Reserve Bank
of New Zealand
Te Pūtea Matua

Summary of submissions and Reserve Bank responses

To the proposal to recommend the designation of the High Value Clearing System

15 September 2026

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Introduction

The Reserve Bank of New Zealand – Te Pūtea Matua (RBNZ) has proposed that the Minister of Finance designate the High Value Clearing System (HVCS) under the Financial Market Infrastructures Act 2021 (the Act). Under the Act, the RBNZ may recommend designation on its own initiative when it is satisfied that a financial market infrastructure (FMI) is systemically important and that designation would support one or more of the purposes in section 3 of the Act after taking into account the principles in section 13(2). In preparing this recommendation for the HVCS on our own initiative, we have followed the full statutory process, including publishing a proposal for designation, seeking and considering submissions from the operator, participants, and other interested stakeholders, and assessing all matters the Act requires or permits us to take into account. These include (amongst other matters) the HVCS's purpose and scope, its rules, the capability and resources of its operator, and the system's importance to the wider financial system. This assessment has informed our recommendation that the Minister issue a designation notice.

We published our proposal on 4 August 2025, seeking submissions from the HVCS operator, participants, and other interested stakeholders. We then issued an open letter on 23 January 2026 requesting further submissions on aspects of the HVCS rules and the expected costs of compliance if the system were designated.

This document explains our decision to proceed with recommending to the Minister that the HVCS be designated under the Act. It also demonstrates how we have considered the submissions made to our proposal by the operator, participants including indirect participants, and other stakeholders.

Decision to proceed with a recommendation to the Minister

We have decided that the HVCS is a multilateral clearing system and meets the definition of a pure payment system under the Act. It is therefore also an FMI as that term is defined in the Act. The HVCS is operated by Payments NZ Limited (Payments NZ) because it maintains and administers the FMI's rules, and it is systemically important in New Zealand. We consider all the principles set out in section 13(2) of the Act are relevant in deciding to make a recommendation, and that designating the HVCS meets all the Act's purposes, to:

a. promote the maintenance of a sound and efficient financial system (including by responding to threats to the stability of, or confidence in, the whole or a significant part of the financial system); and
b. avoid significant damage to the financial system that could result from problems with an FMI, an operator of an FMI, or a participant of an FMI that threaten the stability of, or confidence in, the whole or a significant part of the financial system; and
c. promote the confident and informed participation of businesses, investors, and consumers in the financial markets; and
d. promote and facilitate the development of fair, efficient, and transparent financial markets.

In making our recommendation we have considered the requirements under that Act, including the principles in section 13(2) and the matters set out in section 23 and followed the process set out in section 26 of the Act. We have also considered the systemic importance of the HVCS in accordance with the mandatory considerations in section 24 and the definition in section 28 of the Act and we are satisfied that the HVCS is systemically important.

Summary of submissions and RBNZ responses

1. Definition as an FMI

Several submitters, including Payments NZ, disagreed that the HVCS is an FMI as defined in the Act. Their concerns focused on the following points:

- That, in their view, the HVCS is a set of rules with no operational infrastructure being owned or operated by Payments NZ. In particular, Payments NZ disagreed that the HVCS is a multilateral system for clearing payments because transactions are cleared using the SWIFT Assured Value Payment facility (AVP) Closed User Group (CUG) and settlement is completed within the Exchange Settlement Account System (ESAS) on a bilateral basis.
- Whether the HVCS meets the definition of a pure payment system under section 10(2)(a) of the Act given that, in their view, no payment infrastructure is operated by Payments NZ in contrast to ESAS which is also a pure payments system.
- The fact that the HVCS rules do not apply to all members of the SWIFT AVP CUG (administered by the RBNZ in its capacity as ESAS operator). In particular, a submitter noted that ESAS sets the base rules for wholesale settlement in New Zealand and that the HVCS rules do not apply to all participants of ESAS. The submitter also noted that there are ESAS participants significant to the financial system that are not part of the HVCS.

One submitter agreed the HVCS is an FMI but suggested that the proposed definition of the HVCS could be improved by including material activities undertaken under the HVCS. These include the electronic verification, computation, confirmation, transmission and reconciliation of counterparties' obligation to make relevant payments on a gross basis as elements of the HVCS's designation.

