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Phase 2 of the Reserve Bank Act Review
The Treasury
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Emailed to: rbnzactreview@treasury.govt.nz

ICNZ submission on Phase 2 of the Reserve Bank Act Review

Thank you for the opportunity to submit on the consultation document *Safeguarding the future of our financial system, The role of the Reserve Bank and how it should be governed* ("consultation paper"), which was released for consultation in November 2018 as part of Phase 2 of the Review of the Reserve Bank Act 1989.

ICNZ represents general insurers that insure about 95 percent of the New Zealand general insurance market, including about a trillion dollars' worth of New Zealand property and liabilities.

Please contact Andrew Saunders (andrew@icnz.org.nz or 04 914 2224) if you have any questions on our submission or require further information.

This submission is in two parts:

- Overarching comments
- Responses to questions in the consultation paper

Overarching comments

ICNZ welcomes the opportunity to contribute to Phase 2 of the Review of the Reserve Bank Act 1989 ("the Act") and considers the consultation paper addresses relevant issues and sensibly sets out arguments for and against the various options considered.

We welcome the review taking place and consider it is an appropriate vehicle for addressing the IMF's second Financial System Stability Assessment ("FSAP") for New Zealand, conducted in 2016/17, which identified a number of areas where the system could be strengthened. We also consider that recommencing the review of the *Insurance (Prudential Supervision) Act 2010* ("IPSA"), which has been on-hold since late 2017, needs to be prioritised to progress consideration of other issues with the IPSA framework identified by the IMF FSAP and otherwise.

The Reserve Bank is the prudential supervisor of the insurance sector pursuant to IPSA. The way that the Reserve Bank is structured and performs its functions more generally under the *Reserve Bank Act 1989* are nonetheless also relevant to insurers. In commenting on the consultation paper ICNZ's focus

is on the administration of the Reserve Bank's prudential supervisory functions as this is the only interaction between it and general insurers.

ICNZ seeks a regulatory framework for prudential supervision that promotes a sound and resilient insurance sector while facilitating competition, innovation, contestability and efficiency in the sector. It is also important the framework appropriately recognises there is a need to appropriately balance the three disciplinary pillars (market discipline, self-discipline and regulatory discipline) and to be responsive to market and technological developments.

As covered in our responses to the questions posed in the consultation paper we support the enhancement to the status quo rather than more radical change: including governance changes such as the establishment of a statutory Financial Policy Committee; increased transparency (e.g. disclosure of clear evidence-based decision making); introduction of merits review and appeal rights; increased resourcing for the Reserve Bank's prudential functions; and independent reviews of the Reserve Bank's legislation and effectiveness.

Beyond the expected variations in economic performance over time it is also important to be cognisant of major trends facing the general insurance sector as well as the wider financial services sector and we draw attention to two in particular, climate change and digital technology.

Climate change poses significant issues to the insurance sector over coming decades and these are interlinked to the wider financial services sector. The potential impacts on property and on the wider economy of weather events and rising sea levels are significant.¹ Insurers underwrite property assets that banks lend on and so there are interconnections across the financial sector. These are areas where regulators must be informed and active but where there are also opportunities for collaboration between regulators and the sectors involved.

Although the promise of a step-change for the insurance sector from further harnessing digital technology has existed for the past few years, little transformational change has occurred in the New Zealand market to this point. Changes in New Zealand that have occurred have tended to be at the margin or behind-the-scenes with B2B solutions that are not evident to the public eye. More widely, expectations have shifted from a major disruption of insurance to incumbents partnering with technology innovators and developing niche initiatives. If however innovations in the New Zealand market do not keep pace with those that are enhancing customer experiences in other sectors, insurers are potentially vulnerable to consumer criticism that they are moving too slowly and are insufficiently responsive to their needs.

It will be important therefore to take a customer-centric view of how technology is used and to engage and reassure regulators of the many consumer benefits that need to be supported. In this context innovation cannot be perceived as negative by supervisory authorities and it is important regulators endeavour to ensure the benefits of innovation are understood and provided for, rather than just the risks.

¹ A NIWA report from 2015 undertaken for the Parliamentary Commissioner for the Environment showed that the replacement value of buildings within 50 centimetres of the spring high tide mark is \$3 billion and that of buildings within 150 centimetres of the spring high tide mark is approximately \$20 billion (<http://www.pce.parliament.nz/media/1384/national-and-regional-risk-exposure-in-low-lying-coastal-areasniwa-2015.pdf>).

