Reserve Bank of New Zealand
Te Pūtea Matua

Second tranche of Deposit Takers Regulations

Under the Deposit Takers Act 2023

30 September 2025

CONSULTATION PAPER

Submission Details

The Reserve Bank of New Zealand – Te Pūtea Matua invites submissions on this consultation paper by 5.00pm on 24 November 2025. Please note the disclosure on the publications of submissions below.

Submissions and enquiries

You should make your submission online at https://consultations.rbnz.govt.nz

Email enquiries: dta@rbnz.govt.nz

Publication of submissions

We will publish your submission on the Reserve Bank's website.

We will make all information in submissions public unless you indicate you would like all or part of your submission to remain confidential. Please refer to our policies on how we store and may share your information – Reserve Bank website privacy policy and the Consultation privacy information. If you would like part of your submission to remain confidential you should provide both a confidential and a public version of your submission. Apart from redactions of the information to be withheld (i.e. blacking out of text) the two versions should be identical. You should ensure that redacted information is not able to be recovered electronically from the document; the redacted version will be published as received.

If you would like all or part of your submission to be treated as confidential, you should provide reasons why this information should be withheld if a request is made for it under the Official Information Act 1982 (**OIA**). These reasons should refer to the grounds for withholding information under the OIA. If an OIA request for redacted information is made, we will make our own assessment of what must be released, taking your views into account.

We may also publish an anonymised summary of the responses received in respect of this consultation paper.

Contents

1 Introduction

1.1 Purpose of this consultation

The Deposit Takers Act 2023 (**DTA**) contains many secondary legislation-making powers. Given the staged commencement of different parts of the DTA, the consideration of regulations and Orders in Council under the Act has been grouped into three tranches:

- The first tranche of Deposit Takers Regulations, covering the Depositor Compensation Scheme (**DCS**), and required Commencement Order were made on 28 January 2025.
- A second tranche of regulations and Orders in Council under the DTA (hereafter abbreviated to 'second tranche of Deposit Takers Regulations' for ease of reference) will focus primarily on proposed further regulations and Orders in Council that are necessary before the licensing process begins. This paper covers these proposals.
- A third tranche will contain all remaining 'required' regulations and Orders in Council and may include a number of 'optional' regulations, or updates to existing regulations. These will be subject to a later public consultation and will be in force at the time the DTA is fully implemented.

Under the DTA, regulations and Orders in Council are secondary legislation made on the recommendation of the Minister of Finance, supported by advice from the Reserve Bank. This consultation is intended to help with the development of the Reserve Bank's advice.

A key issue that the second tranche of Deposit Takers Regulations seeks to address is to further clarify and set the boundary of the regulatory perimeter before licensing of deposit takers commences under the DTA. The licensing process is currently expected to begin on 1 June 2027, with the DTA expected to come into full effect on 1 December 2028.

The Reserve Bank regulates some, but not all financial firms. The prudential regulatory perimeter defines the types of entities that are subject to the licensing process, ongoing prudential requirements and supervision. Appropriately setting the regulatory perimeter requires care, as this has the potential to affect financial stability and imposes costs on both regulated entities and the Reserve Bank as regulator. The deposit taking perimeter must therefore be clearly aligned to the objectives of the regulatory regime, and its calibration must be balanced against a number of considerations including competition and taking a proportionate approach to regulation and supervision.

The regulatory perimeter is currently set through a combination of primary and secondary legislation, administrative instruments, and non-statutory guidance. Going forward, under the DTA the perimeter will be set through the definition of 'deposit taker' in Schedule 2 of the DTA, together with any additional secondary legislation made under the DTA.

In the absence of any secondary legislation the perimeter under the DTA will change, as compared with the status quo. Most of the proposals we are consulting on in relation to the regulatory perimeter in this document seek to maintain the status quo. Regardless of the approach we ultimately take, we will continue to monitor the appropriateness of the regulatory perimeter and make adjustments as needed.

1.2 Structure of this consultation paper

This paper contains a number of proposals within the chapters listed below. The most significant of these relate to the regulatory perimeter of the DTA and the relationship between this and the proposal to extend the use of restricted words to all licensed deposit takers, outlined in the companion consultation paper on the use of the word 'bank' under the DTA.

The structure of this document is as follows:

- The remainder of Chapter 1 provides background on the DTA.
- Chapter 2 focuses on the definition of a deposit taker and its implications for the regulatory perimeter. The appropriate treatment of financial technology firms (**fintechs**), overseas entities and the potential for setting thresholds for carrying on the business of borrowing and lending are all considered.
- Chapter 3 covers other proposals that are important for the smooth implementation of the DTA. These relate to the definition of an Australian Financial Authority, classes of lending that the Lending Standard applies to, and the form of infringement and reminder notices.

In each chapter we outline the rationale for our proposals and any alternative options considered.

1.3 What is the DTA

The DTA received Royal Assent on 6 July 2023. It will replace the Banking (Prudential Supervision) Act 1989 (**BPSA**) and the Non-bank Deposit Takers Act 2013 (**NBDT Act**). These two statutes provide separate frameworks for regulating registered banks and licensed non-bank deposit takers (**NBDTs**), respectively. NBDTs include credit unions, building societies and retail-funded finance companies. Both banks and NBDTs essentially engage in the same activities – taking funding from investors (including depositors), and lending to households and businesses.

The DTA modernises our regulatory framework to help ensure the safety and soundness of deposit takers. In line with our mandate, the DTA promotes financial stability and the prosperity and wellbeing of New Zealanders by:

- creating a single coherent regulatory regime for all entities who engage in the business of borrowing and lending – for example, banks and NBDTs
- providing additional powers for the Reserve Bank as the prudential regulator, including new requirements for directors, enhanced supervisory powers and an improved framework for sanctioning non-compliance with regulatory requirements
- introducing the DCS which, in the event of a deposit taker failure, provides compensation for eligible depositors up to $100,000 per depositor, per institution, and
- providing the framework for managing and resolving any deposit taker in financial distress.

