



Reserve Bank
of New Zealand
Te Pūtea Matua

Deposit Takers Standards for Crisis Management and Resolution

Policy proposals

18 June 2026

Consultation
paper

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Submission details

The Reserve Bank of New Zealand – Te Pūtea Matua invites submissions on this Consultation Paper by 5.00pm on 11 September 2026. Please note the disclosure on the publications of submissions below.

Submissions and enquiries

Please email your submissions and enquiries to: dta@rbnz.govt.nz

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We may also publish an anonymised summary of the submissions received in respect of this Consultation Paper.

Navigating this document

This document contains consultation materials for a series of standards we are proposing to issue under the Deposit Takers Act (2023) (the 'DTA'), relating to crisis management and resolution.

Part A of the document (Chapters 2 and 3) provides an outline of our crisis management framework under the DTA. We have included this material because stakeholder responses to the crisis management 'Issues Paper' that we published in 2024, suggested that it would be helpful to evaluate specific proposals for crisis preparedness requirements in the context of our broader crisis management framework. The material:

- provides an overview of the changes the DTA makes to our crisis management framework as a whole;
- provides an overview of how we expect to use our recovery and resolution tools for different types of deposit taker, set out as a 'crisis response waterfall'; and
- explains what that means for the evolution of the Reserve Bank's 'Open Bank Resolution' policy.

This material is not essential for engaging with the specific consultations in Part B. However, it does provide useful context that can help to explain the reasoning behind the consultation proposals. In particular, it gives more information on the kinds of distress and crisis response that we are expecting deposit takers to prepare for and on how the separate requirements we are proposing fit together.

Part B of this document is separated into chapters, one for each standard or set of requirements.

- Chapter 4: the Crisis Preparedness Standard (Recovery and exit planning and Resolvability)
- Chapter 5: Loss Absorbing Capacity Requirements, to be included in the Capital Standard
- Chapter 6: the Continuity of Access to Deposits Standard (formerly OBR pre-positioning)

Each chapter includes an introduction. The chapters then present the key policy proposals for the standard, which are organised using the Reserve Bank's Proportionality Framework¹. The chapters also include the proposed approach for branches of overseas deposit takers, if appropriate.

We've numbered paragraphs through the whole document for ease of reference.

Following chapter 6, the document includes a glossary (Annex A) and a consolidated list of consultation questions (Annex B).

¹ [Proportionality framework](#)

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Executive summary

1. The Reserve Bank of New Zealand (**Reserve Bank**) – Te Pūtea Matua is consulting on a range of crisis preparedness policies that will inform standards made under the Deposit Takers Act 2023 (**DTA**). Standards are secondary legislation and the core prudential rule-making instrument under the DTA. The Reserve Bank is responsible for drafting and issuing DTA standards.

Why crisis preparedness is important

2. Although banking crises are rare, they can be extremely costly. A well-designed crisis management framework can provide significant benefits to deposit takers and New Zealanders. Good recovery planning means that deposit takers are well-positioned to understand their options when they face severe financial pressures, and to take appropriate action, making a banking failure less likely.
3. If recovery is not possible, an effective resolution regime can deliver significantly better outcomes for society in a crisis than standard insolvency procedures. Effective resolution limits the disruption caused to the financial system by a bank failure. It improves outcomes for the bank's customers (who will gain rapid access to at least their protected balances under the Depositor Compensation Scheme) and makes it less likely that a failure will destabilise the broader financial system.
4. Under the DTA, the Reserve Bank becomes the designated resolution authority for New Zealand and has a new set of crisis management powers. The DTA also imposes new obligations on us, including requiring us to develop an orderly resolution plan for each deposit taker. We have begun a multi-year programme to strengthen our resolution capability. Deposit takers will also need to undertake work to ensure they are pre-positioned to contribute to recovery and resolution in the event of financial distress or failure. This new framework will strengthen our crisis management capability. It closely reflects international best practice, which has increasingly prioritised crisis preparedness since the global financial crisis of 2008.
5. The standards we are proposing here are an essential part of the new framework, designed to ensure that deposit takers are well prepared to respond to severe financial stress.

Our approach to developing the Crisis Management Framework

6. We carried out extensive analytical and policy work to determine how we should use our new powers under the DTA to deliver the crisis management purposes it sets out.
7. Our future crisis management framework will include:
 - crisis planning and pre-positioning under 'business as usual' conditions;
 - pre-positioned recovery measures that deposit takers will put in place to respond to initial financial stress; and
 - a range of pre-positioned options for crisis response, organised as a 'crisis response waterfall'.

8. The 'crisis response waterfall' is a sequence of resolution options that will be pre-positioned so that we have a flexible range of options available in the face of financial stresses. This approach reflects recent international experience, particularly the banking turmoil of 2023.

How the Crisis Resolution Framework relates to our existing 'Open Banking Resolution' policy

9. Our resolution options are similar in aim to the existing Reserve Bank Open Bank Resolution (**OBR**) policy. Both seek to resolve a bank failure in a way that avoids the disruption caused by liquidation, while minimising any impact on public funds.
10. However, under the new framework, we place more emphasis on pre-positioning the full resolution process, not just providing immediate access to certain accounts, and we include crisis response options that are suitable for all deposit takers. While the OBR policy was designed to support stability, longer-term resolution solutions were to be decided after a crisis had taken place. The pre-positioned solutions in the new framework should reduce the time required for resolving a failed deposit taker. The OBR policy also involved a 'freeze' of a portion of the money in customers' transactional bank accounts while resolution was carried out. We now think this is unlikely to be necessary so are no longer asking deposit takers to pre-position the systems to deliver this transactional account 'freeze'.

Delivering the new Crisis Management Framework

11. Some aspects of the policy we are proposing are an enhancement of capabilities we expect that deposit takers already have in place (for example, recovery planning). Other aspects will take time to fully develop, particularly resolution pre-positioning. Full implementation of the crisis management framework will be a multi-year project.

What we are proposing

Recovery and exit plans, and resolution pre-positioning

12. We are proposing that all deposit takers need to develop recovery and exit plans that will set out the responses they expect to take to a variety of distress scenarios (see chapter 4).
13. We are also proposing that deposit takers undertake prepositioning for a variety of relevant crisis response options, tailored to their size and business model. In keeping with international practice, the proposed requirements cover data and valuations; funding; governance and communications; measures to ensure continuity of service; and, where relevant, options for separation from a parent company or wider deposit taker group, or restructuring (see chapter 4).

Recovery and exit plans

14. We expect most deposit takers will already have undertaken some form of recovery planning. The new requirements we are proposing formalise the recovery and exit planning process, ensuring that appropriate planning has taken place for the execution of recovery

measures, recovery plans are maintained and ready to use, and that the recovery process is well integrated into the deposit takers' broader risk management framework.

Principles-based pre-positioning requirements

15. It is important to ensure that resolution pre-positioning can be delivered as efficiently as possible. For example, we expect that deposit takers with simpler organisations and business models will need to make simpler preparations. To achieve this, we are proposing a principles-based approach to pre-positioning requirements for deposit takers. This will allow us the flexibility to tailor requirements to deposit takers' existing business capabilities.
16. We are proposing a long implementation timeframe, to allow for individual deposit taker engagement with the Reserve Bank for several years following DTA implementation in December 2028. During this period, we will work with deposit takers to increase the efficiency of potential resolution actions and reduce risks.

Outsourcing

17. Crisis preparation will build on deposit takers' existing capabilities, including some that are imposed under other DTA standards. Our existing outsourcing requirements and OBR pre-positioning requirements are vital building blocks for the deposit takers covered by those requirements.
18. In August 2024, we consulted on our intention to transfer our existing outsourcing requirements into the outsourcing policy under the DTA. An exposure draft of the DTA Outsourcing Standard has been released concurrently (DTA Standards exposure drafts tranche 3) and reflects feedback on the 2024 policy consultation.

OBR pre-positioning

19. We are proposing an evolution of the OBR pre-positioning requirements, including simpler requirements than those we consulted on in 2024. We now refer to these requirements as 'Continuity of Access to Deposits (**CoAD**) functionality'. The ability to close a bank and then selectively re-establish access over time for creditors, including depositors, is still a useful part of a broader resolution strategy. However, this functionality no longer needs to include a partial freeze across all transactional deposits and corresponding degree integration with the Depositor Compensation Scheme (**DCS**) (see chapter 6).

Loss Absorbing Capacity (LAC) instruments for Group 1 deposit takers

20. Finally, this consultation sets out proposals for the detailed implementation of the new 'Loss Absorbing Capacity' (**LAC**) instruments that Group 1 deposit takers will need to implement following our 2025 review of key capital settings. These instruments are designed to facilitate a trans-Tasman approach to resolution of the four largest New Zealand deposit takers, all of which are subsidiaries of Australian-owned banking groups.
21. The new instruments can be used to downstream capital from the Australian group to its New Zealand subsidiary if the New Zealand deposit taker is likely to fail (see Chapter 5).

22. We welcome submissions from deposit takers, the public and anyone with an interest on any of the issues raised in the consultation questions in Part B of this document.

Chapter 1: Introduction

Introduction

1.1 Overview

23. The Reserve Bank of New Zealand (**Reserve Bank**) is consulting on policy proposals for standards relating to crisis preparedness. The standards will set out pre-positioning requirements for deposit takers to support the timely and effective execution of crisis management measures.
24. The Deposit Takers Act 2023 (**DTA**) modernises the crisis management framework for New Zealand. It provides a range of tools for managing deposit takers in distress, including empowering a standard that deals with recovery planning and facilitating resolution. It designates the Reserve Bank as the resolution authority for all deposit takers, while enhancing accountability and creditor safeguards. It also imposes a duty on the Reserve Bank to prepare orderly resolution plans for each deposit taker, designed to facilitate dealing with the deposit taker in an orderly manner if it were to enter into resolution.
25. A well-developed crisis management function will provide important benefits for New Zealand. New Zealand's experience of banking crises has been relatively mild by international standards. The Bank of New Zealand (**BNZ**) was bailed out in 1990 and there were a number of finance company failures during the Global Financial Crisis (**GFC**). It is important not to be complacent. Serious banking crises have been a persistent feature of financial systems throughout history and across different types of economy, proving difficult to eliminate completely.² They are extremely difficult to predict and, when they occur, are very costly to the economy. Even the failure of deposit takers that are relatively small can be highly disruptive.
26. Appropriate investment in recovery and resolution capability can deliver significant benefits. Well-developed recovery plans that a deposit taker implements when it encounters financial stress reduce the likelihood of failure. Where recovery is not possible, resolution can produce significantly better results than liquidation, preserving continuity of functions, reducing destruction of value and limiting wider disruption to financial markets.
27. It is particularly important to regulate resolvability requirements because deposit takers' incentives may not be appropriately aligned with social outcomes. As noted above, resolution can produce significantly superior outcomes than liquidation for New Zealand. However, the outcome for a deposit taker's shareholders is unlikely to be significantly different, weakening incentives to invest appropriately in resolvability pre-positioning.
28. Fully operationalising the DTA crisis management regime will be a multi-year process involving capability building by the Reserve Bank and deposit takers. The Reserve Bank has developed a high-level strategy for our crisis management framework and is working to develop more granular policies and procedures to implement that strategy. Meanwhile, our

² See, for example, Charles Kindleberger's *Manias, Panics and Crashes: A History of Financial Crises* (Palgrave, 7th edition, 2015, first published 1978) and Carmen Reinhart and Ken Rogoff's *This time is different: eight centuries of financial folly* (Princeton University Press, 2011)

statutory powers can only function to deliver our crisis management mandate if deposit takers are also pre-positioned to be able to implement recovery and resolution strategies.

29. This document is in two parts. The first part explains how crisis preparedness requirements fit into the DTA crisis management framework that we have developed. The second part consists of consultation materials on the different elements of crisis preparedness:

- Chapter 4: The Crisis Preparedness Standard covers recovery and exit planning as well as resolvability planning and pre-positioning.
- Chapter 5: Loss Absorbing Capacity Requirements covers detailed requirements for loss-absorbing capacity (**LAC**) instruments (as announced in the recent capital review), which will be included in the Capital Standard.
- Chapter 6: The Continuity of Access to Deposits Standard covers revised proposals for Open Bank Resolution (**OBR**) pre-positioning (which we plan to rename 'Continuity of Access to Deposits' or **CoAD**).

1.2 This consultation and our 2024 consultations

30. This consultation builds on two other consultations that took place in 2024: the Issues Paper on Crisis Management under the DTA (**Issues Paper**)³, and the consultation on the Deposit Takers Non-Core Standards policy proposals (**non-core consultation**)⁴, which included a proposed Outsourcing Standard – which addresses key matters of operational continuity in resolution – and OBR Pre-Positioning Standard.

31. The Issues Paper sought stakeholder feedback on:

- the broad outlines of the DTA crisis management framework;
- the main resolution tools available to us and discussed some potential capability upgrades we might wish to make (including a mixture of changes to Reserve Bank policy and likely pre-positioning requirements for deposit takers); and
- the broad shape of likely pre-positioning requirements for deposit takers.

Situating crisis preparedness in the context of a more developed crisis management framework

32. One piece of feedback we received from submitters on the Issues Paper was that consultation on crisis preparedness requirements would be more effective once the Reserve Bank had presented a clearer picture of how we intend to use our resolution powers under the DTA. Submitters also asked for an explanation of how the different elements of our crisis preparedness materials fit with our overall approach to crisis management and with other relevant DTA standards. Part A of this document is a response to this feedback.

33. Most of the unsettled questions raised in the Issues Paper have now been resolved. The recent Capital Review decisions have created a clear place for contractual bail-in in our

³ [Crisis Management Issues Paper August 2024](#).

⁴ [Deposit Takers Non-Core Standards Consultation Paper](#).

framework (the LAC instruments Group 1 deposit takers will be required to issue). We have also made a preliminary decision to explore introducing a narrow form of statutory bail-in to enable the cancellation or transfer of shares in a failed deposit taker when it is in resolution. We will seek Cabinet approval to consult on this issue early in 2027.

34. With clarity on our capital requirements and the shape of our statutory powers, we have been able to develop an overarching strategy for crisis management and we set this out in this document so that deposit takers can understand what needs to be pre-positioned under the standards we are consulting on.

Consultation on changes to existing pre-positioning requirements

35. The second piece of high-level feedback that has shaped this consultation was feedback from the non-core standards consultation on the proposed OBR Pre-Positioning Standard. Industry expressed concerns about the potential cost of implementing the proposals, which involved a full integration between existing BS17 OBR pre-positioning functionality and Depositor Compensation Scheme (**DCS**) entitlements.
36. Since the non-core consultation in 2024, our view of the role of the OBR tool under the DTA has evolved with our work to develop our intended resolution strategies. In our future crisis management framework under the DTA, we see OBR pre-positioning as providing the capability to support continuity of access to deposits in resolution generally, rather than as supporting one specific resolution strategy. Therefore, as previously signalled, we are re-naming OBR pre-positioning as “Continuity of Access to Deposits” or CoAD to reflect its intended role of enabling depositors to access their funds while the deposit taker is in resolution.
37. While we see broad CoAD functionality as an important part of resolution capabilities, further analysis of our resolution powers has suggested to us that there may be simpler ways to deliver the functionality necessary to deliver the resolution strategies in our crisis management framework. We are therefore carrying out a second consultation on CoAD functionality now, rather than delivering an exposure draft.
38. Since fewer changes are required to the proposed Outsourcing Standard, we are not re-consulting on policy here. Instead, an exposure draft of the Outsourcing Standard has been published as part of the consultation on the Tranche 3 DTA Standards, which coincides with this policy consultation. We have aligned these processes in the interests of providing industry with clarity on final requirements as soon as possible. However, in keeping with feedback on the importance of understanding relationships between standards, Part A of this document does explain how outsourcing fits with the other elements of the crisis preparedness framework.
39. We explain what this change in process means for the broader DTA implementation plan in section 1.5 below.

Other Feedback on the 2024 consultations

40. We also address more specific feedback we received on the Issues Paper and proposed OBR Pre-positioning Standard in the relevant consultation sections of Part B.

1.3 The importance of crisis preparedness

41. In this consultation, we are proposing to impose crisis preparedness requirements on deposit takers. These requirements relate to the planning and pre-positioning that we will expect deposit takers to undertake in their business-as-usual operations to support the timely and effective execution of recovery and resolution measures.
42. Preparation is necessary to meet the DTA crisis management purposes; it is an essential part of what needs to be done to 'avoid significant damage to the financial system that could result from a licensed deposit taker being in financial distress' (DTA section 259(1)(a)). Recovery planning will put deposit takers in a good position to prevent financial distress from becoming a crisis event. Resolvability planning will provide an essential contribution to the 'orderly resolution plans' that the Reserve Bank is required to develop as part of its resolution authority mandate (see DTA sections 260 and 298).
43. As highlighted by overseas bank failures, including the 2023 offshore banking turmoil, distress can unfold very quickly in the modern financial system. Recovery and resolution measures are often executed under severe time pressure. Having the appropriate preparations in place prior to a distress event increases the probability that recovery and resolution measures can be executed effectively and reduces the risk of a disorderly failure.
44. The importance of preparedness is recognised as a key part of crisis management frameworks in the international resolution standard: the Financial Stability Board (**FSB's**) Key Attributes of Effective Resolution Regimes for Financial Institutions (**Key Attributes**).⁵ Reflecting the Key Attributes, it is accepted international practice for regulators to work with deposit takers in their jurisdictions to ensure that they are adequately prepared for recovery and resolution.⁶ Other jurisdictions are well advanced on this journey and have put considerable effort into resolvability preparedness. For example, the Australian Prudential Regulation Authority (**APRA**) commenced bespoke resolution planning through a pilot programme with a small number of entities in 2023 and has not yet completed the process across the sector.⁷

⁵ See 'KA 11 – Recovery and resolution planning' in Financial Stability Board (2024). [fsb.org/work-of-the-fsb/market-and-institutional-resilience/crisis-management-and-resolution/](https://www.fsb.org/work-of-the-fsb/market-and-institutional-resilience/crisis-management-and-resolution/)

⁶ See, for example, APRA's recovery and resolution requirements in [Prudential Standard CPS 190 Recovery and Exit Planning](#) and [Prudential Standard CPS 900 Resolution Planning](#); the Bank of England's resolvability assessments over time [Resolvability Assessment Framework | Bank of England](#); and the European Banking Authority's framework in Chapter 1 of the [Bank Recovery and Resolution Directive \(BRRD\)](#).

⁷ See [Recovery and resolution planning | APRA](#).

1.4 Overview of proposed requirements

45. There are broadly two components to our proposed crisis preparedness requirements for deposit takers:
 - **Recovery and exit planning:** the aim of recovery planning is to put in place an ongoing process for deposit takers to develop and maintain a recovery and exit plan, which will serve as a guide to help the deposit taker recover from distress (or exit the market) without having to enter resolution. This can be seen as an extension of deposit takers' broader risk management.
 - **Resolvability:** preparations in business-as-usual so that deposit takers are "resolvable" in a crisis. This involves removing obstacles to the implementation of the strategies set out in the Reserve Bank's orderly resolution plan for each deposit taker, ensuring that an orderly resolution can be executed effectively.
46. A recovery and exit plan will consist of a clear description of the deposit taker including its critical functions and dependencies that support the functions. This information underpins the identification and assessment of recovery and exit options.
47. The plan will include credible recovery triggers to support timely implementation and a range of credible recovery and exit options, which should be assessed for feasibility, impacts and execution challenges. Clear governance, review, testing and integration with existing risk management and group-level planning arrangements will also be required.
48. Our requirements for recovery and exit planning will form the first part of the Crisis Preparedness Standard (Chapter 4).
49. Resolvability preparations involve delivering a relatively wide range of capabilities that are required to facilitate resolution, from the provision of data and analysis that the Reserve Bank would need for its resolution decision-making, through to the internal governance arrangements a deposit taker needs to have in place for crisis management. Specific resolution capabilities will often build on existing aspects of deposit takers' business but will require extending existing capacity to be able to cope with a new situation (resolution).
50. Prior to the DTA, our main crisis pre-positioning requirements were contained in the BS11 Outsourcing Policy and the BS17 OBR pre-positioning requirements. We are largely carrying over these requirements into the new framework in the form of the CoAD Standard (Chapter 6 of this consultation) and the Outsourcing Standard that is included in the accompanying tranche 3 exposure draft consultation. We now see these two standards as 'supporting' standards that address particularly significant parts of the operational continuity outcome under the Crisis Preparedness Standard. We propose that the Crisis Preparedness Standard (Chapter 4) should include a more holistic set of requirements under the following headings:
 - Financial management,
 - Operational continuity,
 - Valuations, data and systems,
 - Restructuring and separation,

- Governance and communications

51. We have designed these requirements to deliver what is necessary as efficiently as possible and have carefully considered proportionality as we develop our policy. Generally speaking, recovery and resolvability planning will be simpler exercises for deposit takers with simpler business models, creating some natural proportionality. Requirements for resolvability preparation will be implemented over a relatively long timeframe and in interaction with the Reserve Bank, so they can be tailored to what is necessary for relevant resolution strategies and build on deposit takers' existing capabilities.

1.5 Next steps

52. Following a similar process to consultation on the other DTA standards, we are seeking feedback on all aspects of the proposed standards for crisis management in this consultation paper. We will be offering webinars on this consultation and also welcome requests for bilateral engagement.
53. Your feedback will help shape the final policy proposals, and this will be incorporated into exposure drafts of the relevant standards.
54. We intend to publish exposure drafts in 2027 for further feedback to ensure the requirements are precise, easy to interpret, and feasible to comply with. From there, we intend to consider the feedback and finalise and issue the standards.
55. Table 1 below indicates our intended timeline to develop standards for crisis management. This timeline may be subject to changes. Please check our DTA timeline web page for the most up to date timeline.⁸

Table 1: Indicative timeline to develop of standards for crisis management

Date	Milestone
February-April 2027	Consultation on an exposure draft of LAC requirements.
31 May 2027	Final Capital Standard (including the LAC requirements) issued. Outsourcing Standard issued.
July 2027	Consultation on exposure drafts and implementation timeline for <ul style="list-style-type: none"> • Crisis Preparedness Standard; and • the Continuity of Access to Deposits (CoAD) Standard.
1 December 2028	Capital Standard (including the LAC requirements) commences with phased-implementation.

⁸ DTA timeline web page bnz.govt.nz/regulation-and-supervision/deposit-takers-act/dta-timeline

Date	Milestone
Late 2028	Crisis Preparedness Standard and CoAD Standard issued.
2029 and beyond	<ul style="list-style-type: none"> • Transition to new LAC requirements. • Publish the Statement of Approach to Resolution. • Transition to new requirements in Crisis Preparedness Standard and CoAD Standard.

56. The process for finalising the LAC requirements after the consultation is accelerated because the Capital Standard is required for the re-licensing process.
57. The Crisis Preparedness Standard will not come into force until 2029, so the timeline for producing exposure drafts and issuing the standard is longer.
58. The consultation invites your input as to when different aspects of the CoAD standard will come into force for different groups of deposit takers.

Part A: Crisis Management and Resolution

The Crisis Management Framework

2.1 Overview

59. In this part of the consultation, we set out the Reserve Bank's crisis management framework to provide context for the consultations contained in Part B.⁹
60. This chapter explains the division of crisis management into recovery and resolution (section 2.2). It then explains how the DTA establishes a statutory basis for our crisis management activity (section 2.3), including a summary of our statutory duties and accountabilities and a broad indication of the statutory tools the DTA gives us to facilitate an orderly resolution (including the Depositor Compensation Scheme (**DCS**)).
61. Resolution plays an important role in the framework. In particular, the Reserve Bank is required to prepare an orderly resolution plan for each deposit taker. In section 2.4, we explain how we conceptualise resolution. We describe the significant benefits a good resolution regime can deliver but also note that resolution is a complex process which requires appropriate pre-positioning.
62. In Chapter 3, we explain how we will make use of the tools we have been given. We introduce our 'crisis response waterfall', which sets out a range of options we will pre-position for dealing with deposit takers in significant distress (including resolution options). Chapter 3 also explains the relationship between this framework and the Reserve Bank's current 'Open Bank Resolution' policy.

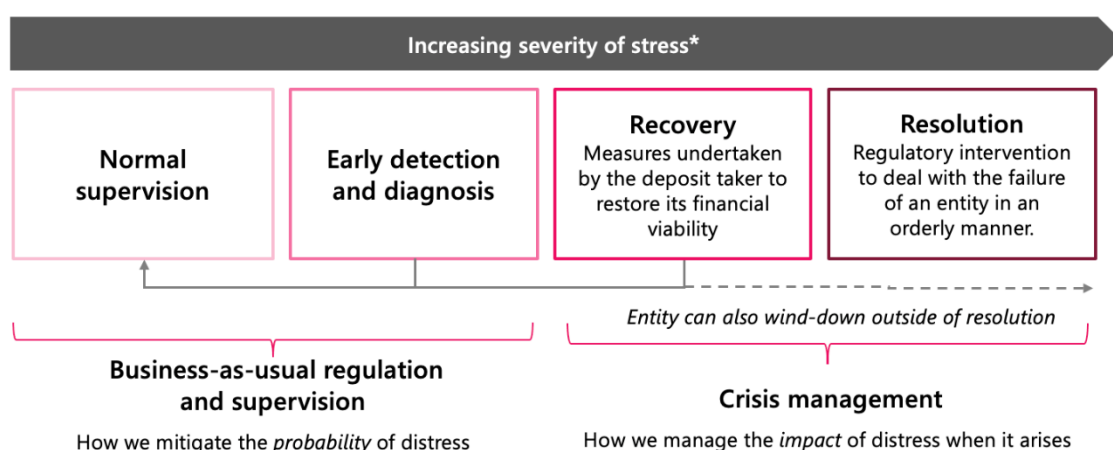
2.2 Our crisis management framework

Crisis management in the wider prudential framework

63. As illustrated by Figure 1 below, crisis management is part of our broader regulatory and supervisory framework for deposit takers. Our regulatory and supervisory activities seek a low *probability* of distress, to promote financial stability and the safety and soundness of individual deposit takers. If a deposit taker faces financial distress or other difficulties, we respond to reduce the *impact* of distress.

⁹ Eventually a version of this material will form important parts of the Statement of Approach to Resolution that we are required to publish under the DTA.

Figure 1: A continuum of staged responses to dealing with a distressed deposit taker



Phase 1. Normal supervision and crisis preparation

64. Deposit takers that are not in distress are subject to 'normal supervision'. Supervisors provide risk-based and forward-looking oversight that seeks a low probability of distress, to protect and promote financial stability.
65. In terms of crisis management, the proposals contained in Part B of this consultation emphasise the need for deposit takers to develop and maintain preparations for distress during 'normal' times so that they can respond swiftly to distress if it should arise.
66. This involves recovery and exit planning for all deposit takers and resolvability pre-positioning for deposit takers that may be placed in resolution. Once initial preparations have been made, we will expect deposit takers to ensure that pre-positioning is maintained in the face of changes to the deposit taker's business or to resolution practice. Recovery and resolution plans should be 'living' documents, so that they remain current and relevant stakeholders throughout the business understand the roles they would need to play in a distress scenario.

Phase 2. Early detection and diagnosis

67. An important aspect of supervision is to look out for emerging signs of financial or operational distress and to introduce heightened supervision to ensure problems are resolved early (which may include information requests or investigations). The Reserve Bank proactively monitors the deposit-taking sector to identify emerging financial issues as an additional safeguard to ensure heightened supervisory attention where required.

Phase 3. The recovery phase

68. In this phase, the Reserve Bank expects the deposit taker to implement its planned recovery measures to restore itself to usual operations. The deposit taker's recovery and exit plan would serve as a guide for each deposit taker to help it recover from financial distress or, alternatively, cease its regulated activities with minimum adverse impact on its customers.

69. Deposit takers' recovery measures can differ depending on each deposit taker's circumstances. The measures could include raising capital or other funding, selling assets, reducing costs, ceasing or reducing certain product offerings, and other forms of restructuring. In an extreme scenario, the deposit taker may make a strategic decision to cease its regulated activities in response to distress (for example, by merging with another entity or undertaking a solvent wind-down process).
70. While recovery is primarily the responsibility of deposit takers, the Reserve Bank has a number of statutory powers to oversee and facilitate recovery, as appropriate.
71. Throughout the recovery phase, we may gather information from the deposit taker and closely monitor the deposit taker's financial position, relevant non-financial factors (e.g., customer attrition and progress on executing recovery options), and progress towards the deposit taker's recovery plan. This may involve increased use of information requests and meetings with the deposit taker.
72. The Reserve Bank may also consider the use of formal supervisory actions or statutory powers where appropriate. The statutory powers include those to give directions to the deposit taker, write down internal loss absorbing capacities if relevant, approve sale or disposition of the deposit taker's business undertaking and replace a director of the deposit taker.
73. Where a deposit taker is part of an overseas-based banking group, we would also engage with our counterparts in the home jurisdiction. Where appropriate, this could include information sharing and co-ordinated responses (e.g., around the provision of intra-group financial support). In doing so, we would leverage existing co-operation mechanisms (e.g., with Australia through the deposit taker's regulatory Crisis Management Group and the Trans-Tasman Banking Council).
74. In parallel with the deposit taker's own recovery efforts, we may start preparing for the potential resolution of the deposit taker. It is important that we act pre-emptively to prepare for resolution when there is a material risk that recovery actions will not succeed, to ensure we can take resolution action swiftly if required. During this phase, we may also require the deposit taker to undertake its own preparation for resolution (e.g., communication planning).

Phase 4. The resolution phase

75. Resolution refers to the process by which the Reserve Bank, acting as resolution authority, manages the failure or likely failure of a licensed deposit taker.
76. Once a deposit taker is placed into resolution, the Reserve Bank and any external Resolution Manager would exercise the statutory resolution powers to pursue the relevant statutory purposes.¹⁰ A deposit taker will enter the resolution phase of the continuum if there is no

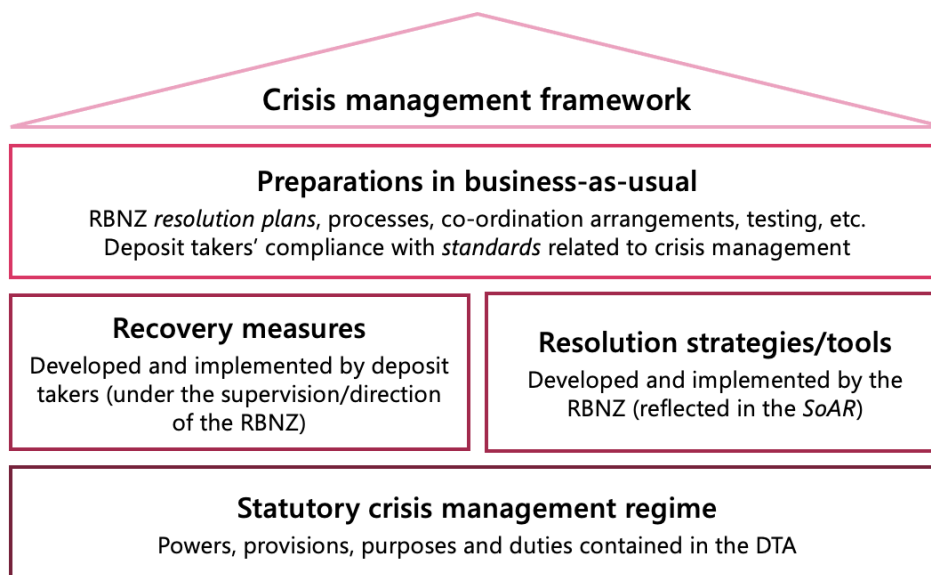
¹⁰ Under the new crisis management regime in Part 7 of the DTA, in addition to its role and responsibilities as resolution authority (refer in particular to sections 298 to 301 of the DTA), the Reserve Bank may appoint one or more persons to act as resolution manager and may act as resolution manager itself (either alone or with other appointed resolution managers (refer sections 357 to 365 of the DTA)).

reasonable prospect of recovery. Resolvability requirements are designed to ensure that the Reserve Bank’s resolution strategy is executable and can be carried out in a way that meets the Reserve Bank’s duties (including under section 260 of the DTA) and the statutory purposes (including section 259).