RBNZ response

The HVCS meets the definition of an FMI as defined in section 5 the Act because:

- The HVCS is a multilateral arrangement between parties solely to facilitate the clearing of payments. Therefore, it meets the definition of FMI in section 5 and the definition of a pure payment system set out in section 10(2)(b) of the Act. The Act, and the PFMIs on which the Act and FMI Standards were based, both acknowledge payment systems are arrangements.
- The multilateral nature of the HVCS is clearly understood and comparable to typical multilateral arrangements. Payments NZ itself, in Appendix 14A of the HVCS rules, describes that "the HVCS rules and procedures are a multilateral contract that binds Payments NZ and direct settlement participants acting in various capacities…"
- The HVCS provides a detailed process for communicating or sending payment information from the payer (instructing agent) to the payee (instructed agent). It is the process by which the information is "transmitted" in terms of "clearing."

- The HVCS is commonly regarded, within the financial system in New Zealand or elsewhere as a payments system and is therefore also an FMI as defined. The HVCS is consistently referred to (in its name and documents) as a clearing system or a system for clearing payments.
- The definition in section 5 the Act does not specify that an FMI must own and operate technology. There is no suggestion that related infrastructure (e.g. SWIFT) must exclusively be owned or controlled by the FMI operator.
- There is nothing in the Act to suggest a broader system, such as the HVCS, that incorporates the services available through ESAS and SWIFT, cannot also be an FMI. We consider the interconnectedness with ESAS and SWIFT supports an interpretation that includes the HVCS as an FMI, rather than the opposite, as is suggested by Payments NZ.

In addition to being defined as an FMI, the HVCS is important for the smooth running of New Zealand's payments because it facilitates the clearing of a significant value of transactions, as outlined in our proposal and systemic importance assessment. Contrary to a submission's suggestion, ESAS and its rules alone are not currently sufficient to support clearing and end-to-end payments. While ESAS sets out the rules for settlement between Exchange Settlement Accounts, it does not provide the multilateral clearing rules or end-to-end payment rules, which are provided by Payments NZ for the HVCS participants. ESAS requires participants undertaking multilateral payments to join a clearing system that settles in ESAS. ESAS participants that are not party to the HVCS rules will need to rely on other arrangements to clear and complete end-to-end payments. Designation of the HVCS will enable oversight of the multilateral clearing and end-to-end payment rules relied upon by the HVCS participants.

Contrary to the views expressed by some submitters, RBNZ considers the HVCS through its rules and processes for clearing payments, is operational infrastructure, whether or not Payments NZ owns and operates the technology that is utilised as part of, and interconnected with, that infrastructure.

2. Definition of an FMI operator

Several submitters, including Payments NZ, disagreed that Payments NZ is an operator of an FMI, primarily because it does not operate technology. Payments NZ states that the definition of an FMI operator in the Act is artificial and not the usual meaning as the Act considers those that maintain or administer FMI rules to be operators. An individual submitter stated that Payments NZ's role in maintaining or administering the rules does not legitimise them as an operator because they do not contribute to the central processing or handling of information, payments, or transactions.

RBNZ response

Payments NZ is responsible to the HVCS' participants for maintaining and administering the rules of the HVCS. This is consistent with the definition of an FMI operator in section 5 of the Act. Therefore, Payments NZ is the operator of the HVCS.

3. Systemic importance of the HVCS

BNZ acknowledged that systemic importance is ultimately a regulatory determination but sought further clarification on the criteria for assessing the systemic importance of the HVCS.

Payments NZ disagreed that the HVCS is systemically important, citing the reasons, that in its view:

- It does not operate infrastructure.
- Not all FMI Standards apply to it.
- Not all institutions carrying out high value payments participate in the HVCS.
- There is no settlement risk in the HVCS.
- Another organisation can take over the functions of Payments NZ or participants can agree to abide by the rules if Payments NZ was unable to perform its functions.

An individual submitter recommended that rules for payment mechanisms would be better served through a central government entity and suggested increasing the mandate and scope of ESAS and NZClear (a separate FMI operated by the RBNZ) to put RBNZ in a better position to facilitate a sound and efficient financial system.

RBNZ response

Criteria for assessing systemic importance

In response to submissions seeking clarification on the criteria for assessing systemic importance, the HVCS was assessed against the following matters set out in section 24 of the Act:

- the FMI's size, including the number of participants and the number of indirect participants;
- the types of persons who are participants and indirect participants;
- the nature and scope of the activities under the FMI, including the way in which, and the extent to which,
  - the FMI interconnects (directly or indirectly) with other FMIs or other activities within the financial system;
  - participants and indirect participants transact or otherwise interconnect with each other (directly or indirectly) under the FMI;
- the way in which, and the extent to which, financial risks are concentrated within the FMI;
- were activities under the FMI to be disrupted, whether another FMI could promptly and effectively take them over.