A substantial work programme is underway to implement the new prudential framework for deposit takers. We are continuing to develop and consult on regulatory requirements and will introduce a licensing process for deposit takers to operate under the regime.

1.4 Purposes and principles of the DTA

The DTA sets out a number of purposes and principles that direct the Reserve Bank's prudential function with respect to the regulation and supervision of deposit takers. The main purpose of the DTA is to promote the prosperity and well-being of New Zealanders and contribute to a sustainable and productive economy by protecting and promoting the stability of the financial system. Also of relevance to appropriately setting the perimeter for regulation, the DTA has the additional purposes of:

- promoting the safety and soundness of each deposit taker
- promoting public confidence in the financial system
- supporting New Zealanders having reasonable access to financial products and services, and
- mitigating risks to the stability of the financial system and risks from the financial system that may damage the broader economy.

As well as the purposes set out above, the principles of the DTA also need to be considered when developing regulations. The Reserve Bank must take these principles into account in achieving the purposes of the DTA. The principles of most relevance in this case include:

- the desirability of taking a proportionate approach to regulation and supervision
- the desirability of consistency in the treatment of similar institutions
- the desirability of the deposit taking sector comprising a diversity of institutions to provide access to financial products and services to a diverse range of New Zealanders
- the need to maintain competition within the deposit taking sector
- the need to avoid unnecessary compliance costs, and
- the desirability of ensuring that the following risks are managed:
    - risks to the stability of the financial system (including long term risks)
    - risks from the financial system that may damage the broader economy.

1.5 Feedback sought

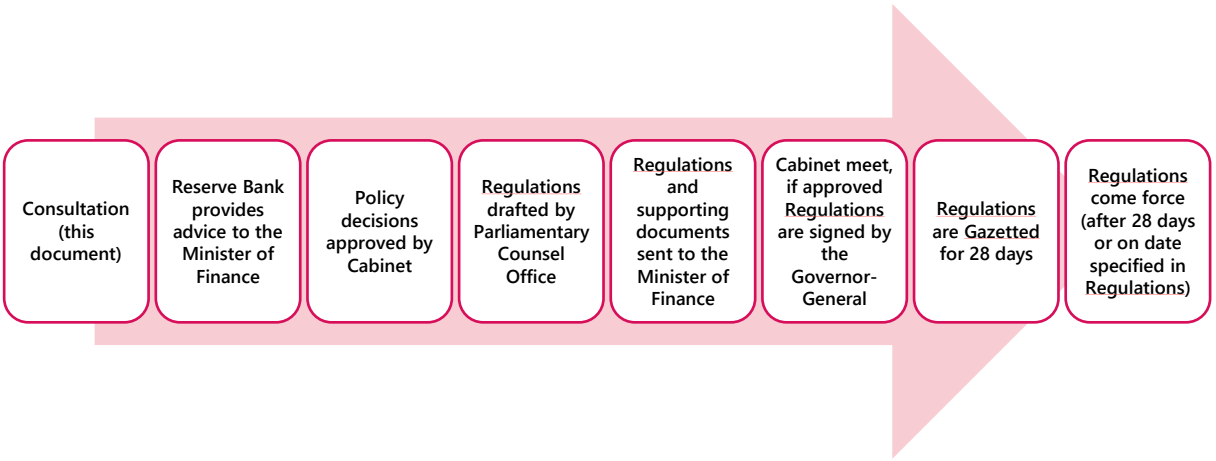
We are interested in stakeholder feedback on the proposals in this consultation document. In each section we ask specific consultation questions to identify any potential issues with our proposals. We have also grouped these questions at the end of this paper in Appendix A to help facilitate the preparation of submissions.

1.6 Next steps

The feedback received on this consultation will help us develop advice to the Minister of Finance on the proposed regulations and Orders in Council discussed in this paper. Depending on the Minister's decisions, we expect these will be made and come into effect in 2027, ahead of the licensing period commencing. A third tranche of Deposit Takers Regulations will be consulted on and made before the DTA fully commences.

Figure 1 outlines the process we will follow to develop and implement this tranche of regulations.

Figure 1: Process for developing regulations under the DTA



2 Definition of Deposit Taker and the Regulatory Perimeter

2.1 Introduction

This chapter explains, and seeks feedback, on a number of proposed regulations and Orders in Council relating to the definition of deposit taker and the regulatory perimeter. We discuss a framework for setting the regulatory perimeter, with background on how it is currently set and what it will look like under the DTA in the absence of additional regulations.

Proposals at a glance

P1 **Setting the deposit taking perimeter for certain classes of entities:** We propose retaining the existing classes of entities that have been declared not to be an NBDT for the purposes of the NBDT Act, 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.

This would have the effect of clarifying that certain firms are not deposit takers and are therefore not required to be licensed. The ability to make declarations in future will allow for new types of firms and operating models to be considered as required. This is particularly relevant in the fintech context.

P2 **Thresholds for carrying on the business of borrowing and lending:** We would like to consult on whether there are reasons to prescribe any thresholds under clause 5 of Schedule 2 of the DTA, which would have the effect of excluding some smaller entities undertaking borrowing and lending from being required to license. We are not currently proposing to introduce any thresholds under this clause.

P3 **Setting the deposit taking perimeter for overseas entities:** We propose introducing criteria in the regulations to narrow the definition of 'specified overseas entity' to exclude overseas banks that have no physical presence in New Zealand. This would preserve the status quo perimeter that exists under the BPSA in relation to overseas banks as, without regulations, the DTA would require all overseas banks 'carrying on business in New Zealand' for the purposes of Schedule 2 of the DTA (which may include some of the overseas banks currently relying on a restricted words authorisation under the BPSA) to be licensed by default.

