

ESAS Access Review: Proposed Access Criteria

A consultation paper

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Submission details

The Reserve Bank of New Zealand – Te Pūtea Matua invites submissions on this consultation paper by 5pm on 18 November 2024. Please note the disclosure on the publication of submissions below.

Submissions and enquiries

Submissions should be emailed to: ESASAccessReview@rbnz.govt.nz

Email enquiries: ESASAccessReview@rbnz.govt.nz

Publication of submissions

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

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

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

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1 Executive summary

This is our second consultation on a revised access policy for the Exchange Settlement Account System (ESAS) operated by the Reserve Bank of New Zealand (Reserve Bank). ESAS is New Zealand's Real-time Gross Settlement system; it provides real-time, irrevocable settlements on a gross basis. ESAS sits at the apex of New Zealand's payments landscape settling all inter-bank payments.

ESAS provides for the irrevocable settlement of funds and is central to our monetary policy implementation; these two roles follow from the key functionality of ESAS, that is the ability to settle on the central bank ledger and have settlement cash remunerated to facilitate monetary policy implementation.¹ Payment reliability and the ability to target inflation support the soundness of New Zealand's financial system. In turn, these support our purpose of economic wellbeing and prosperity for all New Zealanders.

In this consultation we present the criteria for access to ESAS. In the first section we provide a recap of the role of ESAS and the motivations behind the review of our access policy settings. Section 2 explains the policy intent behind the access criteria and section 3 provides a more detailed analysis of how we intend to apply the access criteria. A draft of the access criteria can be found in Appendix 1.

Our proposed access policy settings have been developed to enable more open access to ESAS, where there is net benefit to New Zealand. The settings reflect the limits to access; granting membership will not always lead to a net benefit and may have a negative impact instead.² Importantly, we are also mindful of the systemic importance of ESAS to the New Zealand economy and must set an access policy that is risk based and within our risk appetite. As the ESAS operator, we have a low appetite for not meeting user expectations with respect to systems functionality, availability and reliability. This reflects the importance of the role ESAS plays in the financial system.

This position is reflected in our draft access criteria. Firstly, we propose a net benefit approach in which we establish when ESAS access is beneficial for New Zealand by looking at business activities that may be carried out utilising ESAS. Secondly, we assess the risk profile of individual applicants to ensure we remain within our risk appetite for ESAS.

We are seeking feedback on whether the access criteria as drafted are easy to follow and effectively embed the policy approach outlined in this paper.

Following this consultation, we aim to finalise the access criteria and open for applications from mid-2025.

¹ In many other jurisdictions, settlement cash is referred to as "reserves". We use the term settlement cash throughout this document.

² Having too much direct participation in ESAS is undesirable as we do not wish to crowd out the role of commercial banks.

2 Background to the review

2.1 Introduction to ESAS

The Exchange Settlement Account System (ESAS) is New Zealand's wholesale Real-Time Gross settlement system for payments.³ It is the system for processing and settling payments between banks and other financial institutions. ESAS is owned and operated by the Reserve Bank of New Zealand.

ESAS was introduced in 1998 to reduce the risks associated with high-value interbank payments. In the Real-time Gross Settlement system, a final and irrevocable settlement of transactions is achieved in real time by the simultaneous crediting and debiting of Exchange Settlement Accounts held at the Reserve Bank by the participants of ESAS, such as the banks and other financial institutions. As such, ESAS is central to the operation of New Zealand's financial markets.

In March 1999, the Reserve Bank introduced the Official Cash Rate (OCR).⁴ The OCR influences the price of borrowing New Zealand dollars and provides the Reserve Bank with a means of influencing the level of New Zealand's economic activity and inflation. The introduction of the OCR marked a shift in how the Reserve Bank implemented monetary policy. Since 1999, settlement cash in ESAS has been remunerated at an interest rate linked to the OCR, allowing the Reserve Bank to maintain short-term wholesale NZ dollar interest rates at or near the OCR.⁵

ESAS is designated as a systemically important payment system under the Financial Markets Infrastructures Act 2021 ('FMI Act'). This designation means the Reserve Bank must comply with the FMI Standards set under the FMI Act. These domestic standards are adapted from the Principles for Financial Market Infrastructures and applied to those institutions in New Zealand that are designated as FMIs.

Relevant FMI Standards have in part informed our access policy, in particular FMI Standard 18, which states, among other things, that "an operator must have objective, risk-based and publicly disclosed criteria for participation in the FMI, which permit fair and open access to the FMI". The proposed access policy has been designed with this standard in mind.

2.2 Motivations of the review

The world of payments has seen a surge in innovation in recent years, alongside the rise of new service providers challenging traditional financial institutions by offering faster, more efficient payment solutions.

³ "Real time" refers to the immediate settlement of payments, and "gross settlement" means the payments are settled individually – they are not 'netted-off' against counterparties' obligations.

⁴ [A cash rate system for implementing monetary policy: Reserve Bank of New Zealand Bulletin: Volume 62 No. 1, March 1999 \(rbnz.govt.nz\)](#)

⁵ [Bulletin – How the Reserve Bank Implements Monetary Policy – June 2023 \(rbnz.govt.nz\)](#)

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In 2022 we commenced a review of our ESAS access policy.⁶ This review is an acknowledgment of the changing payments landscape and was motivated by several potential benefits to revising our ESAS access policy. These included:

- improved transparency, so potential applicants have a better understanding of whether or not they qualify for ESAS access;
- improved flexibility to accommodate institutions that fall outside the traditional banking sector; and
- the potential to facilitate greater innovation and competition in electronic payment services, supporting the Reserve Bank's mandate to promote efficient payment and settlement systems.

The review is therefore designed to ensure that the access policy and criteria are appropriate for promoting a Real-time Gross Settlement system that:

- is efficient, open and flexible;
- has a high level of integrity; and
- is robust in the face of financial crises.

These objectives align with the Council of Financial Regulators' vision for the future of the country's payment landscape: "Reliable and efficient payments that better meet the evolving needs of all New Zealanders".⁷ They also align with the Reserve Bank's strategic themes, particularly improving resilience, increasing participation, strengthening efficiency and competition and promoting trust.

Since commencing the review, the Commerce Commission has made a recommendation in its Personal Banking Services – Market Study Final Report that the Reserve Bank place a greater emphasis on competition in specific upcoming decisions, including for the review on access to ESAS. It notes that "broader access to ESAS accounts will benefit both innovation and competition through its use as an input into payment services as well as an account that provides access to OCR returns".⁸ We agree with this recommendation and have considered competition impacts carefully through this review.

⁶ Applications for ESAS access for non-banks have been closed for the duration of the policy review. Prior to this, applicants were assessed on the basis of whether:

- they fit the definition of financial institution under the Reserve Bank Act 1989;
- access to ESAS might detract for the soundness and efficiency of the financial system;
- there was a legitimate business interest served by gaining access to an ESAS account; and
- access would adversely affect the reputation of the Reserve Bank.

The Reserve Bank also retained the discretion to consider any other relevant matters.

⁷ <https://www.cofr.govt.nz/news-and-publications/payments-vision.html#:~:text=CoFR%27s%20vision%20of%20the%20future,and%20in%20our%20everyday%20lives.>

⁸ [Final-report-Personal-banking-services-market-study-20-August-2024.pdf \(comcom.govt.nz\)](#) p. 293.

3 Proposed access policy settings

This section provides an overview of the access policy settings and the policy intent behind these criteria. Our access policy settings can be thought of as our overall approach to ESAS access. They are articulated in the following elements: Access Criteria, Application Pack and the Risk Assessment Framework (RAF).