Our published framework for identifying systemically important FMI explains the process and details of how we apply the matters set out in section 24 of the Act when assessing systemic importance.[1]

Having considered the relevant submissions received, our assessment that the HVCS is systemically important, as set out in detail in the proposal, is unchanged. We also note that some points raised by submitters go beyond the scope of the matters we must consider in assessing systemic importance or do not relate to the definition of systemic importance as provided under section 28 of the Act.

[1] https://www.rbnz.govt.nz/-/media/project/sites/rbnz/files/regulation-and-supervision/financial-market-infrastructure-oversight/regulatory-developments/fmi-systemic-importance-framework-january-2022.pdf

Response to specific points raised against the systemic importance of the HVCS

On the point that Payments NZ does not operate technology as part of its infrastructure, we note that operation of such technology is not a requirement for there to be an FMI and an FMI operator. An FMI operator may also be an entity that maintains or administers the rules of the FMI as defined in section 5 of the Act. The infrastructure operated by Payments NZ in this instance is the HVCS, which is an FMI as that term is defined in the Act (refer RBNZ responses above on whether the HVCS is an FMI).

On the lack of applicability of all FMI Standards to the HVCS, we note that, if designated, the HVCS would be subject to those FMI Standards that are applicable to pure payment systems.

On the observation that some institutions conduct high-value payments without participating in the HVCS, we acknowledge that this is the case. In particular, the RBNZ is not a member of the HVCS for its own reasons relating to its role as operator of the ESAS. However, our systemic importance assessment focuses on the participants of the HVCS itself, rather than those that operate outside the FMI. The HVCS's systemic importance is not negated by the fact some high-value payments can be conducted by certain outside institutions that are not participants of the HVCS. The fact remains that most high-value payments in New Zealand are facilitated by the HVCS and significant values are processed through the HVCS every day.

On the absence of settlement risk within the HVCS, we note that settlement of the HVCS transactions occurs in ESAS. While this means that settlements benefit from ESAS being a designated FMI, this does not negate the systemic importance of the HVCS. This is because the HVCS rules support the initiation and clearing of high-value payments prior to settlement.

On substitutability, Payments NZ submits that the substitutability of itself as an operator as a factor against the HVCS being systemically important. However, our assessment focuses on whether the HVCS could be readily and effectively substituted by another FMI in the event of disruption, not the substitutability of Payments NZ as an operator. We have concluded that the HVCS could not be easily substituted by another FMI. Additionally, while Payments NZ could be substituted, we consider that this would be time consuming and would involve risks, costs, and operational challenges. Some submissions also suggested that participants could agree in advance to continue to abide by the HVCS rules in the absence of an operator, which would create legal and operational uncertainty. This has been considered further under heading 6 (Benefits of designation).

Section 2 and Annex D of the Proposal set out the systemic importance of the HVCS in more detail.

Finally, on the suggestion to increase the mandate and scope of ESAS and NZClear, we note that this suggestion is out of scope of our proposal to recommend the designation of the HVCS.

4. Rules applicable to the HVCS

Some submitters, including Payments NZ, disagreed with the approach taken to identifying the rules relevant to the HVCS, arguing that materiality was not being considered. Payments NZ submitted that regulatory focus should be limited to rules that relate to the material and systemic aspects of the HVCS and should exclude rules that are operational or process related. It further argued that the current approach to identifying the rules is inconsistent with the fundamental policy thinking at the time the law was being developed, and that it creates unnecessary compliance costs (discussed below).

Payments NZ confirmed that it will retain its current approach where all Payments NZ clearing systems rules are contained in one document. Payments NZ does not believe that a separate document for the HVCS rules would be cost effective, practical, or beneficial for itself and its participants.

RBNZ response

Scope of rules

We have taken on board feedback to our initial proposal about the scope of the rules identified as the HVCS rules for the designation notice. The rules that apply to the HVCS are set out in Appendix A. This takes into consideration Payments NZ's responses in both consultations.

In particular, we reassessed the scope of the HVCS rules for a designation notice to identify the relevant rules at the sub-part level of the Payments NZ Rules document. This represents a change from our previous approach that identified the relevant HVCS rules at a Part level in the Payments NZ rules document.

We disagree with Payments NZ's submission that only the "material" sub-parts of the Payments NZ Rules should be specified in the designation notice. This is because the Act does not provide for a selective approach to rules on designation notice based on considerations of "materiality". Consequently, we are unable to limit the selection of rules to only those that are considered the most important or material. Rather, the Act requires the "FMI's rules" (meaning all of the HVCS rules) to be subject to designation.