2.2 Background

The regulatory perimeter

The regulatory perimeter defines the types of entities that are subject to regulation. In our view, the regulatory perimeter of our prudential legislation should be set such that entities whose behaviour or failure could pose significant risks to New Zealand's financial stability and the economy more broadly should be subject to regulation. Setting the regulatory perimeter for the DTA requires careful choices to appropriately balance costs and benefits.

A regulatory perimeter that is either too wide or too narrow may reduce the benefits of regulation and impose unnecessary costs on regulated entities, the regulator, the public and the economy. Setting the regulatory perimeter too widely could also reduce competition and innovation, limit the diversity of financial products and services available to New Zealanders and be inconsistent with taking a proportionate approach to regulation.

For instance, requiring an overseas bank with only a few New Zealand wholesale customers to be licensed might cause the bank to exit New Zealand if it determined the costs of complying with regulation were greater than the benefits of serving New Zealand customers. At the same time, such a bank is unlikely to pose a significant risk to financial stability, especially where the entity is prudentially regulated in their home country.[1]

On the other hand, a regulatory perimeter that is too narrow may increase risks to financial stability and the broader economy from an entity's potential failure.[2]

Note that entities that fall outside the DTA prudential perimeter will nevertheless be subject to various aspects of New Zealand corporate law and the requirements of other regulatory regimes, such as the market conduct regime administered by the Ministry of Business, Innovation and Employment (**MBIE**) and enforced by the Financial Markets Authority (**FMA**).

The proposals outlined for consultation later in this chapter have implications for whether some types of financial entities will fall in or outside the regulatory perimeter under the DTA.

The perimeter now versus under the DTA

Current legislation

The NBDT Act defines an NBDT as a person, other than a registered bank, that makes an 'NBDT regulated offer' of debt securities and carries on the business of borrowing and lending money or providing financial services (or both). Debt securities include debentures, bonds, deposits and call accounts, and are essentially retail offers (offers to the public). This includes finance companies that raise funds from the public, as well as building societies and credit unions. However, finance companies that raise funds through related parties or corporate or wholesale sources are excluded.

The NBDT Act requires any person that meets the definition of an NBDT to be licensed. This means it is effectively the default legislative framework for entities that wish to undertake the business of borrowing and lending in New Zealand. It is less onerous in terms of regulatory requirements relative to the 'opt-in' framework for registered banks under BPSA.

The BPSA provides for the registration of persons who carry on a business of borrowing and lending money and/or the provision of other financial services (refer to section 73). The BPSA restricts the use of the word 'bank' to registered banks and others authorised under section 65. Registration under the BPSA is an opt-in process but the ability to use the word 'bank' provides an incentive, as NBDTs cannot call themselves a bank.

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[1] However, we note that there are limitations on the ability and incentives of a regulator to take into account the impact of a bank's decisions on financial stability in other countries.

[2] Albeit noting the local incorporation policy means that even once the perimeter is set, large and systemically important branches of overseas banks are required to incorporate locally.

With respect to overseas banks, the perimeter is currently set by way of a guidance note[3] on limitations on the use of restricted words, which discusses the concept of carrying on activities in New Zealand under section 64 of the BPSA, as well as a Class Authorisation Notice. The authorisation permits overseas banks that are not registered banks and do not have a place of business in New Zealand to use restricted words when carrying on prescribed forms of wholesale activity in New Zealand. This is discussed in more detail in the consultation paper on the use of the word 'bank'.

The Non-bank Deposit Takers (Declared-out Entities) Regulations 2015 sets out certain categories of entities that are declared out of the perimeter.[4] The entities are certain intra-group funding vehicles, payment facility providers, certain special purpose vehicles, charities that meet defined criteria and the Public Trust.

The Deposit Takers Act

The deposit taking perimeters under the BPSA and the NBDT Act will be superseded by the DTA and any associated secondary legislation when it comes into force. Under the DTA the perimeter is set through the definition of 'deposit taker' in Schedule 2. The interactions between the clauses of Schedule 2 are illustrated in Figure 2.

In summary, clause 2 of Schedule 2 defines 'deposit taker' as meaning a person carrying on business in New Zealand that is any of the following:

- a person that carries on the business of borrowing and lending money (defined as making retail offers of debt securities, other offers of any debt securities that are declared in as 'borrowing' and receiving money from a conduit issuer of debt securities). This is subject to an exclusion in clause 5 for persons offering debt securities in New Zealand or otherwise providing banking and related financial services in New Zealand below a prescribed threshold (which is not currently set); or
- a 'specified overseas entity', i.e. an overseas bank which is authorised to accept deposits in another jurisdiction and meets any other criteria prescribed in regulations; or
- a person or class of persons declared to be a 'deposit taker' under clause 6 of Schedule 2.

Subject to some exclusions (the only relevant one for our purposes is the power to declare a person to not be, or to be, a deposit taker), the categories listed above will all require licensing under the DTA and therefore fall within the regulatory perimeter.

