



Open Bank Resolution (OBR) Pre-positioning Requirements Policy

Prudential Supervision Department

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Part 1—Introduction	3
1. Open Bank Resolution (OBR) and the Reserve Bank of New Zealand’s objectives	3
2. Application of policy	4
3. Definitions.....	4
Part 2— The OBR policy and condition of registration	6
4. Condition of registration	6
5. The OBR process and pre-positioning requirements	6
6. OBR Implementation Plan	11
7. Material to be provided	13
Part 3—Requirements for pre-positioning.....	13
8. Pre-positioning for the appointment of a statutory manager and closing access channels	13
9. Pre-positioning customer liability accounts	15
10. Determining the customer liability account balance	16
11. Applying the <i>de minimis</i>	18
12. Applying the partial freeze	19
13. Reopening access channels and re-instating access to available or unfrozen funds	19
14. Re-instating access to residual frozen funds	20
Annex: Illustrative Compendium of liabilities	
Appendix: Standard Condition of Registration	

Open Bank Resolution (OBR) Pre-positioning Requirements Policy

Part 1—Introduction

1. **Open Bank Resolution (OBR) and the Reserve Bank of New Zealand’s objectives**
 - (1) This document sets out the Reserve Bank of New Zealand’s (Reserve Bank) policy on pre-positioning requirements for Open Bank Resolution (OBR) for locally-incorporated registered banks with retail deposits in excess of \$1 billion dollars. It also applies to locally incorporated banks that decide to opt-in, and are subsequently required to comply with the policy. It describes the policy, the OBR process, and the requirements on banks.
 - (2) The Reserve Bank has powers under Part 5 of the Reserve Bank of New Zealand Act 1989 (the Act) to register banks and undertake prudential supervision of registered banks.
 - (3) Section 68 of the Act requires the powers under Part 5 of the Act to be exercised for the purposes of:
 - (a) promoting the maintenance of a sound and efficient financial system; or
 - (b) avoiding significant damage to the financial system that could result from the failure of a registered bank.
 - (4) The OBR policy supports the objective of avoiding significant damage to the financial system arising from a bank failure. OBR achieves this by providing the government with an option that would minimise spill-over costs to the rest of the economy and help manage fiscal risk. In the process, OBR strengthens the incentives faced by depositors, creditors and parent groups. It places the cost of a failure in the first instance on shareholders but also provides the flexibility to assign losses to creditors without causing unnecessary disruption to the payments system, thus promoting the maintenance of a sound and efficient financial system.
 - (5) OBR ‘pre-positioning’ is a mechanism for providing bank customers continued access to liquidity and banking service in a bank failure event. Pre-positioning means having the IT, payments, resource and process functionality in place ahead of a crisis, such that should a bank enter into statutory management, access channels can be closed, a portion of customer funds can be frozen, and access channels can be reopened for business by no later than 9am the next business day enabling customers to have access to the available or good portion of their funds.
 - (6) Notwithstanding the pre-positioning, there is no obligation on the part of government to use OBR in the event of the failure of a registered bank. Any decision on applying OBR to a particular bank will be assessed on a case-by-case basis taking into account specific bank and wider financial system issues.

2. Application of policy

- (1) All locally-incorporated banks with retail deposits over NZ\$1 billion are required to pre-position for OBR.
- (2) Other locally-incorporated registered banks that do not fall within this category and take in retail deposits may elect to be OBR-capable, but would then also be subject to a condition of registration that requires compliance with the OBR pre-positioning requirements policy.
- (3) This policy does not apply to any New Zealand registered bank that operates in New Zealand as a branch of an overseas-incorporated bank.

3. Definitions

For the purposes of this document--

- (1) “Business day” means any calendar day that is not a Saturday, Sunday nor a public holiday (as that term is defined in the Holidays Act 2003 but excluding provincial anniversary days).
- (2) “Compendium of liabilities” is the list of pre-positioned liabilities and non pre-positioned liabilities classified at the product class level and agreed with the Reserve Bank.
- (3) “Customer account”, “customer liabilities”, or “customer liability accounts” are unsecured liabilities of the bank represented by a range of products such as cheques, savings and other transactional accounts and including term deposits; these are considered in-scope for pre-positioning as described in this document.
- (4) “*De minimis*” is a dollar amount in relevant customer liability accounts that is protected from the allocation of losses and remains fully available to the account holders when the bank reopens the next business day following the appointment of a statutory manager.
- (5) “Effective Time” means the date on which, and the time at which, the Order in Council appointing the statutory manager becomes effective, as set out in that Order in Council.
- (6) “ESAS” is the Reserve Bank of New Zealand’s Exchange Settlement Account System that is used by banks and other approved financial institutions to settle their obligations on a Real-Time Gross Settlement (RTGS) basis.
- (7) “Frozen funds” refer to the inaccessible portion of the customer liability accounts and “unfrozen funds or balances” are the accessible portion of customer liability accounts when the bank reopens or upon instruction of the statutory manager.