Option to draft a separate rules document for the HVCS

We note that the Payments NZ Rules is a shared document applying to the HVCS and other clearing systems operated by Payments NZ. We acknowledge that some rules that apply to other Payments NZ clearing systems will be captured if the HVCS is designated. This is because the Payments NZ Rules is a shared document across multiple clearing systems and includes sections that apply commonly to more than one system.

Therefore, in response to the submissions to the 4 August Proposal we asked in our 23 January open letter if Payments NZ if it would like to draft a separate document for the HVCS rules. We note Payments NZ's response that doing so would not be cost effective, practical, or beneficial for itself and its participants.

5. Cost of compliance

Submitters identified compliance costs as a significant concern, particularly in relation to how the HVCS rules will be treated after designation. Additional concerns related to the application of the FMI Standards, the need for a gap analysis, impacts on participants, and if Payments NZ can maintain itself within the financial market.

Compliance costs relating to the rules of the HVCS:

- Some submitters raised concerns about the requirement for regulatory approval of rule changes, noting that the Act requires the regulator to approve all amendments to the rules of a designated FMI. They argued that this could add cost and slow down the process for the

HVCS, where rule changes occur frequently under Payments NZ. They noted some occasions where rule changes must be rapid to accommodate the rapidly changing environment.

- Payments NZ highlighted that its rules are far more dynamic than those of the currently designated FMIs, whose rules tend to be relatively static. Payments NZ explained that its rules need to change often to support process improvements in the system.
- Payments NZ also argued that the RBNZ's interpretation of the Act would result in non-systemic rules being captured in the designation notice, creating unnecessary costs and administrative burden for rule change approvals (as noted above).
- Payments NZ also expressed concern about the cost of publishing rules, including the obligation to republish the rule set after every amendment. It pointed to the high frequency of its rule updates, as well as the fact that the rules are written for its participants rather than the public.
- Payments NZ and BNZ both highlighted the effectiveness of the previous informal arrangement, under which Payments NZ sought non-objections for material HVCS rule changes. They viewed that the former arrangement provided appropriate oversight while allowing responsive changes and served the industry well.

Compliance costs relating to the FMI Standards applicable to the HVCS:

- Payments NZ submitted that it could comply with the Act if regulatory requirements are applied proportionately, consistent with its role as a rules body. It noted that it had undertaken a detailed self-assessment against the PFMI/FMI Standards and that it believes it complies with the applicable FMI standards but that FMI Standards 12, 16, 17B, 17C, 19, 20 do not apply and FMI Standards 9 and 15 will only partially apply. It notes that no feedback has been received on this analysis. Payments NZ disagrees that another gap analysis is required and noted that a gap analysis will involve considerable resource.
- Payments NZ noted that it was unclear how the FMI Standards will apply to Payments NZ and the HVCS as a rules body. This made precise cost estimation difficult but Payments NZ provided an indicative annual cost estimate associated with FMI Standards compliance. Payments NZ has looked through the FMI Standards that we identified and provided high level estimates of compliance costs. Payments NZ provides the following rationale for its estimates:
  - FMI Standard 1 – Legal basis: Payments NZ has historically obtained external legal opinions for material rule changes. However, undertaking a comprehensive review of all rules would be new, as would repeating this exercise every two years.
  - FMI Standard 2 – Governance: Payments NZ currently notifies participants of rule changes. It notes that additional costs may arise if it were required to identify and disclose decisions to a broader group.
  - FMI Standard 15 – General Business Risk: Payments NZ considers this standard should not apply, as it does not act as a central counterparty and its rules do not introduce financial risk into the HVCS. It notes that any requirement to hold additional funds would represent an opportunity cost for the HVCS. Payments NZ also notes that its board previously agreed, based on professional accounting advice, that it does not need to hold liquid net assets equal to six months of operating expenses.
  - FMI Standard 17 – Operational Risk: Payments NZ maintains a risk management framework and obtains external advice on how risks are presented. However, this framework is not

subject to external review as required by the standard. Payments NZ notes that it does not manage operational risk for the interchange and settlement of HVCS payments, as it does not operate infrastructure, and that compliance would involve significant costs.

