a loan secured by a first ranking mortgage over a residential property used primarily for residential purposes by the mortgagor, a related party of the mortgagor, or a tenant of the mortgagor.
2. A loan may not be classified as a **RML** if the mortgaged property is predominantly used for farming or commercial activities.
3. A property will be considered to be predominantly used for farming or commercial activity if, for example,–
    a. the mortgaged property would be marketed as a farm or a commercial property; or
    b. the principal or interest payments are predominantly serviced from the income generated by the use of the property for farming or commercial activity, except where that income is rental income and the property is used for a residential purpose.
4. For the purpose of this section, **predominantly** means more than 50%.

The specific exclusion for farm loans, including where a loan is predominantly serviced from income generated by the use of farming property, is key to Rabobank policy.

Outcome of the Deposit Takers Non-Core Standards consultation

8. Following the Deposit Takers Non-Core Standards consultation, RBNZ has notified its Summary of submissions and policy decisions[8] in connection with the Lending Standard (p 150):

[5] https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/banking-supervision-handbook/bs19-lvr-restrictions-framework.pdf
[6] https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/consultations/banks/debt-serviceability-restrictions/dti-framework.pdf
[7] https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/banking-supervision-handbook/bpr131-standardised-credit-risk-rwas-1-july-2024pdf.pdf
[8] https://consultations.rbnz.govt.nz/prudential-policy/deposit-takers-non-core-standards/user_uploads/dta-non-core-standards-summary-of-submissions-and-policy-decisions.pdf

Comment

We consider that it is appropriate for the Lending Standard to only apply to residential mortgage lending as this type of lending is the main source of potential systemic risk to New Zealand's financial system at present. This approach would also be consistent with our current macroprudential policy for borrower-based measures.

We acknowledge the feedback regarding clarity on the definition of residential mortgage lending and exactly what should be included in that definition. We also note that there may be some specific types and sub-classes of lending (such as community/government housing developments and SME lending) where deposit takers would benefit from further clarity on whether this constitutes residential mortgage lending.

The definition of residential mortgage lending in the current policy (i.e., BS19 and BS20) is taken from the Capital Adequacy framework to ensure consistency across policies. The capital and macroprudential frameworks have a similar intent in terms of addressing financial stability risks from lending secured by residential property. We will therefore take the same approach when drafting the Lending Standard and ensure that there is consistency in implementation across standards. We will consider this further during the exposure draft.

Response

The definition of residential mortgage lending set out in the draft Lending Standard will be consistent and align with other standards (i.e., the Capital Standard). We will consider if the definition of residential mortgage lending can be made clearer in terms of the sub-classes of lending it includes or excludes. We may supplement this with guidance.

Given the scope of the Lending Standard will be prescribed in regulations, we will need to ensure that the definition of residential mortgage lending in the final standard is consistent with those regulations.

The definition of "residential housing loan" under the draft Lending Standard

9. The draft Lending Standard refers to a "residential housing loan":

> **residential housing loan** means a credit contract secured by a first mortgage over residential land on which a dwellinghouse is erected or, if no dwellinghouse is erected, the credit provided under the loan is to be used, in whole or in part, for the erection of a dwellinghouse

Unlike the definition of "residential mortgage loan" in BPR131, the definition of "residential housing loan" in the draft Lending Standard does not clearly exclude farm loans.

Suggested approach

10. RBNZ's policy decision is to maintain a consistent approach. Therefore, the Lending Standard should, among others, clearly exclude farm loans, including where a loan is predominantly serviced from income generated by the use of farming property, from the definition of "residential housing loan", so that farm loans do not attract compliance with mandatory LVRs or DTIs.

11. Additionally or alternatively, Rabobank submits that the regulation made under section 83 of the DTA, specifying that the Lending Standard applies to residential mortgage lending only, should define residential mortgage lending so that it clearly excludes farm loans.

12. The foregoing would be consistent with RBNZ's stated policy and would help support New Zealand agribusiness.

Contact details

13. If you would like to discuss any aspect of this submission, please contact:

Richard Lorraway
Chief Risk Officer
s 9(2)(a)

Brett Huntley
Regulatory Affairs
s 9(2)(a)

Daniel Kalman
Senior Legal Counsel
s 9(2)(a)

100 St Aubyn Street East
PO Box 431, Hastings 4156
0800 229 943
unitymoney.co.nz
enquiries@unitymoney.co.nz

24 November 2025

Consultation on DTA Regulatory Perimeter (Second Tranche of DT Regulations)
The Reserve Bank of New Zealand - Te Pūtea Matua
Wellington 6140

By email: dta@rbnz.govt.nz

Unity submission – RBNZ Consultation on DTA Regulatory Perimeter (Second Tranche of DT Regulations)

Thank you for the opportunity to make a submission on the second tranche of Deposit Takers Regulations – the Regulatory Perimeter.