Table 1: Access Policy Settings

	Access Criteria	Application Pack ⁹	Risk Assessment Framework
Purpose	Set out criteria for participation in ESAS and govern the application process.	Provides supporting guidance, relevant forms and process information to enable applicants to apply.	Articulates relevant risks and mitigations that may be deployed – underpins access criteria requirements AND helps the Reserve Bank to apply judgement in assessing entity risk profiles.
Target Audience	All prospective applicants (public).	All prospective applicants (public).	The Reserve Bank for use in assessing applications (internal).
Content	<p>Details four categories of criteria to be met:</p> <ul style="list-style-type: none"> • Business activity • AML/CFT • Prudential and governance • Operational • Enforcement overseas. <p>Mechanics around the determination process.</p>	<p>Application forms.</p> <p>Application process and procedures (how to apply).</p> <p>Guidance, supporting documentation and information to accompany applications.</p>	<p>Relevant risk categories and their potential impacts.</p> <p>Mitigations that may be considered or applied to reduce the applicant's risks (from regulatory obligations and supplementary measures).</p> <p>Risk impact, likelihood and scale.</p>
Consultation Status	Access criteria are presented here for consultation.	Will be developed, taking on board feedback on clarity of access Criteria.	Consulted on in 2023. Consultation paper, feedback incorporated and reflected in access criteria.

3.1 Main components of the proposed access criteria

The access criteria are the main subject of this consultation. At a high level, the access criteria require that:

- granting an ESAS account will support one of the stated purposes of ESAS;

⁹ The Application Pack is currently being developed as part of the ESAS Access Review Implementation workstream and therefore is subject to further work.

- the account is to be used for a business activity that is of net benefit to New Zealand; and
- the applicant has an acceptable risk profile within the Reserve Bank's risk appetite.

These requirements are summarised in this section. They are explained in more detail later in this document and set out in the draft access criteria in Appendix 1.

The access criteria set out the requirements applicants must meet to gain access to ESAS. Applications that are assessed as satisfying all the access criteria will be granted access to ESAS. While the access criteria are intended to provide transparency and clarity for prospective applicants, the assessment of whether an applicant meets each criterion necessarily requires judgement and discretion on the part of the Reserve Bank given that each applicant is unique and has a unique risk profile.

The purposes of ESAS

Following feedback provided during our first consultation on the ESAS access review, we revised the purpose of ESAS to:

The purpose of ESAS is to:

- a) *reliably provide irrevocable, risk-free settlement in central bank money enabling the efficient use of resources across the economy; and*
- b) *otherwise support the Reserve Bank in carrying out its central bank functions, including by supporting:*
 - I. *the soundness of the financial system;*
 - II. *the implementation of monetary policy.*

The reasons for this purpose are described further in Appendix 2, where we detail how we have incorporated feedback from our 2023 consultation into the RAF.

An applicant seeking access to ESAS must demonstrate that they intend to use ESAS in a way that aligns with one of these purposes.

3.2 Applicant must have appropriate business activity

Applicants must also demonstrate that the business activity is a net benefit to New Zealand and is aligned with our purposes for ESAS described above. This step provides an assessment of whether an applicant should be offered an ESAS account by looking at the expected costs and benefits of the applicant's business activity.

Further, the business activities may have implications for what account services the entity would be eligible for. We draw the distinction between the different services within ESAS (i.e. to directly transact and settle payments, or hold money in OCR remunerated accounts). Applicants granted access to ESAS to directly settle payments but who are not prudentially regulated would not automatically be eligible to receive OCR on funds deposited in their account.

This distinction is on the basis that entities who are not prudentially regulated do not engage in maturity transformation.¹⁰

A streamlined approach for known business activities

Our access criteria identify specific business activities that qualify applicants for ESAS accounts (subject to risk assessments of the applicants). These are linked to the purposes of ESAS and reflect existing uses of ESAS that have delivered established net benefits to New Zealand.

However, given the changing payments landscape, we recognise that not all ESAS uses will have existing precedents. The net benefit test provides flexibility so that applicants seeking to use ESAS for something novel can apply for ESAS accounts. In these cases, the Reserve Bank will first assess whether there are net benefits to New Zealand for the applicants joining ESAS.

The rationale behind this approach is that it provides clarity to prospective applicants to the extent possible, while also being open to innovation and new use cases that are beneficial to New Zealand. We recognise there is an inherent trade-off between certainty and flexibility, and have developed the proposed approach to balance these trade-offs.

3.3 All applicants will be assessed for acceptable risk profiles

Applicants seeking access to ESAS must demonstrate that they present acceptable levels of risk to the ESAS operator and ESAS. This approach aligns with FMI Standard 18, which sets “Access and Participation Requirements” for ESAS as a designated FMI.

Access to ESAS presents a range of operational, legal, financial and reputational risks.

Requirements related to compliance under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT) as well as prudential and operational requirements, set out in the access criteria, are intended to establish criteria for the assessment of these risks. They set out the requirements that an applicant must meet if they are to have an acceptable risk profile for ESAS access.

The access criteria does not limit access to entities regulated under specified Acts, beyond the requirement for them to be reporting entities under the AML/CFT Act (or overseas equivalent). That said, regulation can demonstrate a level of mitigation for many of the risks an applicant may bring to ESAS, and prudentially regulated entities will likely find it easier to demonstrate an acceptable prudential risk profile than entities currently not prudentially regulated. This is because prudential regulation covers standards relating to the relevant risks for ESAS, such as credit and liquidity.

Our risk appetite concerning ESAS operations can be summarised as:

As the ESAS operator, we have a low appetite for not meeting user expectations with respect to systems functionality, availability and reliability.

¹⁰ The practice of borrowing money on shorter timeframes than they lend money out.

Given our low appetite for not meeting user expectations regarding system functionality, availability and reliability, we have a low tolerance for uncertainty and a strong reluctance to take unnecessary risks. The operator of ESAS therefore has low tolerance for introducing additional unmitigated risks, with a primary focus on risk prevention ensuring a robust and effective response to any potential issues. This underpins the importance of ESAS to the financial system; ESAS enables the irrevocable settlement of interbank payments as well as supporting our monetary policy implementation.

Our framework for assessing applicant risk picks up from our first consultation on the RAF. We have taken on board the feedback received and are focused on setting out the relevant risks and identifying the relevant statutory mitigations and other mitigations or controls.

In the context of the ESAS access policy, this means we need to focus on understanding key risks and ensuring appropriate mitigations are in place to support broader access safely.

How the RAF interacts with the access criteria

We developed the RAF to identify and assess the relevant risks of ESAS access, and the potential mitigations or controls that could be put in place to address key risks.¹¹

We received feedback on the RAF's regulatory focus in our first draft of the RAF from our 2023 consultation. Feedback requested that we be clear on the nature of the risks applicants could pose to ESAS and therefore allow appropriate mitigations to be identified. We have incorporated the feedback in our revised RAF and in the proposed access criteria.¹² In the RAF we have specified the risks relevant to ESAS access, and this has led us to risk requirements incorporated in the access criteria as AML/CFT, prudential and governance, and operational criteria.

The RAF is now tailored to account for the diverse risk profiles associated with different uses of ESAS, ensuring a comprehensive consideration of risk categories. The updated framework ensures a fair assessment of each applicant based on its characteristics and risk profile. This approach promotes fairness and supports innovation by assessing applicants individually against the relevant risks from their participation in ESAS.

The RAF has played an important role in helping the Reserve Bank to develop risk-based access criteria in accordance with FMI Standard 18. The revised RAF is reflected in our access criteria risk (AML/CFT, prudential and operational) requirements:

- *AML/CFT*: We require all applicants to be reporting entities for AML/CFT, reflecting our unwillingness to take on applicants that do not have AML/CFT oversight. (Note: we will also assess applicants compliance history with these obligations.)
- *Prudential and governance*: We distinguish between prudentially regulated deposit takers (banks and Non-bank Deposit Takers [NBDTs]), FMIs and other applicants. Recognising

¹¹ We consulted on our draft ESAS Risk Assessment Framework in June-July 2023 – ESAS Consultation paper: [esas-risk-assessment-framework-consultation.pdf \(rbnz.govt.nz\)](#)

¹² Appendix 2 provides more detail on feedback received and how we have incorporated it.