Building the crisis management framework

77. As depicted in Figure 2 below, our crisis management framework under the DTA comprises three key layers:
- The first layer is the statutory regime set out in Part 7 of the DTA. This provides the underlying statutory purposes, powers, responsibilities and safeguards for crisis management – the foundation of our framework. This layer is already in place (see section 2.3 below for a summary of the key features of the statutory regime).
 - The second layer involves how we use our powers and give effect to our duties to meet the statutory purposes – this includes both recovery and resolution measures.
 - The final layer is crisis preparedness for both the Reserve Bank as resolution authority and for deposit takers. The most significant remaining work to implement our crisis management framework concerns this layer. The Reserve Bank is working on the more granular detail of how we will implement our resolution strategies. Meanwhile, deposit takers will need to ensure that they are well prepared to undertake recovery actions and that resolution strategies can be executed effectively if necessary (which is the subject of the requirements we are consulting in Part B).

Figure 2: Key components of our crisis management framework



2.3 The statutory framework

78. Part 7 of the DTA ('Crisis management and resolution'), which is scheduled to come into force in late-2028, contains a range of new statutory powers, duties and functions for the

Reserve Bank. This section describes the key statutory obligations that Part 7 sets out for the Reserve Bank and an overview of the powers it provides us with.

Acting as resolution authority

79. Through the DTA, Parliament has designated the Reserve Bank as New Zealand’s resolution authority for distressed deposit takers. The Reserve Bank as resolution authority has statutory obligations to ensure that resolution of a licensed deposit taker is carried out in a way that furthers the purposes of the crisis management regime set out in section 259 of the DTA (**our crisis management purposes**).
80. These purposes are so central to the design and operation of our crisis management framework that it is worth setting them out in full.¹¹ Section 259 says that, as resolution authority, we are mandated to use our powers to:
- (a) avoid significant damage to the financial system that could result from a licensed deposit taker being in financial distress or other difficulties, including—
 - (i) by maintaining the continuity of systemically important activities undertaken by licensed deposit takers in New Zealand; and
 - (ii) by mitigating, or otherwise managing, any loss of confidence in the financial system resulting from a licensed deposit taker being in financial distress or other difficulties; and
 - (b) to enable a licensed deposit taker that is in resolution to be dealt with in an orderly manner; and
 - (c) to support the purpose of [Part 6](#) [The Depositor Compensation Scheme]; and
 - (d) to the extent not inconsistent with any of paragraphs (a), (b), and (c), to minimise the costs of dealing with, or costs or losses otherwise incurred in connection with, a licensed deposit taker that is in financial distress or other difficulties by—
 - (i) preserving the interests of creditors and maintaining the ranking of claims of creditors; and
 - (ii) dealing with the financial distress or other difficulties as quickly as is reasonably practicable; and
 - (e) to the extent not inconsistent with any of paragraphs (a), (b), and (c), to support the effective and efficient management of public financial resources by avoiding or minimising, and otherwise managing, the need to rely on public money to deal with a licensed deposit taker that is in financial distress or other difficulties.

¹¹ Section 259 of the DTA sets out purposes for the use of crisis management and resolution powers under Part 7 in addition to the main DTA purposes set out in Section 3. We reproduce both sets of purposes for reference in Appendix A.

Statutory powers

81. The DTA provides a range of powers and tools that the Reserve Bank (and, in some cases, a resolution manager) may use in the process of crisis management. This section provides a brief indication of some of the most important aspects of these powers.¹²
82. Many of the statutory powers contained in other parts of the DTA as a whole may be valuable in recovery and resolution. For example, the information gathering and investigation powers in Part 4.
83. Part 7 provides specific crisis management and resolution powers.
84. Part 7, Subpart 3 provides powers that are important for recovery. These include powers to give directions, to remove and replace directors, and to rapidly approve the sale of a distressed deposit taker without the need for normal approvals and consents.
85. Part 7, Subpart 6 sets out the procedures for placing a deposit taker in resolution and appointing a resolution manager. It sets out some key features of resolution (notably a moratorium on most creditor claims against the deposit taker that comes into play when a deposit taker is placed in resolution). The threshold for placing a deposit taker in resolution is high.¹³
86. It also sets out the powers the Reserve Bank and resolution manager may exercise in resolution. The resolution manager is given management and control of the deposit taker. They have a range of powers to enable them to continue running the deposit taker's business. Additionally, the Reserve Bank is empowered to dispose of or transfer all or part of the deposit taker's business. That power includes the ability to set up a 'bridge bank' or 'asset management vehicle' to which assets or liabilities are transferred. These powers form the building blocks for the resolution strategies we describe in the next chapter

Safeguards

87. We must use our crisis management powers to promote the section 259 crisis management purposes, setting important parameters for how we can act. Resolution may impose losses on creditors in a way that differs from outcomes that may result if the failed bank went through a liquidation process under the Companies Act 1993. In particular, the ranking of creditors may not be adhered to if departing from it is necessary to avoid significant damage to the financial system as referred to in section 259.
88. Subpart 9 provides for no creditor or shareholder worse off provisions (**NCWO**), which protect creditor rights by stipulating that any creditor who receives less value from a resolution process than they would have received in a hypothetical liquidation is entitled to compensation for the difference. An independent valuation is carried out following resolution to determine if any compensation is due. The Reserve Bank must also publicly

¹² What is included here is a selective summary and described at a high level. It is not intended to provide a robust legal description and, where there are any conflicts with the DTA text, the DTA text prevails.

¹³ The conditions for resolution are set out in DTA section 280.

account for any use of a DCS contribution in resolution (see the next section) and the resolution manager is subject to public reporting requirements.

The Depositor Compensation Scheme

89. The introduction of the DCS as part of the DTA crisis management framework represents a fundamental change in the environment for deposit takers and depositors. The DCS protects eligible depositors up to \$100,000 should their deposit taker fail. The DCS is administered by the Reserve Bank in accordance with Part 6 of the DTA and is funded by levies on deposit takers.
90. The DCS protects depositors, if their deposit taker fails, through two possible mechanisms:
- a DCS compensation event; and
 - a DCS contribution to resolution.
91. A DCS compensation event involves the DCS fund being used to pay eligible depositors in the event of a deposit taker's liquidation following the process outlined in Subpart 3 of Part 6.
92. Alternatively, the DCS fund can provide a contribution to a resolution measure. Section 230 of the DTA enables the Reserve Bank to use the DCS fund as part of the resolution of a deposit taker if we are satisfied that protected depositors are likely to receive no less favourable treatment and provided that the contribution is estimated not to be more costly than liquidation and DCS payment. A DCS contribution to resolution could be used in a range of different resolution strategies, which are discussed in further detail in the next section.

Statutory deliverables

93. Part 7 of the DTA requires the Reserve Bank, as resolution authority, to:
- publish a Statement of Approach to Resolution (**SoAR**); and
 - prepare and maintain a resolution plan for each licensed deposit taker.

The Statement of Approach to Resolution (SoAR)

94. The SoAR will set out our expected resolution strategy or strategies for dealing with licensed deposit takers and intended approach to co-operating with relevant stakeholders when performing or exercising our functions, powers or duties under the Part 7 of DTA. The purpose of the SOAR is to provide public transparency by setting out our full crisis management framework at a high level.¹⁴ The SOAR will also provide guidance to deposit takers on how we intend to use our powers under Part 7 in both recovery and resolution

¹⁴ Resolution authorities in other jurisdictions have developed similar products to the SoAR, such as [The Bank of England's approach to resolution | Bank of England](#).

situations. We are required to publish this statement, after consultation with the Minister of Finance, and regularly review it. The first SOAR is expected to be published by mid-2029.

Orderly resolution plans

95. While the SoAR will articulate our overarching approach to resolution, the orderly resolution plans are internal Reserve Bank documents we are required to prepare that will set out how we intend to apply our resolution strategies to individual deposit takers in a range of circumstances, taking into account their structure and business models.
96. We expect to prepare a relatively high-level first version of individual resolution plans in early 2028. We will communicate key elements to relevant deposit takers as part of the resolvability implementation planning process (see Chapter 4 below). While the plans will be developed and maintained by the Reserve Bank, deposit takers will need to provide us with information to support their development. Resolution is a complex process that requires a thorough understanding of available strategies, the details of a deposit taker's business, and contractual and governance arrangements. We therefore expect to iterate the initial plans as we work through more detailed crisis preparedness with deposit takers.

2.4 Resolution under the DTA

97. The design of the DTA places particular emphasis on 'resolution' as a crisis management tool. The Reserve Bank is designated as 'resolution authority' and is required to prepare 'orderly resolution plans' for each deposit taker. In keeping with current international practice, the DTA regime places greater emphasis on pre-positioning and planning for resolution than under our previous framework so that we are ready to use our statutory powers to deliver a variety of crisis management responses.
98. Resolution has become increasingly important to regulators because there is a growing recognition of the economic benefits it can deliver, producing significantly better outcomes than liquidation and reducing the likelihood of a public bail-out. However, it is a demanding process, in which significant restructuring needs to take place in a compressed timeframe, often with limited available data.
99. In this section, we briefly explain why resolution is desirable, how it works, and why pre-positioning is important, before turning to setting out the full set of crisis management responses we are pre-positioning for New Zealand (in Chapter 3).

The economic benefits of resolution

100. Resolution has become particularly important in international thinking and practice since the GFC. At that time, some authorities dealing with failing deposit takers were left with a choice between liquidation, which may produce very significant economic disruption, and a taxpayer bail-out, which is inequitable and promotes moral hazard.
101. Resolution is designed to provide a third alternative that enables a failing deposit taker to remain in business, potentially in a restructured form.

102. Resolution is likely to create significantly better outcomes than liquidation by providing greater continuity of service, limiting broader disruption to the financial system and reducing the destruction of value that liquidation can entail, which can be particularly acute for large or interconnected financial institutions. This is buttressed by the protections afforded to depositors under the DCS and to all creditors under the NCWO.

How resolution works

103. While successful resolution delivers significant benefits, it is a complex process to implement and involves resolution authorities making judgements that are often contested.
104. Resolution is often contested because authorities must find a way to deal with the losses that have meant the deposit taker is no longer a viable business. These losses need to be absorbed by the deposit taker's shareholders and potentially some of its creditors so that the remainder of the business can continue to function. Resolution actions tend to crystallise particular creditors' losses (subject to arrangements that may be made for bailed-in creditors to benefit from any recovery of value that occurs in the course of resolution).
105. In liquidation, the normal contractual arrangements creditors had with the deposit taker cease to apply. Examples include the payment of pre-scheduled interest or principal on loans, or depositors' continuous access to deposits. Instead, the liquidator closes down the failed deposit taker, realises its assets and distributes them in accordance with a strict 'creditor hierarchy'. Higher-ranking creditors are paid first, with shareholders and lower-ranking creditors bearing losses if the overall funds are not sufficient to pay them in full.
106. In most forms of resolution, in contrast, the deposit taker is restructured so that at least part of it can survive and be returned to the market in a way that delivers the DTA crisis management purposes. Broadly speaking, most resolution strategies aim to secure the position of ordinary depositors and a subset of higher-ranking creditors by giving them ongoing access to sufficiently valuable and liquid assets in a recapitalised surviving business. Meanwhile other creditors' claims (particularly lower-ranking creditors like holders of shares or capital instruments) are either cancelled (for example where Tier 2 capital instruments are written off), converted to equity, or left in a 'rump' entity (such as an asset management vehicle) to recover any remaining value. This can be achieved in a number of ways, from extinguishing some claims and selling the deposit taker to a new owner, to a more complex 'good bank – bad bank' type restructuring (see Chapter 3 for more detail).
107. We are also exploring the use of resolution powers to promote an orderly wind-down of a distressed deposit taker. In this case, resolution powers would be used to stabilise a deposit taker and protect relevant creditor rights while depositors were encouraged to transfer their deposit accounts to a new provider. In this case the ultimate outcome would be liquidation, rather than a return to the market. However, resolution would buy time for a more orderly process, limiting disruption to depositors and improving asset realisation.
108. Resolution is designed to produce superior results to liquidation by avoiding the immediate closure of the deposit taker, with all the disruption that entails. Continuity is made possible by finding a way to isolate liabilities that *may* need to bear losses, so that the rest of the

business can continue to operate, at least for a time. The 'isolation' of liabilities usually happens rapidly at the point of resolution but 'isolation' does not necessarily mean an eventual loss for the holder of the liability. Final outcomes are likely to be determined later in the process.

The need for resolvability preparedness

109. Resolvability preparedness is important because resolution involves complex transactions and restructuring that need to take place rapidly to limit market disruption. That is only achievable if all parties have already worked out how to implement all the arrangements required for this to occur and ensured that there are no unexpected barriers in place.
110. The Reserve Bank has an intensive work programme over the next few years to pre-position its own resolution capabilities in data and valuations, legal arrangements and processes for transactions, governance and communications. The crisis preparedness standard will then require deposit takers to make their own preparations so they are also pre-positioned to enable crisis responses.

Appendix A: Additional purposes of Part 7 of the DTA

111. Section 259 of the DTA imposes the following additional purposes when crisis management powers are being exercised:

- (1) This Part has the following purposes (in addition to those set out in [section 3](#)):
 - (a) to avoid significant damage to the financial system that could result from a licensed deposit taker being in financial distress or other difficulties, including—
 - (i) by maintaining the continuity of systemically important activities undertaken by licensed deposit takers in New Zealand; and
 - (ii) by mitigating, or otherwise managing, any loss of confidence in the financial system resulting from a licensed deposit taker being in financial distress or other difficulties; and
 - (b) to enable a licensed deposit taker that is in resolution to be dealt with in an orderly manner; and
 - (c) to support the purpose of [Part 6](#); and
 - (d) to the extent not inconsistent with any of paragraphs (a), (b), and (c), to minimise the costs of dealing with, or costs or losses otherwise incurred in connection with, a licensed deposit taker that is in financial distress or other difficulties by—
 - (i) preserving the interests of creditors and maintaining the ranking of claims of creditors; and
 - (ii) dealing with the financial distress or other difficulties as quickly as is reasonably practicable; and
 - (e) to the extent not inconsistent with any of paragraphs (a), (b), and (c), to support the effective and efficient management of public financial resources by avoiding or minimising, and otherwise managing, the need to rely on public money to deal with a licensed deposit taker that is in financial distress or other difficulties.

112. The purpose of Part 6 (as referenced in section 259(1)(c)) is to contribute towards protecting and promoting the stability of New Zealand's financial system by (a) protecting eligible depositors to the extent that they are covered by the depositor compensation scheme; and (b) allowing the Depositor Compensation Fund to be used to support a resolution measure undertaken in relation to a licensed deposit taker.

113. These purposes are in addition to the main purposes of the DTA, as set out in section 3:

- (1) The main purpose of this Act 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.
- (2). To that end, this Act has the following additional purposes:
 - (a) to promote the safety and soundness of each deposit taker:
 - (b) to promote public confidence in the financial system:

- (c) to the extent not inconsistent with subsection (1) and paragraphs (a), (b), and (d), to support New Zealanders having reasonable access to financial products and services provided by the deposit-taking sector:
- (d) to avoid or mitigate the adverse effects of the following risks:
 - (i) risks to the stability of the financial system:
 - (ii) risks from the financial system that may damage the broader economy.

114. In achieving the main purposes of the Act, we are also required to take into account the principles set out in section 4.¹⁵ These include, among other things, having regard to proportionality, maintaining competition, avoiding unnecessary compliance costs.

¹⁵ [Deposit Takers Act 2023 | New Zealand Legislation](#)

Chapter 3: The Crisis Response Waterfall

The Crisis Response Waterfall

3.1 Overview

115. In this chapter, we explain how recovery and resolution fit together into our ‘crisis response waterfall’. We set out the crisis response options that we see as necessary to deliver our crisis management mandate under a range of potential scenarios and provide a high-level indication of the kinds of pre-positioning that are necessary to deliver these options.
116. We then explain how this new framework relates to the Reserve Bank’s existing Open Bank Resolution policy.

3.2 Introducing the crisis response waterfall

117. In the previous Chapter, we explained the concept of resolution at a high level. Our statutory resolution powers under the DTA can be deployed in a range of different ways to deliver a variety of resolution tools.
118. Drawing on international practice and New Zealand experience, we have developed a ‘crisis response waterfall’ (Table 2), which sets out our key responses and provides a framework for tool selection for different deposit takers under different circumstances.
119. We present our responses as a ‘waterfall’ to emphasise the need for flexibility in crisis response. When other jurisdictions began to develop resolution frameworks following the GFC, many initially thought in terms of a preferred resolution strategy, which often emphasised bail-in of a narrow set of pre-positioned external liabilities. In practice, though, most recent international resolutions have combined this sort of bail-in with a subsequent sale.¹⁶ International consensus has therefore shifted toward a more flexible approach to resolution planning that contemplates a range of strategies.¹⁷
120. The structure of the New Zealand banking system makes flexibility particularly important. In terms of the largest deposit takers, the fact that our four largest deposit takers are all subsidiaries of Australian parents creates a unique situation. While a solution that keeps the group together is preferred (whether as part of entity-led recovery or Single Point of Entry (SPE) bail-in for Group 1), it is important that we retain a credible fallback option for separating and resolving the New Zealand deposit taker on a standalone basis. This remains essential to meet our statutory obligation as resolution authority under the DTA to maintain a resolution plan for each deposit taker.
121. When it comes to smaller deposit takers, the relatively small size of the market means that we need to be cautious about assuming that there will be a buyer for a failing deposit taker or for its assets, so we also need an appropriate fallback in place.
122. Our crisis response waterfall therefore sets out a range of potential responses to crisis for different categories of deposit taker. The responses are ordered by preference – the

¹⁶ For example, Banco Popular in 2017 and Credit Suisse and SVB in 2023.

¹⁷ See, for example [The evolution of the Bank’s approach to resolution – speech by Dave Ramsden | Bank of England](#).

responses that we would expect to best meet our crisis management purposes if they were achievable under the circumstances at the time.

123. In assigning 'options' to different types of deposit takers, we have departed somewhat from the "Group 1", "Group 2" and "Group 3" language that we often use as a short hand when talking about our proportionality framework.¹⁸ The main difference is the middle row which applies to Group 2 deposit takers and 'Transactional Group 3'. What we want to capture in this category is deposit takers who have a material number of customers for whom that deposit taker is the *primary* provider of banking services. Deposit takers that only offer call accounts that do not allow simple online payments and direct debits would not fall into this category. In other words, the grouping is defined to reflect the level of disruption to customers and the New Zealand economy that would follow from the deposit takers disorderly failure. We discuss this distinction further and seek feedback in the relevant section of the crisis preparedness consultation in Part B Chapter 4.

Table 2: The Reserve Bank's crisis response waterfall for deposit takers¹⁹

Group	Option 1	Option 2	Option 3	Option 4	Option 5
Group 1	Entity led recovery	SPE bail-in (via LAC instruments)	Rapid sale	Standalone recapitalisation	Liquidation and DCS payment
Group 2 and Transactional Group 3	Entity led recovery	Rapid sale	Orderly wind-down	Liquidation and DCS payment	
Other Group 3	Entity led recovery	Rapid sale	Liquidation and DCS payment		

Crisis management and branches

124. The crisis response waterfall currently covers only locally incorporated deposit takers (i.e., Group 1, 2, and 3 deposit takers).
125. The position of branches in crisis management is significantly different to other deposit takers because they are part of a legal entity that is incorporated overseas. Generally, a 'crisis' is likely to be a crisis of the entity as a whole and so is better dealt with by the parent

¹⁸ The framework itself has always contemplated departure from these groups where that is appropriate, see [The proportionality framework](#)

¹⁹ We will not be bound only to follow the strategies identified here should an entity fail, rather these are the strategies that we are prioritising for pre-positioning.

entity in conjunction with the regulator in its home jurisdiction. We would therefore expect recovery and resolution planning to be undertaken primarily with the home regulator.

126. However, we licence the New Zealand branch and have responsibility for New Zealand financial stability. We do therefore need to consider what the impact of recovery, resolution or failure might be on the New Zealand economy, for example if a branch carries out critical functions for New Zealand that would need to be preserved.
127. Initially, then, our approach to branches is focussed on making sure we have the right information to consider the likely New Zealand impact of branch distress or failure. We will only be able to assess whether there is a need for branch specific crisis preparedness activity once we have that information in place. We discuss this further in Chapter 4 (on the Crisis Preparedness Standard).²⁰

3.3 Deploying the waterfall

128. We have found the waterfall is a helpful way to communicate our approach and organise our crisis pre-positioning work. We have called it a 'waterfall' to reflect that it is organised in preference order but it doesn't emphasise the feasibility of different options. In a crisis, we will need to weigh the desirability of option outcomes against their feasibility in the context at the time. The waterfall, then, is not an 'algorithm' to determine our crisis response. In practice, it is likely to work more like a 'menu' of options.
129. Appropriate responses to particular events are situation dependent. Amongst other things, strategy will depend on:
- the nature and scale of losses;
 - the extent to which there are substitutes for the services the deposit taker provides;
 - market conditions for selling part or all of the deposit taker's business; and
 - the kinds of creditor impact that may be most disruptive to markets.
130. At times, it may be necessary to adapt or adjust pre-planned strategies to meet specific situations and the boundaries between 'options' may sometimes need to be partially blurred. For example, in some cases, a 'rapid sale' might only be achievable in conjunction with some form of restructuring, such as setting up an asset management vehicle to hold problem assets.
131. Nonetheless, the options capture most situations and pre-positioning for an appropriate range of options drawn from the waterfall will leave the Reserve Bank and deposit takers with the capabilities they need to respond flexibly to crisis.
132. As we come to prepare our orderly resolution plans for each deposit taker, we may narrow down the 'options' that we see as relevant to particular deposit takers' businesses. In that case, resolvability pre-positioning would only be required for those options.

²⁰ The requirements contained in Chapters 5 and 6 do not apply to branches.

3.4 The waterfall options

133. In this sub-section we provide additional detail on the 'options' set out in Table 2. We work through each strategy in the table, providing a brief explanation of what it entails and drawing out some of the main risks that might make the strategy infeasible in the circumstances, requiring us to consider a less-preferred strategy (one further to the right in Table 2).
134. We also provide a high-level indication of the key pre-positioning measures deposit takers might need to carry out in order to execute each resolution strategy. This is not intended to be exhaustive but rather to give deposit takers a broad feel for the way the requirements proposed in Part B Chapter 4 (Crisis Preparedness) would be needed to support particular resolution strategies. It is important to note that there is considerable overlap between the capabilities required for the different options (for example, core data and valuation capabilities are necessary for all options). We haven't included the role of CoAD functionality here as we treat this as a separate topic in the next main section of the document.

Entity-led recovery (all deposit takers)

135. We include 'entity-led recovery' in Table 2 to emphasise that recovery is always preferable to resolution. As illustrated in Figure 1 above, we seek to identify deposit takers at risk as early as possible. Once distress or significant risk is identified, the entity is subject to enhanced supervision and we may use a range of statutory powers to try to encourage recovery (including investigations and reports; requiring deposit takers to produce and execute recovery plans; issuing directions to take particular recovery action; and facilitating sale transactions without some of the usual permissions and consents). However, as mentioned in section Chapter 2, recovery measures are primarily the responsibility of deposit takers.
136. The importance of and preference for entity-led recovery is reflected in our proposed recovery planning requirements, discussed further in Part B Chapter 4 (Crisis Preparedness).

'Single point of entry' (SPE) recapitalisation (Group 1 deposit takers only)

137. Where a Group 1 deposit taker reaches the point of non-viability, the Reserve Bank's preferred strategy is a group-level recapitalisation led by APRA as the 'home regulator'. A single point of entry model is designed to keep the group together rather than recovering or resolving the deposit taker on a standalone basis.
138. Most often, if the New Zealand subsidiary was severely short of capital, we would expect investment to be provided voluntarily by the parent to maintain the soundness of the group. During our recent Review of Key Capital Settings, we decided to bolster our pre-positioning for SPE by requiring Group 1 banks to issue loss absorbing capacity (**LAC**) instruments to their parent, equivalent to 6% of risk weighted assets. Triggering LAC instruments is a very significant step to take and we would not expect to use these instruments where the parent had sufficient funds to invest in its subsidiary.
139. The introduction of LAC instruments bolsters the SPE solution but cannot guarantee that it will always be achievable. There are still risks if the parent is not able to achieve sufficient

recapitalisation at Group level or if the pre-positioned LAC instruments prove insufficient to deal with the New Zealand subsidiary's problems.

140. Accordingly, while SPE recapitalisation is our preferred approach for Group 1 deposit takers, it is important that we retain a credible fallback option for separating and resolving the New Zealand deposit taker. The need for a credible fallback option is reflected in Options 3-5 of the resolution waterfall for Group 1 deposit takers.

Indicative resolvability pre-positioning

141. For an SPE recapitalisation to be successful, the failing deposit taker would need to be able to provide rapid data and valuations to the Reserve Bank to enable us to decide whether the triggers for the activation of LAC instruments had been met and to assess the proportion of instruments that would need to be written off to return capital to a sustainable level.
142. The deposit taker would need to be managing its funding in resolution, modelling its likely liquidity needs and having pre-planned procedures for obtaining necessary liquidity. This might involve mobilising collateral for any emergency liquidity assistance required from the Reserve Bank.
143. The deposit taker would need to be confident (as a result of pre-positioning work) that triggering LAC instruments would not interfere with the continuity of key contracts.
144. It might also need to execute pre-prepared plans for some form of restructure, to reassure markets that the losses that had led to the need for resolution would not continue after stabilisation and recapitalisation.
145. Finally, the deposit taker would need to have governance arrangements in place to execute the strategy as a whole and pre-positioned communications plans to provide necessary messaging to key stakeholders and counterparties.
146. The work that the Group 1 deposit takers and their larger groups have already done to implement APRA's equivalent resolvability requirements under CPS900 is likely to mean that Group 1 deposit takers are well-placed to carry out the necessary pre-positioning. We are very conscious of the efficiency advantages of drawing on this work where possible.

Rapid sale (all locally incorporated deposit takers)

147. If the SPE solution for Group 1 failed, our preferred fall-back would be to separate the New Zealand subsidiary from its parent and then sell it. For Group 2 and 3 deposit takers, who do not have pre-positioned LAC, rapid sale is also our first-choice resolution option if entity-led recovery is not successful.
148. Sale to an appropriately capitalised purchaser is an attractive resolution option as it delivers an orderly resolution by maintaining operational continuity, including continuity of any critical functions, and limiting loss of confidence in the financial system.

149. To execute a rapid sale, we would likely use our transfer powers under the DTA to remove the rights of existing capital holders before the sale. Selected assets, liabilities, rights, and obligations are then either:
- sold or transferred directly to an acquirer under section 319; or
 - transferred to a pre-positioned bridge bank established under section 319, in which case shares in the bridge bank are then sold to the acquirer under section 320(1)(d).
150. The availability of this strategy as part of our resolution toolkit is particularly important because recent international practice has shifted to a greater acknowledgement of the importance of sale and transfer powers instead of or alongside recapitalisation through bail-in.²¹
151. This approach has been used internationally in various forms. For example, the European Union's Single Resolution Board (**SRB**) resolved Banco Popular in July 2017 using its sale of business tool. After obtaining a provisional independent valuation, the SRB used statutory bail-in powers to write-down all AT1 instruments in full and convert all Tier 2 instruments into ordinary shares. It then transferred all existing and new shares to Banco Santander for €1.²² Similarly, for SVB UK, the Bank of England wrote down and cancelled the bank's AT1 and Tier 2 capital (which was held by the US parent entity) and transferred all of the bank's shares to HSBC UK. The provisional valuation estimated that all AT1 and T2 holders would have received no recoveries in an insolvency.²³
152. We can deliver a rapid sale using our existing resolution powers so long as a purchase is structured as an 'asset sale' or we combine it with some other restructuring. Subject to Cabinet approval, we are planning to consult on an amendment to the DTA to also include a statutory power to transfer or cancel ordinary shares (a form of 'statutory bail-in') as that would simplify the process in most circumstances by also enabling a direct share sale of the business as a whole.
153. A sale would be highly unlikely if the deposit taker had negative economic value. Therefore, as evidenced by overseas cases, a rapid sale strategy is likely to involve the use of resolution powers to allocate losses, including the bail-in of eligible capital/LAC instruments. In New Zealand, a DCS contribution may also be used to support the sale of the deposit taker in resolution.
154. The main risk for a rapid sale strategy is the difficulty in finding an appropriate buyer.

Indicative resolvability pre-positioning

155. Pre-positioning for this strategy has some significant overlaps with what we described for an SPE recapitalisation, but with sale-specific variations.
156. Some elements of governance and communications might be the same (for example, the types of committees established to make decisions and identification of key stakeholder

²¹ See, for example, Hadjiemmanuil, C 'Bail-in's unfulfilled promise' *LSE Law, Society and Economy Working Papers*, 24/2004

²² See [The resolution of Banco Popular](#)

²³ See [Report under section 79A of the Banking Act 2009 on the transfer of Silicon Valley Bank UK to HSBC UK | Bank of England](#).

audiences for communications) while others would be different (specific decisions that need to be made and processes that need to be delivered in relation to a sale). Work on ensuring continuity of service in this context would focus on the robustness of necessary arrangements in the face of both resolution and sale processes (rather than just the triggering of LAC instruments in the SPE context).

157. Additional capability would also be required for a sale strategy. For example, Group 1 deposit takers would need to make use of their separation plan under the Outsourcing standard. Data and valuation capability would not only need to inform Reserve Bank decision-making but would also include the ability to rapidly mobilise a data room so that prospective purchasers could undertake appropriate due diligence.