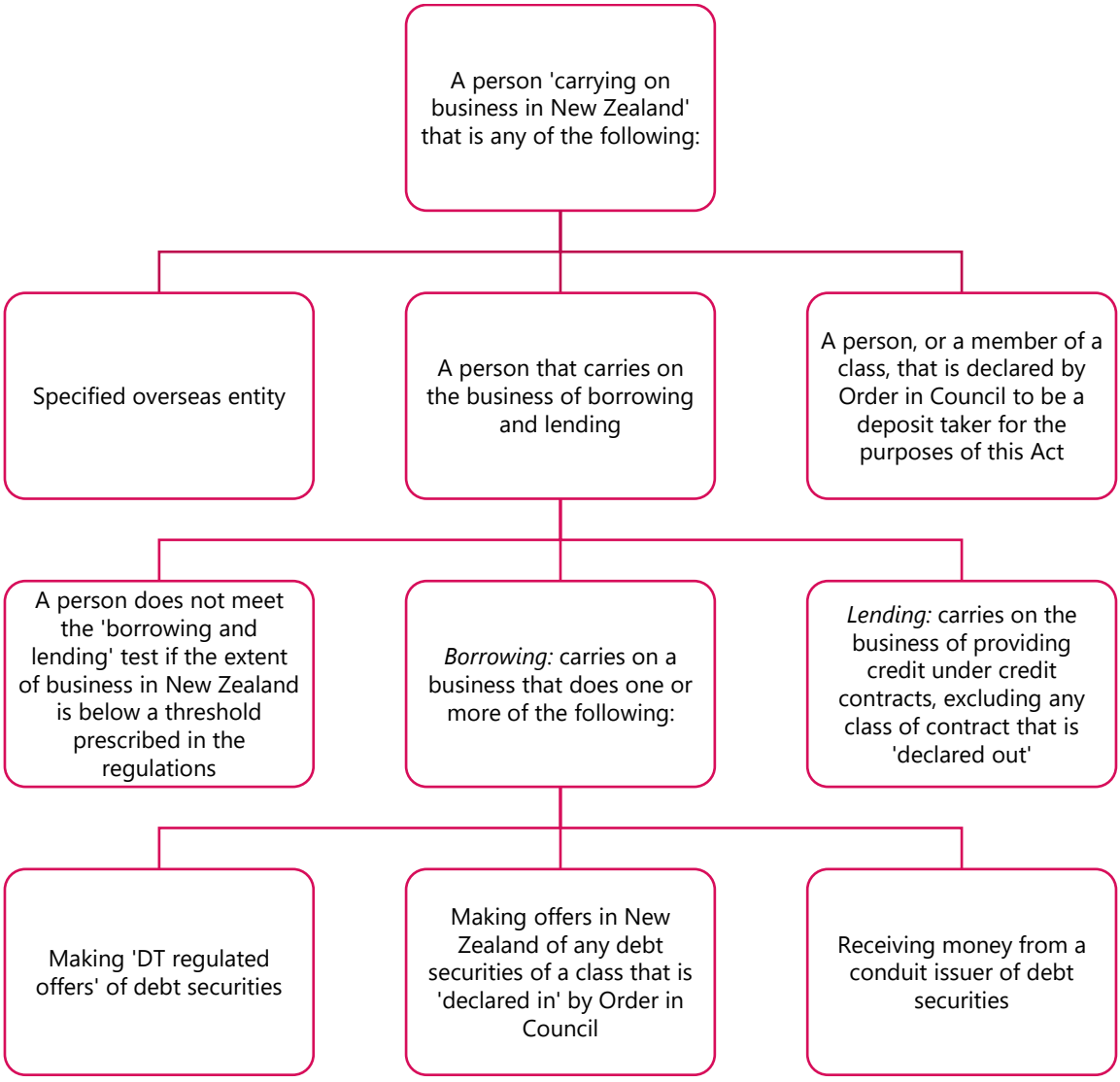
Accordingly, key issues to consider before the DTA fully takes effect are:

- whether the perimeter is appropriately set in relation to fintechs, who are not required to be licensed since they do not meet the test of 'borrowing and lending' based on their current business models
- the criteria that should be set to further refine which overseas banks are required to be licensed and how should this be done, and

[3] Guidance note for overseas banks on limitations on the use of restricted words
[4] Non-bank Deposit Takers (Declared-out Entities) Regulations 2015

- whether thresholds should be set through clause 5 to exclude deposit takers that offer debt securities or otherwise provide banking and other related financial services in New Zealand below a certain threshold.

Figure 2: What the meaning of 'deposit taker' includes, as set out in Schedule 2 of the DTA



A framework for setting the perimeter

In considering where to set the regulatory perimeter we have looked at the entities that currently engage in borrowing and/or lending in New Zealand and considered the extent to which they might warrant prudential regulation based on several factors. These include whether:

- an entity's failure may create contagion risks, undermining confidence in other financial entities or disrupting the provision of financial services and products to New Zealanders arising from the collective failure of a number of smaller, or geographically important, institutions
- deposits with the entity are covered by the DCS (i.e., there is an explicit guarantee of certain funds in the event of failure)

- there are risks that, depending on their sophistication, those outside the entity are not well placed to assess. This might typically depend on the complexity of business models employed, the size and sophistication of customers, and the nature of balance sheets, for example.

Our assessment of the case for regulation for six groups of entities, based on the three factors listed above, is presented in Table 1. The groups of entities include large retail banks, small banks, credit unions and building societies (**CUBS**), finance companies, branches, non-deposit taking lenders and fintechs.

Table 1: The case for prudential regulation based on three factors

Entity Type	Costs of Failure	DCS Coverage	Difficulty Assessing Risk	Overall Case for Regulation
Large retail banks	+++	Yes	+++	+++
Small banks, credit unions and building societies (CUBS)	+	Yes	++	++
Finance companies	+	Yes	++	++
Wholesale bank branches	++	No	++	++
Non-deposit taking lenders	+	No	+	+
Fintechs (e-money and payment service providers)*	+	No	+	+

* This is based on our assessment of current business models in this sector, discussed below in section 2.3.

All three factors that make prudential regulation desirable are present to a significant degree in the case of large retail banks. Smaller banks, CUBS, finance companies and wholesale bank branches raise at least some concerns that warrant regulation.