The principles that have been developed through our work as a member of the Global Federation of Insurance Associations (GFIA) are just as applicable here:

1. Market participants want their products and services to meet the expectations of consumers in the digital age, especially consumer demands for new ways of interacting with service providers.
2. Public policy should endeavour to create technology-agnostic regulatory oversight that maintains a high level of consumer protection, and ensures market participants have the flexibility to react, adapt and innovate to improve products and services, and/or meet shifting consumer expectations.
3. Holistic and transparent regulatory changes need to occur across jurisdictions that will create environments that are proportionate and applied evenly to all market participants, conducive to innovation, and minimally intrusive on market forces so as not to unduly interfere with competition and collaboration.
4. As technology is reorganizing the economy, insurance providers want to fulfill their traditional risk management and financial security function that is indispensable for the incubation and proliferation of those innovations that will make way for the creation of new economic and social realities.

We are also mindful that the increasing digitisation of the economy, while it brings many benefits also introduces new risks and interdependencies that have the potential to cause significant disruption to the economy and even threaten financial stability. Through the introduction of cyber insurance insurers are becoming increasingly involved in underwriting these risks around the world while also raising levels of cyber protection.

Responses to questions in the consultation paper

What high-level financial policy objectives should the Reserve Bank have? (Chapter 2)

1. Are the Reserve Bank's existing high-level financial policy objectives still appropriate and fit for the future?

ICNZ welcomes consideration being given to the Reserve Bank's high-level financial policy objectives. We note that IPSA has the same high-level objectives (soundness and efficiency) but that these are supported by principles in section 4 of that Act that include the sustainability of the insurance market, protection of policyholders in the event of financial distress for an insurer and the need to maintain competition within the insurance sector.

The consultation paper provides a sensible discussion of the current high-level objectives, issues with these and a range of possible complements or alternatives. ICNZ recognises there a range of pros and cons with adopting additional or alternative objectives and we comment on some of these in response to subsequent questions.

Overall, we would be comfortable with the current high-level objectives (soundness and efficiency) being retained. It is critical that if any changes are made that a clear and coherent framework is achieved and that this does not create uncertainties with regard to the application of other legislation administered by the Reserve Bank, such as IPSA.

a) Should 'soundness' remain a high-level financial policy objective of the Reserve Bank, or would a 'financial stability' objective be more appropriate?

While a 'financial stability' objective would be relevant to other areas of the Bank's work (e.g. monetary policy) it would as described in the consultation paper (e.g. using macro-prudential tools to stabilise the financial cycle) seem to have limited specific relevance to the prudential supervision of insurance companies, at least over shorter-term horizons. We would be concerned that in the absence of further relevant changes, simply replacing 'soundness' with 'financial stability' would risk reducing the Reserve Bank's focus on its non-macroeconomic responsibilities and create inconsistencies with IPSA.

b) What role should the Reserve Bank play in promoting 'efficiency'? Should it have a narrow mandate (e.g. focused on regulatory efficiency) or a broad one (e.g. including allocative efficiency and promoting sustainable growth)?

The consultation paper notes that a broad interpretation of 'efficiency' could give the Reserve Bank licence to operate in many areas related to regulatory, competitive, dynamic and allocative efficiency but that it has tended to interpret its efficiency objective more narrowly. We consider the way the Reserve Bank has applied this mandate is appropriate and we consider it is important that regulatory efficiency remains a focus for the Reserve Bank.

c) Should 'efficiency' remain a high-level objective of the Reserve Bank, or should it be demoted to a lower tier of the legislation?

Whilst we are comfortable with how it has been applied, from a purely regulatory design and clarity point of view we recognise the level of uncertainty associated with the wide range of possible interpretations of 'efficiency' is not ideal and we can therefore see merit in considering changing or refining the current efficiency objective. ICNZ does not however ultimately have strong views on whether 'efficiency' should remain a high-level objective of the Reserve Bank or should be addressed in a lower tier of the legislation.

If it was not retained as a high-level objective in the Act, we would recommend that regulatory efficiency is at minimum retained amongst a wider set of objectives for the Reserve Bank (e.g. as a consideration or regulatory principle). Given 'efficiency' is a purpose in section 3 of IPSA alongside 'soundness' it is also important that the approach adopted across these statutes in relation to efficiency remains compatible. The Reserve Bank should in any case ensure it continually applies best practice in its regulatory design and strive to ensure least cost outcomes consistent with its high-level objectives.