- (8) “Implementation Plan” is the bank’s documentation of its OBR design solution and includes the Compendium of liabilities, an end of day process timeline, a run sheet (an outline of the sequence of events), the governance and resourcing arrangements, testing strategy, and the overall management of risks and contingencies, including any other relevant supporting documents to comply with the OBR pre-positioning requirements and deliver the OBR outcomes described in this document.
- (9) “In flight transaction” is a transaction for which processing has commenced but the interbank element has not yet been settled in ESAS at the effective time.
- (10) “OBR functionality” is the bank’s operational and systems-based capability to execute pre-positioned processes and arrangements that would enable customers to have access to the unfrozen portion of their funds no later than 9am the next business day after the appointment of a statutory manager.
- (11) “On-us payment instructions” are transactions where the relevant bank accounts of both the payer and the payee are held with the same bank and no inter-bank payment is required for these transactions to be completed.
- (12) “Partial freeze” is the act of suspending the payment of a proportion of the bank’s unsecured liabilities, with the effect that the frozen component remains inaccessible.
- (13) “Pre-positioned liabilities” cover all liabilities required to be pre-positioned and “non pre-positioned liabilities” are those liabilities that are not required to be pre-positioned as explained in section 9 below.
- (14) “Retail deposits” are deposit liabilities held by persons, and exclude liabilities with outstanding balances of more than \$250,000.
- (15) “Statutory management” means statutory management under the Reserve Bank of New Zealand Act 1989.
- (16) “Systems” means all property, rights, controls, and data owned, operated or used by the bank. The term includes bank officers and staff performing management, administrative and information technology functions, as well as any function relating to any business of the bank that is carried on by a person other than the bank.
- (17) The rest of this document is structured as follows:
 - (a) Part 2 provides an overview of the OBR process and the condition of registration on OBR pre-positioning to which this policy pertains; and
 - (b) Part 3 expands on the OBR pre-positioning requirements. Each section starts with the expected outcome, followed by a list of requirements on banks and further detail about the requirements.

Part 2— The OBR policy and condition of registration

4. Condition of registration

- (1) Section 74 of the Act permits the Reserve Bank to impose conditions of registration that relate to, among other things, the matters referred to in section 73(2)(c) of the Act, namely the ability of the applicant i.e., the registered bank, to carry on its business or proposed business in a prudent manner.
- (2) Locally-incorporated registered banks that are required to pre-position or those that decide to opt-in and be covered by the policy, are subject to a condition of registration relating to OBR requirements.
- (3) Under the Reserve Bank’s OBR pre-positioning requirements policy, a New Zealand-incorporated registered bank with retail deposits of over NZ\$1 billion is subject to the standard condition of registration set out in the Appendix of this document.
- (4) The condition of registration (except for the start date) also applies to registered banks that decide to opt-in or comply with the OBR pre-positioning requirements policy.
- (5) Broadly speaking, this condition requires the registered bank to (i) be pre-positioned for OBR; (ii) have an Implementation Plan that meets the pre-positioning requirements; and (iii) have a regular process to test that the pre-positioned arrangements work as intended and ensure durable compliance with the OBR policy.
- (6) Although the Reserve Bank will generally seek to impose the standard OBR pre-positioning requirements condition of registration uniformly on relevant registered banks, the Reserve Bank may impose a variation of this condition of registration on a bank if appropriate in the circumstances.