In the case of non-deposit taking lenders and fintechs however, our assessment is that there is currently not a strong case for regulation, based on the three factors outlined above. If risks do arise with respect to these groups of entities, we have a number of options to address them. To begin with, we have the ability to apply lending standards to non-deposit taking lenders under section 84 of the DTA. If this option is not sufficient, we have the ability to declare in individual non-deposit taking lenders for licensing (clause 6, Schedule 2 of the DTA). Fintechs are discussed in more detail in section 2.3 below.

2.3 Classes of entities to be declared in or out

We propose 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. As noted earlier, the entities are certain intra-group funding vehicles, payment facility providers, certain special purpose vehicles, charities that meet defined criteria and the Public Trust. The case for excluding these classes of entities from the regulatory perimeter has not changed, hence our proposal to retain the status quo treatment under the DTA.

We do not propose 'declaring in' any types of fintechs that do not otherwise meet the deposit taker definition, based on their current scale and business models.

Analysis

In considering where the perimeter of the DTA should be set, given the increasing number and profile of fintechs in the wider financial services sector in New Zealand, we looked at a number of fintechs to understand their business models and where they currently sit under the DTA. This included those within the FMA's regulatory sandbox[5] as well as others that are currently prominent in the market.

Based on their current business models, none of the fintech examples considered are required to be licensed under the DTA. This is because the more 'bank-like' fintechs are not currently undertaking both borrowing and lending. These fintechs tend to undertake either borrowing or lending, or are partnering with registered banks who provide the banking functions as part of a modular value chain. We also consider that if a fintech were to fail, based on their current scale and business models, the resulting impact on financial stability and the public would be relatively low.

However, given innovation in this space, it is possible that there may be a fintech model in the future that does substantially meet the borrowing and lending test, in which case they would be required to license. If they did not meet the borrowing and lending test but, individually or as a class, posed a sufficient risk to financial stability, we could consider requiring certain fintechs, or classes of fintechs, to be licensed under the DTA in the future. This is an area we will continue to monitor as this sector develops.

International approaches to fintech regulation

United Kingdom (UK)

Fintechs that operate as payment service providers and e-money providers in the UK must be authorised and supervised by the Financial Conduct Authority (**FCA**). The FCA may impose some prudential requirements under this regulatory regime.

If a fintech wishes to become a bank in the UK and be regulated by the Bank of England's Prudential Regulation Authority (**PRA**), the regulatory standards that would apply to it are the same as those that apply to other banks. However, the New Bank Start-up Unit, established in 2016 by the PRA and FCA, has enabled a number of fintech firms to become authorised as banks through a more graduated bank authorisation process. This involves an optional 12-month

[5] FMA confirms fintech sandbox participants | Financial Markets Authority

'mobilisation' stage, where new authorised banks can build scale while being subject to a limit on the total amount of deposits that they can accept.

Australia

Fintechs must meet the ordinary requirements for conducting a 'banking business' in Australia to become an Authorised Deposit Taking Institution (**ADI**) and be regulated by the Australian Prudential Regulation Authority (**APRA**). 'Banking business' means, broadly, carrying on borrowing and lending or any other financial activities prescribed in regulations.

There are two special classes of ADIs regulated by APRA that are relevant to fintechs offering banking-like services in Australia. These classes are:

- large providers of purchased payment facilities (**PPFs**), who are licensed to undertake a limited range of banking activities, and
- restricted ADIs, who can undertake a limited range of banking activities for up to two years before being required to transition to a full ADI licence.

We are continuing to monitor the fintech sector in New Zealand and may consider in the future whether to adopt a similar approach to the UK or Australia if we were to require certain types of fintechs to become licensed deposit takers.

2.4 Thresholds for carrying on the business of borrowing and lending

The DTA allows for the possibility of using thresholds to exclude New Zealand-based entities from the definition of 'carrying on the business of borrowing and lending' (and therefore being required to be licensed). Under clause 5 of Schedule 2, a person does not carry on the business of borrowing and lending money if:

- the extent to which the person offers debt securities to persons in New Zealand is less than a threshold prescribed in the regulation, or
- the extent to which the person otherwise provides banking and related financial services to persons in New Zealand is less than a threshold prescribed in the regulations, and
- any other requirements prescribed in the regulations for the purposes of this clause (if any) are satisfied.

We would like to consult on whether there are reasons to prescribe any thresholds under clause 5 of Schedule 2 of the DTA, which would have the effect of excluding some smaller firms undertaking borrowing and lending from being required to license.

Analysis

A threshold for the licensing of entities that might otherwise meet the definition of carrying on the business of borrowing and lending could assist in removing entities from the regulatory perimeter that do not pose material risks to financial stability. This could also encourage competition and innovation in the sector, though this may have implications for competitive neutrality. However, 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.

2.5 Setting the deposit taking perimeter for overseas entities

The definition of 'deposit taker' in clause 2, Schedule 2 of the DTA refers to a 'specified overseas entity'; that is, an overseas bank that is authorised to accept deposits in another jurisdiction and meets any other criteria prescribed in regulations. Without a regulation to prescribe additional criteria, the effect is that all overseas banks that carry on business in New Zealand as defined in Schedule 2 and are authorised to accept deposits in another jurisdiction will be within the DTA perimeter and therefore be required to license. This could include some overseas banks that are currently relying on a restricted words authorisation.

We propose that the perimeter for overseas banks under the DTA should be aligned with the current perimeter. That is, only overseas banks that have a place of business in New Zealand should be required to be licensed. To give effect to this, we propose a regulation to narrow the definition of 'specified overseas entity' to only include persons with a physical presence in New Zealand. It will also be important to align with the policy decisions arising from our recent branch policy review,[6] for example, the restriction on branches taking retail deposits or otherwise offering services to retail customers.

