
Deposit Takers Bill

Payments NZ Submission to Finance and
Expenditure Select Committee

10 November 2022

Submission to the Finance and Expenditure Select Committee on the Deposit Takers Bill

1. Payments NZ Limited (Payments NZ) welcomes the opportunity to make a submission to the Finance and Expenditure Committee on the Deposit Takers Bill.
2. Payments NZ governs New Zealand's payments system. In particular, it is responsible for developing and managing the rules and standards that facilitate the exchange of payments between financial institutions, and doing this efficiently and securely. Our participants are financial institutions that have joined one or more of the following payment clearing systems operated by the company:
 - the bulk electronic clearing system,
 - the consumer electronic clearing system,
 - the high value clearing system.
3. Our access rules enable a wide range of financial institutions to participate in our clearing systems, including registered banks and non-bank deposit takers (NBDTs) which will be directly affected by the Deposit Takers Bill (the Bill).
4. We note that the licensing of deposit takers (banks and NBDTs) will be carried out under Part 2 of the Bill and we expect that this will in practice be connected to a financial institution's ability to comply with the standards to be promulgated under Part 3 of the Bill. We also note that the Reserve Bank's resolution powers will be substantially reformed under Part 7 of the Bill, and we expect that the practical application of those powers will be closely connected to the new depositor compensation scheme under Part 6 of the Bill.
5. The reforms proposed in the Bill are likely to have an impact on the business of Payments NZ, in particular, on its rules in relation to:
 - the access requirements for financial institutions who wish to become participants in Payments NZ's clearing systems. In respect of prudential requirements for registered banks, our access rules largely rely on the prudential regulation that is exercised by the Reserve Bank. For other applicants, our prudential requirements are similar to the matters that the Reserve Bank has regard to under the Non-bank Deposit Takers Act 2013 and the Insurance (Prudential Supervision) Act 2010. Our rules provide that, when deciding whether to approve an application to participate in a clearing system from an NBDT or insurer, our independent directors are entitled to take into account the fact that the Reserve Bank was required to have regard to similar matters when it granted a licence to the applicant to operate as a non-bank deposit taker or as an insurer. As such, we have a direct interest in the nature of the prudential regulation of the Reserve Bank and any changes that it might be subject to;
 - the management of financial problems that may be encountered by a participant which is dependent on resolution powers exercised by the Reserve Bank, such as statutory management and open bank resolution. It seems likely that these are going to change under what is being proposed in the Bill.
6. However, in the time available since the introduction of the Bill (on 22 September), we have been unable to undertake a detailed analysis and review of the proposed legislation to be

able to fully appreciate what impact it will have on our rules (in particular, on our access requirements and on our financial problem provisions).

7. We think it is a relatively tight timeframe for submissions given the length and complexity of the legislation. We have had no discussion with the Reserve Bank on its potential impact on the payments system. We are also having to respond to a concurrent consultation on standards under the Financial Market Infrastructures Act 2021 (the FMI Act) which requires a detailed review of complex and lengthy requirements. There is also another consultation on the Reserve Bank's review of policy for branches of overseas banks.
8. We would also like to note that the Reserve Bank and The Treasury have acknowledged that the resolution powers in the FMI Act would need to change, to be aligned with the resolution powers in the Bill. However, we are not aware of the Bill making the required consequential changes to the FMI Act. We think it important that the resolution regimes for licensed deposit takers and designated FMIs are aligned and we would be pleased to understand what actions the Committee is taking on this (having also considered the FMI Act).
9. In the circumstances, we wish to record our interest in the legislation. Thank you.

Payments NZ Limited