Standalone recapitalisation (Group 1 deposit takers only)

158. If SPE failed and a sale was not possible for a Group 1 deposit taker, we would need to undertake more complex restructuring and recapitalise the New Zealand deposit taker as a standalone entity. In a standalone recapitalisation strategy, we might need to impose losses on more creditors than just the shareholders and holders of capital instruments. That might include wholesale creditors or potentially some unprotected depositors.
159. Broadly speaking, we would undertake a form of 'good bank' / 'bad bank' separation. The highest-ranking creditors and the best performing assets would be put together in a 'good bank'. The good bank would be returned to the market.
160. Existing shareholders, lower-ranking creditors, subordinated debt holders and other creditors left out of the 'good bank' would have recourse to the impaired or difficult to value assets in the residual 'bad bank'. What they ultimately received following resolution would depend on how much value could be realised from those assets and the priority order of their claims.
161. Achieving this outcome would require complex restructuring, designed to provide certainty about the financial soundness of the 'good bank', whilst enabling recovery of any excess value for creditors of the 'bad bank' (potentially including the DCS fund), broadly in line with the creditor hierarchy.
162. A standalone recapitalisation is not our preferred resolution strategy for Group 1 deposit takers given the complexity involved and the likely impact on unsecured creditors. However, given the systemic importance of Group 1 deposit takers and the likely difficulty of finding an appropriate buyer for a Group 1 deposit taker, we need to prepare a credible fallback to resolve deposit takers on a standalone basis to meet our statutory obligations.

Indicative resolvability pre-positioning

163. Again, pre-positioning is likely to fall under similar broad headings to that required for the other strategies but emphasis and detail will be different. Here the ability to rapidly transfer assets will be particularly important, which is likely to require both pre-planned legal procedures and good management information systems to identify, describe and value relevant assets and liabilities. Contractual continuity will be an important issue along with an

understanding of possible restructuring strategies for the deposit taker's business, including the separability of different parts of the business.

Orderly wind down (Group 2 & 3 deposit takers with significant transactional banking)

164. Orderly wind-down is particularly relevant for Group 2 deposit takers and Groups 3 deposit takers with significant transactional banking. For these deposit takers, if a sale was not possible, it is desirable to have a mechanism allowing an orderly wind-down.
165. The deposit taker would be kept open (in limited form) while customers were encouraged to move their deposit accounts to another provider. That would provide a smoother transition than we would be likely to be able to deliver through a DCS compensation event and could allow additional time to manage and realise loan assets, limiting destruction of value.
166. The idea of an orderly wind-down strategy is to facilitate market exit in a way that minimises disruption, particularly for those deposit takers that offer transactional services. Without such a strategy, the loss of services may lead to a disorderly failure (including potential contagion risk to other deposit takers) and loss of access is likely to pose challenges to depositors.

Indicative resolvability pre-positioning

167. We have more work to do to on the details of how an orderly wind-down could be delivered. In particular, we are working on options for liquidity management during this process. Capabilities in data, valuations, governance, communications and liquidity management would clearly be necessary. We are keen to work with Group 2 and 3 deposit takers as we develop an efficient way of delivering an orderly wind down.

Liquidation and DCS compensation

168. Liquidation and DCS compensation is a residual option for all deposit takers. However, in most circumstances we would seek to avoid liquidation.²⁴ For smaller deposit takers, particularly those with limited transactional accounts, compensation and liquidation may be an appropriate option in the right circumstances.
169. The deposit taker would be placed in liquidation, depositors would be paid their entitlements under the DCS, and the liquidator would then realise remaining assets and distribute any proceeds to creditors, in accordance with the liquidation creditor hierarchy.

²⁴ In this section, we are talking about liquidation as a primary response to deposit taker failure. Liquidation is also likely to be used as the final stage in other strategies, notably recapitalisation, where the 'bad bank' would eventually be liquidated, and 'orderly wind down' where liquidation would take place once sufficient time has been given for most depositors to move their accounts to a new provider.

3.5 The new framework and 'Open Bank Resolution'

From 'Open Bank Resolution' to resolution within a crisis management framework

170. The new crisis management framework, described in the previous section, is an evolution of the Reserve Bank's Open Bank Resolution policy (**OBR**).²⁵ It builds on new features of the DTA to deliver improved crisis management capability. Those features include new standard making powers for crisis preparedness and bail-in, the provision of NCWO safeguards, the availability of a DCS contribution and the requirement placed on use to produce orderly resolution plans for each deposit taker.
171. The new framework, like OBR, is designed to deal with a failing deposit taker in ways that avoid public bail-outs or liquidation in most cases, limiting disruption to financial markets and maximising continuity of service.
172. The OBR policy, though, was centred on *stabilisation*. The aim was to re-open the bank the day after failure, under a government guarantee and with a conservative proportion of liabilities frozen to ensure losses could be allocated appropriately. A longer-term solution to the deposit taker's problems would then be developed after the fact.
173. Under our new framework, we will seek to pre-position an appropriate range of exit options so that longer-term solutions can generally be delivered more rapidly. As a result, the 'freeze' functionality will be a less significant part of our framework and we expect any need for a government guarantee to be significantly reduced (ideally, eliminated).
174. Since the new crisis management framework is closer to the international mainstream, we intend to talk about our 'crisis management framework' and 'resolution' as a particular part of that framework in the future and no longer use the language of OBR.

From OBR pre-positioning to Continuity of Access for Deposit Takers (CoAD)

175. The pre-positioning functionality that we asked deposit takers to introduce for OBR (BS17) was designed to ensure that deposit takers could immediately freeze all liabilities and prevent access by customers and counterparties to their accounts on entry into statutory management. On the next business day, the deposit taker would re-open, re-establishing customer access to a proportion of account balances.

Contribution to a wider range of strategies

176. The fundamental ability to restrict access to liabilities on entry into resolution, and then selectively re-establish access at a later date, can still play a useful role in enabling continuity of access for deposit takers as part of a broader resolution strategy.

²⁵ For an overview of the OBR policy, see [the RBNZ's OBR explainer web page](#). For some insights into its development, see . Harrison, I, S Anderson and J Twaddle (2007) 'Pre-positioning for effective resolution of bank failures', *Journal of Financial Stability*, 3(4), December 2007, pp. 324-341

177. However, since it is now contributing to a range of resolution strategies, rather than to 'OBR', we are planning to rename this ability as Continuity of Access for Deposit Takers (**CoAD**) functionality.
178. We expect CoAD functionality to be used as part of 'Option 4' for Group 1 deposit takers in the crisis management waterfall – standalone recapitalisation. Here, access to liabilities in the 'bad bank' would be suspended, while access to liabilities in the 'good bank' would be re-established. In an orderly wind-down, CoAD functionality would play a role in suspending access to some liabilities to ensure loss-absorbing capacity, while allowing depositors access to their transactional accounts so that they could engage in financial transactions (in the short-term) and transfer their funds to another account (in the medium-term). It might also, potentially, be used in some sale transactions if we needed to buy time to secure completion.

No partial freeze (and no need for DCS integration)

179. The other key difference that is relevant to pre-positioning requirements is that we no longer see a need to require deposit takers to preposition for a partial freeze of transactional account balances of the kind that was envisaged for OBR.
180. For most resolution strategies, we would expect losses to be borne by shareholders or holders of capital instruments. In situations where losses are larger and there might be a need to allocate losses to general creditors, a contribution from the DCS fund could be used to provide further funding that could be used to support the capital position.²⁶ Finally, for reasons we explain in the next section, imposing losses on depositors is unlikely to be compatible with our statutory resolution purposes, except in very extreme circumstances.
181. Since we do not see a need to deliver a partial freeze, we also do not need to require the OBR-DCS integration solution that we consulted on in 2024.
182. We explain the functionality we are now proposing in more detail in Chapter 6

Potential to depart from '*pari passu*' treatment in resolution

183. Under the DTA framework, the crisis management purposes give us more explicit guidance on how to balance the usual creditor hierarchy with broader financial stability considerations. They require the Reserve Bank as resolution authority to respect the liquidation creditor hierarchy *but only* if doing so is 'not incompatible' with other higher-ranking purposes (such as delivering an orderly resolution, avoiding damage to the financial system and maintaining public confidence).²⁷
184. We would generally expect to follow the creditor hierarchy in most cases and would not look to impose losses on general creditors until the loss absorbing capacity of shares and subordinated debt was exhausted. However, if losses were so large that some did need to

²⁶ So long as the contribution was not more than the compensation the DCS would have had to pay to depositors in a hypothetical liquidation.

²⁷ DTA section 259 (1)(d). Under the BPSA, the statutory DTA manager was obliged to 'have regard to' the creditor hierarchy – BPSA section 121(1)(d).

be imposed on general creditors, maintaining the ranking of creditors may not be compatible with our financial stability objectives.²⁸

185. As there is no depositor preference in New Zealand, and most banks operate on a negative pledge basis, equal ranking 'general creditors' make up a large part of most deposit takers' liabilities (around 75% in many cases). A wide variety of claims are involved customer deposits, to derivatives contracts, trade credits and interbank transactions. Delaying recoveries or imposing losses will produce far more disruption to the financial system and broader economy in some cases (for example interbank claims through the payments system or payments to suppliers of critical operations), than others (for example, longer-term wholesale borrowing).
186. Loss allocation decisions will need to be made at the time of resolution by applying our crisis management purposes to the particular situation that has led to resolution action. However, applying a partial freeze to all unprotected transactional deposits would be a complex process that has the potential to create significant disruption and undermine public confidence, so it is unlikely to best align with our crisis management purposes in s 259. Given that we think imposing losses on unprotected transactional deposits is unlikely, we do not think any expected benefit justifies the cost of introducing the DCS-OBR integration functionality that we consulted on in 2024.
187. In drawing attention to the potential for departures from the creditor hierarchy in appropriate circumstances, it is important to remember that creditor safeguards are also included in the DTA. The NCWO provisions in Part 7, Subpart 9 provide that, if resolution produces a worse outcome for any particular creditor or shareholder than they would have achieved in liquidation, they are entitled to compensation.²⁹
188. Liquidation is the relevant counterfactual here because a deposit taker can only be placed in resolution when the circumstances of the distressed entity are so serious that there is no realistic prospect of it returning to viability without intervention.³⁰ Public intervention at this point (resolution) is likely to significantly improve prospects on average (i.e. create or preserve value) relative to the liquidation alternative. This value may not be distributed to creditors strictly according to the creditor hierarchy in all cases because trying to do so may undermine the resolution authority's ability to deliver its statutory purposes. Overall, though, all creditors are guaranteed at least as good an outcome from resolution as they would have received without public intervention – i.e. in liquidation.

²⁸ We note that this approach to loss absorbency is precisely in line with the *FSB Key Attributes of Effective Resolution Regimes for Financial Institutions*, section 5 'Safeguards'

²⁹ This compensation will be paid from the DCS fund as part of a contribution to resolution measure (s230). If the maximum amount payable under subpart 5 of Part 6 of the DTA is not sufficient to pay the entitlement, the Crown must provide the money necessary to pay compensation under s385.

³⁰ The grounds on which a licensed deposit taker may be declared in resolution are set out in [section 280](#) of the DTA. Refer also sections 368 and 373 of the DTA for the basis on which NCWO is assessed.

3.6 Crisis preparedness requirements and the consultations in Part B

189. The previous sections have explained the different elements of our crisis management framework under the DTA and how they relate to our proposed crisis preparedness requirements. This section summarises the key messages discussed in Part A of this document to set up for the detailed discussion of our proposals in Part B.

Crisis Preparedness Standard (Chapter 4)

Recovery and exit planning

190. As discussed in section 3.4, entity-led recovery is our preferred strategy for all deposit takers. This is because resolution is a complex and costly process that is seen as a last resort if recovery measures have failed. If distress can be addressed by recovery measures, without a deposit taker entering into resolution, that produces better outcomes for the deposit taker and better meets the DTA purposes.
191. Our proposed recovery planning requirements set out in Part B reflect this preference for recovery and the fact that recovery measures are primarily the responsibility of deposit takers. Recovery planning requirements are important for a deposit taker's own sake, but also can contribute to aspects of resolvability. For example, critical function identification and restructuring opportunities are important factors for both recovery and resolution.

Resolvability planning and pre-positioning

192. The proposed resolvability requirements set out principles-based outcomes deposit takers need to deliver so that they are ready to play their part in resolution.
193. These resolvability requirements are relevant to all the strategies in our crisis management framework, so every Group 1, 2, and 3 deposit taker (except for branches) will need to deliver the primary outcomes. However, the scale and scope of the activity required to do this will vary significantly according to the size, nature and complexity of the deposit taker's business.
194. We are developing a specific process for assisting deposit takers to comply with resolvability requirements that will involve interaction with the Reserve Bank over a considerable period of time so that we can develop tailored and efficient ways to deliver the capability required.
195. The proposed resolvability outcomes relate to:
- Financial management (modelling the liquidity support needed and being able to access it);
 - Operational continuity (ensuring there are no business or contractual barriers to providing key services in resolution);
 - Valuations (providing valuations to support the Reserve Bank's decision making);

- Data and systems (being able to access and share data that is relevant for resolution decision-making and operations);
- Restructuring and separation (considering the practicalities of likely restructuring processes, including the separability of relevant parts of the deposit takers business); and
- Governance and communications (planning how decisions would be made and communicated).

196. Our existing requirements for registered banks in BS11 (Outsourcing) and BS17 (OBR pre-positioning) are supporting standards that set out a sub-set of our proposed resolvability requirements (particularly relating to continuity in resolution), which will remain important elements of our crisis management approach under the DTA. While we are not re-consulting on the policy for the proposed Outsourcing Standard set out in the non-core standards consultation, we have revised our proposed approach to OBR pre-positioning/CoAD, which is discussed in Chapter 6.

Loss Absorbing Capacity requirements (Chapter 5)

197. As part of the recent capital review decisions, we decided to introduce a requirement for Group 1 deposit takers to issue Loss Absorbing Capacity instruments.

198. These instruments play an important role in our preferred crisis response for Group 1 deposit takers, by making it easier to downstream capital to the New Zealand bank from its corporate group.

199. The capital review decisions have already determined the broad parameters for these instruments.

200. In Chapter 5, we consult on the remaining design detail and the transition pathway for introducing the instruments. We also invite preliminary views on appropriate equivalent requirements for any future Group 1 deposit takers that are not wholly-owned subsidiaries of Australian banking groups.

Continuity of Access for Depositors - revised OBR pre-positioning (Chapter 6)

201. As discussed in section 3.5, we consider that the role of the CoAD tool needs to evolve in light of our new crisis management framework under the DTA. We see the key role of CoAD under the DTA as providing a stabilisation tool to support the continuity of access to deposits under a variety of our crisis response options. We are proposing to adjust our CoAD pre-positioning requirements to reflect this role.

Part B:

Proposed policies for consultation

Deposit Takers Crisis Preparedness Standard

Summary

202. Effective crisis preparedness reduces the likelihood of a deposit taker failing and makes it more likely that any failures can be dealt with in an orderly manner. It promotes the stability of the New Zealand financial system, limits the costs of crisis, and minimises the need to rely on taxpayer funds to deal with a deposit taker that is in financial distress.
203. The proposed Crisis Preparedness Standard would require deposit takers to prepare for financial distress or other difficulties.
204. We have applied a principles-based approach to the Standard by designing a set of high-level recovery and resolvability outcomes. To promote efficiencies and reduce costs, we intend to give deposit takers some flexibility to choose the way in which they achieve these outcomes, but we are proposing minimum requirements. We also set out some expected actions that could support these outcomes, depending on a deposit taker's circumstances.
205. This chapter sets out the key aspects of the Standard. Deposit takers in New Zealand (including branches) would be required to develop and maintain a recovery and exit plan, and locally incorporated deposit takers would be required to develop and maintain a resolvability implementation plan (all of these plans would need to be appropriate to the size, nature and complexity of the deposit taker's operations).
206. Deposit takers would be required to comply with recovery and exit planning requirements at the date the Standard commences, which is expected to be in late 2029. Deposit takers would not be required to meet all the resolvability outcomes until several years after the Standard commences and we will run an interactive process where deposit takers work with the Reserve Bank to identify tailored and efficient ways to deliver the required capabilities.
207. An important part of recovery and resolvability planning is to ensure the continuity of critical functions. We propose a definition of "critical functions" and describe how it relates to the definitions used in other DTA standards, including "critical operations" and "basic banking services". This responds to previous stakeholder feedback. Having a common understanding of the meaning of these terms will support the coherence and consistency of the standards as a whole.
208. We propose that all the requirements would be supported by effective review, testing and assurance processes, consistent with those in the Risk Management Standard where appropriate.
209. We propose to apply the overarching requirements in the Standard to all deposit takers in a way that is appropriate for the size, nature and complexity of their operations. Deposit takers with simpler business models will require less extensive pre-positioning. We intend to allow more outsourcing of crisis preparedness activities for Group 2 and Group 3 deposit takers, while branches would be permitted to leverage the planning activities led out of their home jurisdiction, if it is judged appropriate by the New Zealand CEO.
210. The resolvability activities of deposit takers would support the strategies described in the Reserve Bank's crisis response waterfall. In general, smaller deposit takers would have to

prepare for fewer resolution strategies, and, because of their simpler business models, take fewer actions to achieve resolvability outcomes.

4.1 Introduction

211. This chapter outlines our proposed approach and requirements for a crisis preparedness standard for deposit takers, to be made under sections 72 and 89 of the DTA. Effective crisis preparedness contributes to the safety and soundness of deposit takers by reducing the likelihood that a deposit taker will need to enter resolution. It also aims to avoid significant damage to the financial system by requiring deposit takers to prepare for resolution so that, if failure does occur, it can be managed in a more orderly manner. Resolution processes are typically complex, disruptive and inherently uncertain, often involving difficult trade-offs. Strengthening resolvability does not remove these challenges, but it helps to reduce their severity and supports more effective management of failure in a way that aligns with our statutory purposes.
212. The proposed Standard sets out requirements for deposit takers in New Zealand to develop and maintain:
- a recovery and exit plan; and
 - a resolvability implementation plan.
213. The Standard is intended to provide deposit takers with a framework for effective and comprehensive preparation for managing financial distress or other difficulties. It complements the preparations that the Reserve Bank is taking, as resolution authority, to effectively manage the failure of deposit takers in a way that reduces disruption and supports financial system stability (as covered in detail in Part A).

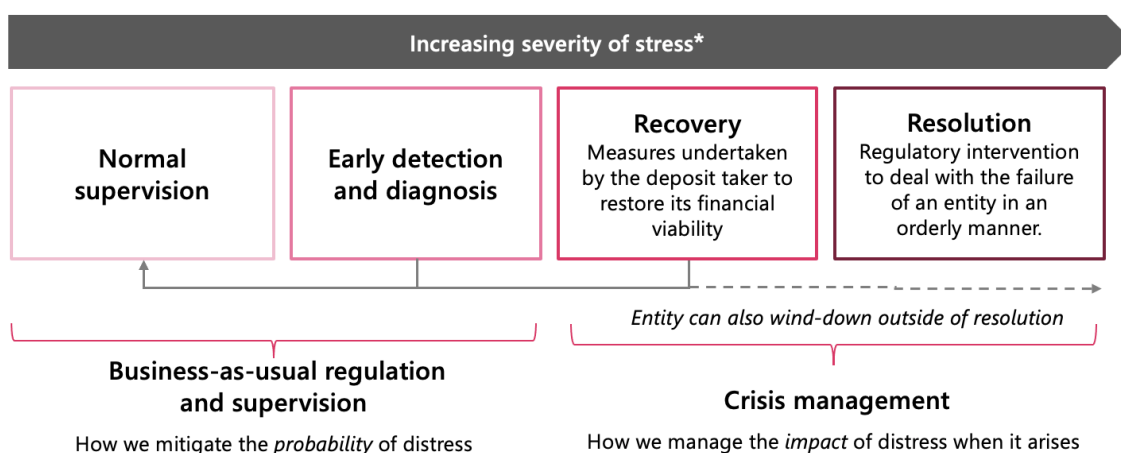
Purpose of the Crisis Preparedness Standard

214. The Standard aims to support deposit takers in effective preparation for financial distress and other difficulties, both by reducing the likelihood that a deposit taker enters resolution (through effective recovery and exit planning) and by increasing the likelihood that resolution occurs in a more orderly manner. Without appropriate preparations, deposit taker's recovery and resolution actions may need to be developed from scratch at a time when the deposit taker's management and staff are already under significant pressure. That could leave limited scope to establish the necessary data, systems, plans, processes and other arrangements needed for rapid and effective crisis management.
215. As explained in Part A, it is particularly important to regulate resolvability requirements because deposit takers' incentives to prepare for resolution may not be appropriately aligned with social outcomes. Deposit takers have more incentive to undertake recovery planning, and we expect many deposit takers will already have carried out some of the proposed recovery planning requirements. .
216. The DTA requires the Reserve Bank to act as the resolution authority for New Zealand. The resolution authority function must be carried out in a way that furthers the purposes set out

in section 259 which include enabling a licensed deposit taker in resolution to be dealt with in an orderly manner and supporting the provision of critical functions. Section 89 of the DTA empowers the Reserve Bank to issue standards that require deposit takers to undertake planning and processes to facilitate orderly resolution. That section also empowers a standard that requires deposit takers to prepare and maintain contingency and recovery plans.

217. The Standard is designed to be applied in a proportionate manner. Although we propose common outcomes for all deposit takers, we provide entities with the flexibility to meet those outcomes in ways that reflect the size, nature and complexity of their activities.
218. Recovery and resolution preparations are complementary to one another and often a single action by a deposit taker will increase its preparedness for both recovery and resolution. Figure 3 shows how recovery and resolution activities take place following early detection under increasing severity of stress.

Figure 3: A continuum of our staged responses to dealing with a distressed deposit taker



Outcomes of recovery and exit planning

219. The proposed recovery and exit planning requirements would ensure deposit takers:
- develop appropriate triggers and risk indicators for taking recovery and exit actions;
 - identify credible options for recovery and exit;
 - assess the options' feasibility and impacts; and
 - have governance arrangements in place to review and execute the recovery and exit plan.
220. Recovery and exit planning aim to ensure all deposit takers are prepared to manage the impact of financial distress if it occurs. Recovery is intended to restore financial soundness and minimise the likelihood of failure. Exit planning supports an orderly cessation of regulated activities where recovery is not viable. Enabling orderly exits may also help to maintain competition in the sector by reducing barriers to entry, exit and growth of market participants. Preparation during business as usual reduces disruption to depositors and the

financial system. It also lowers the costs of managing distress for both deposit takers and the Reserve Bank.

Outcomes of resolvability planning requirements

221. The Reserve Bank is required under section 260 of the DTA to prepare and maintain an orderly resolution plan for each licensed deposit taker. Part A of this paper explains a range of resolution strategies for different groups of deposit takers and provides indications of the kind of pre-positioning required to deliver those options.
222. The resolvability requirements in the standard will ensure deposit takers can play their part in our resolution strategies. They are designed to ensure that deposit takers have developed sufficient capabilities to enable resolution and removed any impediments. As noted above, resolvability planning cannot eliminate all the challenges of resolution, which is a complex and uncertain process, but it will mitigate the severity of those challenges.
223. We anticipate that most high-level resolvability outcomes will be relevant to all resolution strategies. However, how deposit takers achieve each outcome will differ depending on individual resolution plans.
224. A deposit taker would be responsible for determining that it had sufficiently achieved the outcomes, even if in some cases relatively little or no action was required to do this. While all deposit takers would be required to prepare and maintain a resolvability implementation plan, this will be matched to the nature, scale and complexity of its business so the process will be less demanding for smaller deposit takers.

Q1 Do you have any comments on the proposed purpose of the Crisis Preparedness Standard?

4.2 Current approach

225. Currently, the Reserve Bank has several policies relating to crisis preparedness for registered banks, such as the Outsourcing Policy (BS11), the OBR pre-positioning requirements (BS17), requirements to have a contingency funding plan in the Liquidity Policy (BS13) and the capital buffer response framework (**CBRF** – Part D1 of the Capital Adequacy Process Requirements BPR120). However, there are no comprehensive requirements for deposit takers to prepare for financial distress or other difficulties.

Recovery and exit

226. Under the current framework, some elements of recovery capability are addressed indirectly through the CBRF, liquidity contingency funding plans (**CFPs**), stress testing and risk management requirements. We also expect that many deposit takers will, in fact, have some form of recovery plan in place. The new requirements encourage deposit takers to bring these pieces together and formalise what we expect to see in recovery planning.

227. Currently, the CBRF sets out how we would respond to a registered bank whose solvency position has deteriorated to the point that it has begun drawing on its prudential capital buffers. It defines clear trigger points linked to capital ratios, prompting two sets of actions. One set is a series of dividend restrictions. The other set contains recovery actions such as the development of capital restoration plans. The CBRF aims to ensure early intervention, promote timely capital rebuilding, and reduce the risk of bank failure and was also designed to ensure that our approach was well communicated to deposit takers in advance of failure.
228. We are proposing to retain the thresholds and dividend restrictions in the Capital Standard. These are included in the exposure draft of that standard released at the same time as this consultation paper.
229. However, we propose that recovery actions should not be included in the Capital Standard. Instead, they will be set out in a combination of the recovery sections of the Crisis Preparedness Standard and, eventually, in the Statement of Approach to Resolution.

Resolvability

230. The Reserve Bank's existing approach to resolvability relies on requiring the most systemically important registered banks to pre-position themselves to support a more effective and orderly statutory management process.³¹ This includes requiring banks with net liabilities³² over \$10 billion (currently the five largest registered banks) to comply with the Outsourcing Policy (BS11) and requiring banks with retail deposits in excess of \$1 billion (currently the 10 largest banks) to comply with the Open Bank Resolution (**OBR**) Policy (BS17).
231. A key focus of the Outsourcing Policy is requiring banks to have risk mitigations in place for outsourcing arrangements so that they do not compromise the bank's ability to continue to provide basic banking services if placed in statutory management or if separated from its holding entity. Similarly, a key focus of the OBR Policy is ensuring that banks have the functionality in place to suspend access to a proportion of deposits and then re-open access to depositors' remaining funds. These are both important components of ensuring operational continuity in resolution.

Transition to standards commencing in 2028

232. When the new regime under the DTA commences in 2028, deposit takers that are currently required to comply with the Outsourcing Policy will instead be subject to the Outsourcing Standard. An exposure draft of the Outsourcing Standard has been published as part of the concurrent consultation on tranche 3 of the DTA standards.³³

³¹ The Banking (Prudential Supervision) Act 1989 includes a statutory management regime. This will be replaced with a resolution regime on commencement of the DTA

³² The definition of 'net liabilities' in the Outsourcing Policy excludes any amounts that the banking group owes to related parties

³³ <https://consultations.rbnz.govt.nz/dta-and-dcs/dta-standards-exposure-drafts-tranche-3>

233. We are also consulting on the policy related to revised requirements for deposit takers currently covered by the OBR pre-positioning policy. As set out in chapter 6, these requirements will be included in a new Continuity of Access to Deposits (**CoAD**) Standard that replaces the OBR Policy.
234. While the pre-positioning activities required under these two standards form an important component of internationally orthodox resolvability requirements, they are not a fully comprehensive package and will not be applicable to all deposit takers. We are therefore proposing that the new Crisis Preparedness Standard will build on these two standards and require a broader set of resolvability requirements that is aligned with international best practice.
235. The work required to comply with the resolvability requirements in the Crisis Preparedness Standard will also build on work done to meet the requirements of other DTA standards. For example, the Liquidity Standard will require deposit takers to prepare and maintain a contingency funding plan (**CFP**) to address an actual or potential shortfall in liquidity arising from financial or other difficulties. This would also be an expected action for deposit takers to achieve outcomes set out in the Crisis Preparedness Standard. However, we do not anticipate that deposit takers would need to produce separate CFPs to comply with both standards. Rather, deposit takers would be free to expand their existing CFP so that it also meets relevant crisis preparedness requirements.
236. Deposit takers would be required to comply with recovery and exit planning requirements at the date the Standard commences, which is expected to be in late 2029.
237. Developing resolvability preparedness needs to be an interactive process to ensure that what is delivered is tailored to each deposit takers' circumstances and is adequate for the Reserve Bank's most likely resolution options. The process for resolvability preparedness will take several years and will involve collaboration with the Reserve Bank's resolution team as we develop our orderly resolution plans for each deposit taker and iterate those plans in response to what we learn through the resolvability preparedness process. We are likely to begin the process of engaging with at least some deposit takers before the standard commences. We will not expect full compliance until the implementation process is complete some years after the rest of the DTA standards come into force (we describe the process in more detail later in this consultation).

4.3 Proposed policy development approach

238. We are proposing to develop a Crisis Preparedness Standard that sets out requirements to prepare deposit takers for recovery, exit and orderly resolution. This includes enabling the Reserve Bank to give effect to the relevant resolution strategy or strategies identified for each deposit taker.
239. We have used a variety of approaches to develop these proposed requirements. Firstly, we have reviewed international best practice, such as the Financial Stability Board's (**FSB**) Key Attributes of Effective Resolution Regimes for Financial Institutions (and associated guidance documents) and the Basel Core Principles issued by the BCBS. We have also looked at crisis

preparedness requirements in a number of comparable jurisdictions, including APRA's CPS 190 and CPS 900 and the Bank of England's recovery planning and resolvability assessment frameworks.

240. We also build on issues raised in our 2024 Crisis Management Issues Paper (the Issues Paper), taking into account industry submissions on that consultation. Our analysis considers the purposes in section 3 and section 259, and the principles set out in the DTA, wherever relevant.
241. We propose a balance of principles-based requirements and specific rules within the Crisis Preparedness Standard to capture essential foundational elements of effective crisis preparedness and provide entities with the flexibility to tailor their preparations to their circumstances. This means that, while the same requirements may apply for all deposit takers, requirements can be complied with in a way that reflects the size, nature and complexity of each deposit taker's business, promoting proportionality.
242. As with other standards issued under the DTA, we intend to develop guidance to support the Crisis Preparedness Standard. Guidance can provide examples of how to comply with each requirement for different types of deposit takers, including branches. This can help promote best practice, make the standard more user-friendly, further articulate our approach to proportionality and support compliance. The interactive process we are envisaging, discussed below, will also provide opportunities to clarify expectations.
243. The intention of this current consultation is to seek views on our policy intent while consultation on the exposure draft will determine the exact form (that is, the balance between text in standards and in guidance).

Proportionality

244. A fundamental decision in developing the Standard is whether to apply the requirements to all deposit takers. We do not operate a zero-failure regime and our approaches to supervision, recovery and resolution are all proportionate and risk-based. However, it is important that all deposit takers are adequately prepared for financial distress.
245. Inadequate preparation for distress increases the risk of failure and also the risk that any failure is not orderly.
246. We balance universal application by ensuring that any crisis preparedness activities are proportionate to the size, nature and complexity of a deposit taker's business.
247. We propose to do this in three ways:
1. A larger deposit taker's recovery and exit planning would be expected to include a broader range of options and those options will be more complex to assess. Planning work will be less resource intensive for smaller deposit takers.
 2. Meeting the resolvability outcomes is expected to be less resource-intensive for smaller deposit takers that have less-complex operations and are less likely to offer critical functions.

3. The more prescriptive pre-positioning requirements (i.e., Outsourcing and CoAD) will only apply to larger deposit takers.

Discounted options

248. We have considered several other options while developing our proposed approach to requirements in the Standard. The following options have been discounted for a range of reasons, including not adequately addressing the problem definition outlined above or achieving the purpose and principles of the DTA.

Status quo

249. As discussed earlier, the Reserve Bank already has some crisis preparedness requirements in place. However, these are somewhat fragmented across our framework. They are not fully compatible with international standards and are insufficient to enable us to meet our new responsibilities under the DTA. We have therefore discounted the status quo as an option.