2. Should the Reserve Bank be given additional high-level financial policy objectives?

a) How many high-level financial policy objectives should the Reserve Bank have – are the gains of having multiple objectives worth the costs of lost focus?

ICNZ does not have strong views on how many high-level financial policy objectives the Reserve Bank should have beyond ensuring these are consistent with its expected functions and in line with best practice regulatory principles. Adding to the number of objectives would however be likely to reduce the Reserve Bank's focus and increase the potential for overlaps and with other regulatory agencies involved in the regulation of the financial services industry and the wider economy.

We also again note the importance of the linkages between the Act and IPSA and the importance of these being compatible and remaining appropriately consistent.

b) Should 'competition' be promoted to a high-level objective of the Reserve Bank, or should it remain as a lower-tier objective?

It is worth noting that with respect to natural disasters New Zealand is one of the riskiest countries for an economy of its size. It is therefore critical that New Zealand is able to attract insurance and reinsurance capital from offshore to support cover of those risks and spread the risk. A competitive insurance market is an essential part of maintaining that capital support.

As identified in the consultation paper, in relation to the prudential supervision of insurers the 'need to maintain competition within the insurance sector' is already a specific 'principle' to be taken into account in achieving the purposes of IPSA (promoting the maintenance of a sound and efficient insurance sector and promoting public confidence in the sector). We consider this is appropriate.

The consultation paper contains a good, albeit brief, discussion of the arguments for and against including 'competition' as a high-level objective. We agree that including 'competition' as a high-level objective could create a tension with the Reserve Bank's high-level soundness (or stability) objective and overall we don't consider the case has been made for including 'competition' as a high-level objective at this time. We are mindful that if 'competition' was promoted to a high-level objective of the Reserve Bank it would also be necessary to reconcile this with the existing competition related responsibilities of MBIE and the Commerce Commission.

c) Should 'consumer protection' be added to the Reserve Bank's objectives?

While there are arguments for including consumer protection amongst the Reserve Bank's higher-level objectives, we consider the arguments against this outweigh those in favour. In particular we note the following aspects outlined on page 35 of the consultation paper:

- the ability of this approach to undermine the 'twin peaks' model and create uncertainty and confusion as to the respective roles and accountability of the Reserve Bank and the FMA;
- prudential regulation already supports customer outcomes by promoting sustainable business outcomes that are good for customers and so an explicit objective is not needed; and
- the potential for this to lead to a reduced focus on systemic issues and the Reserve Bank's prudential functions.

Notwithstanding this, we note and support that in more specific contexts the Reserve Bank is already mandated to take into account insurance policyholders' interests in regard to certain matters under IPSA, such as when dealing with an insurer in financial distress or an insurer assigning its liabilities to another insurer.

We also note that the close and constructive working relationship between the Reserve Bank and the FMA on the current investigations into conduct and culture is an example of how various matters, including consumer protection outcomes, can be explored by different regulators within existing regulatory frameworks. This current process has recognised there are issues that might be identified by a prudential regulator that a conduct regulator should also address or vice-versa.

d) Should 'public confidence (or trust)' be reinstated as a high-level financial policy objective of the Reserve Bank?

As noted in the consultation paper, along with promoting 'the maintenance of a sound and efficient insurance sector', promoting 'public confidence in the insurance sector' is listed as an explicit purpose of IPSA. While we don't have strong views on whether 'public confidence' should be re-introduced as a high-level financial policy objective for the Reserve Bank in the Act we tend to agree that public confidence is generally an outcome of good financial policy rather than an objective in its own right

and that is also heavily influenced by factors beyond the Reserve Bank's control. We also note the complexity of both defining and measuring 'public confidence' in a sector as well as the challenges of understanding or influencing the drivers of changes in it, many of which are beyond the control of regulators and/or may emanate from outside of New Zealand.

e) Are there any other objectives you think the Reserve Bank should be given?

We have not identified any other objectives the Reserve Bank should be given.

Who does the Reserve Bank regulate and how should the regulatory perimeter be set? (Chapter 3)

Given general insurers are already inside the Reserve Bank's regulatory perimeter and as the issues discussed in Chapter 3 are therefore not directly relevant to them, we have no comments to make in response to Questions 3 and 4.