- FMI Standard 17C – Cyber Resilience: Payments NZ estimates compliance costs on the basis that it operates a rule set rather than infrastructure. It notes that cyber resilience is managed by its participants that are prudentially regulated, and by ESAS as a designated FMI. Payments NZ also notes that the two-yearly review required under the standard represents a new and additional cost.
- FMI Standard 18 – Access and Participation Requirements: Payments NZ already discloses access requirements on its website but anticipates increased costs and overhead for ongoing operational support.
- FMI Standard 23 – Disclosure of rules, key procedures and market data: Payments NZ notes that it already publishes information on payments instruments, which generates a high volume of public inquiries, often better directed to other stakeholders. It considers the requirements under this standard to be new, involve significant effort, and expects it to generate additional public inquiries that would need to be managed, resulting in further costs.
- FMI Standard 23A – Disclosing compliance with the FMI Standards: Payments NZ notes that completing the required self-assessment would be a significant piece of work, involving auditing, supervisory engagement, external assurance, internal resources, and management support.
- FMI Standard 23B – Notifying the regulator: Payments NZ note that it already notifies the RBNZ of incidents in its role as a rules body rather than an infrastructure operator. It considers the requirement for detailed analysis and remediation reporting could duplicate efforts undertaken by other regulated or designated entities. It also notes that reporting breaches under the Act could generate additional costs, particularly where obligations are unclear.
- Participant costs: Payments NZ note that its 15 HVCS participants would be required to provide additional assurance, attestations, reporting, and support to meet the requirements being placed on Payments NZ as operator.

BNZ acknowledges in its submission that most direct compliance costs will fall on Payments NZ as the operator, with indirect costs borne by participants through increased levies. It cautioned that higher costs could adversely affect productivity and raise barriers to entry for new participants.

An individual submitter also questioned the level of financial liability insurance and how many assets Payments NZ has to maintain itself within the financial market.

RBNZ response

The benefits of designation outweigh the compliance costs to Payment NZ. In our view, some of the compliance costs estimated by Payments NZ will either not arise or have been overstated. Putting those to one side, we consider the remaining identified compliance costs for designation of the HVCS are necessary, as they are a direct incidence of designation of the HVCS and proportionate to the importance of designating the HVCS to achieve the purposes of the Act. These benefits of designation are discussed below under heading 6 (Benefits of designation).

The Act requires us to avoid unnecessary compliance costs and to that extent, we sought more information from Payments NZ and stakeholders about specific compliance costs that they believe designation might impose. Following that, we have taken on board feedback on compliance costs to Payments NZ and provide further information below in respect to the compliance costs associated with rule changes, and the compliance costs associated with complying with the FMI standards.

Compliance costs associated with rule change approvals

If the HVCS is designated any rule changes must be approved by the RBNZ. We understand that in some rare cases, Payments NZ may need an accelerated approval timeframe to ensure a rule is changed to maintain payments system stability. In those cases, we would work quickly and closely with Payments NZ to consider the rule change and avoid disruption to the payments system and financial system stability. This should reduce the time related costs for Payments NZ to have any HVCS rule changes approved. However, because the rule change approval process is a statutory requirement, costs associated with this process is a necessary cost for designated FMIs.

We believe that in most cases the rule changes by Payments NZ could be processed in a reasonable timeframe as required by the Act. Our current rule change approval process is streamlined and appropriate to the statutory requirement under the Act. We would establish a supervisory relationship with Payments NZ that will allow it to provide advance notice of rule change approval requests to the supervisor, and early opportunity for the regulator to understand and reflect on the content of such requests before a formal rule change request is submitted. This would allow a more efficient formal process.

Costs to comply with the FMI Standards

If the HVCS is designated, then Payments NZ would be subject to the requirements in the Act and FMI Standards, and we will assess its compliance at that time. The analysis provided by Payments NZ has been used as a starting point for understanding the potential impact of designation on the HVCS as reflected in the compliance cost table provided in the January 2026 consultation.

In terms of the FMI Standards that apply to the HVCS, we agree that only those that apply to the pure payment system class of FMI will apply to the operator of the HVCS which is set out in Appendix B. If designated, we will assess what risks the HVCS is exposed to. If we assess that a particular risk is not present, we will consider Payments NZ to be compliant with the applicable FMI Standard. Furthermore, risks should be mitigated using the tools that Payments NZ has available to it as the operator of the HVCS to an extent that is reasonably possible. This may reduce, or in some cases, eliminate the estimated compliance costs for specific FMI Standards.

Cost of financial liability insurance

On the question around the financial liability insurance and assets of Payments NZ, we note that Payments NZ is an operator of FMI including the HVCS, however it does not participate in any FMIs. If the HVCS were to be designated, Payments NZ will be required to have sufficient financial independence to operate, maintain, and develop the HVCS to the expectations of its participants and other stakeholders.

6. Benefits of designation

Several submitters, including Payments NZ, have argued that the previous informal arrangement of seeking non-objections from the regulator are sufficient. One submitter suggested that designation is not required because the information gathering powers over non-designated FMI are sufficient.