Analysis

We considered several alternative options with respect to setting the regulatory perimeter for overseas entities going forward under the DTA. These include:

- **Allowing the perimeter to widen for overseas banks by not making regulations.** This would have the effect of requiring all overseas banks that are authorised in another jurisdiction to hold deposits overseas and carry on business in New Zealand as defined in Schedule 2, to be licensed. However, we considered this approach to have a number of drawbacks. These include (i) increased regulatory burden on both entities and the Reserve Bank and (ii) the regulation of entities that do not pose significant risk to financial stability, noting that these entities are already subject to some degree of oversight by another regulator in their home jurisdiction.
- **Using guidance to clarify the perimeter, rather than regulations**. This option would involve keeping the perimeter as set in the DTA without additional regulations but supplementing it with non-binding guidance to clarify that we do not intend for overseas banks without a physical presence to be captured within the regulatory perimeter. We have not progressed this option because we consider that regulations under Schedule 2 would provide more clarity and certainty to overseas banks.
- **Narrowing the DTA perimeter for overseas banks using the declare in/out powers**. This option would also maintain the status quo perimeter but would achieve this by using the declare in/out powers in clause 6 of Schedule 2 of the DTA to specify which entities need to be licensed or are not required to be licensed. Such an approach would require an Order in Council to set out the treatment of specific entities or classes of entities. This could make the perimeter unclear for potential new entrants and require new Orders in Council in the future to further clarify which overseas entities are required to be licensed.

We also considered whether it may be desirable to introduce a threshold for total assets held in New Zealand above which overseas banks would be required to be licensed under the DTA,

[6] Review of policy for branches of overseas banks - Reserve Bank of New Zealand - Te Pūtea Matua

rather than relying on the class authorisation, if their New Zealand activities reached this threshold. This option is not preferred because the quantum of New Zealand assets of overseas banks outside the perimeter can be relatively volatile, reflecting that a bank may have a very small number of large New Zealand clients who undertake a significant transaction two or three times a year. Further, monitoring compliance with an asset threshold for overseas banks could be costly for overseas banks and the Reserve Bank. Given this, we believe it would be difficult to set a meaningful asset threshold to trigger licensing requirements that would not lead to unwanted or inconsistent outcomes.

Therefore, our preferred option is to retain the current physical presence test for overseas entities. While physical presence is arguably becoming a less relevant factor in the way firms and customers do banking, the requirement to not have a place of business or any staff in New Zealand does practically limit the extent to which a bank can solicit New Zealand customers, and therefore the level of activity that can be carried on in New Zealand. We believe this is an appropriate boundary for the regulatory perimeter that balances financial stability risks with the need to need to maintain competition within the deposit taking sector.

Our proposed approach requires a regulation to narrow the meaning of 'specified overseas entity' to exclude banks without a physical presence in New Zealand. Although having a physical presence is one part of the 'carrying on business in New Zealand' test, which forms part of the meaning of 'deposit taker', 'carrying on business in New Zealand' is broader than a physical presence test. This means that an overseas bank without a physical presence could still be 'carrying on business in New Zealand'.

Such a bank is not captured in the prudential perimeter under our current legislative framework, and we are proposing that these banks remain outside the DTA licensing regime unless they are captured by a different limb of the 'deposit taker' definition. For example, any overseas bank carrying on the business of borrowing and lending in New Zealand will be required to license under the DTA, even if such a bank does not have a physical presence in New Zealand and therefore is not captured in the meaning of 'specified overseas entity'. Further, any overseas banks engaging in business with retail customers will be required to locally incorporate in New Zealand. This is consistent with the outcomes of the branch policy review and our new local incorporation policy under the DTA.

Interaction with the new DTA branch policy

Given our new policy is that all branches in New Zealand will be restricted to engaging in only wholesale business, we have considered whether continuing to allow overseas banks to carry on wholesale activities in New Zealand through the class authorisation could potentially disincentivise overseas banks from being licensed as branches under the DTA. This issue was also raised as part of the Branch Review.[7]

Our view remains that we do not consider that incumbent branches will be incentivised to close their New Zealand operations and shift to the class authorisation, unless they intend to carry on limited activities that do not require a physical presence in New Zealand. In situations where an overseas bank is not carrying on borrowing and lending in New Zealand and does not require a physical presence to undertake limited wholesale activities here, we consider the risks this entity

[7] Review of Policy for Branches of Overseas Banks - Summary of Submissions – Second Consultation Paper

would pose to financial stability are low. Therefore, not requiring the entity to be prudentially regulated in these limited circumstances is appropriate.

In July 2025 we introduced a new reporting template for collecting six-monthly data from the overseas banks that rely on the class authorisation and individual authorisations, which will enable the Reserve Bank to better understand the types and levels of activities these banks are undertaking in New Zealand. We will continue to monitor these banks and assess whether their levels of activity pose material risks to financial stability and if it remains appropriate that they remain outside the regulatory perimeter.

Australian approach

APRA specifies that overseas banks do not need to be licensed if they do not maintain an office or permanent staff in Australia, do not solicit business from retail customers in Australia, and all business contracts and arrangements are transacted and booked offshore. The conditions imposed on these overseas banks is discussed in more detail in the consultation paper on the use of the word 'bank'.

Aligning more with Australia's approach could also mean we allow 'representative offices' to conduct liaison and research activities, as APRA does, which may improve competition if it encourages more overseas banks to conduct these activities in New Zealand.

Representative offices are not regulated as ADIs but require consent from APRA to be established.[8] For consent to be granted, APRA needs to be satisfied that the overseas bank is recognised as a bank under the laws of its home country, is of good standing, is subject to adequate prudential supervision in its home country and has received approval from its home country regulator to establish a representative office in Australia.