We have provided general feedback, as well as responses to specific questions raised in the consultation (attached as an Appendix. Please note that we have also contributed to and support the joint submission from the Non-Bank Deposit Takers Association (NBDTA).

For Unity's submission we have focused on the areas of particular interest and impact for us. This mainly repeats feedback provided in the NBDTA submission but does not comment on areas that are not relevant to Unity.

General Feedback

Unity supports the RBNZs proposals on the regulatory perimeter under the DTA, in particular that:

a) the proposal that only entities that are in the business of borrowing (i.e. issuing debt securities to retail investors) and lending be included in the regulatory perimeter; and
b) that there is no threshold below which entities in the business of borrowing and lending be excluded from the regulatory perimeter. We consider that supporting new entrants into the business of borrowing and lending is better achieved by introducing limited licensing regimes.

Business Activities within the regulatory perimeter

We agree with the proposed approach of defining the regulatory perimeter by the base definition in the Deposit Takers Act (DTA) while retaining the current categories of declared-out entities. The base definition of a deposit taker under the DTA—a person that carries on the business of borrowing (i.e., making regulated offers of debt securities) and lending—appropriately captures the activity of maturity transformation that the provisions in the DTA are designed to regulate.

We agree that certain activities may need to be brought within the regulatory perimeter in the future and note the examples provided in the Consultation Paper of other jurisdictions applying prudential regulation to payment service providers. In our view, consistent with these overseas examples, the minimum requirement for licensing under the DTA should be that the entity is taking deposits (i.e., issuing debt securities), as opposed to, for example, facilitating deposits with another institution.

Our reasons for this position are the same as those set out in our submission to the Bank Name Consultation Paper. The primary driver for entities seeking to fall within the perimeter that otherwise would not is often to enable them to call themselves a bank. Allowing this without a fit-for-purpose regulatory regime to manage activity-specific risks would undermine the credibility of the DTA framework and create contagion risk without adequate mitigants. While we strongly support proportionality, we believe payment service providers should be subject to their own tailored regime—similar to the e-money institution licence in the United Kingdom—and that this regime should not permit those entities to use the term "bank."

Threshold

We agree with the RBNZ's proposal not to introduce any thresholds to exclude smaller entities from the definition of carrying on the business of borrowing and lending under the DTA. All entities engaged in credit intermediation should be subject to prudential regulation, as even small-scale operators can create contagion risks and undermine confidence in the financial system.

The appropriate way to support innovation and new entrants is through a proportionate licensing regime, such as limited or restricted licences, rather than carving out exemptions that could weaken the integrity of the regulatory perimeter. A limited licence will also likely be more beneficial to new entrants because it provides the credibility of being regulated while ensuring compliance obligations remain proportionate.

Thresholds may, however, have a role in relation to activities that are later declared into the regime, such as payment service providers. In these cases, the risk to financial stability arises primarily from scale rather than the nature of the activity. A size-based threshold could therefore be appropriate for determining when such entities should be brought within the perimeter, while maintaining a consistent approach for all entities engaged in borrowing and lending.

Once again, thank you for the opportunity to submit on this consultation.

Yours sincerely

s 9(2)(a)

Kevin Hughes
Chief Executive

Attachment – Unity Responses to Consultation Questions

Appendix A: Unity Response to Consultation Questions:

	Question	Unity Response
Q1	Do you agree with our proposal to retain the existing classes of entities that have been declared not to be an NBDT under the 2015 Regulations for the purposes of the NBDT Act, if they would otherwise meet the definition of 'deposit taker', by 'declaring out' these classes of entities under clause 6 of Schedule 2 of the DTA?	Yes, Unity supports this proposal
Q2	Are you aware of any examples or do you have any concerns relating to businesses that may be unintentionally caught by the borrowing and lending test?	No, not currently.
Q3	Which other types of financial service providers, if any, should be 'declared in' or 'declared out' of the regulatory perimeter under clause 6 of Schedule 2 of the DTA and why?	None – the balance seems to be right between those in and out at the moment, but acknowledge that this may need to be reviewed in the future.
Q4	Should thresholds be set to exclude entities that are borrowing and lending, or are otherwise providing banking and related financial services, and are therefore currently required to be licensed under the DTA? If thresholds were to be set, what would be the appropriate level	No. We agree with the RBNZ that thresholds should not be set to exclude entities that are borrowing and lending.
Q5	Do you agree with our proposal to preserve the status quo perimeter that exists under the BPSA in relation to overseas banks? This would be achieved by introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical place of business in New Zealand.	No comment
Q6	Do you prefer any of the other options we considered with respect to the way in which the regulatory perimeter for overseas banks might be set? If so, why?	No comment
Q7	Should we further explore aligning more with APRA's treatment of overseas banks, for example, by allowing 'representative offices' to conduct liaison and research activities in New Zealand without the need for licensing?	No comment