A more prescriptive approach to crisis preparedness requirements

250. At a conceptual level, there is a range of approaches that regulators can take to support deposit takers to achieve crisis preparedness outcomes. International practice spans from more prescriptive models, which set out detailed and specific requirements, to more flexible, principles-based approaches that focus on achieving clearly articulated outcomes. Principles-based approaches allow entities more discretion in determining how to best meet both the recovery and resolvability outcomes and allow greater tailoring to particular deposit takers circumstances and business model.
251. More prescriptive regimes are common in parts of Europe, while jurisdictions such as Australia and Canada place greater emphasis on principles-based requirements, supported by engagement with the prudential supervisor or resolution authority.
252. We prefer a more flexible, principles-based approach to recovery and resolvability. A principles-based approach allows deposit takers to integrate crisis preparedness into their existing risk management frameworks, build on their current capabilities, and focus on achieving meaningful outcomes rather than complying with overly rigid rules that promote a one-size-fits-all approach. A principles-based approach also supports ongoing supervisory engagement and building a common understanding of a deposit taker's operations and crisis preparedness capabilities that will be important in a crisis or resolution event.
253. Principles-based requirements can place greater responsibility on deposit takers to determine how outcomes are achieved. We propose to reduce unnecessary compliance costs through a combination of careful drafting of requirements, transparent approval criteria where Reserve Bank approval is required, and the publication of guidance that illustrates how different types of deposit takers might meet the outcomes. There will also be plenty of opportunities for engagement as we work with deposit takers to implement necessary resolvability requirements over an extended period of time. This approach is intended to balance flexibility with regulatory certainty, while supporting proportionate and effective crisis preparedness.

Limiting resolvability pre-positioning to a single resolution strategy

254. Some jurisdictions that impose resolvability requirements on financial institutions only require entities to undertake pre-positioning in line with a single 'preferred resolution strategy' selected by the regulator.
255. International experience, particularly since the bank failures in 2023, has suggested that there is a greater need for flexibility and optionality in the selection of resolution strategies. In practice, resolution processes have often departed from the 'preferred strategy' that was the subject of pre-positioning. To ensure we have flexibility to carry out an effective and orderly resolution, we have discounted the option of only selecting a single resolution strategy for deposit takers and limiting pre-positioning requirements to that strategy. In some cases, deposit takers will be expected to be resolvable through more than one strategy. For other deposit takers, having robust recovery and exit options and pre-positioning for one resolution strategy may be sufficient.
256. As explained in part A, even though the preferred resolution approach for a Group 1 deposit taker will be a solution that keeps the group together, it is important to retain a credible fallback option for a stand-alone resolution. This requires Group 1 deposit takers to undertake pre-positioning to enable separation from the group and continuity of operations. Group 2 and Transactional Group 3 deposit takers (as described in the crisis response waterfall), may need to pre-position for both rapid sale and an orderly wind-down in some cases. Given the potential difficulties of achieving a sale in a small market, we think this is a reasonable approach, particularly as there will be significant overlap between the capabilities required for the different strategies.

Narrower application of the resolvability requirements

257. In the Issues Paper we noted that some deposit takers may not be in scope of any resolvability requirements other than pre-positioning for a Depositor Compensation Scheme (DCS) payout, as set out in the Single Depositor View (SDV) requirements in the DCS Standard. We have carefully considered scope as part of further policy development and do not propose to adopt an approach that limits the resolvability requirements in the Crisis Preparedness Standard to, for example, only Group 1 and 2 deposit takers.
258. All licensed deposit takers will be subject to an orderly resolution plan. To support the effective execution of those plans, all deposit takers must therefore meet resolvability outcomes relevant to their business model and resolution strategy or strategies. Restricting the application of resolvability requirements to only larger deposit takers would risk leaving gaps in the resolution framework and could undermine the orderly resolution of smaller deposit takers.
259. As explained in more detail in the section below on proportionality, the actions required to achieve the resolvability outcomes would be calibrated to the size, nature and complexity of each deposit taker. For smaller and less complex deposit takers – particularly those that do not have a material number of customers for whom they are the primary provider of banking services – resolvability requirements are expected to be significantly simpler. In many cases the requirements would focus primarily on data availability, rather than more

extensive pre-positioning. Proportionality is therefore achieved through the tailoring of outcomes and expectations, rather than by narrowing the scope of application of the Standard.

Disclosure of deposit taker resolvability

260. Another option we considered is whether to require the public disclosure of deposit taker resolvability assessments. Specifically, we considered whether deposit takers should publish periodic disclosures on progress in removing impediments and/or establishing the capabilities to meet the resolvability outcomes in the Standard. The rationale for such disclosure would be to introduce market discipline, enabling investors and other stakeholders to compare deposit takers' preparedness for resolution and factor this into decision making.
261. We have decided not to progress this option as we consider there is a risk of misunderstanding of inherently complex information, particularly given the relatively early stage of implementation. There is also a risk that disclosures could be read as providing a form of supervisory endorsement or ranking of deposit taker preparedness, potentially distorting competition or causing other unintended consequences. In addition, we consider it would impose unnecessary compliance costs at a time when deposit takers will already be required to undertake further crisis preparedness activities.
262. We consider that supervisory engagement and provision of information on a confidential basis to the Reserve Bank will be more effective tools for improving the resolvability of deposit takers. We expect in time to produce and publish thematic analysis of barriers to resolvability under anonymised analysis of deposit takers. We expect that this will be sufficient to support the proposed outcomes of resolvability planning. However, we may consider whether public disclosure by individual deposit takers is an appropriate option once the crisis preparedness framework is more established.

Q2 Do you have any comments on the discounted options and are there any other options that we should consider in developing the Crisis Preparedness Standard?

4.4 Policy proposals

Critical functions in recovery and resolution planning

263. As explained above, the policy proposals for the Crisis Preparedness Standard fall into two related areas:
- recovery and exit planning; and
 - resolvability pre-positioning.
264. Taking steps to ensure continuity of "critical functions" is an important component of crisis preparedness because it is particularly important that continuity of critical functions is protected in both recovery and resolution. We want to ensure that the Reserve Bank and

deposit takers have a common understanding of what these functions are. We therefore begin by setting out a proposed definition of “critical functions”, followed by a detailed explanation of the recovery and exit planning and resolvability requirements that we propose to include in the Standard.

265. As explained in more detail below, even where a deposit taker does not provide any critical functions, their resolution strategy may still provide for continuity of some services, e.g. as part of an orderly wind-down.

Proposed definition of “critical functions”

266. In the Issues Paper, we described the relevance of systemically important activities to the crisis management regime, and we proposed a definition of this term. The key driver for referring to systemically important activities was that this term appears in the purposes in section 259 of the DTA. These purposes refer, among other things, to “avoiding significant damage to the financial system that could result from a licensed deposit taker being in financial distress or other difficulties, including...by maintaining the continuity of systemically important activities”. We therefore proposed that each deposit taker would need to identify systemically important activities as part of recovery and resolvability planning under the Standard and to assist the Reserve Bank in preparing orderly resolution plans.
267. After considering the submissions on the Issues Paper and undertaking further analysis, we no longer consider that systemically important activities is the appropriate term to define for the purposes of a crisis preparedness standard. We consider this is better understood as a system-wide concept that helps inform the Reserve Bank’s overall approach to resolution, including the appropriate resolution strategies set out in the crisis response waterfall described in Part A of this consultation paper.
268. For the purposes of the Crisis Preparedness Standard, and what we expect individual deposit takers to consider for recovery and resolvability planning, we are proposing to use the term “critical functions”. This term is more commonly used internationally, including by the FSB in its Key Attributes of Effective Resolution Regimes for Financial Institutions. We consider that using this term enables us to align more closely with international best practice while still supporting the section 259 purposes.
269. We propose to use the following definition:

critical functions are activities undertaken by a licensed deposit taker for third parties where discontinuation of those activities could result in significant damage to the New Zealand financial system due to the deposit taker’s size or market share, interconnectedness, complexity or cross-border activities, having particular regard to the substitutability of those activities.

270. The specific activities that fall within this definition will vary depending on the nature and scope of an individual deposit taker’s business. However, in line with international guidance, we consider that activities that fall within the following categories could potentially be identified by deposit takers as critical functions:

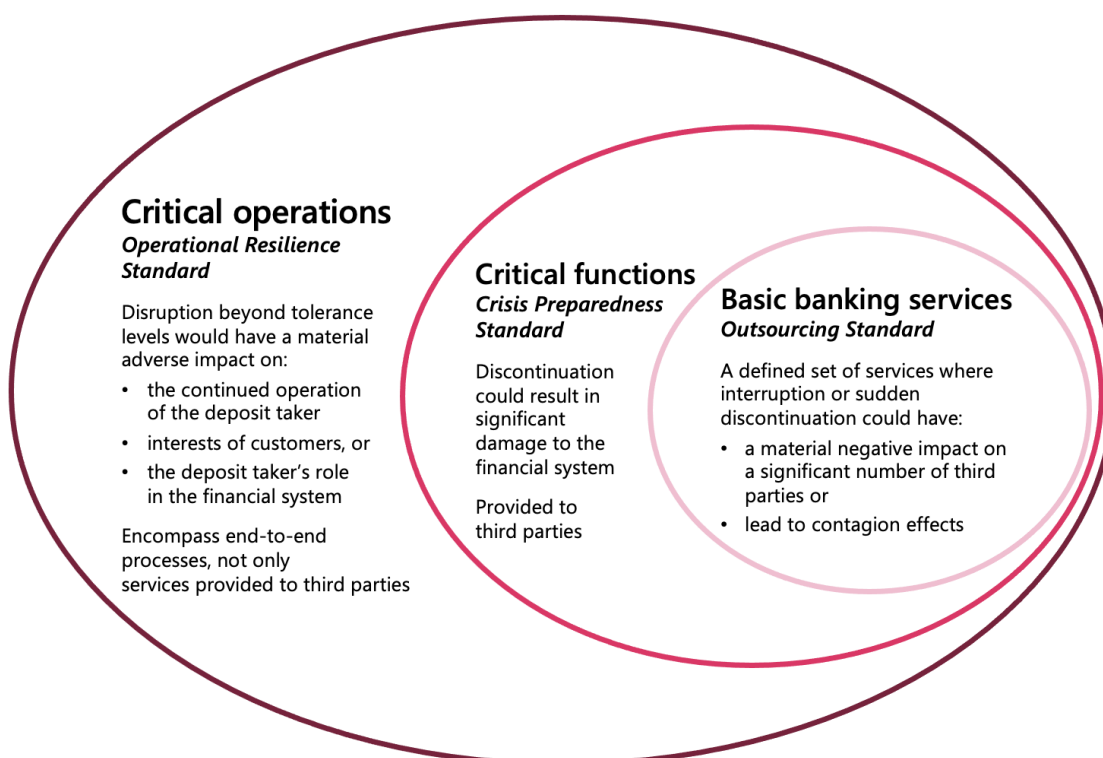
- deposit-taking

- lending and loan servicing
 - payments, clearing, custody and settling
 - roles in wholesale funding markets
 - securities issuance, trading and capital markets services.
271. All deposit takers would be required to assess whether they provide critical functions and, if so, identify those functions. Where a deposit taker provides critical functions, it would need to map these to the relevant business lines and underlying critical operations in its recovery and exit plan to ensure their continuity. To meet the resolvability outcomes in the Standard, the deposit taker would also need to take steps to ensure that they can continue to provide those critical functions if placed in resolution.
272. Even where a deposit taker does not provide critical functions as defined above (e.g., because of its size or market share), it would most likely still need to take steps to ensure it meets the resolvability outcome related to operational continuity. Exactly what steps it would need to take will depend on the relevant resolution strategy or strategies. In many cases, deposit takers who do not provide critical functions would need to identify which of their critical operations (as already identified under the Operational Resilience Standard) need to continue to ensure an orderly resolution. Continuation of these operations supports other elements of the section 259 purpose, including mitigating a loss of confidence in the financial system resulting from a deposit taker being in financial distress.
273. In the guidance that will accompany the Standard we will include expectations for deposit takers in relation to identification of their critical functions. This guidance will draw on established international frameworks and supervisory practice, including the FSB's Guidance on Identification of Critical Functions. This covers the criteria deposit takers should apply when assessing the criticality of their activities, including size, market share, interconnectedness, substitutability and the potential impact of discontinuation of these activities on the financial system.

Interaction between critical functions and related terminology

274. In the Issues Paper we noted that the concept of systemically important activities is related to other terms that will be used in DTA standards. This includes "critical operations" in the Operational Resilience Standard and "basic banking services" in the Outsourcing Standard. Some respondents to the Issues Paper requested clarity on how these different concepts will fit together and asked that we align terms where possible.
275. We agree that clarity is needed and have provided a detailed explanation of the relationships in Appendix B to this chapter. The Figure 3 provides a high-level overview of how the different concepts fit together. This particular depiction only applies to a deposit taker that (a) has identified critical functions and (b) is also subject to the requirements of the Outsourcing Standard (i.e. all Group 1 deposit takers and potentially some Group 2 deposit takers, depending on the size and nature of their business).

Figure 3: Relationship between critical functions, critical operations, and basic banking services



All deposit takers will have **critical operations**.

Where provided, the following (non-exhaustive list) must be classed as critical operations:

- payment of monetary claims
- acceptance of deposits and the ongoing administration
- custodial services
- settlements
- clearing

Where a deposit taker has **critical functions**, we expect these to be a subset of their critical operations.

Depending on the nature of a deposit taker's business, the critical operations and critical functions may include activities that fall outside the non-exhaustive list in the Operational Resilience Standard.

Critical operations that do not have a systemic impact and/or are not provided to third parties will not be critical functions.

The term **basic banking services** is only used in the Outsourcing Standard. Due to the size and nature of deposit takers covered by that Standard, we expect all basic banking services to be critical functions.

Critical functions may be wider than basic banking services for some deposit takers.

Q3 Do you have any comments on the proposed definition of critical functions?

Recovery and exit planning requirements

276. We propose to introduce recovery and exit planning requirements as part of the Crisis Preparedness Standard. All deposit takers would be required to prepare and maintain a

recovery and exit plan in advance to manage distress and support timely recovery or orderly exit.

277. The recovery and exit plan is expected to be comprehensive and realistic. It should consider a suitable range of distress scenarios and options for recovery or exit.
278. Table 3 summarises the proposed outcomes for recovery and exit plans, along with the actions that deposit takers would be required, or expected, to undertake to achieve each outcome. Consistent with the hybrid, principles-based approach adopted in other DTA standards, some actions would be specified as minimum requirements in the Standard itself. These are identified in the table as actions that the deposit taker must take. Other actions are included as supervisory expectations that may only be relevant in certain circumstances and would likely be set out in the accompanying guidance rather than the Standard.
279. We expect that deposit takers would share their recovery and exit plan with us when it is first approved by its board, and each time it is subsequently reviewed and approved by its board.

Description of the deposit taker

280. A recovery and exit plan would begin with a clear description of the deposit taker's legal and financial structure and any interconnectedness with a holding entity or group. The recovery plan would identify any critical functions that the deposit taker provides (see the proposals on critical functions). This would identify key dependencies, exposures or constraints that could influence the effectiveness of recovery or exit actions under stress. The recovery plan would identify the deposit taker's core business lines and the critical operations needed to support those business lines. This information is necessary to support the identification, assessment and execution of recovery and exit options.

Triggers and risk indicators

281. Deposit takers would be required to include effective recovery triggers and risk indicators in their recovery and exit plan that will help identify when early signs of financial or operational stress are developing. These triggers should be both qualitative and quantitative, and calibrated to both deposit taker-specific and systemic risks. Examples include measures related to capital, liquidity, profitability, asset quality, market conditions and macro-economic developments. Clear criteria should be articulated so that the deposit taker can recognise when implementation of its plan may be appropriate, rather than waiting until conditions deteriorate further.
282. We expect recovery and exit planning to make use of the policies and processes in a deposit taker's risk management framework. Triggers should be incorporated into the deposit taker's overall risk management frameworks and aligned with existing early warning indicators and internal triggers (such as triggers for Internal Capital Adequacy Assessment Process (**ICAAP**) or liquidity contingency funding plans (**CFP**)) and the deposit taker's risk policies.
283. We expect that the triggers and risk indicators used in recovery and exit planning would support a deposit taker in meeting its overall risk appetite. They would also support a

deposit taker in transitioning capital planning from business as usual (ICAAP) to managing a stress that could threaten viability. Triggers and risk indicators should not operate in a mechanical manner. We expect that deposit takers would not wait for triggers to be breached, should there be a need for timely action. Conversely, breaching a trigger would not result in an automatic pre-determined course of action.

Recovery and exit options

284. Central to the plan is a comprehensive suite of recovery and exit options that the deposit taker could implement across a range of stress scenarios. These options should encompass both tactical and strategic actions tailored to restoring viability and/or enabling an orderly exit from regulated activities. They might include measures to strengthen capital or liquidity, reduce costs, restructure assets, withdraw from certain product lines, or exit segments of the business. Each option should include detailed descriptions of necessary steps and arrangements to maintain operational continuity, including access to critical operations. Importantly, these options should not assume the availability of public financial support.
285. Not all deposit takers will have access to a broad range of recovery and exit options. Where an entity has limited credible options for restoring their financial resilience, we expect their plan would be more focused on exit options. We expect that larger and more complex deposit takers would have fewer credible options for exiting the market in an orderly and solvent manner and so would have a stronger focus on recovery planning.

Assessment of options

286. For each identified option, the plan should contain careful assessments of feasibility and potential impacts, both positive and negative. This involves evaluating how each option would benefit the deposit taker, the likely second-round effects, the time required to implement, and any material impediments to execution. Such assessments support decision-making under stress and facilitate pre-emptive action.

Governance and communications

287. Finally, the plan should set out clear governance arrangements for how the plan is developed, maintained, activated and implemented, including the roles and responsibilities of boards and senior executives. Deposit takers would also be required to have policies and procedures in place to regularly review, update and test plans. We would expect deposit takers to integrate their recovery and exit plan and planning process with their existing arrangements (e.g., risk management framework, stress testing, ICAAP and CFP). Leveraging existing arrangements helps minimise unnecessary compliance costs from duplication. If a deposit taker is a subsidiary of an overseas deposit taker, they would be expected to demonstrate how their recovery plan is consistent and coordinated with a group-level recovery and exit plan.

Application to branches

288. Branches would be required to develop, maintain and provide the Reserve Bank with a recovery and exit plan that considers how its business in New Zealand would respond to the deposit taker being in financial distress. Branches would be able to use a group recovery and exit plan for this purpose, so long as the New Zealand CEO is satisfied that the New Zealand specific requirements are met in respect of its New Zealand operations. Some components that a New Zealand CEO might consider when determining whether the group plan is sufficient for the New Zealand context include whether it has:

- a description of the branch’s regulated activities, including its critical functions and key supporting functions;
- an explanation of which recovery options and triggers in the group plan are relevant to which part of the branch’s New Zealand activity and how;
- an explanation of the governance and planning arrangements that have been put in place within the branch and the group to ensure the effective delivery of the recovery and exit plan.³⁴

289. We will use this information to assess any critical functions the branch may provide and the potential impact of the branch’s failure on the New Zealand financial system and develop a proportionate approach to managing the branch’s distress. (See also the “Test, review and update and assurance” section)

290. In most cases, we expect crisis responses to be led by the branch’s home authority, and we may take action to support the home authority’s response. However, where a branch’s failure could have a significant impact on the New Zealand financial system, we may take a more active role in response and coordination.

291. We have taken into account feedback from industry on how recovery and exit planning requirements should apply to branches. This proposal clarifies our intended approach and addresses the key concerns raised.

Table 3: A summary of the proposed outcomes of a recovery and exit plan with expected activity

Outcomes	Expected activity to achieve outcome
<p>Identification of scope and critical functions</p> <p>Adequately define the scope of the recovery and exit plan and identify critical functions and underlying supporting functions</p>	<p>Deposit takers must:</p> <ul style="list-style-type: none"> • provide a brief general characterisation of the deposit taker and entities covered by the recovery and exit plan; • map critical functions and underlying supporting functions including critical operations and business lines; • provide a description of the relevant legal and financial structures of the deposit taker and related entities, including

³⁴ Where the branch CEO determines that the group plan is not sufficient, it would be acceptable to provide the group plan together with an additional document setting out relevant additional actions or details.

Outcomes	Expected activity to achieve outcome
<p>Triggers and risk indicators:</p> <p>Supporting the timely and accurate identification of financial distress or other stress for the activation of the recovery and exit options</p>	<p>interconnectedness with the deposit taker’s parent, if applicable; and</p> <ul style="list-style-type: none"> provide a description of external interconnectedness (for example large exposures) <p>Deposit takers must:</p> <ul style="list-style-type: none"> develop, maintain and review qualitative and quantitative risk indicators to identify when a situation is developing that may require the deposit taker to take a recovery action or to make a strategic decision to exit; and develop, maintain and review qualitative and quantitative criteria to trigger the implementation of the recovery and exit plan. <p>The indicators and criteria would be expected to include those of both systemic/market-wide and firm-specific/idiosyncratic, such as:</p> <ul style="list-style-type: none"> capital liquidity profitability asset quality market conditions macroeconomic conditions <p>The triggers and indicators should be appropriately calibrated to the options in the recovery and exit plan and the level of pre-positioning that has been taken to prepare for these.</p>
<p>Recovery and exit options:</p> <p>Having a range of credible and effective options in place at all times that could be activated in distress</p>	<p>Deposit takers must:</p> <ul style="list-style-type: none"> develop and maintain a range of recovery and exit options ranging from the moderate to the more severe, to respond to different financial stress scenarios. <p>This would be expected to include:</p> <ul style="list-style-type: none"> a description of each option with actions, arrangements, measures and steps necessary to restore the financial position and viability, or cease regulated activities with minimum adverse impacts; and arrangements and measures to ensure continuity of critical operations and critical functions (where identified). <p>Options could consist of one or more actions, arrangements and measures to:</p> <ul style="list-style-type: none"> strengthen the capital position of the deposit taker (e.g., raise new capital, employ capital conservation measures);

Outcomes	Expected activity to achieve outcome
	<ul style="list-style-type: none"> • strengthen the liquidity position of the deposit taker (e.g., pledge assets as collateral, voluntary restructuring of liabilities); • reduce operational costs of the deposit taker (e.g., reduce remuneration expenses, particularly discretionary remuneration); • restructure the business model of the deposit taker (e.g., sell assets or business units); or • exit from regulated activities. <p>Recovery and exit options should not assume that public support, such as government funding, will be available.</p>

Assessment of options:

For each option, an assessment of the feasibility and impact, as well as processes for credible and timely activation are considered

Deposit takers must:

- undertake feasibility and impact assessments of each option.

We expect this assessment could include:

- expected benefits and costs of the option under different scenarios;
- time needed to implement the option;
- a detailed description of any material impediment to the effective and timely execution of each option;
- assessments as to whether each option is credible and could be activated in time, such as through scenario analysis and simulation exercises.

Governance and communications:

Having governance and communication arrangements in place all the time so that deposit takers can make timely decisions to support an effective recovery or exit and to communicate accurate and relevant information to stakeholders

Deposit takers must:

- develop and maintain internal and external communication strategies; and
- develop and maintain appropriate governance arrangements for recovery and exit planning, including in a crisis event.

We expect that these strategies and arrangements could include:

- how and when the communications and governance strategies would be implemented;
- specific communication needs for individual recovery options, such as managing any potential negative market reactions;
- appropriate documentation of the plan, including policies and procedures for both approval and activation; and
- descriptions of any relationship with recovery and exit planning by associated persons, including holding entities and subsidiaries.

Test, review, update and assurance

292. We propose that a deposit taker would be required to ensure that systems, processes and controls associated with the recovery plan are adequate, effective and appropriate, having regard to the size, nature and complexity of the deposit taker's business. This includes the procedures and arrangements used both to develop the plan, revise it when relevant changes take place to the deposit taker's business, monitor relevant triggers, and support implementation. The deposit taker would also need to ensure that the plan is subject to periodic testing to assess its effectiveness, and that it is reviewed, updated and approved by its board on a regular basis.
293. The proposed approach to review and assurance is broadly consistent with the approach set out in the Risk Management Standard. Under that standard, a deposit taker's risk function is responsible for developing and maintaining the risk management framework. The deposit taker's internal audit function is responsible for reviewing the framework.
294. We recognise that recovery and exit planning is a more specialised activity than general risk management. Accordingly, our proposals do not expect smaller or less complex deposit takers to maintain the same level of in-house capability for recovery and exit planning as larger deposit takers. Group 2 and 3 deposit takers would therefore be permitted under the Standard to engage an appropriately qualified third party to undertake the required reviews of recovery and exit planning arrangements. Branches would be able to rely on the staffing capacity and capability of either the overseas deposit taker or its parent entity located outside New Zealand. Group 1 deposit takers would be required to have in-house capability to perform these reviews. This approach is broadly consistent with international supervisory practice.
295. In terms of frequency of review for recovery and exit planning, Group 1 deposit takers would be required to review and update their plan at least annually, unless there are material changes to the deposit taker's business model or structure. This approach is consistent with international standards and reflects the potential impact of these deposit takers on the financial system.
296. For Group 2 and Group 3 deposit takers, we propose a lower minimum review and testing frequency, at least once every three years.
297. These reviews would be undertaken by appropriately qualified staff, whether they are internal employees of the deposit taker or an external specialist. The results of the review would then be reported to the board of the deposit taker in a timely manner.
298. For branches, we propose that the New Zealand CEO may determine that the previous year's plan remains appropriate where the deposit taker's prudential state, business model or structure has not changed materially year on year. Where the plan is updated, the New Zealand CEO would be responsible for providing the Reserve Bank with the updated plan.
299. The Reserve Bank will also assess deposit takers' recovery and exit plans from time to time to ensure they are credible, implementable and reflective of the deposit taker's business model,

risk profile and systemic importance. We may also coordinate with relevant overseas authorities where appropriate.

Activating the recovery and exit plan

Phase 1 – executing the plan

300. Once a deposit taker's trigger conditions have been met, we would expect it to begin implementing appropriate measures, which may be selected from the options contained in its recovery and exit plan. The deposit taker would be required to notify the Reserve Bank that its recovery plan had been activated. It would be placed under heightened supervision and would be engaging frequently with Reserve Bank supervisors to explain how it was using its pre-positioned recovery options. This replaces the existing CBRF policy which assumes a deposit taker would need to create a recovery plan at this point. The existence of a recovery plan with well-defined, pre-positioned options at this point is a key advantage of the new requirements.

Phase 2 – developing and executing a targeted recovery plan

301. We propose that deposit takers would be required to take additional actions if either:

- initial recovery actions are judged by Reserve Bank supervisors to not have prevented significant further deterioration in the deposit taker's financial condition; or
- a deposit taker's additional capital ratio falls to a level such that it cannot distribute more than 30% of its net profit in respect of tier 1 securities, as in clause 39(2)(c) of the Capital Standard exposure draft (currently described as 'stage 2' in the Capital Buffer Response framework – capital levels for this trigger vary across different groups of deposit takers).

302. At this point the deposit taker would be required to produce a new targeted recovery plan, drawing on its existing recovery and exit plan. This targeted plan would be focused on the specific situation the deposit taker finds itself in, including the reasons why pre-existing recovery actions have not yet returned the deposit taker to a sustainable financial position.

303. This targeted recovery plan would:

- explain the deposit taker's diagnosis of its current situation, including why previous recovery actions have not yet restored the deposit taker to a sound financial position;
- set out a well-defined plan to urgently remedy the situation, including dealing with all concerns raised by Reserve Bank supervisors;
- include clear, monitorable timelines for implementation and outcome targets;
- be approved by the deposit taker's Board; and
- be provided to the Reserve Bank within the Reserve Bank's specified timeline.

304. The Reserve Bank would either approve the targeted plan or require further changes to be made to it to remedy any weaknesses. The deposit taker would then be required to implement the Reserve Bank's approved plan.

305. In a situation where a deposit taker fails to implement its targeted recovery plan, the Reserve Bank is likely to respond using its enforcement powers or other crisis management powers (in accordance with the enforcement framework and other appropriate procedures).

Q4 Do you have any comments on the proposed requirements for deposit takers to prepare and maintain effective recovery and exit plans?

Resolvability requirements for locally incorporated deposit takers

306. We propose that the Crisis Preparedness Standard would contain a set of overarching resolvability outcomes, tailored to the relevant resolution strategy or strategies for each deposit taker. While we would expect all the high-level outcomes to be relevant to most deposit takers, there will be circumstances where a particular outcome is not relevant to a deposit taker (e.g. the outcome related to restructuring would not be relevant where restructuring is not part of a deposit taker's orderly resolution plan). In this case, the deposit taker would be responsible for determining that it had sufficiently achieved the outcome, even if relatively little or no action was required to do this.

307. The proposed resolvability outcomes are set out in Table 4. As with the recovery and exit planning outcomes, we are proposing to adopt a hybrid, principles-based approach. Some of the resolvability outcomes described below would have associated minimum requirements set out in the Standard. Other actions are included below as supervisory expectations that may only be relevant in certain circumstances and would be set out in the accompanying guidance rather than the Standard.

308. The exact wording of outcomes and requirements will be developed at the exposure draft stage of the Crisis Preparedness Standard. The wording below is indicative and for the purposes of policy consultation. Deposit takers would be able to draw on work undertaken to comply with other DTA standards in order to meet the resolvability outcomes.

Table 4: Proposed resolvability outcomes

Outcomes	Expected activity to achieve outcome
<p>Financial management:</p> <p>estimate and monitor funding requirements to support the resolution strategy</p>	<p>A deposit taker must have:</p> <ul style="list-style-type: none"> • a methodology for estimating liquidity needs to support the resolution strategy or strategies; • processes for monitoring and reporting funding needs and sources; • for Group 1, processes to support the effective write-off of loss absorbing capacity, where relevant to the resolution strategy; • processes for identifying assets that can be mobilised as collateral to support funding needs in resolution; and

Outcomes	Expected activity to achieve outcome
<p>Operational continuity:</p> <p>maintain the necessary operational capabilities to support the resolution strategy, including continuity of critical functions and critical operations as needed</p>	<ul style="list-style-type: none"> • processes for mobilising these assets at pace (for example, rapid securitisation) if required during resolution <p>A deposit taker must:</p> <ul style="list-style-type: none"> • identify whether it provides any critical functions and, if so: <ul style="list-style-type: none"> – develop and maintain a register of those functions (noting that this exercise should have been completed as part of recovery planning) – map critical functions to the critical operations needed to support those functions and identify which critical operations are provided by a third party (noting that deposit takers will have already identified critical operations and material service providers as part of compliance with the Operational Resilience Standard); – map critical functions to the FMI services needed to support those functions; – make contingency plans or other arrangements to ensure continued access to critical operations provided by a third party and to FMI services; <p>A deposit taker that does not provide critical functions must:</p> <ul style="list-style-type: none"> • identify which, if any, of its critical operations need to continue to support the resolution strategy; and • take steps to ensure that sub-set of critical operations (including underlying systems and essential staff) can continue in resolution.
<p>Valuations:</p> <p>produce timely and accurate valuations to support resolution</p>	<p>A deposit taker must ensure its valuation data:</p> <ul style="list-style-type: none"> • can be made available in a timely manner to the resolution manager/authority and potential buyers; <p>We expect that, proportionate to the nature, size and complexity of the deposit taker, valuation data:</p> <ul style="list-style-type: none"> • can be analysed rapidly by the deposit taker to deliver necessary valuations, using models that are flexible enough to explore different valuation assumptions; • can determine whether it is failing or likely to fail; • can determine the quantity of any capital shortfall; • can support a comparison with a ‘No Creditor Worse Off’ valuation; and • is generated through systems that are supported by appropriate governance and independent review.

