

**Reprint  
as at 1 May 2014**



**Deposit Takers (In Receivership  
or Liquidation) Exemption Notice  
2009**

(SR 2009/299)

Deposit Takers (In Receivership or Liquidation) Exemption Notice 2009:  
revoked, on 1 May 2014, by section 93(a) of the Non-bank Deposit Takers Act  
2013 (2013 No 104).

Pursuant to section 157G of the Reserve Bank of New Zealand Act  
1989, the Reserve Bank of New Zealand gives the following notice  
(to which is appended a statement of reasons of the Bank).

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**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.**

## Notice

### 1 Title

This notice is the Deposit Takers (In Receivership or Liquidation) Exemption Notice 2009.

### 2 Commencement

This notice comes into force on the day after the date of its notification in the *Gazette*.

### 3 Interpretation

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

**Act** means the Reserve Bank of New Zealand Act 1989

**deposit taker in receivership or liquidation** means a deposit taker that—

- (a) is in receivership, and no debt securities, except specified debt securities, are being offered for subscription by, or on behalf of, the deposit taker; or
- (b) is in liquidation under Part 16 of the Companies Act 1993 or under any other enactment

**eligible person** has the same meaning as in section 5(2CC) of the Securities Act 1978

**specified debt securities** means debt securities in respect of which the only persons in New Zealand who are able, under the terms of the offer of the securities, to subscribe for the securities are all or any of the following:

- (a) eligible persons;
- (b) persons referred to in section 3(2)(a) of the Securities Act 1978.

(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.

Clause 3 **deposit taker in receivership or liquidation**: inserted, on 1 December 2010, by clause 4(1) of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

Clause 3 **registered prospectus**: revoked, on 1 December 2010, by clause 4(2) of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

**4 Exemption from requirement to have credit rating**

A deposit taker in receivership or liquidation is exempted from section 157I of the Act.

Clause 4: substituted, on 1 December 2010, by clause 5 of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

**5 Exemption from governance requirements**

A deposit taker in receivership or liquidation is exempted from section 157L of the Act.

Clause 5: added, on 1 December 2010, by clause 5 of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

**6 Exemption from risk management programme requirements**

A deposit taker in receivership or liquidation is exempted from section 157M of the Act.

Clause 6: added, on 1 December 2010, by clause 5 of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

**7 Exemption from capital ratio requirements**

(1) A deposit taker in receivership or liquidation is exempted from sections 157T and 157U of the Act.

(2) The trustee in respect of the debt securities of a deposit taker in receivership or liquidation is exempted from section 157T of the Act in respect of those securities.

Clause 7: added, on 1 December 2010, by clause 5 of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

**8 Exemption from related party exposures requirements**

(1) A deposit taker in receivership or liquidation is exempted from sections 157X and 157Y of the Act.

(2) The trustee in respect of the debt securities of a deposit taker in receivership or liquidation is exempted from section 157X of the Act in respect of those securities.

Clause 8: added, on 1 December 2010, by clause 5 of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

**9 Exemption from liquidity requirements**

- (1) A deposit taker in receivership or liquidation is exempted from sections 157ZA and 157ZB of the Act.
- (2) The trustee in respect of the debt securities of a deposit taker in receivership or liquidation is exempted from section 157ZA of the Act in respect of those securities.

Clause 9: added, on 1 December 2010, by clause 5 of the Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434).

Dated at Wellington this 5th day of October 2009.

Grant Spencer,  
Deputy Governor.

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**Statement of reasons**

**Note: The following statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:**

- **Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010**

This notice comes into force on the day after the date of its notification in the *Gazette*.

Section 157I of the Reserve Bank of New Zealand Act 1989 (the **Act**) requires entities that are deposit takers for the purposes of Part 5D of the Act to have a credit rating by an approved rating agency on and after 1 March 2010, and section 157M of the Act requires these entities to have and comply with a risk management programme on and after 1 September 2009. This notice exempts entities from these requirements if—

- they are in receivership and no longer offering deposits, except deposits that could only be accepted by persons who come within the definition of eligible person in the Securities Act 1978 (which relates to wealthy persons and persons experienced in investing money or experienced in the industry or business to which the security relates) or by persons referred

to in section 3(2)(a) of the Securities Act 1978 (to whom an offer of securities would not constitute an offer of securities to the public for the purposes of that Act):

- they are in liquidation.

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

- the Bank is satisfied that the exemption is consistent with the maintenance of a sound and efficient financial system:
- the additional direct and indirect costs of obtaining a credit rating or a risk management plan are unduly onerous or burdensome in the circumstances. The relevant circumstances are that the deposit taker is subject to external management intended to realise its assets for the benefit of existing creditors. The value of a credit rating or risk management plan is premised on the entity being a going concern:
- limiting this exemption only to deposit takers in liquidation or those in receivership that are not offering deposits to the general public ensures that this exemption is not broader than necessary in that it only applies to entities that have no, or little likelihood of, ongoing viability; but at the same time it does not preclude the possibility of investment, for example by a wealthy or experienced investor, that may assist an entity in receivership.

**Note: The preceding statement of reasons should be read in conjunction with the statement(s) of reasons appended to the:**

- **Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010**

## Reprints notes

### **1**    *General*

This is a reprint of the Deposit Takers (In Receivership or Liquidation) Exemption Notice 2009 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 Act 2013 (2013 No 104): section 93(a)

Deposit Takers (In Receivership or Liquidation) Exemption Amendment Notice 2010 (SR 2010/434)

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