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that we cannot rely on prudential standards for applicants that are not prudentially regulated, we specify matters that allow us to form assessments of prudential risks for those applicants that are not prudentially regulated.

- *Operational*: These criteria do not distinguish between prudentially regulated and un-regulated applicants, but specify the types of information in which we are interested to assess the operational risks an applicant would pose to ESAS.
- *Overseas enforceability*: These criteria ensure that ESAS Terms and Conditions can be enforced where an applicant is registered and doing business overseas.

The RAF also plays an important ongoing role in the application process by assisting the Reserve Bank to assess access requests and identify appropriate non-regulatory mitigations and controls that could be applied to manage risks according to the Reserve Bank's risk appetite. Appendix 2 provides some examples of potential mitigation strategies identified in the RAF.

The practical application of the RAF and access criteria is further illustrated through case studies presented in Appendix 3. Incorporating the feedback from our consultation, these examples in Appendix 3 reflect the RAF's emphasis on defining the relevant risks for applicants and translating these risks into clear, measurable requirements within the access criteria we ensure that the RAF remains flexible and tailored to the diverse range of applicants, while safeguarding the stability and integrity of ESAS

.The application pack will provide further information on the documents and information that should be supplied to support our assessments against these criteria, and guidance on the application process.

3.4 Question for feedback

Q1: do you agree that our access criteria allow for opening participation in ESAS (in line with our intent set out in section 2)?

4 Proposed Access criteria

4.1 Detailed analysis of access criteria

This section describes the access criteria in more detail. Please also see Appendix 1 for the proposed access criteria and Appendix 3 for some examples of how the access criteria operate.

The key criteria

The criteria against which we will assess applicants are:

- business activity criteria;
- AML/CFT compliance criteria;
- prudential and governance criteria;
- operational criteria; and
- ESAS terms and conditions enforceability criteria for overseas applicants.

The access criteria aim to provide prospective applicants with a good understanding of the requirements they need to meet.

Some discretion is required, particularly in the case of entities that are not prudentially regulated in New Zealand. In these cases we need to be able to exercise judgement when assessing an applicant's risk profile. The Reserve Bank will apply its discretion in this assessment, aided by the RAF document.

Eligible business activities

Specified entities that are carrying out eligible business activities (Business Activity Criteria 6.1.1–6.1.7)

The following entity types meet the business activity criteria (refer Appendix 1, proposed access criteria):

- A licensed deposit taker – a registered bank under the Banking (Prudential Supervision) Act 1989; a licensed NBDT under the Non-bank Deposit Takers Act 2013 or a licensed deposit taker under the Deposit Takers Act 2023 (when in force).
- An entity operating a designated FMI under the Financial Market Infrastructures Act 2021 or a clearing house of a licensed market.
- An overseas deposit taker carrying out business equivalent to being a registered bank or licensed NBDT as described above.
- An overseas FMI carrying out business equivalent to an FMI described above and regulated by the relevant regulatory authority in its jurisdiction of incorporation.

Deposit takers

The access criteria have been written to include prudentially regulated deposit takers (registered banks and NBDTs). Banks and NBDTs are prudentially regulated and perform functions that are of net benefit to New Zealand (maturity transformation). Banks and NBDTs that have ESAS accounts will need to transition to the deposit taking licence under the Deposit Takers Act 2023 to remain in ESAS.

FMI

FMI include payment systems, settlement systems, central counterparties, central securities depositories and trade repositories. The FMI Act covers both designated and non-designated FMI. For ESAS access, we consider designated FMI should be deemed to have satisfied the prudential criteria due to the high threshold of prudential requirements under the FMI Act.¹³ We propose that non-designated FMI will need to otherwise satisfy the requirements set out under prudential criteria.

Entities carrying out eligible business activities

Other entities will be eligible for ESAS accounts when they carry on specified business activities.

We have included activity types that we consider to be aligned with our purposes for ESAS and where we believe that having these activities provided by entities through ESAS provide a net benefit to New Zealand. Entities engaging in these activities will be eligible for ESAS accounts, subject to their having acceptable risk profiles. These activities relate to the role of ESAS in supporting irrevocable, risk-free settlement in central bank money, enabling the efficient use of resources across the economy and the Reserve Bank's implementation of monetary policy.

Payment services

Applicants that are *"carrying on the business of directly settling debts on behalf of third parties in New Zealand dollars"* (this is captured in access criteria 6.1.5).

Entities eligible through this business activity will not automatically be eligible for OCR on overnight balances held in their accounts.

These entities are not prudentially regulated, do not engage in maturity transformation, and the basis for their participation in ESAS is the ability to make payments but is not related to monetary policy implementation.

This approach recognises that an ESAS account is not a replacement for a commercial bank deposit account.

¹³ Non designated FMI are subject to lesser obligations and oversight than designated FMI.

Supporting implementation of monetary policy

Applicants that are “active in one or more New Zealand dollar wholesale financial markets that are important for implementing monetary policy, which include but are not limited to domestic money markets such as the secured and unsecured cash market and the NZ dollar/US dollar FX swap market” (this is captured in access criteria 6.1.6).

Entities eligible through this pathway must be prudentially regulated in New Zealand or an equivalent overseas prudential regime.

Other business activities

If a business activity is not specified in the access criteria, an applicant may still meet the business activity criteria following a net benefit assessment (clause 6.1.7). A net benefit assessment will be applied to determine whether the proposed use of ESAS aligns with the purposes of ESAS and is of net benefit to New Zealand (clause 11.2).

A net benefit assessment considers whether an applicant’s access to an ESAS account would:

- (a) enhance the soundness and efficiency of the financial system;
- (b) contribute to economic growth or the productivity of the New Zealand economy;
- (c) enhance the wellbeing of New Zealanders, such as by promoting financial inclusion;
and
- (d) otherwise be net beneficial to New Zealand.

Criteria related to the assessment of risks

Our identification of the risks that a new entrant may pose has led to the AML/CFT, prudential and governance, and operational requirements specified in the access criteria. In assessing an application, the Reserve Bank must be satisfied that the applicant meets these criteria before admitting them to ESAS.

In this application step, we consider the relevant risks that participants pose to ESAS (financial, legal, operational and reputational).

The RAF helps us to identify and assess applicants’ risk levels and ensure the required safeguards are set and requirements are met to maintain a resilient and efficient ESAS. The RAF identifies appropriate mitigation measures and additional (non-statutory) controls that can be applied to manage risks further.

This section details the relevant risks and their potential impacts and mitigation strategies. Entities subject to prudential regulation typically have established processes and frameworks that align with our risk-management expectations, facilitating smooth assessment and approval processes. In contrast, entities that are not prudentially regulated need to provide detailed evidence of their ability to meet the same standards and maintain ongoing compliance.

We have partitioned the risk assessment into three main categories: AML compliance requirements for applicants, prudential and governance requirements for applicants, and operational requirements for applicants. For overseas applicants they are also required to satisfy requirements relating to the enforceability of ESAS terms and conditions (clause 10).

AML/CFT compliance requirements for applicants

All applicants are required to be reporting entities for AML/CFT (and be in compliance with their obligations under this regime). They may be regulated in New Zealand or under an equivalent regulatory regime in an overseas jurisdiction that achieves the purposes of the AML/CFT Act. This requirement is set out in clause 7 of the access criteria.

Clause 7 also specifies how we assess this for non-New Zealand based applicants. Clause 7.2 looks at whether the home jurisdiction is identified as either high-risk or subject to increased monitoring and assesses equivalence of the AML/CFT regime in the home jurisdiction.

Non-compliance with regulatory requirements, such as AML/CFT regulations, data privacy laws reporting obligations, can lead to operational disruptions. In addition, frequent incidents of non-compliance can inflict severe reputational damage on both the participants involved and the Reserve Bank overseeing ESAS. To meet our risk appetite for ESAS, we require participants to be reporting entities under the AML/CFT Act and demonstrate compliance with their obligations under these rules.