Nonetheless, there are some issues with the regulatory perimeter for insurance that we raised in the Review of IPSA that remain pertinent. ICNZ considers IPSA should provide the Reserve Bank with a deeming power to bring the following material insurance business into the IPSA regime:

- **Types of contract that are currently deemed not to be insurance contracts under IPSA – including warranties, guarantees, and waivers.** IPSA has created the opportunity for people selling indemnity contracts for a fee to game IPSA by tailoring their contractual offering to be or look like a warranty, guarantee or waiver rather than an insurance contract. Our key concerns here are policyholder protection and competitive neutrality between the regulated community and the unregulated community. The product may look like insurance, and be sold like insurance, and indeed may be offered as an alternative to insurance, but it lacks the protections inherent in insurance through regulation under IPSA.
- **Unlicensed (by the Reserve Bank) foreign insurance firms that insure New Zealand policyholders.** We understand that an increasing amount of insurance is being placed with this category of offshore insurer, and with disruptive technologies and purchasing through digital channels that may continue to increase in future. We submit the Reserve Bank should have a monitoring role to track its growth and to ensure that New Zealand policyholders have access to sufficient information to assess the risks and benefits in dealing with an unlicensed foreign insurer compared to a licensed insurer doing business in New Zealand, ideally through ensuring adequate disclosure.

We also consider the Reserve Bank should monitor the impact of disruptive technologies and consider how to ensure monitoring and appropriate regulation of innovation takes place. Importantly the Reserve Bank should ensure competitive neutrality between incumbents and disruptors by balancing the need to ensure the objectives of prudential regulation are met in relation to all market participants, without overly constraining innovation.

Should there be depositor protection in New Zealand? (Chapter 4)

We note the discussion and proposals in Chapter 4 of the consultation paper related to whether there should be depositor protection in New Zealand have no direct implications for general insurers. Beyond noting that these are thoroughly discussed in the consultation paper ICNZ has no comments to make on these issues at this time.

Should prudential regulation and supervision be separated from the Reserve Bank? (Chapter 5)

In our submission on the IPSA Review in 2017² we outlined an overall view that the IPSA regime administered by the Reserve Bank had worked well and noted specifically that:

- we supported the Reserve Bank's supervisory philosophy of supporting self and market discipline while taking a tailored, risk-oriented;
- we echoed the IMF's finding in the 2017 IMF FSAP on the high level of competence of Reserve Bank staff; and
- we agreed that the Reserve Bank's implementation of IPSA has improved the soundness of the insurance sector without unduly constraining efficiency.

While we maintain these views, we consider there is a need to increase the Reserve Bank's focus on prudential supervision of insurers, its capability and capacity, the transparency of its decision making, and to introduce rights to appeal. Notwithstanding these issues, we are supportive of the Reserve Bank retaining its responsibility for prudential regulation and supervision of insurers and where relevant make comments and recommendations on where we consider change is required in response to subsequent sections of the consultation paper.

10. In your view, have the key conceptual arguments both for and against assigning a prudential role to a central bank been considered? If not, what other important arguments are there?

We consider the key conceptual arguments both for and against assigning a prudential role to a central bank have at a generic level been considered in Chapter 5 of the consultation paper. Table 5B on page 66 of the consultation paper outlines the pros and cons of having the prudential mandate within Reserve Bank with a focus on the oversight of banks, however, there are important differences with regard to the oversight of insurers.

The Reserve Bank has a range of interactions with banks whereas for insurers, prudential oversight is the only interaction, and this means there are both reduced synergies but also less risks of internal conflicts (e.g. using lender of last resort to hide supervisory failings). For a central bank the size and nature of insurers vis-à-vis banks (e.g. insurers are not generally seen to provide the same level of systemic risk as large deposit takers as they are not as exposed to liquidity risks) and the more limited interactions may mean that there is an inherent risk that oversight of insurers is less likely to be prioritised.

There are also areas of overlap between banks/insurers that need to be considered as insurers underwrite the property banks lend on and both are exposed to long term issues such as climate change and technological innovation and disruption.

11. In the New Zealand context, are there any significant problems associated with locating monetary and prudential policy within the Reserve Bank (i.e. the status quo)? If so, how would 'separation' address these problems?

While there are pros and cons associated with locating monetary and prudential policy within the Reserve Bank, many of which are identified in the consultation paper, we don't believe there are significant problems associated with continuing to do so and we would be wary of change being made for change's sake. As identified in the consultation paper, while separation could enable greater

² Available at <https://www.icnz.org.nz/fileadmin/Assets/PDFs/ICNZ-submission-on-the-IPSA-review-issues-paper.pdf>

emphasis on prudential issues at an organisational level there are also other ways this could be achieved.