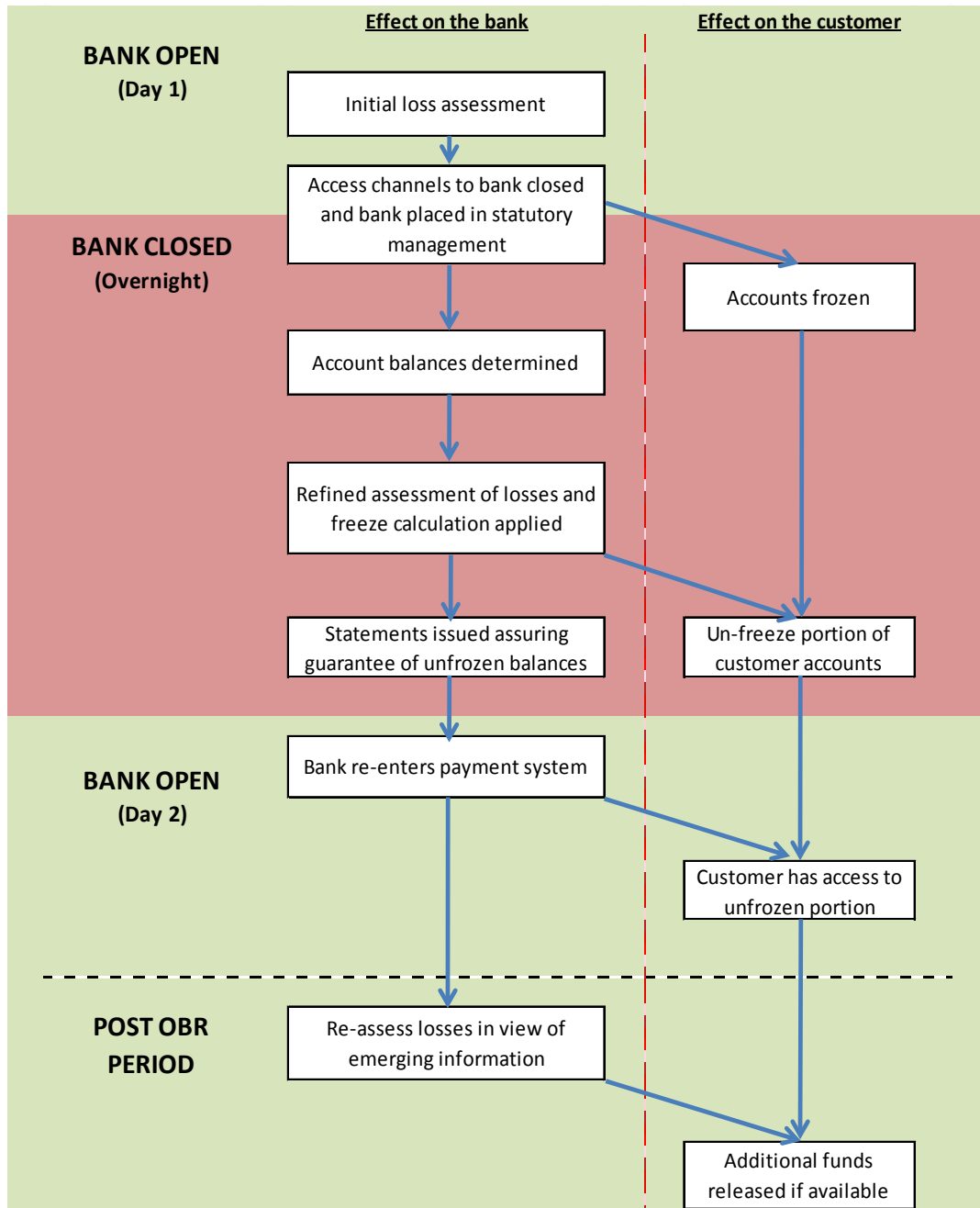
5. The OBR process and pre-positioning requirements

- (1) OBR is an option that provides the ability to allocate losses to creditors of the failed bank without causing unnecessary disruption to the payments system and bank customers’ access to liquidity. As a general principle, first losses are allocated to and borne by shareholders followed by holders of subordinated debt. Claims of capital providers and other subordinated creditors will be fully frozen and will not be available for payment unless the senior creditors are paid in full.
- (2) The complete OBR cycle from closure to resolution can be broken down into the following phases:¹

¹ The last three steps are presented for completeness, and do not form part of the bank’s overnight process cycle required to enable it to reopen by no later than 9am the following business day.

- (a) putting the bank in statutory management and temporarily closing the bank;
 - (b) preventing customer access to the bank and freezing all liabilities in full effective when the bank is put into statutory management;
 - (c) determining customer liability account balances at the effective time;
 - (d) applying the *de minimis* if required;
 - (e) applying the partial freeze, to customer liability accounts based on estimated losses;
 - (f) securing government support, via a guarantee for the unfrozen funds and other new liabilities entered into by the reopened bank;
 - (g) reopening the bank for core transaction business by 9am the next business day;
 - (h) freezing other liabilities until these are dealt with by the statutory manager;
 - (i) applying a partial freeze to all other unsecured liabilities that have not been pre-positioned;
 - (j) releasing additional frozen funds at a later time if directed by the statutory manager; and
 - (k) determining the future operations and potential restructuring of the failed bank.
- (3) Suspending the ability of customers to access their funds and freezing a proportion of their funds in the bank would be carried out overnight, with the bank reopening by no later than 9am the next business day.² Customers would then have access to their unfrozen funds. Additional funds can be made available at a later date but this will be dependent on the determination of final losses.
- (4) The OBR process is illustrated in the diagram below.

² The overnight processing assumes that the day after the appointment of the statutory manager is a business day and not a weekend nor a public holiday. If the bank is placed in statutory management on a Friday or Saturday, the 'overnight process' technically spans the period from the appointment of the statutory manager to the next business day.



