

Version  
as at 1 March 2024



## Reserve Bank of New Zealand (Designated Settlement Systems) Order 2004

(SR 2004/376)

Reserve Bank of New Zealand (Designated Settlement Systems) Order 2004: revoked, on 1 March 2024, by section 163(3) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Order name: amended, on 28 November 2013, by clause 4 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

Silvia Cartwright, Governor-General

### Order in Council

At Wellington this 1st day of November 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 156M of the Reserve Bank of New Zealand Act 1989, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the advice of the Minister of Finance given in accordance with a recommendation of the Reserve Bank of New Zealand, makes the following order.

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This order is administered by the Reserve Bank of New Zealand.**

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### **Schedule 1**

#### **Conditions of designation of CLS System as designated settlement system**

### **Schedule 2**

#### **Conditions of designation of Exchange Settlement Account System as designated settlement system**

## **Order**

### **1 Title**

This order is the Reserve Bank of New Zealand (Designated Settlement Systems) Order 2004.

Clause 1: amended, on 28 November 2013, by clause 4 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

### **2 Commencement**

This order comes into force on 5 November 2004.

### 3 References to former Title

As from the commencement of this clause, every reference in any enactment and in any document to the Reserve Bank of New Zealand (Designated Payment Systems) Order 2004 must, unless the context otherwise provides, be read as a reference to the Reserve Bank of New Zealand (Designated Settlement Systems) Order 2004.

Clause 3: replaced, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

## Part 1 Designation of CLS System

Part 1 heading: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

### 4 Interpretation

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

**CLS contact person** has the meaning given to it in clause 8

**CLS System** means the continuous linked settlement system operated by CLS Bank International.

- (2) Any term that is defined in the Banking (Prudential Supervision) Act 1989 and used, but not defined, in this order has the meaning as in that Act.

Clause 4: replaced, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

Clause 4(2): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

### 5 Designation of CLS System as designated settlement system

The CLS System is declared to be a designated settlement system.

Clause 5: replaced, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

### 6 Documents that evidence rules of CLS System

The documents that evidence the rules of the CLS System are—

- (a) the CLS Bank International Rules; and
- (b) the Settlement Member Agreement.

Clause 6: replaced, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

### 7 Specified operator of CLS System

CLS Bank International is the specified operator of the CLS System.

Clause 7: replaced, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

## 8 Contact person for CLS System

Notices relating to the CLS System must be given to the person occupying the position of Head of Legal of CLS Bank International (the **CLS contact person**).

Clause 8: replaced, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

## 9 Conditions to which designation of CLS System is subject

The designation of the CLS System as a designated settlement system is subject to the conditions in Schedule 1.

Clause 9: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

## 10 Operator is participant in CLS System

CLS Bank International is—

- (a) the operator of the CLS System; and
- (b) a participant in the CLS System.

Clause 10: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

## 11 CLS System is pure payment system

The CLS System is a pure payment system.

Clause 11: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

# Part 2

## Designation of Exchange Settlement Account System

Part 2: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

## 12 Interpretation

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

**ESAS contact person** has the meaning given to it in clause 16

**Exchange Settlement Account System** means the exchange settlement account system owned by, and operated and managed by or on behalf of, the Reserve Bank of New Zealand.

- (2) Any term that is defined in the Banking (Prudential Supervision) Act 1989 and used, but not defined, in this order has the meaning as in that Act.

Clause 12: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

Clause 12(2): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

**13 Designation of Exchange Settlement Account System as designated settlement system**

The Exchange Settlement Account System is declared to be a designated settlement system.

Clause 13: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

**14 Documents that evidence rules of Exchange Settlement Account System**

The documents that evidence the rules of the Exchange Settlement Account System are—

- (a) the Exchange Settlement Account Terms and Conditions (Incorporating Service Levels); and
- (b) the Settlement Submission Mechanism Notice.

Clause 14: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

**15 Specified operator of Exchange Settlement Account System**

The Reserve Bank of New Zealand is the specified operator of the Exchange Settlement Account System.

Clause 15: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

**16 Contact person for Exchange Settlement Account System**

Notices relating to the Exchange Settlement Account System must be given to the Chief Financial Officer of the Reserve Bank of New Zealand (the **ESAS contact person**).

Clause 16: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

**17 Conditions to which designation of Exchange Settlement Account System is subject**

The designation of the Exchange Settlement Account System as a designated settlement system is subject to the conditions in Schedule 2.

Clause 17: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

**18 Operator is participant in Exchange Settlement Account System**

The Reserve Bank of New Zealand is—

- (a) the operator of the Exchange Settlement Account System; and
- (b) a participant in the Exchange Settlement Account System.

Clause 18: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

**19 Exchange Settlement Account System is pure payment system**

The Exchange Settlement Account System is a pure payment system.