12. Do you agree that the three alternative models for institutional arrangements (a New Zealand Prudential Regulation Authority, a New Zealand Financial Services Authority and an 'enhanced status quo') are the correct options to consider? If not, please suggest any alternative options of institutional arrangements not discussed here. Please indicate your preferred option, and your reasons for preferring it.

The three alternative models for institutional arrangements for prudential supervision outlined in the consultation paper are appropriate options to consider and we do not have any alternative options to suggest.

ICNZ agrees with the consultation paper that the three identified options all have advantages and disadvantages and all involve trade-offs. We also recognise that organisational form is only one factor and regardless of which is chosen, performance will rely on the quality of governance and leadership and the capability of its people and systems. It is critical that whatever option is favoured the organisation undertaking prudential oversight is appropriately resourced, configured and managed.

On balance our preferred option is the enhanced status quo and reasons for this include:

- synergies of skills, information and strategic outlook on transformational issues;
- economies of scale;
- minimal disruption of existing regulators as compared with both other options; and
- avoiding the need to establish an entirely new entity, as compared with the New Zealand Prudential Regulation Authority option.

13. What do you consider would be the main impact on relevant stakeholders (industry, ordinary depositors etc.) arising from each option?

From the perspective of the general insurance industry we consider the organisation chosen to administer prudential regulation and supervision (Reserve Bank/NZPRA/NZFSA) is unlikely to have a major impact on our members beyond the transition phase and independent of changes to the prudential framework itself.

Retaining prudential regulation and supervision with the Reserve Bank (e.g. status-quo or enhanced status-quo) will be less disruptive for our members in the short to medium term (next 1-5 years) as it will allow existing processes and relationships to continue and won't impact other regulators. Over the next few years a number of significant regulatory changes are happening that are impacting insurers and so avoiding further changes would be welcomed. We note for example changes to financial services law under the Financial Services Legislation Amendment Bill (FSLAB) and associated increases in FMA levies, significant changes to the collection of Fire and Emergency Services (FENZ) levy, changes to the Earthquake Commission Act 1993, and a review of insurance contract law.

We cannot identify any effects on insurance policyholders associated specifically with the different options. Other insurance industry organisations (e.g. brokers) would be effected to some extent by the NZFSA option as they are also entities regulated by the FMA.

14. Do you agree with the evaluative criteria and the assessment of the three options? If not, please suggest any evaluative criteria and/or alternative assessment you think should be included here.

The four evaluative criteria are appropriate and the assessment of the options outlined on pages 68 and 69 of the consultation paper appears to cover all relevant matters.

15. If the 'enhanced status quo' is your preferred option, what features of this option are likely to be most important in addressing any problems you might see with current arrangements?

As noted above we consider the enhanced status quo to be the best option on balance. The most important features of this to address identified issues would be:

- governance changes such as the establishment of a statutory Financial Policy Committee;
- increased transparency (e.g. disclosure of clear evidence-based decision making);
- introduction of merits review and appeal rights;
- increased resourcing for the Reserve Bank's prudential functions; and
- independent reviews of the Reserve Bank's legislation and effectiveness.

We note it is proposed that industry levies are introduced to provide additional funding to support additional resourcing. Should this occur such costs would along with other regulatory costs be reflected in the costs of providing insurance in New Zealand and therefore the prices for consumers and businesses.

What should be the scope of the Reserve Bank's operational independence? (Chapter 7)

16. Do you consider there is a case for a Ministerial role in clarifying the Reserve Bank's financial policy objectives?

ICNZ agrees there is a case for a Ministerial role in clarifying the Reserve Bank's financial policy objectives. The high-level nature of the Reserve Bank's objectives, noting these are in turn under review, give it significant flexibility in defining its own goals and how these translate to financial policy. We consider that if properly applied a greater ministerial role could support the Reserve Bank's operational independence and transparency overall, for instance by reducing the likelihood of government using informal mechanisms to channel legitimate interests in policy making.

17. If the Reserve Bank's objectives are to be clarified:

a) what should the Minister of Finance's role be?

b) what other mechanisms could be used to clarify the Reserve Bank's objectives?