Notes:

Day 1— day the bank is placed in statutory management

Day 2— the next business day after the bank is placed in statutory management

If the bank is placed in statutory management on a Friday or Saturday, the ‘overnight process’ technically spans the period from the appointment of the statutory manager to the next business day.

- (5) A registered bank to which the policy applies is required to put in place OBR pre-positioned operational and technical arrangements. The registered bank must have in place pre-positioned IT functionality that is adequate in the Reserve Bank’s view

for purposes of compliance with the OBR pre-positioning requirements policy as set out in this document.

- (6) The table below summarises the OBR outcomes and the requirements on registered banks to be able to deliver those outcomes.

OBR Outcomes	Required functionality to deliver the outcomes
(1) That the bank can be closed promptly at any time of the day and on any day of the week, freezing in full all liabilities and preventing access by customers and counterparties to their accounts.	(a) The bank must be prepared for the appointment of a statutory manager at any time of the day and any day of the week. (b) The bank must develop and maintain robust access channel closing procedures to prevent access by customers and counterparties to their accounts, credit balances and other banking facilities at the bank effective as at the date on which and the time at which the bank was put in statutory management (i.e., the effective time).
(2) That the bank's customers are able to access pre-positioned accounts quickly, i.e. no later than 9am the next business day after a statutory manager is appointed, to fund their day to day operational requirements.	(a) The bank must pre-position customer liability accounts, maintain an up to date compendium of liabilities, and establish a process to ascertain if a new product is in-scope for pre-positioning or not. (b) The bank must have the ability to determine the customer liability account balances in the records of the bank at the effective time, subject to any adjustment to reflect the processing of on-us payment instructions and treatment of in-flight transactions applying the procedures described in the OBR policy. (c) The bank must have the capacity to implement or execute the <i>de minimis</i> , if required, and apply it to relevant pre-positioned customer liability account balances in accordance with the specifications set out in the OBR policy.
(3) That the bank suspends the payment of a proportion of customer account balances to meet estimated potential losses.	(a) The bank must have the functionality to apply a partial freeze to a proportion of customer liability account balances (proportion to be advised by the statutory manager) that are in-scope for pre-positioning. (b) This freeze application process must be completed within a cycle or timeframe that will enable the bank to allow customers to access their accounts by no later than 9am the next business day following the appointment of a statutory manager.
(4) That the bank's customers are able to access their accounts the next business day after a statutory manager is appointed.	(a) The bank must have the capability to reopen access channels as may be authorised by the statutory manager no later than 9am the next business day.
(5) That the bank maintains a full freeze on liabilities not pre-positioned.	(a) When the bank reopens the next business day, the freeze on other liabilities that are out of scope for pre-positioning remains in effect, until these liabilities are dealt with by the statutory manager in due course.
(6) That the bank reinstates access by customers to parts or all of their frozen balances.	(a) The bank must have the capacity to release parts or all of the frozen balances in subsequent periods as may be directed by the statutory manager (i.e. the bank must have the ability to release frozen balances in stages).

6. OBR Implementation Plan

- (1) The Implementation Plan is a key part of the documented evidence that pre-positioned arrangements to quickly close the bank, freeze a portion of customers' claims to meet potential losses, and reopen the next business day and continue banking services, are in place.
- (2) The Implementation Plan provides a summary statement of the bank's OBR design solution, and illustrates that it meets the pre-positioning requirements: (i) pre-positioning for the appointment of a statutory manager at any time of the day and any day of the week and closing access channels; (ii) pre-positioning for customer accounts and determining the customer liability account balances; (iii) applying the *de minimis* and the partial freeze; and (iv) re-instating access to the unfrozen funds and residual frozen funds. It must explain the bank's design principles, governance and resourcing arrangements, and testing and compliance programme.
- (3) Due to the limited time available to process payment instructions to accounts and allow customers' access to their accounts no later than 9am the next business day, it is expected that pre-positioning will typically be by way of automated IT functionality. However, there may be situations where pre-positioning takes the form of a manual process that is undertaken on the day of failure, provided it can be demonstrated that the process can be effectively and efficiently executed by bank staff available on the day, without compromising the reopening time of 9am the next business day. All manual processes associated with pre-positioning for OBR and any variations or modifications adopted will need to be agreed to by the Reserve Bank and must form part of the bank's Implementation Plan.
- (4) As the OBR requirements are largely focussed on outcomes, banks are able to come up with bespoke technical design solutions for their own OBR functionality, provided these are acceptable to the Reserve Bank. This recognises that banks have different operating systems, and this in turn affects how outstanding account balances are calculated, which is dependent on their IT configuration, process cycles and specific product features. An example is the treatment of term deposits. Banks have varying product features and interest accrual cycles and hence, are given the flexibility in choosing which design approach would suit their situation. Early repayment of term deposits is not expected to be allowed by the statutory manager.
- (5) In order to have confidence that the pre-positioned arrangements will work in a bank failure, there must be a regular process to test that the arrangements will work as intended. Banks are expected to develop and maintain a test strategy that ensures durable compliance with the OBR policy. The test strategy must demonstrate that the OBR design solution will achieve the outcomes required by the policy.