Several submitters disagree that benefits of designation outweigh the compliance costs. Submitters note that designation will not deliver any material benefits beyond the previous informal arrangement between Payments NZ and the regulator which provide sufficient oversight of the HVCS. However, Payments NZ acknowledges the RBNZ had recently stopped the practice of providing informal non-objections. Some submitters felt that the formal benefits of designation relating to Subpart 5 of Part 3 of the Act and crisis management powers were not necessary due to the designation and/or rules of ESAS, and/or separate prudential regulations for participants.

In addition, some submitters were concerned with a lack of a cost-benefit-analysis. Payments NZ stated that a fulsome cost-benefit analysis should be conducted as required by Cabinet Office Circular CO (24) 7 when developing new regulation.

By contrast, one submitter supported the designation of the HVCS and cited the PFMI guidance on the responsibilities of regulators are consistent with section 12(2)(d) of the Act and section 10(1)(g) of the RBNZ Act and international best practices. This submitter pointed out there is a large gap in the regulation and supervision of clearing and settlement systems in New Zealand because the settlement system (ESAS) is designated but the clearing system (HVCS) has been allowed to self-regulate. They stated this practice contrast with the guidance in the PFMI which are international best practice. The submitter noted that without designation regulators do not have adequate powers to induce change or enforce corrective action with respect to the HVCS, and that these powers are crucial for the regulator to fulfil the statutory purposes of the Act.

Another submitter sought clarification on the extent of RBNZ's current oversight of Payments NZ.

RBNZ response

The Act sets out a designation regime that replaces the informal oversight arrangement that the RBNZ historically has had with Payments NZ with respect to the HVCS. This process does not require the analysis described in Cabinet Office Circular CO (24) 7 because it is not developing a new regulation. Instead, the designation process is an operational process applying existing powers under the Act which has been enacted through an open consultation process.

The previous informal relationship with Payments NZ pre-dates the Act. The informal arrangement is not compatible with the current FMI regulatory framework and the RBNZ no longer provides non-objections to FMI that are not designated. In particular, the HVCS is currently not subject to any FMI Standards because it is not designated, and there is no basis for the regulator to assess or to object even if the operator seeks a non-objection.

Further, the information gathering powers under section 14 of the Act are not sufficient to achieve the purposes of the Act with respect to systemically important FMI. Designation was created under the Act to achieve the purposes of the Act with respect to systemically important FMI. For example, designation also allows the regulator to act when an FMI is distressed.

On the application of Subpart 5 of Part 3 of the Act:

- We agree that the HVCS rules already require notification by participants in case of insolvency. However, there have been cases where participants of Payments NZ clearing systems have not notified the operator during instances of failure to settle/settlement delays and thereby breached the rules.
- Application of Subpart 5 of Part 3 of the Act bolsters the HVCS rules by making notification of insolvency a legal requirement under the Act. This can ensure participants follow the rules when facing financial issues.
- We acknowledge that settlement occurs within ESAS, and the designation notice of ESAS already applies Subpart 5 of Part 3. We intend to apply Subpart 5 of Part 3 in a designation notice for the HVCS because this would provide validity and enforceability under the Act for its rules that sets out the following matters:
  - the basis on which settlement instructions are given or received;
  - the basis on which settlement obligations are determined;
  - the basis on which settlements are effected;
  - the irreversibility of payments after settlement; and
  - the actions to be taken if there is a participant default or an indirect participant default.

Regarding crisis management, our response to Payments NZ's submission on the substitutability of itself as an operator is provided above under heading 3 (Systemic importance of the HVCS). While another organisation could take over as administrator of the rules, this would likely be a lengthy process. Furthermore, on the submission on participants agreeing in advance to comply with the rules in the absence of Payments NZ, it will leave significant gaps in roles that are fulfilled by Payments NZ as operator. For example, without the operator, there will remain gaps and uncertainty around maintaining participant access to the HVCS and responding to incidents – both roles that are fulfilled by Payments NZ. We have set out in Appendix C a non-exhaustive list of potential distress scenarios and how designation supports better management of such an event.

A submitter noted that the ESAS terms and conditions (now ESAS Rules) are sufficient in ensuring all account holders are operating in a way that promotes a sound and efficient financial system. We note that the ESAS Rules only apply to settlements occurring within ESAS. The ESAS Rules do not provide for clearing systems and rules or the process for end-to-end payments, including any problems arising outside of ESAS settlement. For example, any problem related to payments clearing are addressed by Payments NZ not ESAS. Furthermore, ESAS requires all participants that make multilateral settlements to be a member of a multilateral clearing system.

