

# **Reserve Bank of New Zealand Amendment Bill**

Government Bill

As reported from the Finance and Expenditure  
Committee

## **Commentary**

### **Recommendation**

The Finance and Expenditure Committee has examined the Reserve Bank of New Zealand Amendment Bill and recommends that it be passed with the amendments shown.

### **Overview**

This bill amends the Reserve Bank of New Zealand Act 1989 and the Racing Act 2003. The amendments to the Reserve Bank of New Zealand Act are the outcome of the deliberations of the Trans-Tasman Council on Banking Supervision—members of which are the Reserve Bank of New Zealand; the Reserve Bank of Australia; the Australian Prudential Regulatory Authority; and the New Zealand and Australian Treasuries. The Racing Act amendments are consequential to the demonetisation from 1 November 2006 of the five-cent coin.

### **Reserve Bank of New Zealand Act 1989—Alignment with Australian legislation**

The Council on Banking Supervision recommended that the Australian and New Zealand Governments enact equivalent bills to deal with the relationship between prudential regulators on each side of the Tasman. We were advised by officials that the success of this bill

depends on equivalent changes being made in Australia. Throughout the drafting process, officials from New Zealand and Australia maintained a liaison to ensure the bills correspond.

To better align this bill with the proposed Australian legislation, we recommend two amendments. First, an amendment to clause 6 to clarify the duty upon the Reserve Bank of New Zealand to take account of the interests of its counterpart Australian regulators. The second amendment we recommend is to clause 8 to limit opportunistic court action by those affected by the regulator or statutory manager's actions.

### **Racing Act 2003**

We made no changes to the amendments proposed to the Racing Act 2003. We note that the amendments to the Racing Act will ensure that the New Zealand Racing Board can conduct racing and sports betting in compliance with the law following the withdrawal of the five-cent coin. The Board will be required to make betting rules under the Act that specify the denomination to which dividends must be rounded. We note that under the existing Act the Board is already responsible for making betting rules, including those specifying the amount of commission (betting deduction) retained.

We understand that after the amendments to the Act, the Board will need to make optimal betting rules on rounding dividends (coupled with its rules on betting deductions) in order to offer attractive betting prices that satisfy its customers. We discussed whether the proposed requirement to round dividends down to the nearest multiple of 10 cents would have an overly severe impact on customers. We were persuaded by the Board that this would not be the case as it is to reduce its commission so that overall its customers will not be adversely affected by the 10-cent roundings.

We note that the proposed method of rounding is consistent with that used in the Australian industry. We understand that the new method will also assist with the Board's moves towards the occasional merger of its betting pools with those of overseas totalisator betting operators, as is currently permitted under the Racing Act 2003.

## Appendix

### Committee process

The Reserve Bank of New Zealand Amendment Bill was referred to the committee on 20 July 2006. The closing date for submissions was 18 August 2006. We received and considered five submissions from interested groups and individuals. We heard one submission. We received advice from the Reserve Bank of New Zealand and the Department of Internal Affairs.

### Committee membership

Shane Jones (Chairperson)

Gordon Copeland

Jeanette Fitzsimons

Craig Foss

Hon Mark Gosche

Hone Harawira

Hon George Hawkins

Rodney Hide

John Key

Dr the Hon Lockwood Smith (Deputy Chairperson)

Hon Paul Swain

Chris Tremain

R Doug Woolerton

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## Key to symbols used in reprinted bill

### As reported from a select committee

#### **Struck out (unanimous)**

Subject to this Act,

Text struck out unanimously

#### **New (unanimous)**

Subject to this Act,

Text inserted unanimously

*(Subject to this Act,)*

Words struck out unanimously

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*Hon Dr Michael Cullen*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Reserve Bank of New Zealand Amendment Act **2006**.

**2 Commencement**

- (1) This section comes into force on the day after the date on which this Act receives the Royal assent.
- (2) **Sections 5, 6, and 8** come into force on a date to be appointed by the Governor-General by Order in Council. 5
- (3) The rest of this Act comes into force on **1 November 2006**.

**Part 1****Reserve Bank of New Zealand Act 1989****3 Principal Act amended**

This **Part** amends the Reserve Bank of New Zealand Act 1989. 10

**4 Interpretation**

Paragraph (d) of the definition of **financial institution** in section 2(1) is amended by omitting “engaged in the business of borrowing and lending money, or providing financial services, or both,”. 15

**5 New section 67A inserted**

The following section is inserted before section 67:

**“67A Interpretation in this Part**

In this Part, unless the context otherwise requires,—

“**action that is likely to have a detrimental effect on financial system stability in Australia** includes an action that prevents or interferes with any outsourcing arrangement 20

“**authorised deposit-taking institution** has the same meaning as in section 5(1) of the Banking Act 1959 of the Parliament of the Commonwealth of Australia 25