We have no risk appetite for the use of ESAS for any activities related to money laundering or financing of terrorism. We expect to monitor ongoing compliance with AML/CFT obligations carefully.

We recognise the role of prudential regulatory regimes

We can expedite the consideration of applications by relying on prudential regulation and supervision to manage many relevant risks. We define Prudential Legislation in the access criteria (Definitions 5.1) as the Banking (Prudential Supervision) Act 1989, the Non-bank Deposit Takers Act, the Financial Market Infrastructures Act 2021 and the Deposit Takers Act 2023. We also define Licensed Deposit Takers and Designated FMI by reference to these legislative regimes. Clause 8.2 provides that licenced deposit takers and designated FMIs are deemed to satisfy the prudential and governance criteria.

Prudentially regulated entities are subject to certain requirements that are relevant for assessing risks. These statutory regimes are taken into account when we assess the existing risk mitigations in place for an applicant.

For example, an ESAS participant may pose liquidity risk where a liquidity shortfall causes widespread settlement delays, and persistent liquidity issues can erode trust in the Reserve Bank's ability to manage the settlement system effectively. Registered banks and NBDTs are subject to liquidity requirements that help mitigate these risks.

However, we also recognise that non-regulated entities may be able to mitigate risks in other ways and that different business activities bring different risk profiles.

Overseas deposit takers and FMIs

Overseas deposit takers or designated FMIs will be required to demonstrate that they are regulated and supervised in ways equivalent to New Zealand deposit takers or designated FMIs in their home jurisdictions. They must also demonstrate their licensing status and compliance with relevant requirements overseas. They must also demonstrate. Clause 8.2 covers requirements for non-New Zealand based applicants.

Prudential requirements for other applicants

Applicants other than registered banks, licenced NBDTs and designated FMIs (and overseas equivalents) must satisfy other prudential criteria. These aim to ensure that entities participating in ESAS are resilient.

Other applicants must satisfy the prudential criteria. These include:

- Credit-worthiness (8.4.1):
 - ESAS participants do not pose a credit risk to the Reserve Bank. However, there is a low risk to other participants – potential contagion risk from failed institutions and/or gridlock in the payments system.
 - Credit ratings provide a measure of institutions' credit-worthiness. We will provide guidance on appropriate credit ratings. As a starting point, we intend to require a BBB credit rating (or equivalent).
 - We recognise that not all applicants will have credit ratings, and that this risk may be mitigated acceptably by their having access guarantees or standby liquidity facilities.
- Risk management:
 - Having robust risk-management systems in place supports applicants in their ability to manage any of the risks that may affect ESAS (8.4.2 and 8.4.3).
- Good standing:
 - The applicant must be in good standing in the market in which it trades and operates (8.4.4 and 8.4.5):
 - Good standing demonstrates an applicant's ability to comply with regulations, maintain adequate capital and liquidity levels, and manage risks effectively. When a financial institution has a strong reputation and is viewed as stable and well managed, market confidence is maintained.
- Governance and ownership:

- Having appropriate governance and corporate structures is relevant to several risks that participants may pose to either the Reserve Bank as operator of ESAS or other participants in the system. These risks include credit risk, liquidity risk and compliance risk. The relevant compliance risk is the reputational risk to the Reserve Bank as ESAS operator if the account holder is non-compliant with obligations such as AML/CFT.
- Applicants are required to be reporting entities under the AML/CFT regime, and will have their compliance history assessed as part of their applications. Having suitable senior persons in an entity also helps mitigate compliance risks, as does general prudent management, which is relevant for credit and liquidity risks.
- Relevant requirements are included in access criteria 8.5. These criteria look at the applicant's board composition, documented governance framework and practices and the suitability and records of directors and senior managers. It includes a requirement that the applicant's board is comprised of two independent non-executive directors and the chairperson is not one of its employees or an employee of a related party

Operational requirements for applicants

Regardless of the regulatory regime that applies to an applicant, as part of our assessment on application for an ESAS account, the applicant will need to satisfy the operational requirements by providing evidence of established policies, procedures and processes in place. Clause 9 of the access criteria covers operational requirements.

These policies, procedures and processes will need to cover operational reliability and risks, incident management (including cyber incidents) and operational capacity, and include physical and information security policies and business continuity/disaster recovery plans (9.1.1-9.1.5).

Participants can bring operational risks to the functioning of ESAS, such as cybersecurity threats that compromise the integrity and security of data leading to significant operational disruptions and potential financial losses.

Policies, procedures and practices should be clearly tailored to address identified risks associated with the applicants' businesses and meet standard requirements for risk management practice. This allows us to consider the requirements proportionate to the activities and scale of the applicants.

Applicants that fall under the business activity of carrying on business directly settling payments will be required to either have joined or be in the process of joining a clearing system that settles in ESAS (9.2).

The inclusion of "being in the process of applying" acknowledges the interdependency of this requirement with potential applications to join clearing systems. We will work through the sequencing implications as part of our guidance.

Other information in the access criteria

The access criteria also set out information relating to the determination process. It includes:

- net benefit assessments for unlisted business activities (11.2);
- discretion for the Reserve Bank to:
 - request additional information from the applicant or advice from third parties (11.3.1 and 11.3.2)
 - share information with other agencies (11.3.3)
 - recommend that the applicant undertake actions to meet the criteria. (11.3.4);
- when an applicant becomes an account holder. (11.5);
- the ability of the Reserve Bank to impose additional conditions or requirements on an account holder. (11.6);
- successful applicants may be required to provide evidence that they have successfully tested their ability to meet ESAS technical requirements. (11.7); and

Unsuccessful applicants will be given reasons for their applications' declines. Unsuccessful applicants may submit new applications at any time (there is no stand-down period). However, they will be required to pay new application fees (11.4).

There is provision for the Reserve Bank to vary, remove, add to or replace any criteria at any time (11.8). This provides discretion for the variation of certain criteria where appropriate (for example if there are changes to any of the laws or regulations referred to in the access criteria).

Application and participation fees

To support the access policy, we are introducing an application fee. The fee will be set to recoup the administrative costs involved in assessing applications and would allow these costs to be directly recovered from applicants. We consider this to be an improvement on the *status quo*, where application costs are incorporated into the ongoing costs of providing ESAS and are therefore borne by existing ESAS members.

Changes to ongoing participation fees

Under the current pricing model, participants cover the costs directly related to the provision, management and operation of ESAS. We charge a fee per transaction, calculated on a cost-recovery basis.

To support the broader access criteria and ways that ESAS may be used, we are also revising the fee components set under the existing fees framework. We aim to balance fair cost recovery with a model that is simple, transparent and administratively simple (it should not add to the cost of running ESAS).

To distribute costs between all ESAS participants fairly, a set monthly fee will be introduced alongside the per-transaction fee. This should be broadly cost neutral to existing participants based on their current transaction volumes.

The fees framework will continue to operate on a cost-recovery principle, including proportionality by considering transaction activity.¹⁴

Successful applicants have further obligations

The ESAS operator may require successful applicants to demonstrate that they meet certain technical requirements before they are onboarded and given access to their accounts.

For members of ESAS, ongoing compliance obligations will apply as per the ESAS Account Terms and Conditions, as well as any additional conditions applied to the member as a condition of joining.

Participants are bound by the ESAS terms and conditions. These cover obligations such as those relating to opening and operation an ESAS account, the operation of ESAS, and fees.

4.2 Question for feedback:

Q2: are the access criteria easy to follow, and if applicable, are there any particular areas where additional guidance or explanation is needed?

¹⁴ By proportionality we mean for example that smaller participants with lower transaction volumes should not be effectively excluded from the system by a fee structure that effectively subsidised larger institutions with higher transaction volumes.

5 Conclusion and next steps

5.1 Conclusion and summary of feedback sought

In this paper we have presented our proposed access criteria for ESAS. It sets the requirements for assessing which new entities are eligible for ESAS accounts and how we will consider applications for ESAS accounts.