Other key components of the Implementation Plan

Compendium of liabilities

- (6) The “Compendium of liabilities” is a core feature of the Implementation Plan. The Compendium itemises the bank’s liabilities at the product class level, specifying whether the liability has been pre-positioned for OBR or not as at the date the compendium is issued. The Compendium must be agreed to by the Reserve Bank. Variations to the compendium are expected to be agreed within twenty (20) working days of the request being received (and receipt acknowledged) by the Reserve Bank. If the Reserve Bank has not responded to the request by the expiration of the twenty day period, the variation is deemed to have been agreed to.
- (7) On an on-going basis, the bank must have a process to determine if a new product is in-scope for pre-positioning or not. If the bank is unsure about the appropriate treatment of a new product, it may refer the matter to the Reserve Bank. The Reserve Bank may approve in principle the pre-positioning treatment of new products whilst at the development stage.
- (8) A stylised compendium of liabilities is presented in the Annex.
- (9) **Timeline:** The timeline must indicate the length of time to: (i) close all access channels, and (ii) to execute the end of day processes necessary to be completed in order to reopen by no later than 9am the next business day.
- (10) **Run sheet:** The run sheet must show the sequence of events or steps to be undertaken from the receipt by the bank of the direction to prepare for the closure of access channels up to the bank’s reopening the next business day. Manual processes must also be disclosed.
- (11) **Review of service contracts:** The bank must conduct an assessment of its agency banking arrangements, if applicable, and review contracts with core service providers who provide services essential to complete the OBR process successfully. This is to ensure that any agency banking arrangements or contracts with service providers incorporate arrangements necessary to have continuing access to services that may be critical to the bank’s continued operations when it enters statutory management.
- (12) **OBR testing and compliance**
 - (a) The various component parts of the OBR programme must be tested at least on an annual basis. Testing of the full OBR solution is not required to be completed via a single end-to-end process test. Each element or component may be tested independently during the annual cycle. The bank may conduct its regular OBR testing alongside its business continuity planning.

- (b) Testing of the full OBR solution must be undertaken against a range of circumstances including closure at any time of the day and any day of the week, to ensure that the bank is able to deliver the required OBR repositioning outcomes at any point in the future.
 - (c) There must be a process to ascertain that all appropriate products are pre-positioned including new products that may be introduced or offered by the bank in the future.
 - (d) The testing and compliance programme covers both the technical solution and business processes, including manual arrangements, if any.
 - (e) The bank must determine if it is necessary to undertake more frequent testing in situations where it has undergone or completed system and/or organisational changes that may impact on the effective execution of OBR. Should the Implementation Plan require amendment to maintain compliance with the policy, the Reserve Bank should be promptly advised of the steps taken to remedy the situation..
- (13) The testing and compliance programme must cover, at a minimum, the following:
- (a) the scope of testing to be conducted, test data required, and the test environment requirements;
 - (b) the testing method or approach to be undertaken including the robustness and integrity of the processes;
 - (c) performance testing of manual processes;
 - (d) criteria, standards or measurement metrics that would enable an assessment of success; and
 - (e) the intended frequency of testing including internal signoffs.

7. Material to be provided

- (1) Banks must make available to the Reserve Bank a copy of the most recent Implementation Plan (including any relevant supporting documents, e.g. operations manual), which can be in electronic or hardcopy form.
- (2) The pre-positioning requirements are described in more detail below.

Part 3—Requirements for pre-positioning

8. Pre-positioning for the appointment of a statutory manager and closing access channels

Outcome

- (1) That the bank can be closed promptly at any time of the day and on any day of the week, freezing in full all liabilities and preventing access by customers and counterparties to their accounts.

OBR requirements

- (2) The bank must be prepared for the appointment of a statutory manager at any time of the day and on any day of the week.
- (3) The bank must develop and maintain robust access channel closing procedures to prevent access by customers and counterparties to their accounts, credit balances and other banking facilities at the bank in statutory management.
- (4) The bank must indicate to the Reserve Bank the latest time that it can be placed in statutory management and reopen by no later than 9am the next business day, as well as the duration or time required to close down all access channels. The closure of access channels will be initiated by a direction from the Reserve Bank and must be completed at the stated time of the appointment of the statutory manager.

