

Reprint
as at 1 April 2015



**Deposit Takers (Banks' Regulatory Capital) Exemption
Notice 2014**
(LI 2014/70)

Deposit Takers (Banks' Regulatory Capital) Exemption Notice 2014: revoked, on 1 April 2015, by clause 4(a) of the Non-bank Deposit Takers (Revocations and Amendments of Exemptions) Notice 2015 (LI 2015/47).

Pursuant to section 157G of the Reserve Bank of New Zealand Act 1989, the Reserve Bank of New Zealand, after taking into account the principles set out in section 157F of that Act and after satisfying itself as to the matters set out in section 157G(2) of that Act, gives the following notice.

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Notice

1 Title

This notice is the Deposit Takers (Banks' Regulatory Capital) Exemption Notice 2014.

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint. Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the Reserve Bank of New Zealand.

2 Commencement

This notice comes into force on 17 March 2014.

3 Revocation

This notice is revoked on the close of 30 June 2017.

4 Interpretation

- (1) In this notice, unless the context otherwise requires,—

Act means the Reserve Bank of New Zealand Act 1989

document BS2A means the document BS2A “Capital Adequacy Framework (Standardised Approach)” of the *RBNZ Banking Supervision Handbook* (Revised edition) and includes any document that amends or replaces it

document BS2B means the document BS2B “Capital Adequacy Framework (Internal Models Based Approach)” of the *RBNZ Banking Supervision Handbook* (Revised edition) and includes any document that amends or replaces it

RBNZ Banking Supervision Handbook means the documents and Orders in Council that apply from time to time to the Reserve Bank of New Zealand’s registration of banks and prudential supervision of banks under Part 5 of the Act

regulatory capital instrument means a security that may be treated as capital by a registered bank under either document BS2A or document BS2B (as applicable)

special purpose vehicle or **SPV**, in relation to a registered bank, means a company that—

- (a) is established and operated for the purpose of raising regulatory capital for the registered bank; and
 - (b) raises regulatory capital for the registered bank through either or both of the following arrangements:
 - (i) by purchasing regulatory capital instruments from the bank and issuing equivalent debt securities to the public;
 - (ii) by purchasing securities from the bank and issuing equivalent regulatory capital instruments to the public in the form of debt securities; and
 - (c) complies with any other requirements in document BS2A and document BS2B (as applicable) that apply to SPVs that are established and operated for the purpose of raising regulatory capital for the registered bank.
- (2) Any term or expression that is defined in the Act and used, but not defined, in this notice has the same meaning as in the Act.

5 Exemptions for special purpose vehicles

An SPV is exempt from the requirements of sections 157I, 157L, 157M, 157T, 157U, 157X, 157Y, 157ZA, and 157ZB of the Act.

6 Exemptions for trustees

A trustee is exempt from sections 157T, 157X, and 157ZA of the Act in respect of debt securities that are issued by an SPV that is exempt under clause 5.

7 Conditions of exemptions

The exemptions in clauses 5 and 6 are subject to the conditions that—

- (a) the SPV must at all times use at least 95% of the subscriptions raised from the issue to the public of regulatory capital instruments and other debt securities to lend funds to, or to subscribe for or purchase securities in, the registered bank; and
- (b) the SPV must not carry on the business of borrowing and lending money, or providing financial services, or both, from, to, or with any entity other than the registered bank.

Dated at Wellington this 10th day of March 2014.

Grant Spencer,
Deputy Governor.

Statement of reasons

This notice comes into force on 17 March 2014 and is revoked on the close of 30 June 2017.

This notice applies to special purpose vehicles (**SPVs**) that are established by registered banks and operated for the purpose of raising regulatory capital for the registered bank by—

- the registered bank issuing regulatory capital instruments to the SPV and then the SPV issuing equivalent debt securities to the public; or
- the registered bank issuing securities to the SPV and the SPV issuing equivalent regulatory capital instruments to the public in the form of debt securities.

This notice exempts SPVs from the following provisions of Part 5D of the Reserve Bank of New Zealand Act 1989 (the **Act**):

- section 157I (requirement to have credit rating):
- section 157L (certain governance requirements):
- section 157M (risk management programme requirements):

- sections 157T and 157U (capital ratio requirements):
- sections 157X and 157Y (related party exposures requirements):
- sections 157ZA and 157ZB (liquidity requirements).

Trustees in respect of certain debt securities of an SPV are also exempted from the associated requirements.

The exemptions are subject to certain conditions.

The Reserve Bank of New Zealand, after taking into account the principles set out in section 157F of the Act and after satisfying itself as to the matters set out in section 157G(2) of the Act, considers it appropriate to grant the exemptions because the Bank is satisfied that—

- compliance with the requirements of Part 5D of the Act would be unduly onerous and burdensome in the circumstances. The relevant circumstances are that the SPVs covered by this notice will be operated by registered banks as a vehicle for raising regulatory capital and will only carry on the business of lending to the registered bank to which they are related. Given that for every claim investors have against the SPV, the SPV will have an equivalent claim against the registered bank, compliance with the requirements of the non-bank deposit taker regime in Part 5D of the Act would be largely redundant in these circumstances:
- granting the exemption is consistent with the maintenance of a sound and efficient financial system, given that SPVs covered by the exemption will be operated by registered banks as a vehicle for raising regulatory capital and will only carry on the business of lending to the registered bank to which they are related:
- the exemption covers only those SPVs that are being operated by registered banks as a vehicle for raising regulatory capital and that only carry on the business of lending to the registered bank to which they are related. This ensures that the exemption does not go further than is reasonably necessary to address the concerns raised above.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 13 March 2014.

Reprints notes

1 *General*

This is a reprint of the Deposit Takers (Banks' Regulatory Capital) Exemption Notice 2014 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Non-bank Deposit Takers (Revocations and Amendments of Exemptions) Notice 2015 (LI 2015/47): clause 4(a)