We are interested in any feedback on how the access criteria incorporates our policy intent outlined in this paper. We are also interested in feedback on the clarity of the access criteria and what guidance and supporting information would be useful for prospective applicants.

5.2 Questions:

We are interested in your feedback on our proposal. In particular:

1. Do you agree that our access criteria allow for opening participation in ESAS (in line with our intent set out in section 2)?
2. Are the access criteria easy to follow, and if applicable, are there any particular areas where additional guidance or explanation is needed?

5.3 Next steps following consultation.

The consultation period will close on Monday 18 November 2024. Following this period, we will review and incorporate feedback into our access criteria as appropriate, as well as apply feedback received to the development of supporting guidance and the implementation of the policy.

We will report back on submissions received and our expectations around timing for announcing the final policy as well as re-opening for applications.

Appendix 1 – Proposed Access Criteria

6 ESAS Access Criteria

1. Purpose of ESAS

- 1.1. The purpose of ESAS is to:
 - 1.1.1. provide reliable irrevocable settlement enabling the efficient use of resources across the economy; and
 - 1.1.2. otherwise support the Reserve Bank in carrying out its functions by:
 - 1.1.2.1. promoting the soundness of the financial system; and
 - 1.1.2.2. supporting the implementation of monetary policy.

2. Purpose of ESAS access criteria

- 2.1 The purpose of this ESAS access criteria is to set out the criteria for participation in ESAS as an account holder and allow an applicant to apply for and, if the applicant satisfies all of the access criteria, be granted, the right to participate in ESAS.

3. Application process

- 3.1. An application to ESAS access must be:
 - 3.1.1. made to the Reserve Bank in the manner specified by the Reserve Bank; and
 - 3.1.2. accompanied by supporting information to allow the Reserve Bank to assess the application against the access criteria in paragraphs 6, 7, 8, 9, and 10 of this document; and
 - 3.1.3. accompanied by payment of the application fee.

4. Access criteria

- 4.1. Access to ESAS will be granted if the applicant satisfies all of the following criteria:
 - 4.1.1. business activity criteria set out in paragraph 6; and
 - 4.1.2. AML compliance criteria set out in paragraph 7; and
 - 4.1.3. prudential and governance criteria set out in paragraph 8; and
 - 4.1.4. operational criteria set out in paragraph 9; and
 - 4.1.5. ESAS terms and conditions enforceability criteria for overseas applicants in paragraph 10.

5. Definitions

- 5.1 **AML/CFT Act** means Anti-money Laundering and Countering Financing of Terrorism Act 2009;

Designated FMI means an FMI that is declared to be a designated FMI under section 20 of the FMI Act;

FMI Act means the Financial Market Infrastructures Act 2021;

Licensed Deposit Taker includes:

- a) a registered bank under section 2 of the Banking (Prudential Supervision) Act 1989; and
- b) a licensed NBDT under section 5 of the Non-bank Deposit Takers Act 2013; and
- c) a licensed deposit taker under section 6 of the Deposit Takers Act 2023 (as applicable from the date section 6 comes into force); and

Prudential Legislations means the Banking (Prudential Supervision) Act 1989, the Non-bank Deposit Takers Act 2013, the FMI Act, and the Deposit Takers Act 2023.

6. Business activity criteria

- 6.1. An applicant satisfies the business activity criteria if the applicant is:
 - 6.1.1. a Licensed Deposit Taker; or
 - 6.1.2. operating a Designated FMI under the FMI Act or a clearing house of a licensed market; or
 - 6.1.3. an overseas deposit taker carrying out business equivalent to paragraphs 6.1.1 that is regulated by the relevant prudential regulation authority in its home jurisdiction; or
 - 6.1.4. an overseas FMI carrying out business equivalent to paragraph 6.1.2 that is regulated by the relevant regulation authority in its home jurisdiction and is complying with equivalent overseas standards issued under the law of its home jurisdiction; or
 - 6.1.5. carrying on business directly settling payments on behalf of third parties in New Zealand dollars; or
 - 6.1.6. active in one or more New Zealand dollar wholesale financial markets that are important for implementing monetary policy which include but are not limited to domestic money markets such as the secured and unsecured cash market, and NZ dollar/US dollar FX swap market; or
 - 6.1.7. carrying on business that is assessed as net beneficial to New Zealand in accordance with paragraph 11.2.

7. AML compliance criteria

- 7.1. An applicant who carries out its business in New Zealand satisfies the AML compliance criteria if the applicant:
 - 7.1.1. is a reporting entity under section 5 of the AML/CFT Act; and

- 7.1.2. provides a compliance history demonstrating the applicant's compliance, risk management, and overall prudence in countering financial crime under the AML/CFT Act.
- 7.2. If an applicant is not a New Zealand resident or does not carry out its business in New Zealand, the applicant satisfies the AML compliance criteria if the applicant:
 - 7.2.1. is not established or carrying out its business in a country that is identified by FATF (the Financial Action Task Force) as a high-risk jurisdiction subject to a call for action (i.e. 'black list') or a jurisdiction under increased monitoring (i.e. 'grey list'); and
 - 7.2.2. provides independent legal advice that satisfies the Reserve Bank:
 - 7.2.2.1. that the applicant's status under the relevant law and regulatory requirements of the applicant's home jurisdiction is equivalent to a reporting entity under the AML/CFT Act; and
 - 7.2.2.2. that the law and regulatory requirements of the applicant's home jurisdiction achieve the purposes of the AML/CFT Act; and
 - 7.2.2.3. that the compliance history of the applicant demonstrates the applicant's compliance, risk management, and overall prudence in countering financial crime under the relevant law and regulatory requirements set out in paragraph 7.2.2.2.

8. Prudential and governance criteria

New Zealand Licensed Deposit Takers and Designated FMIs

- 8.1. If an applicant is a Licensed Deposit Taker under paragraph 6.1.1 or a Designated FMI under paragraph 6.1.2, the applicant is deemed to have satisfied the prudential and governance criteria.

Overseas Deposit Takers and FMIs

- 8.2. If an applicant is an overseas deposit taker under paragraph 6.1.3 or an overseas FMI under paragraph 6.1.4, the applicant satisfies the prudential and governance criteria only if the applicant provides independent legal advice that satisfies the Reserve Bank of the following:
 - 8.2.1. that the law and regulatory requirements of the applicant's home jurisdiction achieve the purposes of the Prudential Legislations; and
 - 8.2.2. that the nature and extent of prudential supervision that apply to the applicant achieve the equivalent level of prudential supervision under the Prudential Legislations; and
 - 8.2.3. its licensing status under the law and regulatory requirements set out in paragraph 8.2.2 and its compliance of these requirements.

All other applicants

- 8.3. All other applicants must satisfy all of the prudential and governance criteria set out in paragraphs 8.4 and 8.5.
- 8.4. An applicant satisfies the prudential criteria if:
 - 8.4.1. the applicant has a credit rating of BBB or higher rated by a reputable credit rating agency, or has an access guarantee or a standby liquidity facility agreement showing access to sufficient liquidity; and
 - 8.4.2. the applicant has a documented risk management systems, frameworks, and policies in place to identify, assess and mitigate risks associated with its activities within ESAS; and
 - 8.4.3. the documented risk management systems, frameworks, and policies in paragraph 8.4.2 undergo regular internal and external audits with documented responses to audit findings; and
 - 8.4.4. the applicant has never been disqualified from being registered as a financial service provider under section 14 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 if that Act applied to the applicant; and
 - 8.4.5. the applicant has never been convicted of any criminal offence involving fraud, dishonesty, or other financial crimes in New Zealand or any jurisdiction and never been subject to any investigation inquiry, or enforcement proceedings by any regulatory or law enforcement authority in relation to any alleged criminal offence involving fraud, dishonesty, or other financial crimes.
- 8.5. An applicant satisfies the governance criteria if:
 - 8.5.1. the applicant's board is comprised of two independent non-executive directors and the chairperson is not one of its employees or an employee of a related party; and
 - 8.5.2. the applicant has a documented governance framework that:
 - 8.5.2.1. clearly defines roles and responsibilities and detailed board composition and governance practices; and
 - 8.5.2.2. establishes audit and risk committees with independent directors; and
 - 8.5.2.3. details the board composition and governance practices; and
 - 8.5.3. directors and senior managers of the applicant company are suitable people to act as directors or senior managers who have:
 - 8.5.3.1. the necessary skills and experience to manage the applicant company; and
 - 8.5.3.2. no records of bankruptcy, crimes involving dishonesty or relating to conduct in financial markets, or professional malpractice.