“**outsourcing arrangement** means an arrangement for business, or functions relating to any business, of an authorised deposit-taking institution to be carried on by a person other than that authorised deposit-taking institution

“**prescribed Australian financial authority** means an Australian public authority prescribed by regulations made under **section 68A**.” 30

**6 New section 68A inserted**

The following section is inserted after section 68:

**“68A Trans-Tasman co-operation****Struck out (unanimous)**

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|---|----|
| “(1) When performing functions or duties or exercising powers under this Part, the Bank must, to the extent reasonably practicable,—  | 5  |
| “(a) support prescribed Australian financial authorities in meeting their statutory responsibilities relating to prudential regulation and financial system stability in Australia: | 10 |
| “(b) avoid any action that is likely to have a detrimental effect on financial system stability in Australia.   |    |

**New (unanimous)**

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|--|----|
| “(1) When performing functions or duties or exercising powers under this Part, the Bank must—  |    |
| “(a) support prescribed Australian financial authorities in meeting their statutory responsibilities relating to prudential regulation and financial system stability in Australia; and  | 15 |
| “(b) to the extent reasonably practicable, avoid any action that is likely to have a detrimental effect on financial system stability in Australia.  | 20 |
| “(2) <b>Subsection (3)</b> applies where the Bank has reasonable cause to believe that an action it proposes to take is an action that is likely to have a detrimental effect on financial system stability in Australia.  | 25 |
| “(3) The Bank must, to the extent it considers reasonably practicable in the circumstances having regard to urgency or other similar constraint, consult with and consider the advice of every prescribed Australian financial authority it considers to be relevant in the circumstances before taking the proposed action. | 30 |
| “(4) No performance of a function or duty or exercise of a power is invalid by reason only of a failure to comply with the provisions of this section.   |    |



- “(5) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations prescribing Australian financial authorities for the purposes of this section and **section 121A.**” 5
- 7 New section 69 substituted**  
Section 69 is repealed and the following section substituted:
- “69 Register**
- “(1) The Bank must keep a public register of persons known as registered banks. 10
- “(2) The Bank must determine the form of the register and may amend the form from time to time as it considers necessary.
- “(3) The Bank must take all reasonable steps to ensure that the information contained in the public register is available to members of the public at all reasonable times.” 15
- 8 New section 121A inserted**  
The following section is inserted after section 121:
- “121A Statutory manager to avoid actions likely to have detrimental effect**
- “(1) A statutory manager who has reasonable cause to believe that an action he or she proposes to take is an action that is likely to have a detrimental effect on financial system stability in Australia must— 20
- “(a) notify the Bank as soon as practicable; and
- “(b) obtain the Bank’s written consent before taking that action. 25
- “(2) The statutory manager is not required to comply with **subsection (1)** if the statutory manager is satisfied that it is not reasonably practicable to do so in the circumstances, having regard to urgency or other similar constraint. 30
- “(3) Where the Bank receives a notification under **subsection (1)**, it must provide details of the notification to every prescribed Australian financial authority it considers to be relevant in the circumstances before granting written consent to the statutory manager. 35
- “(4) The Bank is not required to comply with **subsection (3)** if the Bank is satisfied that it is not reasonably practicable to do so in

the circumstances, having regard to urgency or other similar constraint.

- “(5) No performance of a function or duty or exercise of a power (*by the Bank*) is invalid by reason only of a failure (*by the Bank*) to comply with the provisions of this section. 5
- “(6) A statutory manager may consult a prescribed Australian financial authority about whether an action the statutory manager proposes to take is likely to have a detrimental effect on financial system stability in Australia.”
- 9 Protection from liability 10**  
Section 179(1) is amended by adding “; and” and the following paragraph:  
“(d) every director of the Bank”.
- 10 Indemnity 15**  
Section 179A(2) is amended by adding the following paragraph:  
“(f) every director of the Bank”.

## Part 2 Racing Act 2003

- 11 Principal Act amended 20**  
This **Part** amends the Racing Act 2003.
- 12 Racing clubs may conduct equalisator betting 25**  
Section 51(3) is amended by omitting “section 60(2) and (3),” and substituting “rules made under section 52 stating the denomination to which dividends are to be rounded and paid out,”.
- 13 Amounts of dividends**
- (1) Section 60 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) Rules made under sections 52 and 54 must state the denomination to which dividends will be rounded and paid out by the Board or, in the case of equalisator betting, a racing club.” 30
- (2) Section 60 is amended by repealing subsection (3) and substituting the following subsection:

- “(3) All amounts not payable as part of a dividend because of rounding in accordance with rules made under sections 52 and 54 may be retained by the Board, or the racing club conducting equalisator betting, and must be regarded for all purposes as part of the Board’s or the racing club’s funds.” 5

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### Legislative history

27 June 2006

Introduction (Bill 63–1)

19 July 2006

First reading and referral to Finance and Expenditure Committee

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