Outcomes	Expected activity to achieve outcome
<p>Data and Systems:</p> <p>produce timely and accurate data to support resolution</p>	<p>A deposit taker must be able to stand up “data room” capabilities that would allow it to:</p> <ul style="list-style-type: none"> • promptly generate accurate information for the resolution manager/authority; • provide access to management information systems to the resolution manager/authority; and • promptly generate accurate information for a DCS payout.
<p>Restructuring and separation:</p> <p>be prepared to implement restructuring or a separation plan where necessary to support the resolution strategy</p>	<p>Where relevant to a deposit taker’s resolution strategy or strategies, a deposit taker must be able to:</p> <ul style="list-style-type: none"> • identify options to simplify their corporate structure and make preparations for a separation or restructure; • have the ability to promptly separate identified business lines, including from its holding entity where relevant
<p>Governance and communications:</p> <p>make timely decisions to support an orderly resolution process and effectively communicate accurate and relevant information to stakeholders</p>	<p>A deposit taker must:</p> <ul style="list-style-type: none"> • establish a resolution decision-making and accountability structure that is designed to operate under periods of stress, both before and during the period of resolution, and that can support the resolution manager; • develop and maintain a communications plan for each stage of the resolution process. <p>We expect that governance and communications arrangements could include:</p> <ul style="list-style-type: none"> • documentation of resolution execution procedures (commonly referred to as ‘resolution playbooks’), proportionate to the relevant resolution strategy or strategies • clearly defined roles and responsibilities within the governance structure, with oversight from the Board; • processes and responsibilities for deciding: • when to transition from recovery to early resolution; • when to notify the Reserve Bank of the point of non-viability; • when to issue communications as per the communications plan

Q5 Do you have any comments on the proposed resolvability outcomes and associated requirements and expectations?

Proposed process for locally incorporated deposit takers to meet the resolvability outcomes

309. Once the Standard commences, locally incorporated deposit takers would be required to begin working towards achieving the resolvability outcomes. Experience from overseas supervisors suggests that this will take several years of collaboration between the Reserve Bank and a deposit taker for that deposit taker to achieve the outcomes. As noted earlier, we expect to engage with deposit takers on resolution planning before the Standard commences. However, the proposed process described below starts from the point at which a deposit taker is formally required to begin planning.
310. We are proposing an outcomes-focused, proportionate, and iterative process for deposit takers to improve their resolvability. This process would allow both deposit takers and the Reserve Bank to refine their understanding of what is needed to support a more orderly resolution over time. This is necessary to ensure that the plans are both practical and effective. Flexibility would be built into the process so that there is opportunity to adapt both the deposit takers' Resolution Implementation Plans (**RIPs**) (described below) and the Reserve Bank's orderly resolution plans as more information comes to light. We envisage that the process would involve the following stages:
- Deposit taker develops a RIP
 - Deposit taker seeks Reserve Bank approval of the RIP
 - Deposit taker executes the RIP
 - Deposit taker seeks Reserve Bank approval to transition from 'building resolution capability' to 'maintaining resolution capability'
311. There would also be review and assurance requirements during execution of the RIP and during ongoing maintenance of resolvability.
312. As we are still at the policy development stage, we have not yet determined how much of the proposed process would be built directly into the Crisis Preparedness Standard as opposed to forming part of guidance or our supervisory approach. We elaborate on each of these stages below.

Stage 1: Develop Resolvability Implementation Plan (RIP)

313. The Crisis Preparedness Standard would require all deposit takers to develop and maintain a RIP that sets out the steps they would take to achieve the resolvability outcomes set out above. The RIP will be complementary to the orderly resolution plan that the Reserve Bank will prepare and maintain for each deposit taker under s260 of the DTA. We have carefully considered the approach of APRA and other overseas regulators in developing this proposal.
314. As noted above, we propose an iterative process for development of the RIP whereby deposit takers engage regularly with the Reserve Bank who will share information about development of the individual orderly resolution plans. Deposit takers would therefore not be required to have prepared the RIP on commencement of the Crisis Preparedness

Standard. There would be a transition period for that requirement to come into effect, and we are considering options for how best to reflect that in the Standard.

315. One option may be to include a trigger clause in the Standard to enable the Reserve Bank to formally request a deposit taker to start preparing the RIP and submit it for approval within a specified timeframe. This is similar to the approach taken by APRA in its prudential standard on resolution planning (CPS 900). This would enable time for bilateral engagements to take place with deposit takers so that they have more certainty before undertaking significant work to comply with the resolvability requirements in the Crisis Preparedness Standard. Alternatively, the Standard could include a specific time period (e.g. 12 months) between the commencement of the Crisis Preparedness Standard and all deposit takers needing to have prepared and submitted their RIP.

Stage 2: Reserve Bank approval of the RIP

316. All deposit takers would be required to formally submit their RIP to the Reserve Bank for approval after first gaining approval from their board of directors. To support transparency, the Crisis Preparedness Standard would include a set of criteria that the Reserve Bank must have regard to when deciding whether to approve a RIP, as well as a process whereby changes can be requested before resubmission of the RIP. The Reserve Bank's approval of a RIP can be thought of as agreement with a deposit taker's proposed process for achieving the resolvability outcomes.

317. We propose that the criteria should include:

- 1. Alignment with resolvability outcomes:** the extent to which the RIP clearly demonstrates how the deposit taker proposes to achieve the relevant resolvability outcomes, having regard to the applicable resolution strategy or strategies.
- 2. Identification and treatment of impediments:** whether the RIP clearly identifies material impediments to resolvability and sets out credible actions to remove or mitigate those impediments.
- 3. Credibility and feasibility:** the extent to which the actions set out in the RIP are credible, feasible and appropriately sequenced, with realistic timeframes.
- 4. Governance and oversight:** whether the RIP is supported by appropriate governance arrangements to ensure effective execution

Stage 3: Deposit taker executes the RIP

318. On receiving approval from the Reserve Bank, it would be the responsibility of each deposit taker to meet the resolvability outcomes in the Standard. This would include executing the actions described in their RIP over the agreed timeframe. Given the iterative nature of the process, deposit takers would likely have already begun developing capabilities or removing impediments to resolution prior to the Reserve Bank's formal approval. However, it would not be until after the Reserve Bank's approval that deposit takers would be required to provide review and assurance regarding execution of the RIPs (as explained below).

319. We envisage there will be ongoing discussions between the Reserve Bank and deposit takers during execution of the RIP. This enables transparency of any changes to a deposit taker's business or operations that may necessitate amendment to either the orderly resolution plan or the RIP.

Stage 4: Reserve Bank approval to transition to ongoing maintenance of resolvability

320. When a deposit taker considers it has credibly executed all or a substantial amount of its RIP it would be able to seek the Reserve Bank's approval to transition from the 'build' phase of resolvability to an ongoing 'maintenance' phase. As explained above, we expect that there would be ongoing discussions between the Reserve Bank and deposit takers during execution of the RIP and the iterative development of orderly resolution plans. We consider that these discussions would involve when would be the most appropriate time for a deposit taker to formally apply to transition to this maintenance phase.

321. The Reserve Bank's approval of transition to maintenance can be thought of as agreement that a deposit taker has completed the process towards achieving the resolvability outcomes and now must only undertake maintenance activity. As explained earlier, achieving resolvability outcomes does not automatically mean that any future resolution process will not be complex. Meeting resolvability outcomes is intended to reduce that complexity and support more effective management of a failure in a way that aligns with our statutory purposes.

322. As with approval of the RIP itself, to ensure transparency, the Crisis Preparedness Standard would include a set of criteria that the Reserve Bank must have regard to when deciding whether to approve transitioning to ongoing maintenance.

323. We propose that the criteria should include:

- 1. Delivery against the approved RIP:** the extent to which the actions set out in the approved RIP have been implemented or are otherwise no longer required to achieve the relevant resolvability outcomes.
- 2. Achievement of resolvability outcomes:** whether the deposit taker can credibly demonstrate that the applicable resolvability outcomes have been achieved, having regard to the relevant resolution strategy or strategies. Given that circumstances can change during execution of the RIP, this criterion will be given more weight than simply delivering on actions in the plan.
- 3. Sustainability of capability:** whether resolvability capabilities are embedded within business-as-usual governance, systems and processes, such that they can be sustainably maintained over time.
- 4. Governance and ongoing oversight:** whether there is clear ownership and accountability for maintaining resolvability capability, with appropriate Board oversight and review arrangements

324. In granting approval, the Reserve Bank would not be certifying that the deposit taker is 'resolvable' or that no further work is required. Instead, it provides acknowledgement that the deposit taker has established a level of resolution capability that can be sustainably

maintained over time. Following this transition, supervisory engagement would shift from intensive implementation oversight to a focus on maintenance, including periodic review, testing and updates to ensure that resolution capabilities remain effective as the deposit taker's business and/or resolution strategy evolve.

Test, review and assurance

325. We propose a phased approach to testing, review and assurance for resolvability that aligns with the lifecycle of the RIP and the transition from building to maintaining resolution capability, as explained above.
326. Following approval of a RIP by the Reserve Bank, a deposit taker would be expected to monitor delivery against the plan and report to its Board on progress and any material issues with execution. We would also expect engagement with the Reserve Bank during this time, particularly where there are significant changes, delays or emerging impediments to execution.
327. Once a deposit taker has received approval to transition to the ongoing maintenance phase, review and testing would focus on ensuring that resolvability capabilities remain effective and sustainable over time. This would include periodic review of key resolution capabilities, targeted testing or simulation exercises (such as governance or decision-making exercises), and updates to resolution playbooks, particularly following material changes to the deposit taker's business, structure or operating environment.
328. Consistent with the approach taken for recovery and exit planning, we propose that Group 1 deposit takers would be required to review and test their resolvability capabilities annually, unless there are material changes to the deposit taker's business model or structure.
329. For Group 2 and Group 3 deposit takers, we propose a lower minimum review and testing frequency, at least once every three years. These reviews would need to be undertaken by appropriately qualified staff, whether they are internal employees of the deposit taker or an external specialist. The results of the review would be reported to the board of the deposit taker in a timely manner.

Q6 Do you have any comments on the proposed requirements for deposit takers to prepare and maintain resolvability implementation plans?

Q7 What is a realistic timeline for deposit takers to meet the resolvability outcomes in the Crisis Preparedness Standard?

How this process fits with implementation of other DTA Standards

330. As noted above, the Crisis Preparedness Standard would contain a broad set of resolvability outcomes that, in some cases, build on requirements in other DTA standards that will commence before the Crisis Preparedness Standard. The Figures 4 and 5 below set out when different resolvability related requirements will come into effect under the Outsourcing, Continuity of Access to Deposits and Crisis Preparedness Standards. We also refer to the Operational Resilience Standard because the requirement to identify critical

operations and material service providers under that Standard would be an important component of achieving the operational continuity outcome in the Crisis Preparedness Standard. We note that requirements in other DTA standards would also be relevant but, for simplicity, we have not included all of these in the figure.

331. The Capital Standard exposure draft proposes that capital overlays can be imposed by licence condition when necessary or desirable in certain circumstances. This could include when deposit takers do not meet minimum standards relating to governance, risk management or recovery and resolvability planning. That exposure draft is open for consultation during the same time period as this consultation paper.
332. The Figure 4 below relates to the period between issuing the majority of DTA standards in May 2027 and commencing the Crisis Preparedness Standard (Phase 1). The Figure 5 sets out the proposed process once the Crisis Preparedness Standard has commenced (Phase 2). The date of commencement is yet to be confirmed but would be no earlier than December 2029. If there is a later commencement date, all subsequent dates would change accordingly.

Figure 4: Process for meeting the resolvability outcomes before commencement of the Crisis Preparedness Standard (Phase 1)

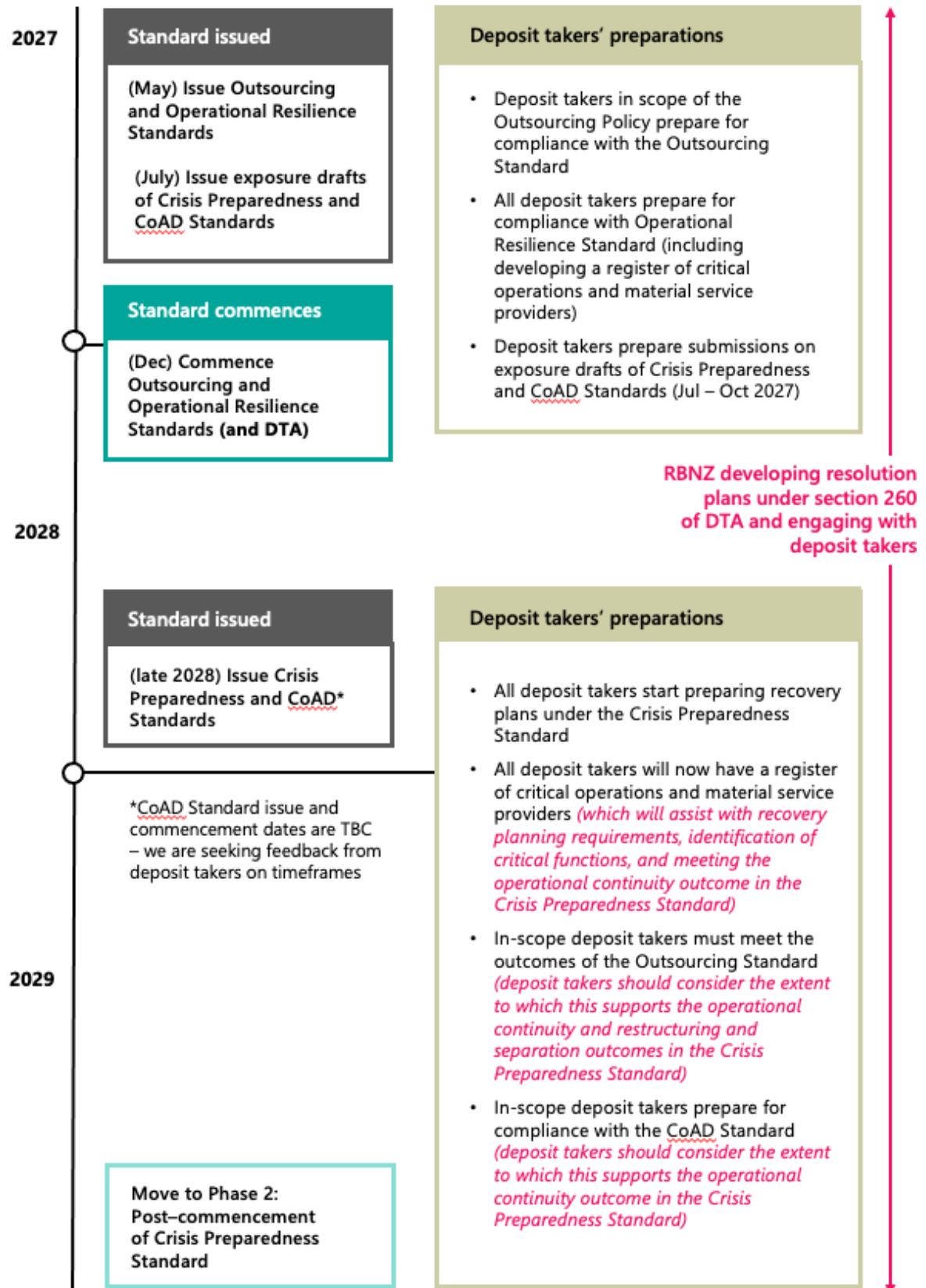
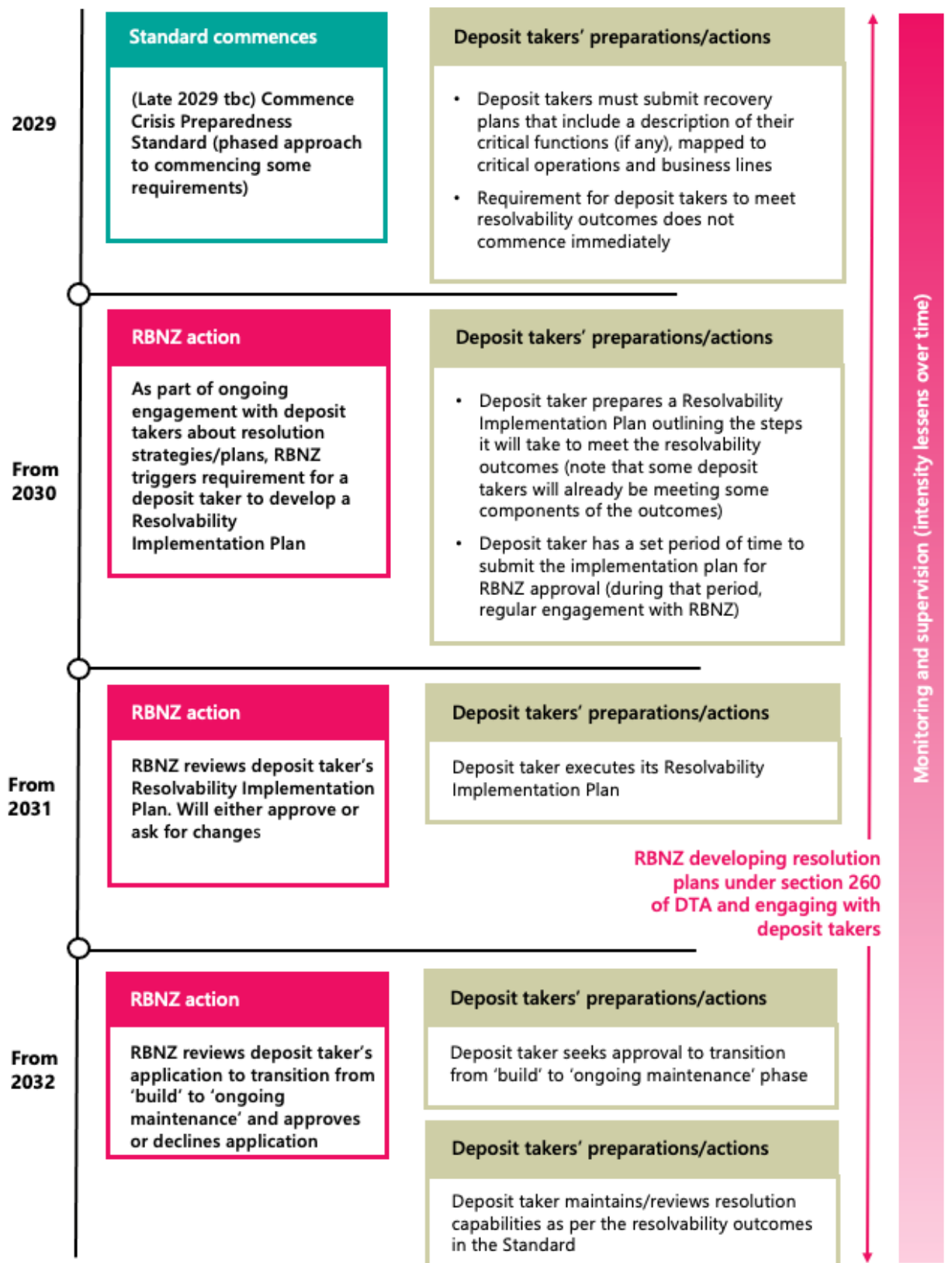


Figure 5: Process for meeting the resolvability outcomes after commencement of the Crisis Preparedness Standard (Phase 2)



Resolvability requirements for branches

333. Once the Standard commences, branches would be required to provide the Reserve Bank with the resolution plan applying in their home jurisdiction, and a supporting document that explains how that plan applies to the branch's regulated activities in New Zealand (including any critical functions the branch may carry out in New Zealand). However, there would be an exemption from this requirement where the resolution plan has been developed by the home authority and has not been shared with the deposit taker. In that situation the Reserve Bank may seek to discuss the resolution plan with the home authority itself.
334. We will use this information to assess the potential impact of the branch's failure on the New Zealand financial system and develop a proportionate resolution plan and (if needed) relevant resolvability requirements for the branch.

Q8 Do you have any comments on the proposed requirements to be included in the Crisis Preparedness Standard? For branches, it would be helpful if you could provisionally identify any activities you undertake that may be critical functions in New Zealand.

4.5 Proportionality

335. We have developed the proposals for the Crisis Preparedness Standard in accordance with the Proportionality Framework, having regard to how a deposit taker's size, nature and complexity should influence the level of recovery planning or pre-positioning required for effective crisis preparedness.
336. Proportionality is primarily achieved through calibrating requirements across different components of the Standard, rather than limiting its application to a particular Group or Groups of deposit takers. It is also achieved through the principles-based approach to setting requirements and by linking resolvability outcomes to the relevant resolution strategy or strategies for a particular deposit taker. Generally, deposit takers with simpler business models would need to undertake simpler crisis preparedness work.

4.5.1 Proportionality in recovery and exit planning

337. All deposit takers would be required to prepare and maintain a recovery and exit plan, supported by appropriate governance, review and assurance arrangements. The level of detail required in those plans would vary depending on the size, nature and complexity of a deposit taker's business.
338. Proportionality is also applied through the differing frequency of reviews of recovery and exit plans for different deposit takers. Group 1 deposit takers would be required to review their plans annually, compared with every three years for Group 2 and 3 deposit takers, and as needed for Branches. This is discussed in the section above on test, review, update and assurance.

4.5.2 Proportionality in resolvability planning

339. All deposit takers would need to develop and maintain a RIP that sets out the steps they would take to ensure they meet the resolvability outcomes in the Crisis Preparedness Standard. Proportionality across deposit takers would be in-built, as the RIP would be commensurate to the range and complexity of preferred resolution strategies for the deposit taker. A deposit taker with less complex operations would be expected to require a less sophisticated orderly resolution plan and therefore a simpler RIP.
340. As set out in Part A, our crisis response waterfall sets out proposed resolution strategies based on different deposit taker groupings to those set out in the Proportionality Framework. The difference is that for the purpose of the waterfall, some Group 3 deposit takers are categorised as 'Transactional Group 3'. This sub-group is intended to cover Group 3 deposit takers who have a material number of customers for whom they are the primary provider of banking services. The grouping is defined to reflect the level of disruption to customers and the New Zealand economy that would follow from the deposit taker's disorderly failure. We provide some examples below of the types of actions that different groups of deposit takers would likely need to take to meet resolvability outcomes for different strategies.
341. Group 3 deposit takers that are not Transactional Group 3 would be required to achieve a sub-set of the resolvability outcomes to enable rapid sale or liquidation. This would likely be limited to outcomes related to valuations, data and systems, and governance and communications. Some of the actions associated with achieving these outcomes would include:
- SDV reporting, as required under the Reporting Standard in relation to implementation of the DCS;
 - The ability to populate a suitable data room, which will also support the deposit taker's recovery and exit plan; and
 - Supplying information necessary to support hypothetical liquidation valuation calculations, which complements the data room requirements and supports the estimation of DCS contributions in resolution.
342. Group 2 deposit takers and Transactional Group 3 deposit takers are together one grouping in the resolution waterfall. These deposit takers would all be required to achieve resolvability outcomes that support an orderly wind-down strategy. In addition to the actions listed above for Group 3 (non-transactional), actions associated with achieving the resolvability outcomes would likely include:
- Ensuring contracts continue in resolution;
 - Removing barriers to accessing resolution funding; and
 - For larger deposit takers in the grouping, some system-based CoAD functionality to manage the sequence of funds being made available.

343. In addition, as explained earlier, requirements relating to development, maintenance, and/or review of RIPs would be made more proportionate for Group 2 and all Group 3 deposit takers by allowing outsourcing of this functionality.

Q9 Do you agree with our overall approach to proportionality? What other means could we use to support proportionality in the application of the Crisis Preparedness Standard?

Q10 Do you have any comments on the approach to categorising some Group 3 deposit takers as 'transactional' for the purpose of the crisis response waterfall and resolvability planning?

4.6 Conclusion

344. We consider the proposed Crisis Preparedness Standard is necessary to increase deposit takers' capability to respond to crises effectively. This would both reduce the probability of failure for deposit takers and also support an orderly resolution for any deposit takers that do fail. This activity supports the main and additional purposes of the DTA, including by reducing the use of public funds.

345. The primary objectives of the proposed Crisis Preparedness Standard are to address the misalignment of incentives for deposit takers to prepare for a crisis, to meet our statutory objectives, and to respond to changes in international practice.

346. We propose to apply the proposed requirements of the Crisis Preparedness Standard to every deposit taker. We believe that this is appropriate as the requirements are high-level and principles-based and constitute the bare minimum for a prudent deposit taker. However, the preferred approaches for Group 2 and Group 3 deposit takers and branches would be a streamlined version of the proposed requirements for Group 1 deposit takers. We consider that this would provide consistency in treatment, improve comparability across deposit takers and align with international best practice.

Appendix B: Relationship between critical functions and related DTA terminology

347. As noted in the Issues Paper and section 4.4 of this chapter, there is a relationship between critical functions and other related terminology in DTA Standards. This includes 'critical operations' in the Operational Resilience Standards and 'basic banking services' in the Outsourcing Standards. We intend to align terminology where it makes sense to do so, but full alignment will not be possible given that the standards all have a slightly different purpose.

"Critical operations"

348. The Operational Resilience Standard will include a requirement for all deposit takers to identify their "critical operations" for the purpose of business continuity planning and management of material service providers (i.e., third parties that provide "critical operations" to the deposit taker). Deposit takers will need to maintain a register of their critical operations and material service providers.

349. We are also currently consulting on an exposure draft of the Operational Resilience Standard that includes the following definition of "critical operations":

(2)...critical operation means an operation of the deposit taker or its service provider that, if disrupted beyond tolerance levels, would have a material adverse impact on—

(a) the continued operations of the deposit taker;

(b) the interests of depositors or other customers of the deposit taker;

(c) the role of the deposit taker in the financial system.

(3)The deposit taker must define the following processes as critical operations, if it undertakes them:

(a) the payment of monetary claims;

(b) the acceptance of deposits and the ongoing administration;

(c) custodial services;

(d) settlements;

(e) clearing.

For the avoidance of doubt, the list of processes set out in subclause (3) is a non-exhaustive list of the processes that are critical operations.

350. While there is overlap between this definition and what we are proposing for "critical functions", there are some important distinctions:

- critical operations capture end-to-end processes, some of which will be internal, whereas critical functions are provided to third parties (i.e. the customer facing part of any critical operation)

- the ‘criticality’ of an operation will in some cases (particularly for Group 2 and 3 deposit takers) be determined by the impact that discontinuation would have on the deposit taker itself (including profitability) or on its customers and won’t necessarily have a wider impact
- every deposit taker will have critical operations, but not all will provide critical functions

351. In terms of practical implications for deposit takers, as Operational Resilience Standard will commence in December 2028, they will be subject to the requirement to identify their critical operations at least 12 months before the Crisis Preparedness Standard will commence. Deposit takers will therefore be able to use the identification of critical operations as a starting point for determining their critical functions.

352. It is expected that for Group 1 deposit takers, a large proportion of their critical operations would either be critical functions or support critical functions. For example, all the processes that support payments, given that discontinuation of payments by a Group 1 deposit taker would likely cause significant damage to the financial system. However, the critical operations of a Group 3 deposit taker are unlikely to be classed as critical functions given the small market share and the ability for customers to find a substitute provider. There may still be market confidence or contagion effects of discontinuation of a function supported by a Group 3 deposit taker’s critical operations as customer impact is considered under that definition.

“Basic banking services”

353. The Outsourcing Standard (which will largely carry over the Outsourcing Policy (BS11)) will include outcomes that in-scope deposit takers³⁵ must meet. These include deposit takers being able to provide “basic banking services”³⁶ to existing customers on the first business day after the day of failure (i.e. after being placed in resolution or on separation from a parent). The Outsourcing Standard will also include a requirement for Group 1 deposit takers to have a separation plan. That plan must include (among other things) how the deposit taker will continue to provide “basic banking services” and the processes it will implement to ensure this.

³⁵ All Group 1 deposit takers will be in scope of the Outsourcing Standard as well as any deposit takers who meet the threshold set out in BS11 at the time the Standard comes into force (i.e. deposit takers whose net liabilities exceed \$10 billion)

³⁶ The definition of “basic banking services” in BS11 and the exposure draft of the Outsourcing Standard is:

basic banking services means the key retail and business services—

- (a) that bank customers typically rely on for transactions and economic life, including the following services:
 - (i) New Zealand dollar transactional or similar accounts used by individuals and businesses for their transactional needs, including Automatic Teller Machine (ATM) services, and the ability of customers to access their account through at least two other of the most commonly used channels; and
 - (ii) New Zealand dollar savings accounts and deposits accounts, including term deposit accounts, provided to customers as a store of value; and
 - (iii) New Zealand dollar credit services to customers, including credit cards, overdraft and revolving credit facilities, secured and unsecured lending, and home loan facilities, including pre-approvals; and
 - (iv) payment clearing and settlement services, including credit card merchant acquiring services and agency arrangements; and
 - (v) account activity reporting for the accounts, services, and products required in respect of basic banking services held by customers; and
- (b) that, if disrupted or suddenly discontinued, could be reasonably expected to—
 - (i) have a material negative impact on a significant number of third parties that rely on such services; or
 - (ii) lead to contagion effects, including significant adverse effects on market confidence.

354. There will in most cases be overlap between “critical functions” and the “basic banking services” that Group 1 deposit takers must consider in their separation plans, and that all in-scope deposit takers must be able to continue to provide on the first business day after being placed in resolution. For some of these deposit takers, their “basic banking services” could be exactly the same as their “critical functions”. For others, these will only be a subset of their “critical functions”. It will ultimately depend on the outcome of each deposit taker’s own critical functions analysis.
355. As the Outsourcing Standard will commence before the Crisis Preparedness Standard, the practical implications of this are:
- separation plans already created by Group 1 deposit takers under the Outsourcing Policy (BS11) may not be sufficient to meet any separation planning requirements under the Crisis Preparedness Standard. In other words, their separation plans may currently allow for the winding down of some services that we would expect them to prepare to maintain³⁷ once the Crisis Preparedness Standard commences (i.e., services that don’t fall within “basic banking services” but might be “critical functions”).
 - once the Crisis Preparedness Standard commences, risk mitigations put in place to comply with requirements in the Outsourcing Standard (including prescribed contractual terms and back-up arrangements) may need to be applied to a broader set of outsourcing arrangements. This will be the case if a deposit taker outsources services that support critical functions that aren’t already supporting basic banking services. This would be needed to meet broader operational continuity outcomes under the Standard where a resolution strategy involves continuity of all critical functions.
356. We considered whether to use the term “critical functions” instead of “basic banking services” in the Outsourcing Standard. However, we did not signal this change in the policy consultation on the non-core standards. The objectives of the Outsourcing Policy are focused on the ability for in-scope banks to continue to provide and circulate liquidity once in statutory management, as opposed to continuing to provide all systemically important activities. We wanted to retain those objectives in the Outsourcing Standard to avoid unnecessary compliance costs for deposit takers at a time when multiple DTA Standards commence.
357. Deposit takers that are subject to both the Outsourcing Standard will have sufficient time to make any process/systems changes or renegotiate contracts to ensure that they meet the broader resolvability requirements under the Standard. An exposure draft of the Standard is expected to be released in May 2027, followed by issuance of the Standard in December 2028. The commencement date for the Standard has not yet been determined but would be at least 12 months later.