9. Operational criteria

- 9.1. Subject to paragraph 9.2, an applicant satisfies the operational criteria if the applicant has established policies, procedures, and processes in place such as:

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- 9.1.1. policies, procedures, and controls that identify, monitor, and manage operational reliability and risks; and
 - 9.1.2. procedures for incident management (including cyber incidents); and
 - 9.1.3. plans to manage operational capacity; and
 - 9.1.4. physical and information security policies; and
 - 9.1.5. business continuity plan or disaster recovery plan.
- 9.2. If an applicant falls under paragraph 6.1.5, the applicant must be the participant in a clearing system that settles in ESAS or in the process of applying to become a participant.

10. ESAS terms and conditions enforceability criteria for overseas applicants

- 10.1. If an applicant is not a New Zealand resident or does not carry out its business in New Zealand, the applicant must satisfy this criteria to demonstrate enforceability of contracts specifically the ESAS terms and conditions in its home jurisdiction.
- 10.2. The applicant satisfies the enforceability criteria if the applicant provides independent legal advice confirming:
 - 10.2.1. the enforceability of the ESAS terms and conditions in its home jurisdiction; and
 - 10.2.2. there is no impediment to the applicant's ability to meet its obligations under the ESAS terms and conditions.

11. Determination process

- 11.1. the Reserve Bank will determine whether to approve the access having regard to whether the applicant complies with the access criteria and notify the applicant of its decision.
- 11.2. In determining an application for access that does not fall under any of paragraphs 6.1.1 to 6.1.6, and for the purpose of paragraph 6.1.7, the Reserve Bank may consider whether the applicant's business activity is net beneficial to the New Zealand financial system. An applicant's business activity is considered net beneficial to the New Zealand financial system if the applicant's access to an ESAS account would:
 - 11.2.1. enhance the soundness and efficiency of the financial system; and
 - 11.2.2. contribute to the economic growth or productivity of the New Zealand economy; and
 - 11.2.3. enhance the well-being of New Zealanders such as by promoting financial inclusion; and
 - 11.2.4. otherwise be net beneficial to New Zealand.
- 11.3. During the determination process, the Reserve Bank may, in its absolute discretion:
 - 11.3.1. request additional information from the applicant;
 - 11.3.2. obtain technical advice from any third parties to assist with forming its decision;

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- 11.3.3. share any information in the application form with any agencies (including but not limited to relevant government agencies) for the purpose of obtaining advice or opinion from those agencies; and/or
- 11.3.4. recommend that the applicant take any specified action to satisfy the access criteria.
- 11.4. The decision of the Reserve Bank is full and final. The Reserve Bank will give reasons for declining any application. An applicant whose application is declined may submit a new application at any time provided that it has satisfied the outstanding criteria from the previous unsuccessful application and paid the application fee.
- 11.5. An applicant becomes an ESAS accountholder on notification of acceptance by the Reserve Bank and payment by the applicant to the Reserve Bank of the prescribed fee under the ESAS terms and conditions.
- 11.6. The Reserve Bank may impose additional conditions or requirements on an accountholder that must be complied with in order to maintain the accountholder status. The rights and obligations of an accountholder under the ESAS terms and conditions are subject to any special conditions imposed on it.
- 11.7. The Reserve Bank may require successful applicants to provide evidence that they have successfully tested their ability to meet ESAS technical requirements.
- 11.8. The Reserve Bank may vary, remove, add to, or replace any criteria in this ESAS Access Criteria at any time.

Appendix 2 – Updates made following 2023 consultation

6.1 Key themes from consultation 1

To support this review, we carried out public consultation on the benefits of opening up ESAS and our draft Risk Assessment Framework (RAF), which articulated the relevant risks a participant could bring to ESAS. This consultation sought feedback on our high-level purpose and objectives as well as detailed comment on our RAF.¹⁵ We released a summary of submissions and next steps in October 2023.¹⁶ We found the following main themes in submissions:

- The role of ESAS in supporting innovation, and whether this would be sufficiently supported with the proposed policy.
- Calls for a wider use of ESAS (beyond that for payment settlements) to be included in the rationale for access.
- Objectives for ESAS should be better aligned with the wider payments vision and the Reserve Bank's mandates.
- The impacts of competition from opening up ESAS membership need to be properly considered, including the role of risk mitigations, to help support the opening up of ESAS access.
- Feedback on how we articulated the risks to ESAS of a new participant, including that assessing risk on an 'entity' type basis leads to an overly broad analysis, and that there is scope for further risk mitigations and controls.
- The Reserve Bank should consider relevant regulatory changes.

Responses showed there was strong broad support for the importance of ESAS within the financial system and its overall purpose. However, more clarity was sought around the relative importance of supporting competition and being open to innovation versus the importance of the system having a high level of integrity and reliability. Submitters also asked how these related to wider visions for the payments system, such as the CoFR payments vision.

We also received substantial feedback on opening up ESAS for uses beyond payment settlements, with submitters positing that giving wider access to OCR-bearing accounts would help competition in the deposit-taking sector.

Submitters provided a variety of feedback on the RAF. Some considered the draft framework to be appropriate given the importance of ESAS. Others believed it could be improved and supported widened access by including possible risk controls and mitigations. Some submitters also noted that risks will vary according to the intended use of ESAS, and that, given this, considering risks on an entity type basis only was not appropriate.

¹⁵ Reserve Bank ESAS consultation paper, [esas-risk-assessment-framework-consultation.pdf \(rbnz.govt.nz\)](#)

¹⁶ Reserve Bank ESAS Access Review Summary of Submissions [2023-10-10 ESAS Access Review Consultation 1 Summary of Submissions and RBNZ response.docx](#)

Following a consideration of the feedback received, we developed an analytical framework and, as a result, access criteria. We also further refined our framing of the risks that applicants may pose to ESAS; this is reflected in the access criteria, which set out AML/CFT, prudential and operational requirements.

6.2 Purpose of ESAS

In our 2023 consultation we presented our purpose and objectives for ESAS as follows:

The purpose of ESAS is to:

- *support the soundness of the financial system by providing for irrevocable, risk-free settlement in central bank money;*
- *support the Reserve Bank's implementation of monetary policy; and*
- *otherwise support the Reserve Bank in carrying out its central bank functions.*

The Reserve Bank's objectives for ESAS are that:

- *ESAS has a high level of integrity and reliability, and contributes to payments systems being efficient by being open to innovation and supporting competition, without creating undue risks to the payments system; and*
- *ESAS provides effective support for the implementation of monetary policy.*

Feedback on the purpose and objectives was generally focused on the role of innovation: how ESAS was supporting innovation while balancing the need for ESAS's integrity and reliability. We also received feedback underscoring the importance of the integrity of ESAS, not just to payments but to the overall financial system. In general, while submitters supported these purposes at a high level, we heard that there was a lack of clarity around how open ESAS would be to innovation and supporting competition in practice, and that without a sufficient emphasis on these components, the revised access policy would not result in opening up access to a more diverse range of participants.

The feedback from the initial public consultation underscored the need for an analytical framework to help work through the key themes in the feedback identified above.

Our analytical framework highlights that ESAS supports the Reserve Bank in achieving its objectives with respect to price stability and financial stability, in addition to its payments settlement role.

Accordingly, we have amended the purpose statement to recognise more clearly the important role ESAS has in supporting efficiency across the economy.