7. General feedback

Feedback for the proposal

One individual submitter suggested that consultation should have included all financial and business stakeholders and should not limit respondents to those involved in the HVCS.

RBNZ response

The Act requires us to consult with the operator and any participants or indirect participants of the FMI. By requiring Payments NZ to publish the proposal on its website and by also publishing it on the RBNZ's own website, we are satisfied that we have consulted widely with all participants or interested parties of the HVCS and met the requirements of the Act. We also published the open letter to Payments NZ on our website and promoted consultation via a public press release and social media posts. We accepted all submissions including those from financial and business stakeholder and individuals. This approach goes beyond the minimum requirements under the Act.

New or alternative payment technologies

Several submitters commented on future payments innovation. One submitter suggested that the RBNZ consider the Pix payment system run by Banco Central do Brasil, noting that transaction costs under this system are a fraction of those associated with EFTPOS and credit card payments charged by banks.

A submitter expressed concern that New Zealand banks are cautious and lack transparency when it comes to facilitating new technologies into the banking system. The submitter highlighted potential disadvantages for New Zealand in comparison to jurisdictions in the northern hemisphere that are moving ahead with new technologies such as Blockchain and decentralized finance. These technologies were described as offering advantages over traditional banking with a relatively lower cost, faster speed, and lower environmental impacts.

The submitter also requested that the RBNZ demonstrate why it would be better placed to do this work better than the current system managed by Payments NZ.

Separately, a submitter sought clarification if XRP, XLM, XDC, and HBAR are used in the HVCS and how it works. Also questioned whether QNT will be involved for legacy systems.

RBNZ Response

These submissions are out of scope for the proposal to recommend designation of the HVCS.

Appendix A: The HVCS rules for the purposes of designation

The document that set out the rules for the HVCS is the **Payments NZ Rules**.

Rules applicable to the HVCS in Payments NZ Rules
Part 1 Introduction Excluding 1.2.1 & 1.2.2
Part 2 Access and participation Excluding 2.12, 2.14, 2.14A, 2.14B, 2.40-2.46, 2.48, 2.53
Part 4 Levies, charges, and fees Excluding 4.15, 4.17
Part 5 Compliance Excluding 5.7
Part 9 HVCS clearing and settlement
Part 10 Operational problems: HVCS and SBI Excluding 10.6
Part 11 Liability
Part 11A Undue enrichment
Part 12 Financial problems and suspension Excluding 12.7-12.10, 12.17
Part 12A Revoke suspension or terminate participation Excluding 12A.21
Part 13 Clearing system governance
Part 14 Disputes
Part 15 Standards
Part 16 Clearing system data

Rules applicable to the HVCS in Payments NZ Rules
Excluding 16.9
Part 17 Clearing system registers
Part 18 Miscellaneous
Part 19 Interpretation

Appendix B: FMI Standards that would apply to the HVCS if designated

FMI Standard	Applicable to the HVCS
Standard 1: Legal basis	Applicable
Standard 2: Governance	Applicable
Standard 3: Framework for the comprehensive management of risks	Applicable
Standard 4: Credit risk	Applicable
Standard 5. Collateral	Applicable
Standard 6. Margin	Not applicable
Standard 7. Liquidity	Applicable
Standard 8. Settlement finality	Applicable
Standard 9. Money settlements	Applicable
Standard 10. Physical deliveries	Not applicable
Standard 11. Central securities depositories	Not applicable
Standard 12. Exchange-of-value settlement systems	Applicable
Standard 13. Participant-default rules and procedures	Applicable
Standard 14. Segregation and portability	Not applicable
Standard 15: General business risk	Applicable
Standard 16. Custody and investment risks	Applicable
Standard 17. Operational risk	Applicable

FMI Standard	Applicable to the HVCS
Standard 17A: Contingency plans	Applicable
Standard 17B: Critical service providers	Applicable
Standard 17C: Cyber resilience	Applicable
Standard 18: Access and participation requirements	Applicable
Standard 19: Tiered participation arrangements	Applicable
Standard 20: FMI links	Applicable
Standard 21: Efficiency and effectiveness	Applicable
Standard 22: Communication procedures and standards	Applicable
Standard 23: Disclosure of rules, key procedures, and market data	Applicable
Standard 23A: Disclosing compliance with the FMI Standards	Applicable
Standard 23B: Notifying the regulator	Applicable

Appendix C: Potential distress scenarios for the HVCS

These scenarios do not represent an exhaustive list and are intended as illustrations.