³⁷ Depending on the resolution strategy, the services may be maintained by the deposit taker in question or another entity through the sale of the functions.

Chapter 5: Deposit Takers Loss Absorbing Capacity Requirements

Deposit Takers Loss Absorbing Capacity Requirements

Summary

358. This chapter sets out proposals for the new Loss Absorbing Capacity (**LAC**) requirements for large (i.e. Group 1) deposit takers. LAC is a form of funding that can be used to absorb losses and help recapitalise a deposit taker if it experiences severe financial distress.

359. The decision to introduce LAC for Group 1 deposit takers was made during the 2025 Review of Key Capital Settings (the capital review). This consultation does not revisit the capital review decisions, which included:

- Requiring Group 1 deposit takers to hold LAC equal to 6% of risk-weighted assets, on top of existing minimum total capital requirements.
- Making Tier 2 and LAC for Group 1 deposit takers the same type of instrument.
- Requiring LAC and Tier 2 instruments to be issued within the deposit taker's group, rather than to external investors (this supports a resolution approach where support comes from the wider group).
- Not applying LAC requirements to Group 2 and Group 3 deposit takers at this stage.

360. This consultation focuses on:

- the detailed design of the new LAC requirements.
- how deposit takers would transition to the new LAC requirements
- how LAC requirements may apply to any future Group 1 deposit taker that is not a wholly-owned subsidiary of an Australian group.

361. The main proposals we are consulting on are:

- Requiring LAC to absorb losses when needed - LAC instruments and Tier 2 capital instruments issued by Group 1 deposit takers would include terms allowing them to be written down if the deposit taker becomes non-viable or is placed into resolution. This allows losses to be absorbed and helps recapitalise the deposit taker.
- Defining clear triggers for write down – Write down would be triggered if (a) the deposit taker either reaches the point of non-viability or is placed in resolution; and (b) the Reserve Bank issues a notice or direction to require write-down.
- Only issuing to the Australian authorised deposit taker within banking groups - LAC and Tier 2 instruments would be issued only to the Australian authorised deposit taker (**ADI**) in the New Zealand Group 1 deposit taker's group.
- Requiring the instruments to be governed by New Zealand law - LAC and Tier 2 instruments would be governed by New Zealand law, helping ensure the loss absorbing features are legally effective.
- Phasing in the requirements over time - Three transition options are discussed, with a preferred option that reaches the full LAC requirement by December 2030. During the transition, any losses would be applied to new LAC and Tier 2 instruments first, ahead of existing Tier 2 instruments.
- Flexibility to support future diversity - At this stage, the requirements are being designed primarily for the current Group 1 deposit takers, which are wholly-owned subsidiaries of

Australian parents. We would however welcome future Group 1 entrants with different structures. We intend to develop alternative rules once the Deposit Takers Act 2023 (the DTA) is fully in force after December 2028. Through this consultation, we are seeking early input to inform this future policy work. Any restructuring, growth or market entry that resulted in a new Group 1 deposit taker in the meantime could be accommodated on an interim basis through licence conditions.

362. The proposals are intended to strengthen crisis management for large deposit takers and support our preferred trans-Tasman crisis management approach under the DTA. The proposals will also align New Zealand's approach with international practice. This should reduce the economic and financial stability costs of failure, limit reliance on public support, and support orderly crisis management. In addition, a phased transition to the new LAC requirements will help avoid unnecessary compliance costs. We welcome early input to inform our future policy work no requirements for any new Group 1 deposit taker with a different ownership structure.

5.1 Introduction

363. This chapter sets out our proposals for the detailed design of Loss Absorbing Capacity (**LAC**) requirements for Group 1 deposit takers. This consultation advances the decision to introduce LAC requirements for Group 1 deposit takers that was already taken as part of the capital review.³⁸ During the capital review, we recalibrated our risk appetite and shifted from a heavy reliance on high-quality capital (Common Equity Tier 1 (CET1) capital) toward a broader mix of capital and debt that can absorb losses and recapitalise the distressed deposit taker (“bail-in debt”).
364. The LAC requirements will be issued under section 80 of the Deposit Takers Act 2023 (**DTA**) and will be incorporated into the Capital Standard (we expect the Capital Standard will be issued in May 2027).³⁹
365. Some high-level design features of LAC requirements have already been decided during the capital review. Specifically:
- LAC will be set at 6% of risk-weighted assets in addition to minimum total capital requirements.
 - LAC must also be internally issued to another member of the group, and be able to absorb losses and recapitalise the distressed deposit taker if going-concern capital is depleted. This supports a single point of entry (**SPE**) model for dealing with a deposit taker in financial distress, where the group is kept together and the parent entity would ‘downstream’ sufficient capital to the New Zealand subsidiary to restore its viability.
 - Tier 2 capital instruments for Group 1 deposit takers will have the same bail-in features as LAC instruments and will also be required to be issued internally.
366. We decided in the capital review not to apply LAC requirements to Group 2 or Group 3 deposit takers at this stage, given the nature of their business and the potential availability of other recovery and resolution options that do not rely as heavily on a recapitalisation.
367. This consultation does not revisit decisions taken as part of the capital review.
368. Our focus in this consultation is on:
- the detailed design of the LAC requirements for Group 1 deposit takers.
 - the transitional arrangements for LAC requirements.
 - the potential application of LAC requirements to any future Group 1 deposit taker, including entities that are not wholly owned subsidiaries of an Australian group.

Purpose of the Loss Absorbing Capacity (LAC) requirements

369. The DTA establishes an enhanced crisis management framework for deposit takers, which includes new statutory purposes, powers and safeguards, and designates the Reserve Bank as resolution authority. The purposes of the new crisis management framework include

³⁸ rbnz.govt.nz/regulation-and-supervision/oversight-of-banks/how-we-regulate-and-supervise-banks/our-policy-work-for-bank-oversight/2025-review-of-key-capital-settings

³⁹ legislation.govt.nz/act/public/2023/35/en/latest/#LMS557736

avoiding significant damage to the financial system and enabling a deposit taker in resolution to be dealt with in an orderly manner (for more detail, see Part A of this consultation document).

370. LAC requirements will be introduced into the Capital Standard to support resilience and our preferred SPE model for dealing with a Group 1 deposit taker in financial distress. More specifically, LAC will provide a pre-positioned legal mechanism to ensure that deposit takers have access to contingent resources that can be drawn on to absorb losses and recapitalise them from a severely stressed condition.
371. Section 80 of the DTA allows the Reserve Bank to set a standard relating to LAC. In summary, section 80 provides that a standard can:
- require deposit takers to issue bail-in debt instruments.
 - specify the terms and conditions that must be included in those instruments.
 - specify the events or other circumstances in which bail-in may occur.
 - specify how to offer those instruments (e.g. internally to other members of the deposit taker's group, or externally to parties outside of the deposit taker's group).
 - provide how much must be raised in connection with those instruments (e.g. that the amount must equal a certain percentage of risk weighted assets).
372. Our focus in this consultation is largely on the terms and conditions and the events or other circumstances in which bail-in may occur (i.e. the trigger). On the first and last two points, key policy decisions have already been made during the capital review.

5.2 Current approach

373. Currently, there is no LAC requirement and no bail-in features in Tier 2 instruments. The eligibility criteria for Tier 2 instruments for banks are set out in section D3 of *BPR110 Capital Definitions*.⁴⁰ Tier 2 instruments do not form part of the capital framework for NBDTs. Details for the current capital requirements for banks and NBDT are explained in the Capital Standard chapter of the 2024 core-standards policy consultation paper.⁴¹
374. Capital requirements and crisis management are complementary parts of our prudential framework, rather than one being a substitute for another. Historically, we have placed a slightly greater emphasis on crisis prevention, which was reflected in higher going concern capital requirements.
375. The introduction of the DTA enabled us to shift our approach towards a model that maintains a low likelihood of failure while reducing the expected cost of failure through credible recovery and resolution tools. The introduction of new LAC requirements forms a part of broader work currently underway to implement the DTA including its crisis

⁴⁰ [rbnz.govt.nz/-/media/project/sites/rbnz/files/consultations/banks/review-capital-adequacy-framework-for-registered-banks/bpr-documents/bpr110-capital-definitions-oct-23.pdf](https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/consultations/banks/review-capital-adequacy-framework-for-registered-banks/bpr-documents/bpr110-capital-definitions-oct-23.pdf)

⁴¹ consultations.rbnz.govt.nz/dta-and-dcs/deposit-takers-core-standards/user_uploads/deposit-takers-core-standards-consultation-paper-1.pdf

management framework. Further details on this broader work are set out in Part A of this consultation document. Further details on capital requirements for deposit takers can be found in the capital review decision documents.⁴²

5.3 Proposed policy development approach

Design of the LAC requirements for Group 1 deposit takers

376. We are designing internal LAC and Tier 2 instruments for Group 1 deposit takers to meet two key outcomes:

- LAC must operate effectively to recapitalise a distressed deposit taker under a range of crisis scenarios (**key outcome 1**):
- LAC must qualify for Tier 2 corresponding deductions under the Australian Prudential Regulation Authority (**APRA**) rules (**key outcome 2**), which means that LAC requirements must follow international guidance.⁴³

377. Tier 2 corresponding deductions are a part of APRA's capital rules allowing an Australian parent to deduct its holdings of internal Tier 2 instruments from the same category of capital. If those instruments do not qualify as Tier 2 under APRA's rules, the deduction is instead taken from CET 1 which is generally more expensive. The need to qualify for Tier 2 corresponding deductions was a key point made by Group 1 deposit takers in their submissions on the capital review consultation, because of its impact on the flow-on costs facing each group.⁴⁴

378. We have assessed our policy proposals against the Financial Stability Board's Guiding Principles on Internal Total Loss-Absorbing Capacity of G-SIBs, including the Appendices. These Guiding Principles are built on the Basel prudential foundations.

379. Implementing the capital review decisions is expected to support a stable financial system – one where resilient financial markets, institutions and infrastructure enable a productive and

⁴² The Capital Review decision documents:

rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/2025/20251212-decision-document-formatted-version.pdf

rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/2025/summary-of-submissions.pdf

⁴³ The Financial Stability Board has published the Guiding Principles on Internal Total Loss-Absorbing Capacity of G-SIBs ('Internal TLAC'). The Bank for International Settlements has published a summary of the Guiding Principles.

bis.org/fsi/fsisummaries/internal_tlac.htm and fsb.org/uploads/P060717-1.pdf

⁴⁴ Current Tier 2 eligible instruments in New Zealand do not meet APRA's Tier 2 rules. As a result, internal Tier 2 instruments issued to an Australian parent entity would not be recognised as Tier 2 capital. Once a specified limit is exceeded, they would be deducted from the parent's CET1 capital, which increases its overall cost of capital. During the Capital Review, we assessed impacts of various capital settings on financial stability, funding costs and GDP through a cost-benefit analysis. The assessment was finely balanced but indicated that a LAC option would deliver a higher net benefit. Although under the Capital Review decisions lower levels of CET1 modestly increases the risk of deposit taker distress, this was outweighed by lower funding costs and the crisis management benefits of LAC, provided its design meets the two key outcomes. Further details can be found in the Cost-Benefit Analysis published in February 2026. rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/2025/cost-benefit-analysis.pdf

sustainable economy and ultimately promote the prosperity and wellbeing of all New Zealanders.

380. While the capital review set separate minimum requirements for Tier 2 and LAC, the same contractual terms are planned for both, meaning that any instrument qualifying as Tier 2 would also qualify as LAC and vice versa.⁴⁵ This is consistent with the approach followed by APRA.⁴⁶ These Tier 2 and LAC instruments will be equally ranking in the creditor hierarchy and in assessing regulatory requirements.
381. Alongside these proposed requirements for LAC and Tier 2 instruments, we are currently consulting on the exposure draft of the capital standard. The draft has been prepared to provide optionality for deposit takers, allowing them to use Tier 1 capital as well, if needed, to meet the 6% LAC requirement. We are particularly interested in your views on whether this optionality may give rise to any potential issues.

Transitional arrangements for new LAC and Tier 2 requirements

382. We have considered how to avoid unnecessary compliance costs. As part of this policy consultation, we are seeking feedback on three implementation options for LAC, aimed at balancing financial stability objectives with transition costs and operational feasibility for relevant deposit takers. We also seek views on the treatment of existing Tier 2 instruments without bail-in provisions (“existing Tier 2”) that deposit takers may continue to have on issue during the transitional period.

Potential application of LAC requirements to future Group 1 deposit takers to support diversity

383. At this stage, the requirements are being primarily designed for the current Group 1 deposit takers, which are wholly-owned subsidiaries of Australian parents. However, we aim to support a diversity of deposit takers and maintain competition, and would welcome future Group 1 entrants with different ownership structures. We have therefore committed to developing alternative rules once the DTA is implemented in 2028. As part of this consultation, we are seeking early input to help shape the future LAC requirements.
384. In the short term, we propose to take a flexible approach to addressing future circumstances in which domestic deposit takers grow and move into Group 1 or where the ownership structures of Group 1 deposit takers change (for example, a shift to a non-Australian parent). If these situations were to arise, we would manage them through variations to the deposit

⁴⁵ Refer to the policy decision column in row 1 of Appendix A of the Capital Review Decision document available at [rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/2025/20251212-decision-document-formatted-version.pdf](https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/2025/20251212-decision-document-formatted-version.pdf) which included that: *These changes will also be applied to Tier 2 instrument requirements for Group 1 deposit takers.*

⁴⁶ Refer to footnote 2 of the 2 December 2021 letter to Domestica Systemically Important Banks available at [apra.gov.au/sites/default/files/2021-12/Letter%20-%20Finalising%20loss-absorbing%20capacity%20requirements%20for%20domestic%20systemically%20important%20banks.pdf](https://www.apra.gov.au/sites/default/files/2021-12/Letter%20-%20Finalising%20loss-absorbing%20capacity%20requirements%20for%20domestic%20systemically%20important%20banks.pdf) which included that: *Unlike other jurisdictions, APRA did not propose to design new instruments for resolution and instead proposed that loss-absorbing capacity would be implemented through adjustments to minimum Total Capital requirements.*

taker's licence conditions, tailored to the specific features of the entity and the Reserve Bank's crisis management strategy.

- Q11** Do you have any comments on our proposed approach to designing the LAC and Tier 2 requirements for Group 1 deposit takers, including the interaction with the exposure draft of the capital standard, the effectiveness of the proposed approach in supporting recapitalisation and alignment with APRA's Tier 2 corresponding deduction rules? Please provide reasons for your views, including any practical or implementation issues you consider relevant.

5.4 Proposed policy for Group 1 deposit takers

385. This section covers our proposals on:

- Terms and conditions that must be included in LAC and Tier 2 instruments, including the contractual triggers for bail-in
- Who LAC and Tier 2 instruments may be issued to within the deposit taker's group
- Assurance arrangements
- Transitional arrangements for new LAC and Tier 2 instruments
- Application of LAC requirements to future Group 1 deposit takers

Terms and conditions that must be included in LAC and Tier 2 instruments

General requirements for LAC and Tier 2 capital instruments

386. The decision to introduce LAC requirements for Group 1 deposit takers has already been taken as part of the capital review. This decision will be implemented by, amongst other things:

- Removing the prohibition on Tier 2 instruments including a write-off feature. This is currently set out in Part D3.4 of BPR110. We are proposing that these instruments only include write down provisions at this stage (See the "No conversion features" section below for details).
- Introducing new requirements under section 80 of the DTA which will require Group 1 deposit takers to include write down provisions in LAC and Tier 2 instruments. Detailed elements of the new requirements are set out in the this and following sections. We intend to incorporate these new requirements in a placeholder currently in the exposure draft of the Capital Standard (see the tranche 3 exposure drafts, published at the same time as this consultation).
- Otherwise requiring LAC and Tier 2 instruments to comply with the requirements for existing Tier 2 instruments set out in Part D3 of BPR110. These Tier 2 requirements would be largely carried over to the Capital Standard. We are currently consulting on the exposure draft of the Capital Standard.

Requirements for bail-in terms in instruments

Proposal

387. We propose to require LAC and Tier 2 instruments to include a term allowing the Reserve Bank to irrevocably write off the instruments, in full or in part, if the trigger condition is met. These requirements would be based on the write-down rules we previously applied to bank capital instruments, with necessary updates to reflect the specific purpose of LAC and Tier 2 instruments.
388. We do not propose to include a conversion mechanism in LAC or Tier 2 instruments at this time.

Analysis

389. More specifically, we are proposing to apply the following requirements to LAC and Tier 2 instruments.
- The amount to be written off is the principal amount of the instrument and any accrued interest, unpaid at the time of the non-viability trigger event, that is sufficient to meet the direction or notice issued by the Reserve Bank.
 - The terms of the instrument may provide an ordering in which the principal and interest is written off.
 - In determining the value of an instrument for the purposes of regulatory capital recognition, the face value of an instrument must be reduced by any potential tax or other offsets that may reduce the amount of Common Equity Tier 1 capital generated for the deposit taker as the result of write-off. Adjustments must be updated over time to reflect the best estimate of the potential tax and offset value. Potential tax liabilities should be based on the contractually intended write down mechanism.
 - Under the terms of the instrument, the Reserve Bank must have the right, exercisable upon the occurrence of the triggers, to irrevocably write off the instrument.
 - The direction or notice issued by the Reserve Bank to write off the instrument may be either for full or partial write off. Partial write-off will only be mandated if the Reserve Bank is satisfied that a partial write-off will ensure that the immediate risk that the deposit taker's capital will deteriorate below the minimum capital requirements is low.
 - The issue documentation may provide for a priority under which capital instruments are to be written off. The terms attached to such an ordering must not impede the ability of the capital instrument to be written off in a timely manner.
 - The write off mechanism must be structured so that no person has any claim in regard to any portion of the instrument that has been written off, including in respect of the payment of principal, or interest, and including in the event of liquidation of the deposit taker.
390. Our proposed provisions meet key outcomes 1 and 2 noted in section 5.3 above. These provisions enable LAC to effectively operate under a range of crisis scenarios and have already been assessed as Basel compliant.

Summary

391. We propose that LAC and Tier 2 instruments include mandatory write-down terms based on a set of rules that we previously applied to bail-in provisions in bank capital instruments. This includes rules around the necessary effect that write down provisions must have, and the treatment of interest and principle when a write down occurs. These proposed provisions meet key outcomes 1 and 2 noted earlier in this document.

Q12 Do you agree with the proposed terms and conditions that must be included in LAC and Tier 2 instruments, including effects on claims and treatment of principal and interest, and are there any additional issues or alternative approaches we should consider?

Circumstances where LAC and Tier 2 instruments can be bailed in

Proposal

392. Our proposal is to have two triggers for write down in LAC/Tier 2 instruments. Specifically:

- A point of non-viability (**PONV**) trigger (**trigger 1**) where the Reserve Bank is satisfied that at least one of the following criteria has been met:
 - a. the deposit taker is insolvent or likely to become insolvent;
 - b. the deposit taker has contravened, may have contravened, or is likely to contravene a requirement under an applicable standard, or a condition of its licence, to maintain a minimum amount (or ratio) of capital (excluding loss absorbing capacity);
 - c. write-off of capital instruments is necessary because, without it, the deposit taker would become non-viable; or
 - d. without a public sector injection of capital, or equivalent support, the deposit taker would become non-viable.
- A trigger when the deposit taker is placed into resolution (**trigger 2**).

393. These triggers are not automatic. Even where the relevant conditions are satisfied, the trigger would only take effect following the issuance of a notice or direction by the Reserve Bank. The direction or notice to the deposit taker would state that the trigger has been met and require the instruments to be written down in whole or in part.

Analysis

Trigger 1: Point of non-viability (PONV)

394. The purpose of this trigger is to establish a PONV test that:

- can be exercised at an appropriate point in the deterioration of a deposit taker's financial position;
- supports coordination with the Australian home authority; and

- allows reliance on existing statutory tests under New Zealand legislation, where these provide a more certain or transparent basis for assessing PONV.

395. The trigger is closely aligned with the PONV trigger applying in Australia and an example contractual trigger provided in the FSB Guiding Principles on Internal TLAC.⁴⁷ The main differences are the inclusion of insolvency and capital-related conditions (points (a) and (b) above), which are drawn from thresholds used under New Zealand legislation to issue directions or recommend resolution.
396. The inclusion of these additional conditions reflects two considerations.
397. Firstly, the FSB Guiding Principles indicate that PONV should be determined by the host authority with reference to the relevant legal framework in the host jurisdiction. While PONV is not explicitly defined in New Zealand legislation, insolvency and capital-related thresholds provide the closest statutory analogies. Including these conditions therefore helps anchor the PONV assessment in the New Zealand legal framework.
398. Secondly, aligning elements of the PONV test with existing statutory thresholds may provide greater certainty and transparency in practice for deposit takers and other stakeholders.

Trigger 2: Entry into resolution

399. This trigger is intended to provide a clear and transparent basis for triggering write-down once a deposit taker has entered resolution.
400. FSB's Key Attributes of Effective Resolution Regimes for Financial Institutions⁴⁸ recommends that, upon entry into resolution, authorities should be able to write-down contractual bail-in instruments whose terms had not been triggered prior to entry into resolution.
401. The trigger aims to provide more operational certainty, rather than aiming to expand the circumstances in which LAC or Tier 2 instruments could be written down. In practice, where a deposit taker is placed into resolution on capital or solvency grounds, the PONV trigger would be expected to have already been met.
402. We note that there is some overlap between the triggers (and between the different components of the PONV trigger). We will consider whether there might be scope to further simplify or rationalise the proposed triggers when drafting the LAC provisions for the forthcoming capital standard.

How the trigger would be operationalised

403. Either trigger would be activated by the Reserve Bank following communication with APRA. We expect that the process to coordinate with APRA for triggering LAC and Tier 2 would likely be established via some kind of formal agreement between the Reserve Bank and APRA (such as a memorandum of understanding). These coordination process will be formed based on international standards such as the FSB Guiding Principles.

⁴⁷ The Appendix C of this chapter shows different trigger clauses.

⁴⁸ Key Attributes of Effective Resolution Regimes for Financial Institutions fsb.org/uploads/P250424-3.pdf#page=12

Discounted options

404. We have considered several other options while developing our proposal. The following options have been discounted for a range of reasons, including not adequately meeting key outcomes 1 and 2 outlined above, or achieving the purposes of the DTA.

Not using an identically worded trigger to APRA

405. The trigger applying under APRA rules is worded as follows:

A non-viability event is when APRA notifies the ADI that APRA is satisfied that:

- write down is necessary because without it the ADI would become non-viable; or
- without a public sector injection of capital, or equivalent support, the ADI would become non-viable.

406. These clauses closely align with the FSB's example contractual trigger outside of resolution. However, we consider that the proposed Triggers 1 and 2 are more closely aligned with the New Zealand legal framework. The FSB Guiding Principle recommends trigger conditions be in line with host jurisdiction's relevant legal framework.

407. We also consider that the proposed triggers provide slightly more certainty and transparency as to at what point a write-down is expected to take place.

Not using quantitative triggers

408. We are not proposing to include quantitative triggers. We considered a quantitative trigger based on the deposit taker's capital falling to a certain level. However, we concluded that a quantitative trigger:

- cannot adequately take into account the individual circumstances (for example, if the trigger is too high, it may be premature in the circumstances. If it is too low, it likely has little effect given the PONV trigger (Trigger 1 above) would have already been met);
- could potentially cause home-host misalignment which could undermine the predictability and credibility of bail-in activation.

Not using systemic risk triggers

409. We are not proposing to include a systemic risk trigger – i.e. a trigger where the circumstances of the entity are likely to be prejudicial to the soundness of the financial system.

410. The FSB Guiding Principles recommend that triggers rely only on a firm-specific determination. Systemic triggers would be difficult to calibrate and clearly specify at what point a write-down is expected to take place. They may be activated too early or fail to reflect the deposit taker's actual condition. They could also lead to simultaneous activation across deposit takers, which may result in an amplified adverse impact to the financial system.

Not using triggers based on APRA's PONV declaration

411. We are not proposing to include a trigger which allows the Reserve Bank to write down internal LAC upon APRA making a PONV declaration in relation to the deposit taker's Australian parent.
412. The FSB Guiding Principles explicitly recommend that the host authority's decision to trigger internal TLAC should not be driven primarily by resolution actions or the triggering of TLAC elsewhere in the group. Inclusion of this trigger might result in not meeting the Key outcome 2, i.e., LAC might not be qualified for Tier 2 corresponding deductions under the APRA rules.

Summary

413. Drawing from the FSB's guidance, the triggers used in Australia and certain triggers for the use of crisis management powers in the DTA, we are proposing that LAC and Tier 2 instruments contain two triggers:
 - A point of non-viability (**PONV**) trigger based on the Australian PONV trigger and certain statutory triggers in the DTA (**trigger 1**); and
 - A trigger when the deposit taker is placed into resolution (**trigger 2**).

Q13 What are your views on our proposed triggers considering both benefits and drawbacks, financial stability implication, a level of transparency and simplicity, alignment with the overall crisis management framework? Are there any alternative designs we should consider?

No conversion features

Proposal

414. Our proposal is not to include conversion features in LAC or Tier 2 instrument.

Analysis

415. Following the capital review decisions, we considered whether conversion is necessary for internally issued instruments and to comply with relevant aspects of the international guidance.
416. Our view is that conversion is not necessary and that write down features are sufficient to achieve our intended purposes. This is because LAC and Tier 2 instruments will be issued internally only to a parent entity who wholly owns the deposit taker.
417. The benefit of conversion is largely in an external issuance model. Conversion dilutes existing shareholders and gives investors equity⁴⁹ and gives the holders of new shares access to future dividends. Conversion can also have different tax consequences in an external

⁴⁹ We note that this raises some questions about the creditor hierarchy. In theory, existing shareholders will bear losses before LAC/Tier 2 instrument holders, so the effect of the dilution is actually just to reduce existing shareholders access to future dividends.

ownership context. In the case of internal issuance, conversion and write-down deliver equivalent outcomes.

418. Write down provisions are also simpler to design than conversion provisions. This is largely because they do not require calculation of the value of new shares created due to the conversion, or issue of those shares to the holders of the original LAC or Tier 2 instruments.
419. Nevertheless, if a Group 1 deposit taker in the future were to have a different ownership structure, there may be a case for conversion features being included in LAC and Tier 2 instruments. After the DTA is fully in force (i.e. after December 2028), we intend to consider whether our approach to any new Group 1 deposit takers with different ownership structures should be more directly reflected in LAC and Tier 2 requirements. This consideration may cover conversion provisions in certain circumstances. However, at this stage, we do not propose to include conversion provisions in LAC or Tier 2 instruments. However, we are interested in any views submitters may have on this (including whether there are any benefits that we have not identified of including conversion provisions for internal LAC).

Summary

420. We do not propose to include conversion features in internally issued LAC or Tier 2 instruments, as write-down achieves the same recapitalisation outcome as conversion and is simpler to design and implement.
421. We may reassess this conclusion in the future if we introduce rules under which LAC and Tier 2 instruments can be issued externally.

Q14 Do you agree that LAC/Tier 2 instruments should not include conversion provisions? If not, please explain the reasons for including conversion provisions and the potential benefits they may provide.

Governing law

Proposal

422. We are proposing that LAC and Tier 2 instruments be governed by New Zealand law.

Analysis

423. The FSB Guiding Principles recommend that internal LAC should generally be subject to the governing law of the jurisdiction in which the deposit taker issuing the internal LAC is incorporated. Internal LAC may however be issued under the law of another jurisdiction if that law ensures that the Reserve Bank's power to carry out write-downs would be legally effective and enforceable.
424. Our current capital rules require Tier 2 to be governed by New Zealand law or the law of a prescribed foreign jurisdiction. The prescribed foreign jurisdictions for this purpose are New South Wales (Australia), Victoria (Australia), New York, and England and Wales.

425. Given LAC and Tier 2 will only be internally issued, we see benefits in having the instruments governed solely by New Zealand law, as this would enhance the credibility of the process and application of write-down.

Summary

426. We are proposing that LAC and Tier 2 instruments must be governed by New Zealand law.

Q15 Do you agree that LAC and Tier 2 instruments should be able to be governed by New Zealand law? If not, please explain the reasons for alternatives and the potential benefits the alternatives may provide.

Who LAC and Tier 2 instruments can be issued to in the deposit taker's group

Proposal

427. Our proposal is to require LAC and Tier 2 instruments to be issued directly to the Australian ADI which belongs to the same banking group as that the deposit taker in New Zealand belongs to.

Analysis

428. The capital review has already decided that LAC and Tier 2 instruments can only be issued internally. However, it does not specify whether there should be any limits on which entities within the deposit taker's group can hold these instruments.

429. We considered two options.

- **(Option 1)** The first option is requiring LAC and Tier 2 instruments to be issued to the ADI in Australia. This has the benefit of simplicity but does not reflect the current structure of the four trans-Tasman groups. Currently shares in the New Zealand deposit taker are held by a New Zealand incorporated holding company that itself is owned by the ADI or its licensed non-operating holding company (**NOHC**).
- **(Option 2)** The second option would be more complex but better reflect the current structure of the four trans-Tasman groups. This option would be to allow LAC and Tier 2 instruments to be issued to whoever in the group holds the shares of the New Zealand deposit taker, noting that this could be any of the following:
 - the ADI in Australia;
 - any licensed NOHC of the ADI; or
 - a subsidiary of the ADI, or subsidiary of a NOHC of the ADI (other than the ADI itself).⁵⁰

⁵⁰ If this option was adopted, we would be interested in submitters' views on how to best deal with a scenario where shares in the New Zealand deposit taker were held by more than one of these entities (e.g. if some shares were held by the ADI and

430. Our preference is for option 1 at this stage in the interests of simplicity. However, we consider that both options can meet key outcomes 1 and 2 noted above (i.e., the intended down-streaming of capital and qualifying for corresponding deductions). We would be interested in stakeholders' views on to whom LAC and Tier 2 instruments can be issued in the deposit taker's group.

Summary

431. We propose that LAC and Tier 2 instruments be able to be issued only to the Australian ADI in the deposit taker's group. However, we are open to hear stakeholders' views.

Q16 Do you agree with our proposal that LAC and Tier 2 instruments should be issued to the Australian ADI, rather than the immediate shareholder of the New Zealand deposit taker? If not, what alternative approach would you prefer, and why?