We recognise the Reserve Bank's objectives are currently very broadly cast and that this gives it significant flexibility in how it chooses to apply these. We also note the Minister of Finance's seemingly sweeping power to direct the Reserve Bank to have regard to Government policy in terms of monetary policy, although the fact this has never been used³ suggests it is not a particularly useful tool, at least in ordinary circumstances.

ICNZ sees merit in the proposals outlined on page 81 of the consultation paper in relation to specifying additional detail in primary legislation or empowering/requiring the Minister to issue a risk appetite statement or remit and/or requiring the Reserve Bank to issue its strategy in advance in more detail.

³ Background Paper 3: Safeguarding the future of our financial system, page 10.

There are issues, such as the setting of solvency standards, where it would seem appropriate for the Government to have a role in determining the risk appetite or tolerance.

We have not identified any other mechanisms that could be used to clarify the Reserve Bank's objectives beyond those discussed in the consultation paper.

18. Do you think there is a case for making the Reserve Bank's operational independence more explicit, for example by removing the requirement for Ministerial consent for certain policy instruments and direction powers? If so, will this require any process or governance changes?

We note that the specific issues associated with Ministerial consent relate to banks and are not relevant to insurers or the application of IPSA. ICNZ agrees in principle though that it would be logical to make the Reserve Bank's operational independence more explicit by for example removing the requirement for Ministerial consent for certain policy instruments and direction powers outlined in the consultation paper.

We do however consider that operational independence in general needs to be matched with enhanced due process (e.g. greater transparency of evidence-base) in the development of delegated policy (for example solvency standards), changes in the responsibilities for stewardship of legislation (refer to our answer to Question 19 below), enhancements to the Governance of the Reserve Bank (refer to our responses to Chapter 8 below), and that there is a case for a Ministerial role in clarifying the Reserve Bank's financial policy objectives (refer to our answer to Question 16 above).

19. Should the administration of the Reserve Bank Act (and other Acts creating regulatory regimes operated by the Reserve Bank) remain with the Reserve Bank or transfer to the Treasury?

ICNZ considers it would be appropriate for the administration of the Act and other statutes such as IPSA to be transferred to the Treasury, making it the lead agency for any reviews of this legislation. This is an issue we raised in our submission on the IPSA review in 2017 and we consider resolving it is fundamental to ensuring the effective operation of the IPSA framework into the future.

As outlined in the consultation paper it is highly unusual for the regulator responsible for applying that legislation and regulation to be responsible for reviewing that legislation. We also note in a more specific context that the Australian Treasury conducts reviews of the legislation applied by the Australian Prudential Regulatory Authority (APRA).

Notwithstanding the benefits of the Reserve Bank continuing to administer these pieces of legislation mentioned at the top of page 84 of the consultation paper (i.e. aligning technical expertise with policy work, synergies and avoiding transition costs) we consider these are outweighed by the benefits of Treasury becoming the administrator of these Acts. We consider this change is particularly important for retaining the independence of the Reserve Bank in applying the legislation and avoiding the inherent conflicts of interest associated with the current responsibilities.

How should the Reserve Bank be structured? (Chapter 8)

20. Should the governing body of the Reserve Bank be a single decision-maker or a board? What are the key considerations in support of your view?

ICNZ supports consideration being given to the Reserve Bank's governance arrangements. Ensuring these are appropriate is as important for regulators as for companies as they influence both a regulator's effectiveness and efficiency, and the perceptions of it by its stakeholders.

We note that in practice a range of delegations to Reserve Bank managers are currently in place in relation to a number of statutory decisions, as is the case with other government agencies, and so in practice decision making is often made by senior management rather than the Governor.

As identified in the consultation paper there a range of pros and cons for retaining the current single decision-maker model and for moving to a board model. These are comprehensively outlined and analysed against six identified features of effective governance regimes and the linkage to the role of decision-making committees is established and discussed.

We would add that in regard to structural changes to the Reserve Bank it is important that structural arrangements support a balance of focus across its various functions. We comment below on the proposed creation of a Financial Policy Committee to follow the recent establishment of the Monetary Policy Committee (MPC).

ICNZ ultimately does not have a definitive view on whether the current single decision-maker model should be retained or a board model adopted, however, in response to subsequent questions we respond to the related issues including the role of decision making committees and of the existing Reserve Bank Board. We recognise that different approaches could be appropriate, however, whatever combination of elements are ultimately chosen it is critical this provides appropriate governance of the Reserve Bank's various functions and reflects best practice governance.