There are numerous conditions imposed on representative offices, and they are subject to ongoing monitoring by APRA. For instance, activities must be confined to liaison and research. No banking business can be conducted, which includes soliciting or receiving deposits, granting loans, buying or selling foreign exchange etc, and the representative office must not engage directly in financial transactions. The name of the overseas bank must only be used by the representative office in conjunction with the description 'representative office', and the activities of the representative office must be kept separate from those of any financial enterprise operating in Australia (for example, the chief representative officer can't also be an employee or director of any other financial enterprise operating in Australia).

2.6 Consultation 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?

[8] APRA guidelines on being authorised as a representative office of a foreign bank

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?
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?
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?
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.
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?
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?

3 Other Proposals for Consultation

3.1 Introduction

This chapter explains and seeks feedback on three other proposed regulations that are necessary for DTA implementation:

1. the definition of an Australian financial authority;
2. a regulation to allow a Lending Standard to be issued; and
3. the form and content of infringement and reminder notices under the DTA.

Proposals at a glance

P4 **Meaning of Australian financial authority:** We propose carrying over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations.

P5 **Classes of lending in relation to lending standard:** As signalled in the Deposit Takers Non-Core Standards consultation paper, we propose a regulation to prescribe residential mortgage lending as the only class of lending that the Lending Standard applies to.

P6 **Form of infringement and reminder notices:** We propose carrying over the existing form of the infringement notice and reminder notice that was prescribed under the Reserve Bank of New Zealand Act 2021 (**RBNZ Act**) in the 2022 regulations.

3.2 Definition of Australian financial authority

Section 6 of the DTA requires a regulation to prescribe any Australian public authority that should be included in the meaning of 'Australian financial authority'. A similar regulation-making power in the BPSA was introduced in 2006. APRA is the only prescribed Australian financial authority under the current (2006) BPSA regulations.

We propose carrying over the existing definition of Australian financial authority used under the BPSA, which means only APRA would be prescribed in the regulations.

Analysis

The term 'Australian financial authority' appears a small number of times in the DTA:

- Section 262 requires the Reserve Bank to set out its intended approach to co-operating with Australian financial authorities and overseas supervisors in the statement of approach to resolution.
- Section 439 requires the Reserve Bank, when performing or exercising functions, powers, or duties under the DTA or other prudential legislation, to support Australian financial

authorities in meeting their statutory responsibilities relating to prudential regulation and financial system stability in Australia. This provision has been carried over from the BPSA.

- Section 440 requires the Reserve Bank to consult and consider the advice of every Australian financial authority it considers to be relevant in a situation where an action it proposes to take is likely to have a detrimental effect on financial system stability in Australia. This provision has also been carried over from the BPSA.
- Schedule 3 includes two consequential amendments to the RBNZ Act which will change the RBNZ Act's reference to the meaning of 'Australian financial authority' to refer to the DTA rather than the BPSA. Both of the affected sections in the RBNZ Act also separately refer to 'overseas central banks' which would capture the Reserve Bank of Australia (**RBA**) in addition to the specified Australian financial authorities.

For the meaning of 'Australian financial authority' as it is used in these sections, we consider that APRA is the only relevant Australian public authority that should be prescribed. There is a matching provision in APRA's legislation, and if we were to prescribe other authorities such as the RBA, the Australian Securities & Investments Commission (**ASIC**) or the Australian Treasury in our definition of 'Australian financial authority', this would introduce inconsistencies in the reciprocal arrangements we have with Australia. There is also no need for this definition to be changed for the DTA.

3.3 Classes of lending in relation to lending standard

Our proposed Lending Standard will provide borrower-based macroprudential policy tools, which are designed to reduce systemic risks to the stability of the financial system related to the residential property sector. For example, loan-to-value ratio restrictions limit the size of the mortgage households can take out relative to the value of the property they are purchasing, and debt-to-income ratio restrictions limit the amount of total debt households can take on, based on their income.

Section 83 of the DTA specifies that a lending standard may relate only to the class or classes of lending that are prescribed by the regulations (such as residential mortgage lending, commercial property or rural lending). It also specifies that the regulations may prescribe classes of lending by reference to the purpose of the lending, the nature of the lending, or any other circumstances in which the lending occurs.

As signalled in the Deposit Takers Non-Core Standards consultation paper[9], we propose that a regulation is made to specify that the Lending Standard applies to residential mortgage lending only. This will enable the Reserve Bank to seamlessly transpose the current macroprudential framework developed under the BPSA, and the use of specific tools, into the DTA context (focused on Group 1 and 2 deposit takers under our proportionality framework[10]).

Analysis

Lending to the residential property sector makes up a large proportion of business for deposit takers in New Zealand, far outweighing lending to other sectors. Hence, residential mortgage

[9] Deposit Takers Non-Core Standards - Reserve Bank of New Zealand - Citizen Space

[10] A proportionality framework allows for diversity while promoting financial stability - Reserve Bank of New Zealand - Te Pūtea Matua

lending is the main source of potential systemic risk to New Zealand's financial system and is why we propose that the section 83 regulation specifies that the Lending Standard applies to residential mortgage lending only. Moreover, assessment undertaken by the Reserve Bank in the half-yearly Financial Stability Report (FSR) indicates that lending to sectors outside of the residential property sector is not currently a major source of potential systemic risk to New Zealand's financial system.

3.4 Form of infringement and reminder notices

The DTA provides the ability for the Reserve Bank to issue infringement notices and reminder notices if it believes a person has committed an infringement offence. An infringement notice is a notice for a subset of criminal offences that do not result in criminal conviction, typically used for minor compliance-type contraventions (for example, a failure to lodge a particular document with the Reserve Bank). The 'form' of the infringement notice and the reminder notice must be prescribed in the regulations. There is also an optional regulation-making power to prescribe 'any other matters' that must be contained in the infringement notice.