	Failure of a critical service provider or technology	Failure of Payments NZ	Failure of the enforceability of the HVCS rules	Failure of an HVCS participant
Scenario	Failure of SWIFT that impacts the ability of participants to conduct high value payments.	Payments NZ ceases to exist or was unable to operate as a going concern.	The HVCS rules are not enforceable in a financial or operational failure of participants.	A large operational failure in a participant result in inability to send payments but they continue to receive payments.
Consequences of break down	This can impact the ability of participants to send payment instructions, which means payments cannot be settled. This would be highly disruptive for the financial system and could result in liquidity problems as banks and end customers do not receive payments they are owed on time. Participants will need to rely on contingency messaging arrangements. This is manual and can impair the efficiency and reliability of high value payments.	This impacts the operator of the HVCS as Payments NZ owns the rules. If the owner of the rules ceases to exist, this could put into question the validity of the rules and existing agreement between participants and Payments NZ to follow the rules. Such an impact would likely not occur immediately but it may occur over extended period of time. The legal uncertainty can impact participant's ability to clear high value payments with other participants under the HVCS rules and may require bilateral arrangements or agreements to replace the HVCS, or a new organisational body.	If participants have financial or operational failures this could disrupt payments leading to instability. Payments NZ may face challenges imposing requirements or consequences on the participant. This could result in repeated incidents that go without consequences which may erode trust in the HVCS. In the worst case, this could create widespread uncertainty as banks are unsure if cleared payments will be settled and may need to hold greater liquidity buffers leading to reduced lending.	This would be highly disruptive for the financial system and could result in liquidity problems as banks and end customers do not receive payments they are owed on time.

	Failure of a critical service provider or technology	Failure of Payments NZ	Failure of the enforceability of the HVCS rules	Failure of an HVCS participant
		In addition, there would be nobody to deal with any problems that arise in the end-to-end payment. For example, if there is a clearing or settlement problem, participants would have to identify and deal with it themselves. This may be difficult to do due to limited information at the participant level. This could be highly disruptive to payments.		
How designation could assist in ensuring such a break down does not occur in the first place	Payments NZ would be required to manage the risks arising from SWIFT as a critical service provider. This may include setting a business continuity plan in case of a SWIFT outage. We believe Payments NZ may already have these BCPs, designation would allow the supervisory team to review the BCP and ensure it is appropriate and addresses all risks.	Payments NZ would be supervised against relevant FMI standards such as governance and general business risk. This can ensure that the business operates as a going concern, and the governance arrangements of the FMI are effective and prudent. This will also ensure that the FMI operator identifies, monitors, and manages general business risk which support the ongoing operation of an FMI and its operator.	Payments NZ would be required to identify, monitor, and manage risks. This will also include monitoring participants for risks and managing any risks arising from participants. The Act provides legal support to Payments NZ crisis management rules. If distressed participants are not complying with Payments NZ rules, then the RBNZ could direct that participant to comply under the Act. This may deter non-compliance by participants.	FMI Supervision could review Payments NZ rules to ensure they adequately address this scenario and direct Payments NZ to amend their rules if required.

	Failure of a critical service provider or technology	Failure of Payments NZ	Failure of the enforceability of the HVCS rules	Failure of an HVCS participant
			Part 3 subpart 5 of the Act provides a statutory basis to the FMI rules relating to settlements.	
How designation could ensure better management in the event such a break down does occur	In the break down, RBNZ could support Payments NZ's own rules by directing participants to comply with them. This creates certainty and ensures orderly behaviour by participants. Following the incident, Payments NZ could be required to have its risk frameworks reviewed and externally assured following a material incident or outage. This can ensure the sufficient attention and resources are deployed to avoid a similar incident in the future and provides the regulator comfort by way of external assurance.	If designated, the regulator can instruct the participants to continue to comply with the HVCS rules. This will be a temporary measure while alternative arrangements will need to be made, for example, another organisation replacing the role of Payments NZ as operator, or a new rule set being introduced by an existing FMI to replace the HVCS. Furthermore, FMI standards also require operators to have viable recovery and orderly wind-down plans.	If an incident occurs due to a failure or a lack of the existing rules, the RBNZ could direct that participant to comply with Payments NZ rules under the Act. The RBNZ could also require a designated FMI to change its rules. Such a requirement can be imposed on the FMI operator if the regulator believes that a change is required to ensure compliance with applicable standards or for the purpose of applying subpart 5 of part 3 of the Act.	The Act provides crisis management powers including the ability of RBNZ to direct participants to comply with the Payments NZ rules. Payments NZ would be required to have its risk frameworks reviewed and externally assured following a material incident or outage. This can ensure sufficient attention and resources are deployed to avoid a similar incident in the future and provides the regulator comfort by way of external assurance.