21. Should there be a Financial Policy Committee, and if so, what should it do? What are the key considerations in support of your view?

We see value in and therefore support the introduction of a Financial Policy Committee. It would facilitate a greater level of focus to be applied to financial policy matters, more specific expertise to be held by persons on the Committee making the decisions and the involvement of a more diverse set of perspectives through the participation of members from other relevant government agencies and/or independent members as well as relevant Reserve Bank staff. It would be important that appropriate accountability and transparency measures were put in place in relation to the Committee's activities and decision making.

Without seeking to overcomplicate the Reserve Bank's structures we do note the Bank of England has a Prudential Regulation Committee as well as a Financial Policy Committee. We recognise the merits of increased specialisation would need to be weighed up against the extra complexity and costs associated with having two committees rather than one.

22. Are there any other legislative structures for the governance of the Reserve Bank's powers and functions that you think should be considered?

We have not identified any other legislative structures for the Reserve Bank to be considered further by the Review.

How should the Reserve Bank be monitored and held to account? (Chapter 9)

23. Who should monitor the Reserve Bank? What do you see as the key considerations in determining who the monitoring agent should be?

We agree that as outlined in the consultation paper there are issues with the current framework and monitoring by the Reserve Bank Board. These include: the conflict of interest issues associated with the composition of the Board including the Governor; the lack of independent resources for the Board;

the Reserve Bank being out of the scope of the Auditor General; and the title of the “Reserve Bank Board” giving a false impression as to its role as it has a supervisory rather than governance function.

Given this we would support appropriate changes in this area and agree in principle with the commentary on page 98 of the consultation paper that what would be the most appropriate model is influenced by the choice of governing body (e.g. Supervisory Council for Governor, Monitoring Department for Board).

24. If the existing Board is retained as a monitoring agent only (e.g. in the form of a supervisory council), what changes do you see as necessary to improve its effectiveness?

As outlined in our response to Questions 23 above, if the existing Board is explicitly transformed into a supervisory council then we would consider that at minimum those issues we have identified would need to be addressed.

25. Are existing statutory accountability and transparency requirements sufficient? If not, in what areas would you like to see more?

ICNZ considers there is room for increasing statutory accountability and transparency requirements and these would logically accompany making the Reserve Bank’s operational independence more explicit. We agree that additional requirements could increase public engagement, support regulatory robustness and legitimacy, and encourage a more open culture within the Reserve Bank.

Introducing greater statutory accountability and transparency could formalise the Reserve Bank’s existing practices in some areas and ensure these are undertaken as a matter of course rather than at the Reserve Bank’s discretion, as well as providing greater insight into the basis upon which some decisions are made and the evidence and cost/benefit analysis underpinning them. In particular we would support requiring in statute the following matters listed on page 99 of the consultation paper:

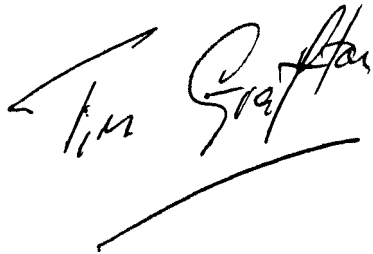
- public consultation when developing regulatory approaches and new policy tools, or extending the regulatory perimeter;
- the publication of key governance decisions (or minutes in the case of board or committee meetings); and
- the publication of prudential requirements and supervision policy documents, particularly in areas where the Reserve Bank has significant regulatory independence.

We also consider that regard needs to be given to the introduction of merits review and appeal rights under the legislation the Reserve Bank administers such as IPSA. In our view this would strengthen regulator accountability and incentivise high quality regulation. Particular areas of Reserve Bank decision making under IPSA that would warrant merits review or appeal rights include, for example, licensing, removal of licensing, changes to conditions of licence, and transfers and amalgamations. Introducing this into IPSA for example would also facilitate closer alignment with the Australian regulatory environment, which allows for merits review.

Conclusion

Thank you again for the opportunity to submit on the consultation paper. If you have any questions, please contact our Regulatory Affairs Manager on (04) 914 2224 or by emailing andrew@icnz.org.nz.

Yours sincerely,

Handwritten signature of Tim Grafton in black ink, featuring a stylized 'T' and 'G'.

Tim Grafton
Chief Executive

Handwritten signature of Andrew Saunders in black ink, with 'AS' as the first two letters.

Andrew Saunders
Regulatory Affairs Manager