We propose to use the existing form of infringement notice and reminder notice that is prescribed under the RBNZ Act in the Reserve Bank of New Zealand (Infringement Notice and Reminder Notice) Regulations 2022.[11] Schedule 2 of the regulations is provided in Appendix B for convenience (refer to Schedules 2 and 3 of the regulations for full details of the forms these notices must take). At this stage we do not propose prescribing 'any other matters' for the content of the infringement notice.

Analysis

The existing notices under the RBNZ Act follow a standard form that contain the same information we would require for notices issued under the DTA.

3.5 Consultation questions

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?
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?
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?

[11] Reserve Bank of New Zealand (Infringement Notice and Reminder Notice) Regulations 2022

Appendix A: Consolidated Consultation Questions

All questions posed for consultation throughout this document are consolidated below.

Chapter 2 - 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?
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?
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?
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?
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.
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?
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?

Chapter 3 - 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?

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?
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?

Appendix B: Excerpt from the Reserve Bank of New Zealand (Infringement Notice and Reminder Notice) Regulations 2022

Schedule 2
Infringement notice

Form
Infringement notice
Section 276, Reserve Bank of New Zealand Act 2021

Infringement notice No: Date of notice:

Enforcement authority
This infringement notice is issued by the Reserve Bank of New Zealand.
Address for correspondence:

Details of person infringement notice issued to
Full name:
Full address:
†Date of birth:
*†Gender:
*†Occupation:
*Telephone number:
*Specify only if known.
†Omit if the notice is served on a company or other body corporate.

Details of alleged infringement offence
The offence is one against section [*specify*] of the Reserve Bank of New Zealand Act 2021.
Date:
Time:
Place:
Nature of alleged infringement:
Infringement fee payable:

Service details
This infringement notice was served by [*method of service*] on [*date*].

Payment of infringement fee
This infringement fee is payable within 28 days after [*date infringement notice served*].
This infringement fee may be paid to the Reserve Bank of New Zealand by [*specify method(s)*].

What you need to know
If you pay the infringement fee in full as shown above, no further action will be taken. For a more detailed statement of your rights, *see* below. This includes—

- what happens if you are late paying the fee or don't pay the fee at all (*see* paragraphs 3 to 5):
- what to do if you want to query this notice (*see* paragraphs 7 to 12).

Statement of rights

If there is anything in this statement you do not understand, you should consult a lawyer.

1. This notice sets out an alleged infringement offence.

Payments

2. If you pay the infringement fee in full as shown above in **Payment of infringement fee**, no further enforcement action will be taken for the offence. Please note that part payment of an infringement fee is not sufficient to avoid further enforcement action for the offence.

What happens if you do not pay on time

3. If you do not pay the infringement fee on time as shown above and do not request a hearing (*see* paragraph 7 for your ability to do this), you will be served with a reminder notice (unless the Reserve Bank of New Zealand decides to take no further action to require payment for the alleged offence). Please 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.
4. If you do not pay the infringement fee and do not request a hearing within 28 days after being served with the reminder notice,—
   (a) the Reserve Bank of New Zealand may, unless it decides to take no further action to require payment for the alleged offence, provide particulars of the reminder notice for filing in the District Court; and
   (b) if so, you will become liable to pay court costs as well as a fine.
5. The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

Defence

6. You have a complete defence against proceedings for the alleged infringement offence if the infringement fee has been paid in full to the Reserve Bank of New Zealand in the manner specified in this notice before, or within 28 days after, a reminder notice for the alleged offence is served on you. Late payment or payment made in any other manner is not a defence.

Further action you may take

7. You may—
   (a) ask the Reserve Bank of New Zealand to consider any matter relating to the circumstances of the alleged offence; or
   (b) deny liability for the alleged offence and request a court hearing; or
   (c) admit liability for the alleged offence, but have a court consider written submissions as to penalty or otherwise.
8. To take an action listed in paragraph 7, you must write to the Reserve Bank of New Zealand at the address shown on this notice. You must sign the written communication and it must be delivered within 28 days after you have been served with this notice, or within any further time that the Reserve Bank of New Zealand allows.
9. If, in your written communication to the enforcement authority referred to in paragraph 8, you deny liability for the alleged offence and request a court hearing, the Reserve Bank of New Zealand will serve you with a notice of hearing that sets out the place and time at which the court will hear the matter (unless the Reserve Bank of New Zealand decides to take no further action to require payment for the alleged offence).

Note: If the court finds you guilty of the offence, the court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, if the court finds you guilty of the offence, costs will be imposed in addition to any penalty and you will be required to pay a hearing fee. You cannot get a conviction for an infringement offence.

10. If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you must, in your written communication to the enforcement authority,—
    (a) request a hearing; and
    (b) admit liability for the offence; and
    (c) set out the submissions you wish the court to consider.
11. If you take the action in paragraph 10, the Reserve Bank of New Zealand will file your written communication with the court (unless the Reserve Bank of New Zealand decides to take no further action to require payment for the alleged offence). If you follow this process, there will be no oral hearing before the court.
    Note: The court is entitled to take into account any maximum fine for the offence, and not just the infringement fee. So the court may impose a fine that is greater than the infringement fee. Also, costs will be imposed in addition to any penalty. You cannot get a conviction for an infringement offence.

Contacting the enforcement authority

12. When writing, please specify—
    (a) the date of the alleged infringement offence; and
    (b) the infringement notice number; and
    (c) your full name and address for replies.
    Note: All correspondence regarding the infringement offence must be directed to the Reserve Bank of New Zealand at the address shown on this notice.

Further details of your rights and obligations

13. Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.