

Reprint
as at 1 March 2016



Deposit Takers (Credit Ratings Minimum Threshold) Exemption Amendment Notice 2014

(LI 2014/71)

Deposit Takers (Credit Ratings Minimum Threshold) Exemption Amendment Notice 2014: revoked, on the close of 29 February 2016, pursuant to clause 10 of the Non-bank Deposit Takers (Credit Ratings Minimum Threshold) Exemption Notice 2016 (LI 2016/3).

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 (Credit Ratings Minimum Threshold) Exemption Amendment 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 the day after the date of its notification in the *Gazette*.

3 Principal notice

This notice amends the Deposit Takers (Credit Ratings Minimum Threshold) Exemption Notice 2009 (the **principal notice**).

4 Clause 4 amended (Application)

In clause 4, replace “year” with “exemption year” in each place.

5 Clause 5 amended (Interpretation)

- (1) In clause 5(1), insert in its appropriate alphabetical order:

exemption year means a period of 12 months beginning on 1 March and ending with the close of the last day of February

- (2) In clause 5(1), replace the definition of **generally accepted accounting practice** with—

generally accepted accounting practice—

- (a) has the same meaning as in section 8 of the Financial Reporting Act 2013 (unless paragraph (b) applies); or
- (b) means generally accepted accounting practice within the meaning of section 3 of the Financial Reporting Act 1993 if the deposit taker is required to prepare financial statements in accordance with that practice

- (3) In clause 5(1), definition of **measurement date**, replace “in respect of a year, means 1 October of the previous year” with “in respect of an exemption year, means 1 October of the previous exemption year”.

- (4) In clause 5(1), definition of **notification date**, replace “in respect of a year, means the last working day of the previous year” with “in respect of an exemption year, means the last working day of the previous exemption year”.

- (5) In clause 5(1), revoke the definition of **year**.

- (6) In clause 5(3), replace “clause 6(2)” with “clause 6(3)”.

6 Clause 6 replaced (Exemption from section 157I of Act)

Replace clause 6 with:

6 Exemption from section 157I of Act

- (1) Every deposit taker that commences business on or after the measurement date for an exemption year is exempted from section 157I of the Act until the end of that exemption year if, as soon as practicable after it commences business, the deposit taker provides the Bank with a written statement, signed by all directors of the deposit taker, setting out the following:

- (a) the date on which the deposit taker commenced business;
 - (b) a statement that the deposit taker will be operating on the basis of the exemption until the end of that exemption year.
- (2) Every deposit taker other than a deposit taker described in subclause (1) is exempted from section 157I of the Act in respect of an exemption year if—
- (a) the average consolidated liabilities of the borrowing group as at the measurement date for that exemption year, calculated in accordance with subclause (3), are less than \$20 million; and
 - (b) on or before the notification date for that exemption year, the deposit taker provides the Bank with a written statement, signed by all directors of the deposit taker, setting out the following:
 - (i) a statement that, according to the deposit taker's assessment, it meets the requirements of the exemption (including the requirement in paragraph (a)):
 - (ii) the figures that the deposit taker relies on in support of that assessment:
 - (iii) a statement that the deposit taker will be operating on the basis of the exemption for that exemption year.
- (3) The average consolidated liabilities of the borrowing group as at the measurement date must be calculated, in accordance with all measurement and recognition requirements under generally accepted accounting practice, using the following formula:

$$\frac{\Sigma x}{n}$$

where—

Σx is the sum of the consolidated liabilities of the borrowing group (but excluding any liabilities owed by one member of the borrowing group to another) as at the end of every month for the 12 months preceding the measurement date

n is,—

- (a) if the deposit taker commenced business earlier than 12 months before the measurement date, 12; or
- (b) if the deposit taker commenced business during the period of 12 months ending immediately before the measurement date, the number of calendar months in that period, including the month in which the deposit taker commenced business.

Example

The consolidated liabilities of deposit taker A's borrowing group (excluding liabilities between members of the borrowing group), as at the end of each of the 12 months preceding 1 October 2013, are—

30 September 2013	\$24 million
31 August 2013	\$23.5 million
31 July 2013	\$22 million
30 June 2013	\$20 million
31 May 2013	\$21 million
30 April 2013	\$19 million
31 March 2013	\$20 million
28 February 2013	\$18 million
31 January 2013	\$17 million
31 December 2012	\$18 million
30 November 2012	\$19 million
31 October 2012	\$18 million
<u>24+23.5+22+20+21+19+20+18+17+18+19+1</u>	
$\frac{8}{12}$	= 19.9583

The average consolidated liabilities of deposit taker A's borrowing group as at the measurement date for the exemption year 1 March 2014 to 28 February 2015 are therefore less than \$20 million for the purposes of subclause (2)(a).

- (4) If a deposit taker does not have any guaranteeing subsidiaries, the reference in this clause to the average consolidated liabilities of the borrowing group must be treated as a reference to the average liabilities of the deposit taker.
- (5) In this clause, **commenced business** means commenced business as a deposit taker.

7 Clause 7 amended (Conditions of exemption in clause 6)

In clause 7(b)(iii), after "\$20 million", insert "or because the deposit taker has only recently commenced business as a deposit taker (as applicable)".

Dated at Wellington this 10th day of March 2014.

Grant Spencer,
Deputy Governor.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette*, amends the Deposit Takers (Credit Ratings Minimum Threshold) Exemption Notice 2009 (the **principal notice**). Among other things, the principal notice sets out the circumstances in which a deposit taker may qualify, in respect of a particular exemption year (which runs from 1 March until the close of the last day of February), for an exemption from the requirement to have a current credit rating in that exemp-

tion year (*see* section 157I of the Reserve Bank of New Zealand Act 1989 (the **Act**)). The exemption is subject to conditions. The effect of the amendments is to clarify the availability of the exemption to deposit takers that begin operating after, or have been operating for less than 12 months before, the date on which their eligibility for an exemption for the following exemption year is assessed.

The Reserve Bank of New Zealand (the **Bank**), after taking into account the principles set out in section 157F of the Act, considers it is appropriate to amend the principal notice because the Bank is satisfied that—

- compliance with section 157I (requirement to have a credit rating) would be unduly onerous and burdensome for deposit takers that have just commenced business, given that—
 - the cost of obtaining a credit rating would be disproportionate when compared with the very small balance sheet and level of revenue many of these deposit takers are likely to have; and
 - these deposit takers may qualify for the exemption at the next measurement date and therefore not be required to have a credit rating on an ongoing basis. In these circumstances, the costs of obtaining a credit rating are being imposed for no purpose:
- amending the principal notice as proposed is consistent with the maintenance of a sound and efficient financial system, given that the amendment will only apply to deposit takers that have just begun operating and that are likely to represent a very small proportion of the deposit taking sector:
- the proposed amendments to the principal notice are no broader than reasonably necessary, given that—
 - the exemption upon entry to the deposit taking sector would be temporary and the deposit taker would be required to measure its consolidated liabilities on the next measurement date using the formula in the principal notice to determine whether it could continue to rely on the exemption; and
 - the amendment to the formula ensures that a deposit taker carrying on business for less than 12 months before a measurement date can undertake the calculation to determine whether it qualifies for the exemption from section 157I in the following exemption year.

Reprints notes

1 *General*

This is a reprint of the Deposit Takers (Credit Ratings Minimum Threshold) Exemption Amendment 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 (Credit Ratings Minimum Threshold) Exemption Notice 2016 (LI 2016/3): clause 10