Closing access channels

- (5) The Act provides the Governor General with the power to place a bank into statutory management on the advice of the Minister of Finance following a recommendation by the Reserve Bank.³ Once a bank is placed into statutory management, creditors' claims against the bank are subject to a statutory moratorium.
- (6) In recommending the appointment of the statutory manager, the Reserve Bank takes into account the time required by the bank, as disclosed in its Implementation Plan, to close all access channels and execute its overnight end of day process in time to reopen by no later than 9am the next business day.⁴
- (7) Banks pre-positioning should recognise that the appointment of a statutory manager may take place at any time. That is, the OBR process has to be robust to a closure at any time during the day and on any day of the week.
- (8) The closure of channels will be by way of a direction issued by the Reserve Bank with the consent of the Minister of Finance under section 113 of the Act.
- (9) The direction will require the bank to go through its shutdown procedure and have the capability to disable any capacity to initiate or accept banking transactions at the effective time. The closure of customer access channels is to coincide with the time the bank is placed into statutory management.

³ Refer to sections 117 to 156 of the Reserve Bank Act 1989 for details on statutory management of registered banks.

⁴ In the event that the bank is constrained from completing its overnight OBR processes in time to re-open by 9am the next business day due to the timing of the statutory manager's appointment, the 9am re-opening time may be delayed to allow the processing to be completed.

- (10) The process for closing customer access channels may take the form of a documented manual process (e.g. branch closure, internet and telephone banking taken to offline status, etc.) or an automated shut down process or a mixture of both.
- (11) If the bank is a merchant acquirer or an ATM acquirer, all merchant channels and ATMs will be closed from the effective time. The merchant channels and ATMs are expected to be reopened once the bank re-enters the payment system provided all conditions for re-entry are met. If the bank is a card issuer, all cards issued are blocked from the effective time and expected to be un-blocked when the bank re-enters the payment system.

9. Pre-positioning customer liability accounts

Outcome

- (1) That the bank's customers are able to access the unfrozen balance of their accounts quickly after a statutory manager is appointed.

OBR requirements

- (2) The bank must pre-position for customer liability accounts considered in-scope as defined in this document.
- (3) The bank must establish and maintain an up-to-date compendium of liabilities identifying which liabilities are pre-positioned for OBR.

Pre-positioned liabilities

- (4) For purposes of OBR, liabilities that are required to be pre-positioned represent a range of products or facilities used by customers to access banking services. As banking services are critical for these customers' day-to-day operating requirements, interrupting such services potentially carries high economic cost for customers as they may not be well placed to manage such disruptions.
- (5) Examples of bank products and facilities that are in-scope for pre-positioning are:
 - (a) Transactional accounts or similar products used by individuals and businesses for their transactional, everyday banking needs. Customers are able to access their accounts through a number of channels such as internet, mobile banking, and through branches or ATMs and using a wide range of payment instruments (e.g. debit and credit cards). Savings accounts, credit balances on credit cards, and revolving facilities with credit balances are also in-scope for pre-positioning.
 - (b) Term deposit accounts, whilst not transactional in nature, are for OBR purposes required to be pre-positioned as they are usually held by individuals and entities who also engage in transactional banking. These

deposits mature on a regular basis, and pre-positioning them enables the bank to pay unfrozen funds on contracted maturity dates.

- (c) The above products and facilities must be pre-positioned for OBR. The relevant customer liability accounts related to the pre-positioned liabilities will have unfrozen funds made accessible or available to the customer account holders by no later than 9am the next business day following the appointment of a statutory manager (except for term deposits which will be accessible at maturity).

Non pre-positioned liabilities

- (7) Non pre-positioned liabilities are those liabilities that are not required to be pre-positioned as they are not in the nature of customer liabilities or customer liability accounts as described above. They include liabilities to related parties as well as complex financial products that are generally held by more sophisticated creditors or counterparties who can typically better manage temporary illiquidity. They also include liabilities owed to suppliers and service providers as payment for goods or services provided to the bank.
- (8) Liabilities that are not pre-positioned are frozen in full until the statutory manager is in a position to release the unfrozen portion of these liabilities at a later date.

10. Determining the customer liability account balance

Outcome

- (1) That the bank calculates the balances held by customers as at the effective time, adjusted for pending payments, and completing the process cycle in time to reopen the next business day.

OBR requirement

- (2) The bank must have the capacity to determine the customer account balance by applying the procedures described in this document.

Process pending payments

- (3) In determining the customer liability account balance as at the effective time, the statutory manager is generally expected to take the approach prescribed in section 10(5) below.
- (4) The amounts shown in the records of the registered bank as customer liability account balances at the effective time will be adjusted to reflect the processing of on-us payment instructions; the treatment of interbank in-flight transactions; and the treatment of transactions that are dishonoured or reversed as stated below.