Assurance arrangements

Proposal

432. Our proposal is to adopt the same approach as the current requirements for banks to notify their intention to issue new Tier 2 and mutual capital instruments under BPR120. This would mean:

- requiring deposit takers to notify the Reserve Bank of their intention to issue new LAC and Tier 2 instruments; and
- requiring these notifications to be accompanied by a completed checklist and legal opinion confirming that the instruments meet the necessary requirements.

Analysis

433. One potential issue with bail-in terms is administrative uncertainty. Deposit takers may be unsure whether instrument wording meets our requirements, while the Reserve Bank requires deposit takers to ensure the appropriate level of clear and consistent assurance when assessing whether instruments meet our requirements.

434. These issues are partly mitigated because the new LAC and Tier 2 instruments will be internally issued, include write down provisions, and be governed by New Zealand law. All of these points are likely to simplify the design of the new instruments

435. We also have an established process under BPR120 for Tier 2 and mutual capital instruments. This requires notification accompanied by a legal opinion from a New Zealand law firm using standardised wording and a checklist confirming compliance and absence of interpretive ambiguity.

some shares were held by a subsidiary of the ADI). For example, should it be possible to issue LAC and Tier 2 instruments to one of these entities if they only hold a very small proportion of the shares?

436. The signed legal opinion from a New Zealand law firm must, amongst other things, confirm that:
- the completed checklist accurately reflects in all respects the relevant terms of the instrument;
 - the terms of the instrument comply in all respects with the requirements for those types of instrument;
 - there are no matters in the relevant documentation that raise issues reasonably capable of dispute or differing interpretation as to compliance.
437. We propose to adopt the same approach for new LAC and Tier 2 instruments. This is efficient and well understood supported with relatively detailed requirements to ensure our intended outcomes.

Discounted options

438. We have considered prescribed wording for instruments, but do not consider this necessary, other than potentially for the written down trigger. Prescribed wording would reduce flexibility. Our proposal should provide sufficient assurance that the instruments are legally effective.
439. We note that some other jurisdictions use an “umbrella approach” where standardised wording is used in some or all issues of relevant instruments. We do not propose to require this. However, deposit takers can voluntarily choose to adopt it, which could also further streamline our preferred option.

Summary

440. We propose to:
- require deposit takers to notify the Reserve Bank of their intention to issue new LAC and Tier 2 instruments; and
 - require these notifications to be accompanied by a completed legal sign off opinion confirming that the instruments meet the necessary requirements.
441. This approach is consistent with our current requirements around issuance of Tier 2 and mutual capital instruments.

Q17 Do you agree with requiring deposit takers to notify the Reserve Bank, supported by a checklist and legal opinion, when issuing LAC and Tier 2 instruments? If not, what approach would you prefer?

5.5 Transitional arrangements for new LAC and Tier 2 instruments

Transitional arrangements

Proposal

442. We are proposing:

- a transitional timeline for new LAC and new Tier 2 instruments that would be complete by December 2030 (see option 3 below), and
- that new Tier 2 and LAC instruments be contractually subordinate to any existing Tier 2 instruments the deposit taker still has on issue.

Analysis

Transitional arrangements for LAC and new Tier 2 instruments

443. Once the DTA is fully in force, LAC and new Tier 2 will be introduced and gradually increased⁵¹. In the capital review decisions, we committed to consulting on transitional arrangements for these requirements. We set out three options for different transition paths which would be complete in:

- **(Option 1)** December 2033 (Slow implementation),
- **(Option 2)** December 2031 (Moderate implementation), or
- **(Option 3)** December 2030 (Fast implementation) - **Preferred**.

444. Table 5 shows the transitional paths for each option⁵². Our preferred option is option 3, considering industry feedback during the capital review consultation regarding current flow-on cost implications facing each Group 1 deposit taker.

⁵¹ In October 2026 we intend to increase the existing prudential capital buffer (PCB) of 5.5% of risk weighted assets (RWAs) by 0.5pp to the steady-state level of 6%. Details can be found [rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/2025/summary-of-submissions.pdf](https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/banks/capital-review/2025/summary-of-submissions.pdf)

⁵² In the Table 5, the "Total capital +LAC" figures include the 6% steady-state level of the PCB. Table 5 refers to the "max Tier 2" that may be included in the "total minimum" capital requirement. However, it does not specify how quickly that Tier 2 must be "new" Tier 2 (i.e. Tier 2 with bail-in provisions issued under the forthcoming capital standard, rather than "existing" Tier 2 issued under the BPRs). This issue is contingent on our approach to early redemption and short dating of existing Tier 2 instruments, which we consulted on as part of our recent BPR exposure draft consultation. We expect to publish final decisions on our BPR exposure draft consultation in late July. Submitters may wish to take those decisions into account when considering the options in table 5.

Table 5: Three options for transition paths

Option 1: Slow implementation (6% LAC by December 2033)

	Minimum Tier 1	Minimum total (of which max Tier 2)	LAC	Total capital + LAC
Oct 2027	4.5	9 (2)	0	15
Dec 2028	6	9 (3)	1	16
Dec 2029	6	9 (3)	2	17
Dec 2030	6	9 (3)	3	18
Dec 2031	6	9 (3)	4	19
Dec 2032	6	9 (3)	5	20
Dec 2033	6	9 (3)	6	21

Option 2: Moderate implementation (6% LAC by December 2031)

	Minimum Tier 1	Minimum total (of which max Tier 2)	LAC	Total capital + LAC
Oct 2027	4.5	9 (2)	0	15
Dec 2028	6	9 (3)	1	16
Dec 2029	6	9 (3)	2	17
Dec 2030	6	9 (3)	4	19
Dec 2031	6	9 (3)	6	21

Option 3: Fast implementation (6% LAC by December 2030) – Preferred

	Minimum Tier 1	Minimum total (of which max Tier 2)	LAC	Total capital + LAC
Oct 2027	4.5	9 (2)	0	15
Dec 2028	6	9 (3)	2	17
Dec 2029	6	9 (3)	4	19
Dec 2030	6	9 (3)	6	21

Transitional arrangement for existing instruments

445. Group 1 deposit takers currently have existing Tier 2 outstanding, with a range of maturity and first call dates, including extending to 2030. It is likely that all Group 1 deposit takers will have some existing instruments outstanding concurrently with new Tier 2 and LAC instruments. Group 1 deposit takers may also want to issue further Tier 2 under the existing rules in the period before the new Tier 2 and LAC requirements come into force. This includes short-dated Tier 2 instruments proposed in the recent BPR exposure draft consultation, with changes due to take effect from 1 October 2026.⁵³
446. This concurrent situation remains until the existing Tier 2 instruments mature or are called, after which none will remain outstanding.
447. The new Tier 2 and LAC instruments would normally rank equally with the existing Tier 2 instruments, which complicates triggering due to implications for the creditor hierarchy. We considered several options to address this issue.
448. Our preferred option is for new Tier 2 and LAC instruments to be contractually subordinated to existing Tier 2. This avoids delays in triggering while preserving the creditor hierarchy. Existing Tier 2 instruments would continue to count toward Tier 2 capital but would not be eligible for LAC, as it lacks equivalent loss-absorbing features and ranks senior to the new instruments. This approach preserves the integrity of the capital stack while allowing existing Tier 2 to continue to operate as intended.
449. We have considered several other options while developing our proposal. Options such as delaying triggers, either informally or contractually, or disregarding the hierarchy have been discounted. This was because these options would either delay the point at which LAC and Tier 2 instruments would be available to be written down or mean disregarding the creditor hierarchy by writing down LAC and Tier 2 instruments ahead of equal ranking existing Tier 2.

Reporting and disclosure requirements

450. LAC and new Tier 2 are likely to be incorporated into existing capital reporting and disclosure frameworks. Once a policy decision is made on LAC requirements in late 2026, we will confirm the detailed consequences for the relevant disclosures and data collection templates. The exposure draft of the DTA disclosure statement standard published alongside this document contains initial proposals for the disclosure of LAC (in Part 3). We plan to issue the disclosure statements standard in May 2027, after considering consultation feedback.

⁵³ In late July 2026, we intend to publish final BPRs and decisions following the recent BPR exposure draft consultation (consultations.rbnz.govt.nz/prudential-policy/2026-bpr-exposure-drafts/). We have received feedback on the design of short-dated Tier 2. The changes in the BPRs are planned to commence on 1 October 2026. For this consultation, we encourage respondents to refer to the final BPRs when forming your views.

Summary

451. We propose implementing new LAC and Tier 2 requirements by December 2030, with new instruments contractually subordinated to any existing Tier 2.
452. Existing Tier 2 is likely to remain outstanding during the transition, alongside new instruments. Subordination of new instruments enables timely loss-absorption and preserves the creditor hierarchy. Existing Tier 2 would continue to count as regulatory capital but would not meet LAC requirements.

Q18 Do you agree with our proposal to implement new LAC and Tier 2 requirements by December 2030? If not, what alternative implementation timeline would you prefer, and why?

Q19 Do you agree with our proposal that, while existing Tier 2 instruments remain on issue, new LAC and Tier 2 instruments should be contractually subordinated to those existing instruments? If not, what alternative approach would you prefer, and why?

5.6 Potential application of LAC requirements to future Group 1 deposit takers

Proposal

453. We propose to seek early input through this consultation to inform our future policy work for developing alternative rules for bail-in debt to support diversity once the DTA is fully in force after December 2028. Any restructuring, growth or market entry that resulted in a new Group 1 deposit taker in the meantime could be accommodated on an interim basis through licence conditions.

Analysis

454. During the capital review consultation, we heard concerns that the design of internal LAC does not adequately account for domestic deposit takers becoming Group 1 in future. Domestic deposit takers saw the introduction of internal LAC as a barrier for them to grow. It was mainly because existing domestic deposit takers typically do not have the group structures to issue bail-in debt internally and because external issuance would be expensive for domestic deposit takers.
455. At this stage, the proposed bail-in debt is designed primarily for the current Group 1 deposit takers, which are wholly owned subsidiaries of Australian banking groups. However, we consider it important to support future diversity in ownership structures and business models. Accordingly, we intend to further develop alternative approaches to bail-in debt equivalent to the LAC instruments once the DTA is fully implemented after December 2028. This future work will consider how the design of the bail-in debt can accommodate a broader range of Group 1 entrants, including domestically owned institutions, support a diversity of deposit takers, and maintain competition. As part of this consultation, we are seeking early feedback to inform our future policy work.

456. In the interim, we would accommodate any changes in circumstance through variations to the deposit taker's conditions of licence, tailored to the specific features of the entity and the Reserve Bank's crisis management strategy. Changes could be due to new market entrants, the growth of domestic deposit takers or changes to the ownership structures of Group 1 deposit takers (for example, a shift to a non-Australian parent).
457. If a Group 1 deposit taker that was the wholly-owned subsidiary of a non-Australian parent, and the Reserve Bank's crisis management strategy with its overseas parent regulator was equivalent to our existing one with APRA, we might apply the same requirements as for other Group 1 deposit takers (i.e. internal issuance of LAC and Tier 2 instruments with write down provisions).
458. If a Group 1 deposit taker was not a wholly owned subsidiary of an overseas parent or the Reserve Bank has different crisis management strategies for the deposit taker, we could:
- allow the deposit taker's LAC and Tier 2 instruments to not include contractual write off or conversion features (i.e. effectively replace the LAC requirement with additional Tier 2 of the sort issued by Group 2 and 3 deposit takers);
 - require the deposit taker to issue LAC and Tier 2 instruments with contractual write off or conversion features to a New Zealand incorporated holding company that has issued equivalent instruments to the market (this may allow us to put the holding company into resolution with fewer direct impacts on the deposit taker); or
 - require the deposit taker to issue LAC and Tier 2 instruments with contractual write off or conversion features externally (i.e. to third parties).
459. We could also consider whether any write-off or conversions clauses could be triggered outside resolution or only in conjunction with resolution (which would provide greater protection to creditors – particularly No-Creditor-Worse-Off protection).
460. These examples could provide an initial basis for developing alternative approaches to bail-in debt instruments that achieve outcomes equivalent to LAC for future Group 1 deposit takers.

Summary

461. We are seeking early input through this consultation to inform the development of alternative bail-in debt approaches once the DTA is fully in force. In the interim, restructuring, growth or new entry could be accommodated through licence conditions.

Q20 Do you have any views on the different ways bail-in requirements could be applied to a new Group 1 deposit taker with a different ownership structure?

5.7 Proposed approach for Group 2 and 3 deposit takers and branches of overseas deposit takers

462. As previously decided as part of the capital review, we are not proposing that LAC requirements apply to Group 2 or 3 deposit takers (or that Tier 2 instruments for Group 2 or 3 deposit takers be required to include bail-in terms). The treatment of an existing Group 2 or 3 deposit taker that grows to become a Group 1 deposit taker is discussed in the section 5.6 above.

463. No capital or LAC requirements apply to branches of overseas deposit takers.

5.8 Conclusion

464. The capital review has already decided:

- that LAC will be set at 6% of risk-weighted assets;
- That LAC and Tier 2 will be the same type of instrument and include bail-in terms;

465. That LAC and Tier 2 instruments must be internally issued (i.e. issued to another member of the deposit taker's group).

466. We are now proposing that:

- The bail-in terms in LAC and Tier 2 instruments must comply with certain requirements.
- These instruments must contain "point of non-viability" and "entry into resolution" triggers for when the instruments can be bailed in.
- The bail in terms in these instruments must allow them to be written down (but not converted into equity).
- These instruments must be governed by New Zealand law.
- These instruments must be issued to the Australian ADI in the deposit taker's banking group.
- Deposit takers must notify the Reserve Bank of their intention to issue these instruments, and that this notification must be accompanied by a completed checklist, and a legal opinion, showing how the instruments meet the necessary requirements.
- The new LAC requirement be introduced via a transitional process that would end in December 2030.
- We consider how any new group 1 deposit taker with a different ownership structure be treated under these rules once the DTA is fully in force (and should this issue arise in the meantime deal with it via conditions in the relevant deposit taker's licence).

467. We consider that these proposals will help ensure that new LAC and Tier 2 instruments will support the effective recapitalisation of a distressed deposit taker and also align with APRA rules and international guidance.

Appendix C: Additional information on trigger clauses

468. The FSB Guiding Principles on Internal TLAC provides an example contractual trigger outside of resolution.

Write-down Trigger Clause:

“Contractual Write-Down or Conversion Outside of

Resolution: *Notwithstanding any other agreements, arrangements, or understandings between [the issuer] and [the holder of the TLAC eligible instrument], by acquiring the [TLAC eligible instrument], the [holder of the TLAC eligible instrument] acknowledges, accepts, agrees to be bound by, and consents to the [Contractual Write-Down or Conversion] of [this instrument] in any of the following circumstances:*

(a) upon the determination by the [relevant host resolution/competent authority] that:

- (i) [issuer] has reached the point of non-viability (Condition 1); and*
- (ii) it is not reasonably likely that (ignoring the Contractual Write-Down or Conversion, any exercise of resolution powers [and any injection of capital from the public sector or resolution funds]) action will be taken by or in respect of the [issuer] that will result in Condition 1 ceasing to be met.*

Or

(b) upon the [exercise of a statutory PONT power] in respect of regulatory capital instruments of [the issuer].

469. We note that the Australian approach is consistent with the FSB’s example. In Australia, bail in clauses are triggered on the occurrence on a “non-viability event”.

470. A non-viability event is when APRA notifies the ADI that APRA considers that:

- Conversion or write-off of capital instruments is necessary because, without it, the ADI would become non-viable; or
- Without a public sector injection of capital, or equivalent support, the ADI would become non-viable.

471. The Reserve Bank’s earlier pre-2019 capital settings included conversion and write off provisions for AT1 and Tier 2 instruments. In the previous settings, bail-in was triggered when:

- We issued a direction to the bank under section 113 of the Banking (Prudential Supervision) Act 1989 (**BPSA**), on the basis that the financial position of the registered bank was such that it met any of the grounds in subsections 113(1)(a)- (e); or
- The bank entered into statutory management and the statutory manager announced their decision to convert or write off the instrument, and required the registered bank to implement this decision.

Deposit Takers Continuity of Access to Deposits Standard

Summary

472. The Continuity of Access to Deposits (**CoAD**) Standard is a supporting standard for the broader resolvability requirements we are proposing as part of the Crisis Preparedness Standard (see Chapter 4).
473. Resolvability pre-positioning will be an essential part of our crisis management framework under the Deposit Takers Act (2023), ensuring that, if necessary, we are able to deliver an orderly resolution for failed deposit takers that limits disruption to the broader financial system,
474. CoAD functionality plays an important part in promoting continuity of access for depositors during resolution, limiting disruption and reducing incentives for a bank run.
475. The functionality we are proposing is an evolution of the 'Open Bank Resolution' (**OBR**) pre-positioning that we have required under our current regulatory regime (BS17). This functionality enabled failing deposit takers to freeze access to all liabilities at the time they were placed into statutory management and then selectively re-establish access during the resolution process. In particular, it involved the capability to re-establish customers' access to a portion of deposit balances by 9am the next business day.
476. As we explained in Part A of this consultation document. We are intending to replace our OBR policy with a broader set of crisis responses in which exit from resolution is more fully pre-positioned than it was under OBR. We are proposing that CoAD functionality should now be in place to support a range of strategies in our crisis response waterfall (standalone recapitalisation, orderly wind-down and, potentially in some circumstances, rapid sale).
477. We are proposing that deposit takers will still be required to deliver the majority of the functionality we previously required under BS17. However, we no longer see a need for deposit takers to be able to freeze a particular portion of on call deposit accounts, while allowing access to the rest. Instead, we are proposing a simpler ability to suspend and then re-instate access to whole asset classes.
478. We propose to remove the current \$1 billion retail deposit threshold for pre-positioning of this kind. Instead, we propose to apply the Standard to all Group 1 and 2 deposit takers. However, there may be cases where CoAD functionality is not relevant to the Reserve Bank's expected resolution strategy for the deposit taker (we expect this to be the case for all current Group 2 deposit takers that are not subject to BS17). In this case, a deposit taker's conditions of license will not require them to comply with the CoAD standard.
479. CoAD functionality would be necessary to facilitate an orderly wind-down. We are therefore considering whether the CoAD standard should apply to Group 3 deposit takers that offer transactional accounts and we are seeking feedback from those deposit takers on how difficult it would be to implement the simpler requirements that we are proposing here.

6.1 Introduction

480. OBR pre-positioning requirements (BS17) were originally introduced in 2012 as part of the Reserve Bank's broader 'Open Bank Resolution' policy.
481. The OBR policy was designed on the basis that we would largely maintain the *pari passu* treatment of creditors, imposing a freeze based on estimated losses across all equally ranking liabilities (after shareholders' capital and subordinated debt absorb full losses) and excluding a *de minimis* amount applied to a range of accounts. The failed bank would then reopen the next business day, with a government guarantee, providing customers access to their unfrozen balances whilst the resolution process continued.
482. In 2024 we consulted on a proposed OBR Standard⁵⁴ that would require deposit takers to re-develop their OBR functionality so that they could impose haircuts in a way that allows depositors immediate access to their full DCS entitlement (up to \$100,000 in protected deposits per eligible depositor) and that this haircut applies on any funds that are not DCS-protected. We called this the 'OBR-DCS' integration model. Deposit takers have told us that this will be a complex and expensive process to execute.
483. We did not publish our response to submissions to the 2024 consultation because of the possibility that further work on the development of our new crisis management framework under the DTA could result in the need to make further changes to the proposed Standard.
484. As explained in Part A of this consultation document, we have since determined that full OBR-DCS integration is no longer necessary in the context of our resolution framework so we are now proposing a simpler functionality. We are also changing the terminology we use around crisis management. We now describe our revised version of what was the OBR Pre-positioning Requirements Policy (BS17) as the 'Continuity of Access to Deposits' (or **CoAD**) Standard.
485. This chapter sets out our views on the key design aspects of our proposed CoAD Standard and how it supports the purposes of the DTA, including the additional purposes of Part 7 of the DTA (which deals with crisis management and resolution). We are proposing that the standard will carry over most of the existing requirements in BS17 but will be updated to better achieve the purposes of the DTA.
486. The proposed CoAD Standard requires a deposit taker to have mechanisms in place ahead of its potential failure for the purpose of ensuring depositors/customers quickly regain access to liquidity and banking services. These mechanisms entail customers being able to access their transactional accounts shortly after the deposit taker enters resolution.

⁵⁴ see: [Deposit Takers Non-Core Standards](#)

Purpose of the CoAD standard

487. The CoAD standard is an important supporting standard to the crisis preparedness standard. It provides key functionality that supports our ability to deliver a resolution in keeping with the DTA crisis management purposes.
488. As noted elsewhere in this consultation, these purposes require us to seek to deliver an orderly resolution that preserves a deposit taker's critical functions and limits disruption to the broader financial system. Where compatible with these primary objectives, we are also required to seek to follow the creditor hierarchy and limit recourse to public funds.
489. CoAD functionality allows us to maximise continuity of service, reducing the disruption and costs of deposit taker's failure. Alongside the assurances provided by the DCS, it also reduces any incentives for a bank run by providing depositors with rapid access to their funds, further reducing potential impacts on financial stability.
490. The DTA legislation carries over existing powers and provisions that underpin the OBR process, allocating powers to either the Reserve Bank or a 'resolution manager'.⁵⁵ This includes the moratorium provisions on entry into resolution (section 287), power to suspend payment of money owing (section 330 of the DTA), and to dispose of assets and liabilities (section 320 of the DTA). Additionally, section 89(2) of the DTA enables us to issue standards to ensure that deposit takers can be resolved in accordance with the additional purposes for exercising resolution powers.
491. CoAD functionality works with the other crisis preparedness requirements we are proposing here to support the application of a range of resolution tools (we explain this in more detail in Part A of this consultation document).
492. We are proposing a CoAD Standard that is a simpler solution in terms of pre-positioning the freeze capacity that meets our DTA purposes, without requiring the fully integrated OBR-DCS model we consulted on in 2024.
493. Our proposals reflect a proportionate approach to prudential regulation with the CoAD Standard generally applicable to all Group 1 and 2 deposit takers. However, there could be cases where the CoAD functionality is not necessary to implement the preferred resolution tool for some Group 2 deposit takers (we expect this to include all current Group 2 deposit takers that are not subject to BS17), in which case we will not apply the standard.⁵⁶ The CoAD functionality will not apply to branches.
494. For Group 3 deposit takers that offer transactional accounts, we are considering whether it is appropriate to apply the CoAD standard. We think it would be very desirable to be able to implement an orderly wind-down in resolution and are keen to work with Group 3 deposit takers to develop an efficient way to deliver this functionality. We are particularly interested in how much of the CoAD functionality those Group 3 deposit takers are already able to

⁵⁵ A resolution manager is appointed by the Reserve Bank and is responsible for carrying out certain functions during the resolution process. (These functions largely relate to the day-to-day operation of the deposit taker in resolution.) The Reserve Bank may appoint either a third party or itself as a resolution manager.

⁵⁶ We will use licence conditions to specify which deposit takers are in scope for the standard.

deliver and how they might most easily be able to deliver the term deposit functionality described later in the consultation.

6.2 Current approach

495. The existing OBR Pre-positioning Requirements Policy (BS17) requires the functionality for a bank in statutory management to give effect to the following actions directed by the statutory manager:
- Close and suspend (freeze) accounts and other liabilities
 - Process end-of-day accounts
 - Apply a partial freeze on all unsecured senior liabilities (excluding the *de minimis* amount)
 - Reinstate access (unfreeze) to portions of account balances
 - Restore access to all or parts of suspended liabilities over time
496. The freeze seeks to ensure that it is shareholders and potentially creditors that bear the losses of the failed bank. Suspending the payment of a portion of the bank's liabilities would enable it to continue operating.
497. The freeze applies to a fixed proportion of each deposit account (on a per account basis, i.e. no aggregation of deposits) and other liabilities. A small *de minimis* amount in each transactional account is protected against loss. The bank in OBR would then be able to reopen the next business day, with a government guarantee, giving depositors access to their unfrozen balances.
498. The introduction of the DCS meant that the previous partial freeze of deposits (applied on a per account basis) in BS17 was no longer appropriate. The DCS protects depositors against loss on a Single Depositor View (SDV) basis up to \$100,000 per eligible depositor.
499. In 2024, we proposed that, when a deposit taker reopens, any proportional freeze of deposits would be applied only to the 'unprotected' portion of deposits – i.e. deposits held in excess of the DCS entitlement. However, delivering this functionality was going to involve a complex IT build for deposit takers. Feedback to the 2024 consultation was that the build would be expensive and time consuming.
500. As explained in more detail in Part A of this document, we now think that OBR-DCS integration is no longer necessary. That is because, under the DTA legislation, we are less likely to need to impose a partial loss on all depositors.
501. Nonetheless, we think that most of the OBR processes remains valuable and should be carried over into a new CoAD Standard. In other words, it is still useful for a deposit taker to be able to suspend access to all liabilities, including customer accounts, process end-of-day incoming and outgoing transactions and then reopen the next business day. Our emphasis, now, though is on being able to identify classes of liabilities and selectively re-instate servicing or access in a way that is functional for the resolution strategy we are trying to implement (rather than suspending a portion of unprotected deposits).

6.3 Proposed policy development approach

The role of CoAD functionality

502. CoAD functionality plays the same fundamental role as was envisaged for OBR pre-positioning. Its role is in enabling the deployment of resolution tools whilst ensuring that depositors maintain access to their funds the next day following failure. CoAD is designed to keep the bank's critical functions running and reduce the incentive for a disorderly run by restoring access to payments and settlement services quickly. This helps preserve franchise value and provides a controlled environment for the resolution authority to carry out its resolution decisions.
503. Our new crisis management framework (set out in Part A of this consultation) is designed to be more flexible, recognising that failures can occur under different economic conditions and in varying circumstances. It allows us to adapt our response based on the prevailing economic environment and the specific financial position, risks and operational condition of the deposit taker at the point of failure, rather than relying on a one-size-fits-all approach.
504. The DTA crisis management purposes explicitly prioritise financial stability objectives over strict adherence to the creditor hierarchy (in the important context of NCWO rights, which guarantee compensation to shareholder and creditors if they received less from resolution than they would have in a hypothetical liquidation)
505. In the context of the crisis management purposes, there are a range of situations in which *pari passu* treatment of senior unsecured creditors may produce a worse system outcome than having a selective application of payment suspension to different classes of creditors. In some cases, that might be because of the impact of freezing liabilities on the broader financial system (and public confidence in the system). In other cases, it might be because the administrative difficulty of delivering small percentage haircuts across a wide range of contracts would prevent an 'orderly' resolution. In these situations, our DTA purposes would require us to prioritise financial stability or an orderly resolution, with the result that equally ranked creditors would be treated differently in resolution.
506. We propose a simpler and more flexible capability to be able to selectively suspend servicing of and access to particular classes of liability and then selectively restore access as required during the resolution process. Under our more flexible resolution framework, it is difficult to specify in advance which liabilities might be frozen for a period or more permanently written down in some way during a particular resolution. Instead, our new proposals identify liability classes that it might be useful to isolate, depending on the conditions at the time and our statutory purposes.
507. CoAD is potentially useful in executing a recapitalisation of the deposit taker as a standalone entity (Option 4 for Group 1 in the crisis response waterfall described in Part A of the consultation document). If we needed to recapitalise a Group 1 deposit taker, CoAD would enable access to liabilities destined for the 'good bank', while suspending the servicing of liabilities that would be left in the 'bad bank', awaiting asset recovery and distribution.

508. We are also looking at CoAD to support an orderly wind down for distressed smaller deposit takers. In an orderly wind-down, the aim is to keep a distressed deposit taker open for a period of time while depositors are given an opportunity to transfer their deposits to a different provider before liquidation. There would need to be some form of selective restriction on access by creditors during this period. CoAD would provide a way to achieve this moratorium on some claims, while the bank remained open to service deposits.
509. CoAD functionality might also be useful to buy time if a 'rapid' sale was taking longer than expected.
510. The CoAD Implementation Plan sets out the processes that a deposit taker undergoes so that depositors can access their funds the next business day following its failure or entry into resolution. This readiness capability provides some leeway for the resolution authority to complete the deployment of resolution tools, if these were not completed pre-resolution.
511. In all cases, depositors are protected under the DCS and creditors and shareholders are protected under the NCWO safeguard.

Applying proportionality

512. We expect that the resolution of Group 1 and Group 2 deposit takers would generally be more complex, in part because of the need to provide continuity of access to deposits (through CoAD or otherwise) to preserve systemically important activities and limit contagion.
513. We propose the CoAD Standard applies to all Group 1 deposit takers, as it is a useful functionality to maintain depositors' access to their funds in resolution. It would be used as an important part of the fallback solution that we need in place in case a group-level resolution fails and we need to separate the New Zealand subsidiary from its Australian group.
514. Our default position is that deposit takers in Group 2 would also be covered by the CoAD standard, unless CoAD functionality is not relevant to their orderly resolution plans. In practice, we expect that all current Group 2 deposit takers that are not currently compliant with BS17 will not need to develop CoAD functionality.
515. We do not propose extending the CoAD Standard to Group 3 deposit takers generally. We consider most Group 3 deposit takers do not individually pose material risks to financial stability. From this perspective there is less need to provide continuity of access to deposits in resolution.
516. However, there are some Group 3 deposit takers with a significant volume of transactional deposits. For these deposit takers, some of the functionality delivered by the CoAD standard would be important in promoting continuity of service in resolution, particularly as part of an orderly wind down. We are therefore keen to engage with Group 3 deposit takers to understand how much of the CoAD functionality they are already able to deliver (for example, through the suspension of access requirements included in the DCS standard) and

how difficult they would expect it to be to develop the functionality we are proposing in relation to term deposits.

517. CoAD functionality is not needed for branches. Branches do not hold retail deposits and any resolution would likely be led by the deposit taker's home regulator.

Q21 Do you have views on the purpose and rationale for CoAD functionality in the crisis management framework?

6.4 Proposed approach for Group 1 deposit takers

CoAD as fallback option for Group 1

Preferred option (SPE) and fallback option (separation supported by CoAD)⁵⁷

518. Our preferred resolution strategy for Group 1 is an Australian-led group resolution, under which the Australian parent would downstream sufficient capital to restore the viability of its New Zealand subsidiary. Introducing Loss Absorbing Capacity (**LAC**) in our capital framework supports a "Single Point of Entry" (**SPE**) resolution strategy.
519. However, in case an SPE solution is not possible for some reason (for example, it is not possible to deliver sufficient recapitalisation at group level), we need to maintain a credible backstop resolution option to safeguard New Zealand's financial stability should separation from the parent entity become necessary ('Option 4' in our crisis response waterfall).
520. If we needed to recapitalise a Group 1 deposit taker, the CoAD functionality enables access to liabilities transferred to the 'good bank', while suspending servicing of liabilities that are left in the 'bad bank', awaiting asset recovery and distribution.

Analysis

521. Maintaining CoAD pre-positioning for Group 1 deposit takers provides an essential fallback that enables continuity of critical services in resolution. A 'closed bank' resolution of a Group 1 deposit taker could cause significant risks to the stability of the financial system and the continuity of systemically important activities.
522. The majority of retail and business depositors have their transactional or everyday accounts held in Group 1 deposit takers. Liquidation and a DCS payout would be highly disruptive, so is unlikely to achieve the purposes in section 259 of the DTA.
523. CoAD pre-positioning is necessary to facilitate the resolution of Group 1 banks deposit takers if an SPE resolution does not prove feasible.