Clause 19: inserted, on 28 November 2013, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

## Schedule 1

### Conditions of designation of CLS System as designated settlement system

cl 9

Schedule 1: inserted, on 28 November 2013, by clause 6 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

#### 1 Conditions of designation

While CLS Bank International continues to be regulated and supervised by the Federal Reserve and there continues to be a co-operative oversight arrangement for the CLS System in accordance with the Protocol for the Co-operative Oversight Arrangement for CLS (the **Protocol**), the designation of the CLS System as a designated settlement system is subject to the following conditions:

- (a) that the CLS System complies, and continues to comply, with all laws and regulatory requirements (whether of New Zealand, another country, or any jurisdiction of another country) relating to its operation; and
- (b) that the specified operator notifies the Reserve Bank of New Zealand immediately either directly or through the oversight committee established by the Protocol upon becoming aware that any of the following has occurred, or is likely to occur:
  - (i) a material non-compliance with the risk management framework, or with a law or regulatory requirement (whether of New Zealand, another country, or any jurisdiction of another country) relating to the CLS System's operation;
  - (ii) an event that materially increases risk to the CLS System;
  - (iii) an outage or other material incident relating to the CLS System; and
- (c) that the specified operator notifies the Reserve Bank of New Zealand a reasonable time before there is a change—
  - (i) of operator; or
  - (ii) of the CLS system's contact person; and
- (d) that the specified operator publishes at least every 3 years, or more frequently if there is a material change to the system or its environment, a self-assessment carried out against the required standards; and
- (e) that, if required to do so by the Reserve Bank of New Zealand acting in accordance with the Protocol, the specified operator reports to the Reserve Bank of New Zealand, or publishes information, on—
  - (i) the financial statements for, and financial resources of, the CLS System over the reporting period; and

- (ii) the risk management of the CLS System over the reporting period and the extent to which risks have been managed in accordance with the risk management framework; and
- (iii) the operational performance of the CLS System over the reporting period; and
- (iv) the governance of the CLS System over the reporting period; and
- (v) any changes that have been made to the risk management framework over the reporting period and the reasons for those changes.

## 2 Definitions

In these conditions,—

**Federal Reserve** means the United States Federal Reserve System, which includes the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York

**material non-compliance, material increase of risk, and material incidents** include matters that are likely to compromise the integrity of the CLS System or undermine confidence in the CLS System

**reasonable time before** means a period of time that, in the circumstances, is sufficient to allow the Reserve Bank of New Zealand to properly consider the effect of a change on the CLS System before the change occurs

**required standards** means—

- (a) the *Principles for financial market infrastructures* published by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions; or
- (b) any standard that replaces those principles; or
- (c) any standard against which the Federal Reserve requires the specified operator to carry out a self-assessment with respect to the CLS system

**risk management framework** means any policy or procedure of the system operators concerning the management of their risks in relation to the CLS System.



## Schedule 2

### Conditions of designation of Exchange Settlement Account System as designated settlement system

cl 17

Schedule 2: inserted, on 28 November 2013, by clause 6 of the Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439).

#### 1 Conditions of designation

The designation of the Exchange Settlement Account System as a designated settlement system is subject to the following conditions:

- (a) that the Exchange Settlement Account System complies, and continues to comply, with all laws and regulatory requirements (whether of New Zealand, another country, or any jurisdiction of another country) relating to its operation; and
- (b) that the ESAS contact person notifies the Prudential Supervision Department of the Reserve Bank of New Zealand immediately upon becoming aware that any of the following have occurred, or may occur:
  - (i) a material non-compliance with the risk management framework, or a law or regulatory requirement (whether of New Zealand, another country, or any jurisdiction of another country) relating to the operation of the Exchange Settlement Account System;
  - (ii) an event that materially increases the risk to the Exchange Settlement Account System;
  - (iii) an outage or material incident; and
- (c) that the ESAS contact person notifies the Prudential Supervision Department of the Reserve Bank of New Zealand a reasonable time before there is a change—
  - (i) to the risk management framework; or
  - (ii) of operator; or
  - (iii) of the ESAS contact person; or
  - (iv) of any of the senior management responsible for the operation of the Exchange Settlement Account System; and
- (d) that at the intervals and for the reporting periods required by the Exchange Settlement Account Terms and Conditions, the specified operator publishes an audit report on the Exchange Settlement Account System; and
- (e) that the specified operator publishes at least every 3 years, or more frequently if there is a material change to the system or its environment, a self-assessment carried out against the required standards; and

- (f) that the specified operator publishes annually, within 3 months of its balance date, information on—
- (i) the financial statements for, and financial resources of, the Exchange Settlement Account System over the financial year ended on the balance date; and
  - (ii) the risk management of the Exchange Settlement Account System over the financial year ended on the balance date and the extent to which risks have been managed in accordance with the risk management framework; and
  - (iii) the operational performance of the Exchange Settlement Account System over the financial year ended on the balance date; and
  - (iv) the governance of the Exchange Settlement Account System over the financial year ended on the balance date; and
  - (v) any changes that have been made to the risk management framework over the financial year ended on the balance date and the reasons for these changes.

## 2 Definitions used in this schedule

In this schedule,—

**material non-compliance, material increase of risk, and material incidents** include matters that are likely to—

- (a) compromise the integrity of the Exchange Settlement Account System; or
- (b) undermine confidence in the Exchange Settlement Account System

**reasonable time before** means a period that, in the circumstances, is sufficient to allow the Prudential Supervision Department of the Reserve Bank of New Zealand to properly consider the effect of a change on the Exchange Settlement Account System before the change occurs

**required standards** means the *Principles for financial market infrastructures* published by the Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions or any standard that replaces those principles

**risk management framework** means any policy or procedure of the specified operator concerning the management of its risks in relation to the Exchange Settlement Account System.

Diane Morcom,  
Clerk of the Executive Council.

Version as at  
1 March 2024

**Reserve Bank of New Zealand (Designated Settlement  
Systems) Order 2004**

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Schedule 2

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 4 November 2004.

## Notes

### **1** *General*

This is a consolidation of the Reserve Bank of New Zealand (Designated Settlement Systems) Order 2004 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(2)

Financial Market Infrastructures Act 2021 (2021 No 13): section 163(3)

Reserve Bank of New Zealand (Designated Settlement Systems) Amendment Order 2013 (SR 2013/439)