The purpose of ESAS is to:

- a) *reliably provide irrevocable, risk-free settlement in central bank money, enabling the efficient use of resources across the economy; and*
- b) *otherwise support the Reserve Bank in carrying out its central bank functions, including by supporting:*
 - i. *the soundness of the financial system; and*

II. the implementation of monetary policy.

This set of purposes is translated directly into the approach we have taken with the access criteria. It has informed our focus on considering applicants’ business activities and therefore their ‘use-case’ for accessing ESAS, and whether this aligns with the purposes of our providing ESAS.

6.3 Objectives for ESAS

We received a range of feedback on the objectives, especially on the relative prioritisation of the objectives and how they fit with other relevant objective statements.

The feedback received helped to inform our approach to access criteria – which is based on a consideration of the potential benefits for and risks of each use case. This allows for the inclusion of innovation and competition benefits (alongside other potential benefits) but notes that these benefits need to be weighed against risks. We have developed a net benefits approach based on the following principles.

Principle	Meaning
ESAS (alongside cash) is the source of all trust in money in New Zealand. ESAS is a public good, not a private scheme simply administered by the Reserve Bank. This means the Reserve Bank has a responsibility not only to those directly participating in ESAS, but also to the public more broadly with respect to ESAS.	We must consider both the costs and the benefits to New Zealand of ESAS when setting access policy. The benefits for private entities of accessing ESAS are relevant as part of assessing the benefits and risks of ESAS access for New Zealand generally.
ESAS enables the Reserve Bank to apply fit-for-purpose monetary policy tools and fit-for-purpose financial stability tools.	ESAS has multiple purposes.
Public sector crowding out of the private sector is a recognised economic issue (it is possible to have too broad an access base for ESAS).	Access policy settings must ensure that access to ESAS does not substantially affect the private provision of services (e.g. remunerated deposit accounts).
New types of money and payment innovation mean that traditional settlement uses of ESAS may be different from those experienced thus far, and we are open to innovation that is in New Zealand’s interests.	To be open to innovation, the access policy settings must be flexible to accommodate new business activities, new sources of risk as well as opportunities.
In addition, ESAS is subject to FMI Standards, and we apply the principle of competitive neutrality given	The access policy settings must comply with FMI Standard 18.

Principle	Meaning
the potential distortionary impacts of providing ESAS access to some entities but not others.	Access to ESAS must avoid distorting competition among some entities, unless justified.

These concepts are embedded in our policy settings and our proposed access criteria.

We consider that having clarified the purpose statement and the role ESAS plays in efficiency across the economy, and by being clear in describing how ESAS links to our wider objectives for money and payments and our strategic themes, we do not need to state a set of objectives in addition to the purpose statement.

6.4 Risk Assessment Framework

We received valuable feedback on our proposed RAF. There was substantial support for the framework from various stakeholders, with some stakeholders noting its comprehensive approach to risk assessment and management. This broad endorsement indicates confidence in the RAF's ability to address the diverse needs of the sector. We also received feedback on how the risks were articulated and applied to prospective applicants.

The feedback, although varied, centred on two key themes:

- The RAF should be entity neutral and focus on the risks associated with activities undertaken in ESAS.
- More consideration should be given to appropriate risk-mitigation measures and controls.

To incorporate this feedback we have revised our RAF to consider the different underlying risks (credit, liquidity, legal, operational and compliance risks) and their potential systemic and reputational impacts.

The RAF now identifies, for each relevant risk, both statutory mitigations (that is, requirements or conditions imposed on regulated entities) and risk mitigations that may be demonstrated by applicants not currently prudentially regulated. By starting with the focus on the risk and then available mitigations, the RAF recognises that prudentially regulated entities are subject to standards that cover off risks relevant for ESAS access (e.g. liquidity, operational risk management practices) and supervised for compliance. But it also acknowledges that some entities that are not prudentially regulated or supervised may also pose low risk if they can demonstrate appropriate risk mitigations, allowing for more inclusive but carefully managed access to ESAS.

Entities not currently prudentially regulated or licensed must demonstrate how they will meet the Reserve Bank's prudential and operational requirements on an ongoing basis. Potential mitigations for non-regulated applicants include:

- a detailed plan: providing a comprehensive plan for adhering to relevant financial, operational, liquidity and compliance standards;

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- internal control: establishing an effective and robust internal control mechanism to manage the risks;
- ongoing compliance: showing how they will continuously meet all relevant requirements; and
- regular monitoring: implementing systems for real-time monitoring and periodic audits.

We received feedback that the RAF presented risks at an entity type level (e.g. registered banks, NBDTs and Non-Bank Payment Service Providers) without adequately addressing variations within these categories. In response, we have revised the RAF to distinguish between risk mitigations related to prudential or other regulatory requirements and those specific to individual entity controls. The updated framework is now tailored to account for the diverse risk profiles associated with different uses of ESAS, ensuring a comprehensive evaluation of the various risk types. This refinement ensures a fair assessment of each entity based on its own merits and risk profile, and promotes fairness and supports innovation by assessing all applicants individually against the relevant risks from their participation in ESAS.

We have undertaken a comprehensive review of each risk type to identify and document the risk mitigations and controls that are essential to managing those risk types. The controls are divided into those that arise from statutory obligations, ensuring compliance with legal and regulatory requirements, and those that are adopted based on best practices and industry standards.

By integrating these refinements, we have enhanced the robustness of our approach, ensuring that ESAS access is governed by a well-defined, risk-informed process.

The RAF has played an important role in helping the Reserve Bank to develop a risk-based access policy in accordance with FMI Standard 18. The RAF is reflected in our proposed access criteria's risk (AML/CFT, prudential and operational) requirements. Our approach to the access criteria involves taking an agnostic view of the regulated status (beyond a minimum requirement of being a reporting entity for AML/CFT). The criteria do not require applicants to be prudentially regulated, but recognise regulation as a way of demonstrating that certain risks may be mitigated to acceptable levels. This recognition allows applicants to leverage their existing regulatory oversight to provide evidence of sound risk-management practices.

We specify the risks that ESAS participants can pose to the system, detailing these separately to allow us to apply potential mitigations based on the applicants and their business models.

Appendix 3 – Examples

The following examples illustrate how the access criteria is intended to apply. They use fictional entities and do not pre-determine the outcomes of any applications for access to ESAS.

6.5 Example 1a: Green Building Society

Green Building Society is an NBDT that offers deposits and lending services. It is incorporated in New Zealand and licensed and registered by the Reserve Bank. It is subject to prudential regulation by the Reserve Bank.

Trustees supervise the NBDT's compliance with its trust deed. The trustees have obligations under the Non-bank Deposit Takers Act 2013 and are licensed under the Financial Markets Supervisors Act 2011. Green Building Society is regulated for Anti-Money Laundering (AML) and Counter-Financing of Terrorism (CFT) compliance. It is currently covered by the Non-bank Deposit Takers Act 2013, and in future will be covered by the Deposit Takers Act 2023 when the deposit takers regime comes into force.

Green Building Society's business activities provide consumers with debt securities, e.g. term deposits, interest-bearing savings accounts and loan offerings. Green Building Society does not directly carry out payment and settlement between banks and other institutions and has indicated it does not intend to do so, at least in the short term. It has an arrangement with a registered bank to settle its interbank payments. Registered banks play an important role in ESAS and the Real-Time Gross Settlement (RTGS) system by settling transactions directly with each other in real time. This means payments are finalised immediately, reducing the risk of settlement failures and improving the overall efficiency of the financial system. It avoids the risk of counterparty default, as payments are settled individually and irrevocably. By providing access to central bank money, registered banks can also help to ensure that the financial system has sufficient liquidity to meet demand.

Green Building Society wishes to use ESAS to hold deposit funds with remuneration of interest (currently set at the OCR). This would give access to the same remuneration that ESAS account holders receive, rather than earning potentially lower rates on liquidity held with larger banks. Cash deposited in its ESAS account is also a liquid asset and is counted towards its meeting prudential liquidity needs. It improves its ability to deal with a run on deposits. There are moderate benefits to the soundness of Green Building Society from its having access to a high-quality and favourably remunerated liquid asset.