- (5) For the purposes of OBR:
- (a) Transactions that have been settled via ESAS (i.e., the interbank element has been settled) before the effective time are pre-statutory management transactions.
 - (b) On-us payment instructions refer to instructions given by one customer to another customer where both are customers of the bank in statutory management. On-us payments that are pending in the bank at the effective time must be processed. These payment instructions include standing direct debits and automatic payment instructions for the day of statutory management that can be processed on that day without further recourse to the initiator of the transaction (i.e., instructions are validated and ready for posting and no further authority is required to post them), but have not been completed when statutory management was declared.
 - (c) In-flight transactions: If at the time the statutory manager is appointed, the processing of a transaction requiring interbank settlement has already commenced but that transaction has not been settled in ESAS, the interbank element of the transaction will be held over for processing once the bank has been permitted to re-enter the payments system the next business day. These transactions are not required to be unwound back to customer accounts. The account balance will reflect the transaction as having been made, even though the interbank settlement and interchange has not been completed and consequently, will not have been posted to the recipient's account. Similarly, transactions from other banks destined to the bank in statutory management shall be held over for processing to be completed the next business day. In relation to the settlement of card (i.e., debit or credit card transaction) transactions (where the card transaction is initiated by a customer prior to the effective time but settlement of the debt owed by the bank under statutory management has not occurred), the statutory manager may exercise discretion as to how these settlements are to be treated.

Customer balances

- (6) The customer liability account balance that has been adjusted to reflect the processing of on-us payment instructions and treatment of in-flight transactions (as specified above), provides the basis for the application of the *de minimis*, if required. It is also the balance to which the statutory manager applies the partial freeze of a portion of the account balance based on the bank's estimated losses. The total customer liability account balance is made up of cleared and uncleared funds.
- (7) Uncleared funds in the customer liability account balance may subsequently be dishonoured or reversed by the statutory manager in accordance with existing business practices and timeframes. It is expected that the statutory manager will make the appropriate adjustment to the customer liability account balance for 'business as usual' dishonours and reversals, but will actively monitor dishonour and reversal activity that is not deemed 'business as usual' activity and that has the effect of frustrating the OBR process.

- (8) The process cycle for the application of the partial freeze applied to a proportion of customer liability account balance must be completed in time to reopen the bank by no later than 9am the next business day following the appointment of the statutory manager.

11. Applying the *de minimis*

Outcome

- (1) That the bank applies the *de minimis*, if required, to relevant customer liability accounts to enable quick access by these customers to funds that they need for their day-to-day operational requirements.

OBR requirement

- (2) The bank must have the capacity to apply a *de minimis* to relevant accounts in accordance with the specifications described in this policy.

Overview

- (3) The *de minimis* amount is a dollar amount in the relevant customer liability account that is protected or exempt from the allocation of losses and will be fully available upon reopening of the bank.
- (4) The Reserve Bank will direct the statutory manager to apply any *de minimis*.
- (5) There is no access to the accounts, including those that meet the *de minimis* criteria, whilst the bank is closed. Access becomes available upon the reopening of the bank.

Applying the *de minimis*

- (6) The *de minimis* concept applies only to pre-positioned liabilities of the bank that are available for transactional use, such as cheque accounts and savings accounts (i.e., the relevant accounts). Term deposits and foreign currency denominated accounts are excluded from the *de minimis* application.
- (7) The *de minimis* is applied to each customer liability account separately, i.e., there is no aggregation of accounts held by the same person or entity.
- (8) Relevant accounts with balances below and up to the specified *de minimis* threshold are exempt from the application of the partial freeze. This exemption also applies to the balance up to the *de minimis* level for relevant accounts whose outstanding balances exceed the *de minimis* threshold.

12. Applying the partial freeze

Outcome

- (1) That the bank applies a partial freeze by suspending the payment of a proportion of the customer liability account balance to meet estimated potential losses.

OBR requirements

- (2) The bank must have the functionality to apply a partial freeze to a proportion of the customer liability account balance in accordance with the specifications described in this policy.
- (3) This freeze application process must be completed within a timeframe that will enable customers to access their accounts by no later than 9am the next business day following the appointment of a statutory manager.

Applying the partial freeze

- (4) The proportion of the liabilities that will be frozen and remain inaccessible is based on an estimation of losses following an assessment of the net asset deficiency of the bank. The partial freeze does not necessarily equate to the final outcome for customers. It is expressed as a proportion or percentage (*x percent*) of customer liability account balance at the bank, rather than as an absolute amount.
- (5) The partial freeze is applied to the pre-positioned customer liability account balances above any *de minimis* threshold. It is applied to each account separately i.e., there is no aggregation of accounts held by the same person or entity.
- (6) The process cycle for the application of the partial freeze must be completed in time to reopen the bank by no later than 9am the next business day following the appointment of the statutory manager.
- (7) After the application of the partial freeze, no additional funds will be frozen. As the statutory management progresses, further funds may be unfrozen or made available and returned to customers if asset recoveries exceed initial estimates. Therefore, the partial freeze (representing the extent of potential losses allocated to customers) does not necessarily equate to the final outcome for customers.