⁵⁷ SPE is Single Point of Entry resolution that keeps the Group intact; MPE is Multiple Point of Entry where the NZ subsidiary separates from the parent entity.

Summary

524. We propose that the CoAD Standard apply to all Group 1 deposit takers in the same way as the current BS17. This retains our ability to resolve these deposit takers in a way that maintains continuity of access to deposits, thereby protecting depositors and NZ's financial stability.

Q22 Do you agree that the CoAD Standard should apply as a fallback option to Group 1 deposit takers?

Proposed CoAD functionality

Carry over most BS17 requirements

525. We propose that most BS17 requirements are carried forward into the new CoAD Standard. These requirements deliver the following processes:

- closing the deposit taker and suspending payment of accounts and other liabilities
- processing incoming and outgoing transactions overnight to produce end-of-day balances
- reinstatement or lifting the suspension of payment on selected liabilities and re-opening the next business day
- maintaining suspension of payment on other liabilities
- restoring access to all or parts of suspended liabilities over time

Closing and suspending payment of accounts

526. On the day and time that the deposit taker enters resolution, access channels will be closed. This means restricting access by customers to their accounts (liabilities are frozen under the moratorium in section 284 of the DTA).

527. The deposit taker must be able to disable any capability to initiate or accept transactions from the effective time it enters resolution or as directed by the resolution authority.

End-of-day processing of accounts

528. This activity covers the processing of pre-resolution and in-flight instructions. When calculating deposit balances, the deposit taker must include only those transactions that have been completed and all elements of the transaction have been settled respectively (i.e. interbank settlement or settlement through Visa or Mastercard networks).

529. The end-of-day processing must be completed in time for the deposit taker to reopen or to provide access to deposits at 9am the next business day. Access may be available through the failed deposit taker, or in certain circumstances through an acquirer/successor entity or bridge bank.

Reopening the next business day

530. In the 2024 consultation, we asked if deposit takers should be able to reopen the next calendar day instead of the next business day following entry into resolution with the implementation of Settlement Before Interchange 365 (**SBI365**). The implementation of SBI365 has allowed for the interchange of retail electronic payments amongst Exchange Settlement Account System (**ESAS**) participants 7 days a week, 365 days a year. This reduces the pipeline of retail payments because of more frequent settlement.
531. In response to the 2024 consultation, deposit takers commented that while the OBR process itself can run on a non-business day, reopening on a weekend or public holiday requires more than just updating payment files. Respondents said that they should not be made to undertake activities that they do not normally make available on weekends or public holidays, should we proceed with the proposed change to convert from business day to calendar day reopening.
532. We acknowledge that reopening on a calendar day instead of a business day would demand more pre-positioning from deposit takers for activities not generally available during the weekend or public holidays, such as ancillary services. These activities are not directly related to the implementation of SBI365.
533. We agree to retain the current requirement to reopen on the next business day instead of the next calendar day but may re-visit this matter in the future.

Lifting the suspension of payment or reinstating access to funds

534. The deposit taker must have the capability to reopen access channels and reconnect to the payments system no later than 9am the next business day. Depositors/customers would be able to access their funds in the same accounts where these funds were located immediately before entry into resolution.
535. Deposit takers should have the capability for depositors to be able to continue making payments to and from their existing accounts using current payment instruments and facilities, including via some or all of the deposit taker's payment channels. This includes ongoing processing and settling of incoming and outgoing payments, such as direct deposits (salaries, superannuation and benefits, among others) automatic payments, card payments and ATM withdrawals.
536. Payment channels that may be reopened include the deposit taker's branches, ATMs, phone banking, internet banking and point of sale networks. Pre-defined daily limits on ATM and other bank card transactions may continue as per normal.
537. If the deposits are transferred to an acquirer or bridge bank, it is expected that the deposit taker is able to continue servicing those deposits until they are fully migrated to the successor entity.

Maintaining the suspension of payment on other liabilities

538. The suspension of payment on other liabilities will remain in effect until the deposit taker is required to re-establish access by the resolution manager.

Implementation Plan

539. Deposit takers are required to prepare a CoAD Implementation Plan that contains the deposit taker's documentation of its operational and systems-based capability to execute these processes. The processes must be tested at least once annually or as directed by the resolution authority.

540. Under the proposed CoAD Standard, we will no longer require a 'compendium of liabilities' (refer to section B3.1 of BS17).

Analysis

541. We consider that most of the existing OBR-BS17 processes remain appropriate and should be carried over into the new CoAD Standard. Retaining most BS17 processes would allow deposit takers to leverage existing systems, controls and operational capabilities instead of undertaking significant new builds.

542. Retaining these processes supports operational readiness, reduces implementation costs and enhances the reliability of the CoAD functionality given that these processes have been tested over the years.

543. However, it is our expectation that deposit takers will take stock and review their processes and adapt them to the proposed CoAD Standard.

Summary

544. We consider that most BS17 processes remain valuable and should be carried over to the proposed CoAD Standard. Notwithstanding, we expect deposit takers to review these processes for possible enhancements and alignment with our resolution framework.

Q23 Do you support carrying over OBR BS17 requirements into the CoAD functionality?

Is overnight closure still necessary in all scenarios?

545. Now that our CoAD functionality does not require proportional suspension of liabilities at a particular point in time, we are interested in considering whether overnight closure is still necessary in all resolution scenarios.

546. We think that it is likely to be valuable for deposit takers to have the functionality to close access to all liabilities during a 'resolution weekend'. We also note that the DCS Standard requires a deposit taker to have software capable of freezing account access when a specified event notice is issued.

547. However, we are interested to know whether it would be possible, using deposit taker's current systems, to maintain continuous access to transactional deposits, while suspending access to other liabilities (such as wholesale bonds or term deposits) and whether deposit takers think that would be a preferable course of action in some circumstances.
548. Deposit takers may wish to consider whether they need to be able to identify account balances at the time resolution commences (since one of the purposes of the overnight 'freeze' was to process in flight and on us payments in order to deliver a precise set of balances). We note that we would be likely to require deposit takers to issue a valid SDV file on entry into resolution to assist with our calculation of the availability of DCS contributions to resolution and an eventual No Creditor Worse Off valuation.

Q24 Is closure of the deposit taker at the point at which statutory management is imposed still necessary from an operational perspective?

New functionality: variable suspension capability

549. The main change we propose making to existing policy is in the specification of the liabilities a deposit taker will be able to identify for selective reinstatement after the initial overnight closure.
550. The current OBR policy assumes that the majority of general creditors should receive *pari passu* treatment, so the 'freeze' is designed to make that possible by including a wide range of liabilities in the early stages of resolution. As we explained in Part A, the DTA crisis management purposes, resolution powers and NCWO provisions all explicitly anticipate potential deviation from *pari passu* treatment in resolution, if necessary to deliver the overarching crisis management purposes.
551. That means that we would be considering the order in which access to liabilities was re-established for general creditors based on what is required to deliver an orderly resolution, while avoiding significant disruption to the financial system, preserving continuity of access to critical functions and maintaining public confidence.

Statutory departures from the liquidation creditor hierarchy

552. Under the DTA, some particularly sensitive contracts are, in any case, excluded from the moratorium that applies when statutory management commences (some rights under netting agreements and Financial Market Infrastructure rules – DTA section 292, and a variety of rights relating to derivatives contracts, which are subject to a short-term 'stay' instead of the longer-term moratorium sections 293-7). Covered bonds are also protected by section 421.
553. Beyond that, the time at which access to liabilities is re-established is a decision to be made by the resolution manager and the Reserve Bank, guided by the DTA crisis management purposes. As we noted in Part A, the precise treatment of liabilities in any actual resolution scenario would need to be determined at the time, based on the circumstances of the deposit taker and the wider economy. However, consideration of the different types of

general creditor and the likely impact of suspending different liabilities suggests some actions are more likely than others to be compatible with an orderly resolution that avoids significant damage to the financial system.

Liabilities where we would generally expect to seek rapid reinstatement

554. We would expect to require rapid reinstatement of access to short-term interbank exposures and other operational liabilities because the likely impact of suspension on markets and on continuity of service would be incompatible with our crisis management purposes in almost all cases. Examples of operational liabilities are those arising from the provision of critical goods or services necessary for the deposit taker's operations, such as balances owed to suppliers, service providers, IT vendors, other financial institutions, FMIs, and employees.
555. The most significant change, relative to BS17, is that we also think that it is unlikely that we would seek to suspend access to a proportion of unprotected deposits in on call accounts once the deposit taker reopened.
556. On-call accounts play a critical role in economic activity, including allowing consumer payments and business transactions (including payroll and financing for business operations). Suspending on call accounts also risks contagion to the broader financial system, including the payments system.
557. Given that we would expect shareholders and holders of subordinated debt (including capital instruments) to absorb losses before depositors and given the availability of a DCS contribution to cover some losses to depositors, we think a proportional haircut for unprotected deposits is very unlikely to be compatible with our crisis management purposes.

Liabilities where treatment would depend on the circumstances

558. For other liabilities, we can envisage cases in which it might be appropriate to maintain suspension of access for longer. These are therefore the main focus of our revised CoAD functionality.
559. It is important to emphasise that including asset classes in required CoAD functionality means we *might* want to suspend access to these liabilities for a longer period and we therefore consider that deposit takers' ability to do so is important. However, whether to do so remains at our discretion, based on our crisis management purposes and the conditions at the time. Additionally, suspension need not be equated with ultimate levels of loss. It may simply be about delaying recovery for those creditors that are in a better position to deal with the resulting delay and uncertainty. (If any disadvantage were to arise from suspension that resulted in a worse outcome for creditors than they would have received under liquidation, they would be entitled to NCWO compensation).
560. The two categories that we see as particularly relevant here are wholesale liabilities and unprotected term deposits.

Wholesale liabilities

561. Wholesale liabilities include wholesale bonds, and other long-term debt securities such as medium-term notes and floating rate notes.
562. We are proposing that deposit takers should be able to operationally suspend payments to counterparties under these contracts and be able to explain how payment processing, suspension and reinstatement would be implemented under the resolution manager's direction.
563. We assume that this capability is already in existence in order to comply with BS17

Term deposits

564. Term deposits may be particularly relevant in a resolution designed to deliver an orderly wind-down, where liquidity is at a premium. Since term deposits are not necessary for day-to-day transactions, holders of term deposits may be better placed to cope with the suspension of access to funds than holders of on call deposits. We would need to consider whether making this distinction was justifiable in a particular case, in the context of a specific resolution strategy.
565. The majority of term deposits are not expected to mature at the point of entry into resolution.
566. Where term deposits mature during the resolution period, the ability to release access to any protected portion would be necessary to meet our DCS obligations and would help maintain public confidence.
567. A longer-term suspension of access to the *unprotected* balance of term deposits on the other hand, might be necessary in some circumstances to support the chosen resolution tool. In extreme scenarios, this might result in unprotected balances being repaid indirectly via the resolution process rather than released to an existing account. In all circumstances, unprotected creditors will receive at least what they would have received if the deposit taker had been liquidated.
568. In order to deliver that functionality, deposit takers would need the ability to draw on their SDV calculations to determine whether term deposits were fully protected or not and to determine the value of unprotected term deposits. This would not need to be done by 9am the day after entry into statutory management because term deposits are not critical to depositors' short-term financial transactions. However, identification of protected and unprotected term deposits would need to be achievable within a relatively short space of time in order to deliver DCS outcomes.
569. Term deposits that are 'relevant arrangements' would need to be treated differently from other term deposits because it would be difficult to determine what proportion of such deposits was 'unprotected'. We would be comfortable with these deposits remaining suspended while eligibility was calculated later (since that is also the treatment they would receive under the DCS).

570. We are interested in how complex deposit takers think it would be to implement a solution that enabled them to identify unprotected deposits in this way and suspend payment of them if required, whilst paying out protected deposits. Deposit takers are asked to propose a term deposit functionality that would enable the management of these liabilities as described above. We are open to different solutions or approaches provided they are effective and operationally robust (including manual intervention).
571. If deposit takers can propose other ways in which we might distinguish between classes of term deposit holders that would be simpler to administer and consistent with our statutory purposes, we would also be open to discussing alternatives.

- Q25** How easy or difficult would it be to identify and suspend access to all term deposits in systems terms (we are aware of the potential communication challenges)?
- Q26** How easy or difficult would it be to use single depositor view capability to identify and separate fully protected and unprotected portions of term deposits?
- Q27** Are there operational challenges in providing access to the protected portion of term deposits on maturity while suspending access to the unprotected portion, if any?
- Q28** Are there other approaches that would deliver the same outcomes with lower operational complexity (we are open to manual processes)?
- Q29** Are there other liabilities (beyond 'wholesale liabilities', term deposits and the liabilities we would expect to be rapidly re-established) that should be considered for selective reinstatement?

Summary

572. 'Variable suspension' is intended to ensure that a deposit taker in resolution can freeze access to all liabilities and then selectively reinstate access as required under the Reserve Bank's resolution strategy.
573. We think it would be valuable, in some circumstances, to be able to reinstate access to all protected term deposits while maintaining a suspension for non-protected term deposits. We are particularly interested in how complex it would be for deposit takers to implement this ability, so that we can more fully consider the costs and benefits of including it in CoAD requirements.

Assessment of our proposal for Group 1 deposit takers

Costs and benefits Analysis

574. The key benefit of the proposal comes from enhancing our ability to meet the purposes in section 259 of the DTA. The proposed solution is expected to be simpler to execute and therefore less costly than what was proposed in the 2024 consultation.
575. Compared with the OBR-DCS integration model consulted on in 2024, the proposed CoAD Standard is expected to reduce implementation complexity and cost. This is achieved by

removing the requirement for haircuts to be applied uniformly across all unsecured liabilities, excluding DCS-protected deposits. We will also expect deposit takers to be able to retain existing OBR-BS17 processes rather than undertake an entirely new system rebuild.

576. The costs of the proposed solution would relate to changes introduced in the deposit taker's IT systems and associated processes. These changes are likely related to introducing systems and processes to support variable suspension by liability class and some changes to term deposit identification like the ability to separate protected and unprotected portions on maturity.
577. These costs are to be weighed against the benefits to financial stability, public confidence and providing flexibility to the resolution authority in applying a range of resolution tools to address bank distress and failure. For the purposes of this Consultation Paper, we are keen to understand the key drivers of costs.
578. We seek views on whether the proposed approach described above is operationally feasible and cost-effective for the deposit taker to implement. We invite feedback on the implementation costs and practical challenges or on alternative approaches that could achieve the same outcomes.

Summary

579. We propose that Group 1 deposit takers be required to develop the CoAD capabilities set out above. This will enable us to resolve Group 1 deposit takers (as a back-up strategy) in a way that meets the applicable purposes of the DTA.

Q30 Are there other solutions that would achieve the same or better outcomes for depositors and other creditors?

Q31 What is the estimated cost of the proposed CoAD solution for your entity?

6.1 Proposed approach for Group 2 deposit takers

Preferred option

580. CoAD enables the provision of ongoing liquidity to households and businesses and expands the resolution options available to Group 2 deposit takers, by preserving a range of exit options.
581. Group 2 deposit takers are mostly medium and smaller sized banks offering retail banking to households and business customers. While they are less systemically important compared to Group 1, they may have sectoral or regional importance or are servicing specific markets. The latter is relevant primarily in terms of potential concentration in the relevant sector, region or market served.
582. Failure of a Group 2 deposit taker could have adverse consequences for the economy and public confidence. This is primarily due to their intermediation role and the complexity and

length of time associated with resolving a bank failure, during which time, customers (households and businesses) may have no access to their funds or banking services.

583. We propose that Group 2 deposit takers be subject to the CoAD Standard. However, the Standard should also allow a mechanism to exempt deposit takers if an assessment of likely resolution scenarios shows that the functionality is unnecessary.
584. CoAD will apply to Group 2 deposit takers except those where the CoAD functionality is not necessary in executing their resolution plans. Where exclusion from the application of the Standard is justified, this will be implemented via conditions of licence.

Analysis

585. The current OBR Policy applies to banks with at least \$1 billion in retail deposits. With the proportionality framework coming into place, we propose to remove the \$1 billion deposit threshold for OBR and propose that OBR apply to Group 1 and Group 2 deposit takers.
586. All deposit takers currently covered by BS17 OBR Policy, except for the 4 D-SIBs, fall within Group 2. Pre-positioning for OBR means that these deposit takers would remain open whilst in resolution.
587. There is a chance that we would have different resolution strategies for different Group 2 deposit takers, given the diversity of ownership structures and critical services (or lack thereof) across this cohort.

Summary

588. Our preferred approach is that Group 2 deposit takers should be subject to the same requirements for the CoAD Standard as Group 1 deposit takers.
589. For Group 2 deposit takers already covered by BS17, the incremental costs would be attributed to any changes to the current BS17 infrastructure to accommodate variable suspension and the particular treatment of term deposits (i.e. separating protected and unprotected portions.) There may also be additional ongoing compliance costs for testing and documentation. However, these deposit takers are already familiar with the OBR processes, which is useful in mitigating the costs of developing the CoAD infrastructure and any ongoing testing requirements.
590. Group 2 deposit takers not currently covered by BS17 will not need to implement CoAD functionality if it is not essential to their resolution strategy.

Q32 Do you agree to remove the threshold of \$1 billion in retail deposits and apply the CoAD Standard to Group 2 deposit takers, potentially with exemptions?

6.6 Proposed approach for Group 3 deposit takers and branches

Proposal

591. We do not propose to apply the CoAD standard to Group 3 deposit takers that do not offer a material number of transactional accounts.
592. We are considering whether or not it would be appropriate to apply CoAD requirements to Group 3 deposit takers that do offer transactional accounts. The ability to deliver an orderly wind-down for these deposit takers would be valuable. It would provide a particularly smooth transition path for customers that needed to set up a new primary banking relationship.
593. However, we are also concerned to avoid imposing unnecessary costs on small deposit takers. We are therefore particularly keen to engage with Group 3 deposit takers who offer transactional accounts to consider how we can enable them to achieve CoAD compliance as simply and efficiently as possible.
594. CoAD functionality is not needed for branches. Branches do not hold retail deposits, and any resolution would likely to be led by the deposit taker's home regulator.

Analysis

595. Whilst keeping the deposit taker open may not be part of our resolution strategies for Group 3 deposit takers, some of these deposit takers have significant transactional deposits and could benefit from having mechanisms such as the CoAD functionality to give effect to an orderly wind-down.
596. For these entities, applying the CoAD Standard could enhance their resolvability. We will engage with these deposit takers through bilateral discussions as part of our entity-specific resolvability assessments.
597. For other Group 3 deposit takers, we do not think CoAD is necessary for our proposed resolution options and that either a sale or a liquidation and DCS pay out are appropriate options to achieve our statutory purposes.

Summary

598. We are not proposing to extend the application of the CoAD Standard to branches.
599. We will not extend the CoAD Standard to Group 3 deposit takers that do not have significant transactional accounts.
600. For Group 3 deposit takers that do have significant numbers of transactional accounts, we are considering the costs and benefits of applying the CoAD standard, so we are able to deliver an orderly wind-down solution in resolution if appropriate. We would particularly value engagement from these deposit takers on how easily they can achieve CoAD functionality.

Q33 Is it appropriate to apply CoAD requirements to Group 3 deposit takers with significant numbers of transactional accounts but not to other Group 3 deposit takers?

6.7 Conclusion

601. The CoAD Standard is designed to deliver operational capability that enables a deposit taker to close, suspend and subsequently restore access to liabilities in resolution in accordance with directions from the resolution authority. It is intended to support orderly resolution by preserving continuity of critical banking services, protecting depositors, and providing the resolution authority with the operational flexibility required to execute resolution strategies under a wide range of scenarios.
602. Deposit takers are expected to maintain robust and reliable CoAD capabilities, in particular executing the variable suspension application, or the ability to suspend and reinstate access to different classes of liabilities or portions of liabilities where this is necessary to support the resolution objectives.
603. Deposit takers must be able to demonstrate that their systems, processes and controls are reliable and can be executed within the timeframes required in resolution.
604. The model presented in this paper is considerably simpler than the OBR-DCS integration model consulted on in 2024. This approach nevertheless maintains the flexibility to support the application of a range of resolution tools while avoiding the complexity and cost associated with the previous OBR-DCS integration model.

Appendix D: Summary of CoAD functionality

CoAD outcomes	Required functionality to deliver outcomes
<p>Application of suspension of payment: That the deposit taker can be closed or placed into resolution at any time, on any day of the week, with immediate suspension of access to all liabilities, preventing access by customers and counterparties to their accounts</p>	<p>The deposit taker must maintain a readiness capability and be operationally prepared to enter resolution at any time of the day and any day of the week.</p> <hr/> <p>The deposit taker must be able to operationalise robust access channel closure procedures to give effect to a suspension of payment, preventing or restricting depositors, customers and counterparties from accessing their accounts, credit balances and other banking facilities, from the effective time at which the deposit taker is placed into resolution.</p> <hr/> <p>The deposit taker must be able to maintain the suspension of payment in respect of selected liabilities, where necessary and as directed by the resolution authority.</p>
<p>Releasing from or lifting the suspension of payment: The deposit taker has the operational capability to lift the suspension of payment in respect of specified liabilities, including by reopening access channels to enable depositors and customers to access their accounts or by transferring those liabilities to a successor entity.</p>	<p>The deposit taker must have the operational capability to process incoming and outgoing transactions, in accordance with directions from the resolution authority, to determine account balances as at the effective time.</p> <p>The deposit taker must maintain the operational capability to release transactional deposits from suspension including amounts in excess of balances protected under the Depositor Compensation Scheme (DCS).</p> <p>The deposit taker must have the capability to identify, on a single depositor view (SDV) basis, term deposits that are fully protected under the DCS and those that are not protected, for the purposes of lifting the suspension of payment (in respect of the protected portion) or transferring those liabilities to a successor entity.</p> <hr/> <p>The deposit taker must be able to ensure that, when access is re-established at 9am the next business day, depositors and customers can access their transactional accounts</p>

CoAD outcomes	Required functionality to deliver outcomes
	<p>The deposit taker must be able to ensure that when access is re-established at 9am the next business day, customers can access the DCS-protected portion of term deposits (on maturity).</p>
<p>Subsequent release of funds remaining under suspension</p>	<p>The deposit taker must maintain the operational capability to lift the suspension of payment, in whole or in part for affected liabilities across subsequent periods as directed by the resolution authority.</p>

Annex A: Glossary

Terms	Meaning
ADI	Authorised Deposit Taker (in Australia)
APRA	Australian Prudential Regulation Authority
AT1	Additional Tier 1 (capital instrument)
Bail-in	A crisis management mechanism whereby certain liabilities are written down (or converted into equity) to absorb losses and support recapitalisation.
BCBS	Basel Committee on Banking Supervision
BPR	Banking Prudential Requirements (e.g. BPR110, BPR120)
BPSA	Banking (Prudential Supervision) Act 1989
Bridge Bank	A temporary bank established to continue critical functions of a failing deposit taker while a longer-term resolution strategy is implemented.
BS#	Banking Supervision Handbook (e.g. BS11 Outsourcing Policy, BS13 Liquidity Policy, BS17 Open Bank Resolution pre-positioning policy)
CBRF	Capital Buffer Response Framework
CET1	Common Equity Tier 1 capital
CFP	Contingency Funding Plan
Continuity of Access to Deposits (CoAD)	The ability to restore customer access to deposit funds promptly following resolution, supported by pre-positioned systems and processes.
Critical Functions	Activities undertaken by a deposit taker for third parties where disruption could result in significant damage to the New Zealand financial system due to the deposit taker's size or market share, interconnectedness, complexity or cross-border activities, having particular regard to the substitutability of those activities.
Crisis Management	Actions taken by deposit takers, the Reserve Bank and other stakeholders to manage financial distress and limit disruption to the financial system.
Crisis Preparedness	Planning and preparation undertaken to support timely and effective recovery or resolution actions.

Terms	Meaning
Crisis Response waterfall	A framework setting out the preferred sequence of crisis management options for different types of deposit taker.
DCS	Depositor Compensation Scheme
DTA	Deposit Takers Act 2023
Entity-led Recovery	Actions taken by a deposit taker to restore its financial position using its recovery and exit plan.
ESAS	Exchange Settlement Account System
FSB	Financial Stability Board
FMI	Financial Market Infrastructure
GFC	Global Financial Crisis
ICAAP	Internal Capital Adequacy Assessment Process
Loss-Absorbing Capacity (LAC)	Financial instruments that can absorb losses and support recapitalisation in stress or resolution.
Moratorium	A statutory suspension of most creditor claims when a deposit taker enters resolution.
No Creditor Worse Off (NCWO)	A safeguard ensuring shareholders and creditors do not incur greater losses in resolution than they would in liquidation.
NOHC	Non-operating Holding Company
Open Bank Resolution (OBR)	A resolution approach that allows a failing bank to reopen quickly following a partial freeze of liabilities.

Terms	Meaning
Orderly Resolution Plan	A plan prepared by the Reserve Bank setting out preferred resolution strategies for individual deposit takers.
PCB	Prudential Capital Buffer
PONV	Point of Non-Viability
Proportionality Framework	The approach used to tailor regulatory requirements according to the size, nature and complexity of deposit takers.
Recovery and Exit Plan	A plan prepared by each deposit taker outlining actions to restore viability or exit regulated activities in an orderly way.
Resolution	The process by which the Reserve Bank manages the failure or likely failure of a deposit taker to achieve an orderly outcome and protect financial stability.
Resolution Manager	A person appointed to manage a deposit taker in resolution and exercise statutory powers.
Resolvability pre-positioning	Steps taken to ensure resolution strategies can be implemented effectively.
RIP	Resolvability Implementation Plan
RWA	Risk-Weighted Asset
SBI365	Settlement Before Interchange 365
Single Depositor View (SDV)	The capability to produce a reliable and timely view of each depositor's eligible balances for the purpose of the Depositor Compensation Scheme (DCS).
Single Point of Entry (SPE)	A resolution strategy where losses are imposed at the parent level to support the continuity of operating entities together.
Statement of Approach to Resolution (SoAR)	A public statement describing how the Reserve Bank expects to approach resolution.

Terms	Meaning
Total Loss-Absorbing Capacity (TLAC)	An international regulatory standard requiring global systemically important banks to have sufficient equity and bail-in debt that can absorb losses and recapitalise the deposit taker during a crisis, minimising the application of government funds.

Annex B: Consolidated consultation questions

Chapter 4. Deposit Takers Crisis Preparedness Standard

Q1	Do you have any comments on the proposed purpose of the Crisis Preparedness Standard?
Q2	Do you have any comments on the discounted options and are there any other options that we should consider in developing the Crisis Preparedness Standard?
Q3	Do you have any comments on the proposed definition of critical functions?
Q4	Do you have any comments on the proposed requirements for deposit takers to prepare and maintain effective recovery and exit plans?
Q5	Do you have any comments on the proposed resolvability outcomes and associated requirements and expectations?
Q6	Do you have any comments on the proposed requirements for deposit takers to prepare and maintain resolvability implementation plans?
Q7	What is a realistic timeline for deposit takers to meet the resolvability outcomes in the Crisis Preparedness Standard?
Q8	Do you have any comments on the proposed process for achieving the outcomes in the Crisis Preparedness Standard? For branches, it would be helpful if you could provisionally identify any activities you undertake that might be critical functions in New Zealand.
Q9	Do you agree with our overall approach to proportionality? What other means could we use to support proportionality in the application of the Crisis Preparedness Standard?
Q10	Do you have any comments on the approach to categorising some Group 3 deposit takers as 'transactional' for the purpose of the crisis response waterfall and resolvability planning?

Chapter 5. Deposit Takers Loss Absorbing Capacity Requirements

Q11	Do you have any comments on our proposed approach to designing the LAC and Tier 2 requirements for Group 1 deposit takers, including the interaction with the exposure draft of the capital standard, the effectiveness of the proposed approach in supporting recapitalisation, and alignment with APRA's Tier 2 corresponding deduction rules? Please provide reasons for your views, including any practical or implementation issues you consider relevant.
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Q12	Do you agree with the proposed terms and conditions that must be included in LAC and Tier 2 instruments, including effects on claims and treatment of principal and interest? Are there any additional issues or alternative approaches we should consider?
Q13	What are your views on the proposed triggers considering benefits and drawbacks, financial stability implications, transparency, simplicity, and alignment with the crisis management framework? Are there alternative designs we should consider?
Q14	Do you agree that LAC and Tier 2 instruments should not include conversion provisions? If not, please explain why and the potential benefits of including them.
Q15	Do you agree that LAC and Tier 2 instruments should be governed by New Zealand law? If not, what alternatives do you propose and why?
Q16	Do you agree that LAC and Tier 2 instruments should be issued to the Australian ADI rather than the immediate shareholder of the New Zealand deposit taker? If not, what alternative approach would you prefer, and why?
Q17	Do you agree with requiring deposit takers to notify the Reserve Bank, supported by a checklist and legal opinion, when issuing LAC and Tier 2 instruments? If not, what approach would you prefer?
Q18	Do you agree with implementing new LAC and Tier 2 requirements by December 2030? If not, what alternative timeline would you prefer, and why?
Q19	Do you agree that new LAC and Tier 2 instruments should be contractually subordinated to existing Tier 2 instruments while those remain on issue? If not, what alternative approach would you prefer, and why?
Q20	Do you have views on how bail-in requirements could be applied to a new Group 1 deposit taker with a different ownership structure?
Chapter 6. Deposit Takers Continuity of Access to Deposits requirements	
Q21	Do you have views on the purpose and rationale for CoAD functionality in the crisis management framework?
Q22	Do you agree with the proposal that the CoAD Standard should apply as a fallback option to Group 1 deposit takers?
Q23	Do you support carrying over OBR-BS17 requirements into the CoAD functionality?
Q24	Is closure of the deposit taker at the point at which statutory management is imposed still necessary from an operational perspective?

Q25	How easy or difficult would it be to identify and suspend access to all term deposits in systems terms (we are aware of the potential communication challenges)?
Q26	How easy or difficult would it be to use single depositor view capability to identify and separate fully protected and unprotected portions of term deposits?
Q27	Are there operational challenges in providing access to the protected portion of term deposits on maturity while suspending access to the unprotected portion, if any?
Q28	Are there other approaches that would deliver the same outcomes with lower operational complexity (we are open to manual processes)?
Q29	Are there other liabilities (beyond 'wholesale liabilities', term deposits and the liabilities we would expect to be rapidly re-established) that should be considered for selective reinstatement?
Q30	Are there other solutions that would achieve the same or better outcomes for depositors and other creditors?
Q31	What is the estimated cost of the proposed CoAD solution for your entity?
Q32	Do you agree to remove the threshold of \$1 billion in retail deposits and apply the CoAD Standard to Group 2 deposit takers (with possible exemptions)?
Q33	Is it appropriate to apply CoAD requirements to Group 3 deposit takers with significant numbers of transactional accounts but not to other Group 3 deposit takers?