Step 1: Eligible business activity (either specified or subject to a net-benefit assessment)

Green Building Society falls under the definition of a licensed deposit taker (defined in the Access Criteria as including NBDTs) and as such is identified in the ESAS Access Criteria as satisfying the business activity test. This means we are already satisfied that there would be a net benefit to New Zealand if Green Building Society had access to ESAS. See ESAS Access Criteria subclause 6.1.1.

Step 2: Risk assessment

AML/CFT criteria

Green Building Society is a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. It provides its compliance history, which is assessed by the Reserve Bank to show compliance, risk management and overall prudence in countering financial crime in relation to AML. See ESAS Access Criteria subclause 7.1.

Prudential criteria

Green Building Society meets the minimum prudential criteria for access to ESAS due to its existing regulatory oversight under the Non-bank Deposit Takers Act 2013. The Reserve Bank confirms the status of Green Building Society as a deposit taker licensed under the Non-bank Deposit Takers Act 2013. See ESAS Access Criteria, subclause 8.1.

Operational criteria

Green Building Society has provided the Reserve Bank with information on risk management policies and processes, cyber security procedures and information security policies, and a copy of its business continuity plan. The Reserve Bank assesses the information provided to ensure these processes are at an adequate level in accordance with ESAS Access Criteria subclause 9.1.

Summary

Given that Green Building Society is a licensed NBDT, it meets the business activity criteria and prudential criteria. Whether its application is successful will depend on an assessment of its compliance history with regards to AML/CFT and an assessment of the operational criteria. If necessary, as part of the assessments, the Reserve Bank considers whether there are any additional mitigations or controls that are appropriate to enable Green Building Society to reach an acceptable risk profile.

6.6 Example 1b: Homenz Finance Limited

As with example 1a, Homenz Finance Limited is an NBDT that offers deposit and lending services. In this example, Homenz Finance Limited also offers payment services with remittances.

Its business activities provide consumers with debt securities, e.g. term deposits, interest-bearing savings accounts and loan offerings. Homenz Finance Limited also makes wholesale payments and settlements for small corporations on behalf of third parties and has an arrangement with a registered bank to complete these transactions in ESAS on its behalf. Homenz Finance Limited is looking to use ESAS to carry out directly wholesale payments and settlements between banks and other institutions (direct ESAS account holders).

Step 1: Eligible business activity (either specified or subject to a net-benefit assessment)

As with example 1a, Homenz Finance Limited falls under the definition of an NBDT, and as such is identified in the ESAS Access Criteria as satisfying the business activity test. This means we are

already satisfied that there would be a net benefit to New Zealand if it had access to ESAS. See Access Criteria subclause 6.1.1.

Step 2: Risk assessment

AML/CFT criteria

Homenz Finance Limited is a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. It provides its compliance history, which is assessed to show compliance, risk management and overall prudence in countering financial crime in relation to AML. See ESAS Access Criteria subclause 7.1.

Prudential criteria

Homenz Finance Limited meets the minimum prudential criteria for access to ESAS due to its existing regulatory oversight under the Non-bank Deposit Takers Act 2013. See ESAS Access Criteria, subclause 8.1. The Reserve Bank confirms the status of Homenz Finance Limited as a deposit taker licensed under the Non-bank Deposit Takers Act 2013.

Operational criteria

As with example 1a, Homenz Finance Limited has provided the Reserve Bank with information on risk management policies and processes, cyber security procedures, information security policies and a copy of its business continuity plan so the Reserve Bank can ensure it meets operational criteria in accordance with ESAS Access Criteria subclause 9.1.

Summary

Given that Homenz Finance Limited is a licensed NBDT, it meets the business activity criteria and prudential criteria and is a reporting entity for AML/CFT. Whether its application is successful will depend on an assessment of its compliance history with regards to AML/CFT, and an assessment of the operational criteria. If necessary, as part of the assessment, the Reserve Bank considers whether there are any additional mitigations or controls that are appropriate to enable Homenz Finance Limited to achieve an acceptable risk profile.

6.7 Example 2: PaySupport NZ Limited

PaySupport NZ Limited is a New-Zealand-incorporated company that offers payment services. It is not captured by prudential regulation. PaySupport NZ Limited is supervised for AML/CFT compliance.

PaySupport NZ Limited's business activities include but are not limited to: (i) providing customised card programmes, including debit, prepaid and corporate cards; (ii) providing foreign exchange remittance services; and (iii) providing treasury services, including payments and settlements to small businesses. These services potentially offer (i) customers a fast, efficient way to take custom-branded payment cards to market, such as contactless electronic ticketing cards used to pay for transport; (ii) lower-cost overseas remittance payments; and (iii) low-cost, efficient treasury services.

PaySupport NZ Limited wishes to use ESAS for payments and settlements in order to offer competitive payment (financial) services. The use of ESAS provides financial efficiencies to PaySupport NZ Limited as it does not need to use traditional banks as intermediaries. Access to ESAS may also enhance opportunities for PaySupport NZ Limited to offer innovative products by developing its own software and control the timing of transactions to suit its customers rather than relying on those set by the banks.

Step 1: Eligible business activity (either specified or subject to net-benefit assessment)

PaySupport NZ Limited's business activity is assessed as falling under one of the specified business activities in ESAS Access Criteria: subclause 6.1.6, "Carrying on business directly settling payments on behalf of third parties in New Zealand dollars". This means it meets the business activity criteria for an ESAS account. The applicable business activity of directly settling payments does not enable PaySupport NZ to be remunerated on any overnight deposits.

Step 2: Risk assessment

AML/CFT criteria

PaySupport NZ Limited is a reporting entity for AML/CFT. It provides the Reserve Bank with its compliance history, which the Reserve Bank uses to assess PaySupport NZ Limited's compliance, risk management and overall prudence in countering financial crime. See ESAS Access Criteria subclause 7.1.

Prudential criteria

Because PaySupport NZ Limited is not covered by ESAS Access Criteria subclause 8.1 (licensed deposit taker or designated FMI) or 8.2 (overseas deposit taker or overseas FMI), the scope of regulatory oversight is limited. The Reserve Bank therefore assesses it against subclauses 8.4 to 8.5. PaySupport NZ Limited meets the Reserve Bank's request for reports, data and information for this assessment.

PaySupport NZ Limited does not have a credit rating. However, it has access to a standby liquidity agreement and has provided evidence of its financial stability and ability to meet obligations (subclause 8.4.1).

In accordance with subclause 8.5, the Reserve Bank has assessed the corporate and ownership structure of PaySupport NZ Limited and considers it appropriate given the size and nature of the business. The Reserve Bank has also assessed the corporate governance of PaySupport NZ Limited as well as its internal controls and risk-management systems and policies.

The Reserve Bank assesses PaySupport NZ Limited against subclause 8.5.3 and is satisfied that the directors and senior managers have the necessary skills and experience and do not have any records of bankruptcy or criminal history. PaySupport NZ Limited has never been disqualified from being a financial service provider in accordance with subclause 8.4.4.

Operational criteria

PaySupport NZ Limited has provided the Reserve Bank with information on risk-management policies and processes, cyber security procedures and information security policies, and a copy of its business continuity plan. The Reserve Bank assesses this information to ensure these processes are at an adequate level in accordance with ESAS Access Criteria subclause 9.1.

Given they are qualifying under the business activity regarding directly settling payments, PaySupport NZ also needs to either be a participant in the clearing system or in process of applying to be a participant.

Summary

As PaySupport NZ Limited is not regulated under a specified regulatory regime, a full risk assessment in relation to the prudential criteria is required. It does meet the AML/CFT criteria as a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and provided evidence of compliance as part of its application. Operational criteria also need to be met for access to ESAS. If necessary, as part of the assessment, the Reserve Bank considers whether there are any additional mitigations or controls that are appropriate to enable PaySupport NZ Limited to reach an acceptable risk profile.