13. Reopening access channels and reinstating access to unfrozen funds

Outcome

- (1) That the bank reopens the next business day following the appointment of the statutory manager so that customers are able to access their unfrozen funds and resume banking services.

OBR requirements

- (2) The bank must have the capacity to reopen customer access channels that the statutory manager authorises to be reopened.
- (3) The bank must have the capacity to reinstate customers' access to the unfrozen portion of their customer liability account balances, on reopening by no later than 9am the next business day following the appointment of a statutory manager.⁵ The reopening time takes into consideration the latest time that the bank can be placed under statutory management as specified in its timeline (refer to 6(9) above).

Process

- (4) The statutory manager decides which channels should be reopened. The statutory manager may also reopen other banking services and facilities on a limited basis as may be appropriate under the circumstances. The statutory manager on behalf of the bank will fulfill any conditions required for re-entry into the payments system.
- (5) The bank in statutory management may access liquidity from the market or the Reserve Bank as may be required.
- (6) The unfrozen funds will be supported by an appropriate government guarantee. The government guarantee ends upon expiration of statutory management.

14. Re-instating access to residual frozen funds

Outcome

- (1) That the customers of the bank regain access to part or all of their frozen funds over time depending on the resolution of the bank's financial problems.

OBR requirement

- (2) The bank must have the capacity to enable customers to regain access to part or all of their frozen funds in subsequent periods as may be directed by the statutory manager, i.e., the bank must have the ability to release frozen funds in stages.
- (3) The bank must maintain a full record of the frozen funds enabling subsequent releases if any, to be paid to the owners of those funds.
- (4) The release of the frozen funds to customers could occur in variable amounts and staged over a period that may not be known in advance.

⁵ For clarity, if the statutory manager is appointed on a Friday or Saturday and assuming Monday is not a public holiday, the bank is expected to re-open no later than 9am Monday morning.

- (5) The bank is not required to build a solution to calculate interest on the frozen portion of the funds as part of its OBR functionality. In the event that surpluses are generated at a later stage, the statutory manager will determine whether interest should be paid on the frozen funds and at what rate.

Annex		
Illustrative Compendium of Liabilities (at the product class level)		
Date		
	Liabilities	Prepositioned
Deposits and Borrowings		
<input type="checkbox"/>	<i>Transaction Accounts</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Solicitor Trust accounts</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Savings Accounts</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Term Deposits</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Credit Balances on credit cards /travel cards/ mortgages/investment loans</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Foreign currency accounts</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Revolving credit facilities (credit balances)</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Overdraft facilities (credit balances)</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Letter of Credit</i>	<i>No</i>
<input type="checkbox"/>	<i>Medium Term Notes</i>	<i>No</i>
<input type="checkbox"/>	<i>Debentures</i>	<i>No</i>
<input type="checkbox"/>	<i>Bonds</i>	<i>No</i>
Money Market		
<input type="checkbox"/>	<i>Certificates of Deposit</i>	<i>No</i>
<input type="checkbox"/>	<i>Commercial Paper</i>	<i>No</i>
<input type="checkbox"/>	<i>Call accounts</i>	<i>Yes</i>
<input type="checkbox"/>	<i>Term deposits</i>	<i>Yes</i>
Derivative Financial Instruments		
<input type="checkbox"/>	<i>Foreign Exchange Contracts</i>	<i>No</i>
<input type="checkbox"/>	<i>Forward Rate Agreements</i>	<i>No</i>
<input type="checkbox"/>	<i>Futures</i>	<i>No</i>
<input type="checkbox"/>	<i>Options</i>	<i>No</i>
<input type="checkbox"/>	<i>Interest Rate Swaps</i>	<i>No</i>
<input type="checkbox"/>	<i>Currency Swaps</i>	<i>No</i>
<input type="checkbox"/>	<i>Credit Support Agreements</i>	<i>No</i>
<input type="checkbox"/>	<i>Margin Calls</i>	<i>No</i>
Due to Controlled Entities and Associates		
<input type="checkbox"/>	<i>Due to Parent Company</i>	<i>No</i>
<input type="checkbox"/>	<i>Due to Subsidiary Company</i>	<i>No</i>
<input type="checkbox"/>	<i>Interest payable on amounts due to parent</i>	<i>No</i>
Other Liabilities		
<input type="checkbox"/>	<i>Accrual of Interest Coupons</i>	<i>No</i>
<input type="checkbox"/>	<i>Open market positions</i>	<i>No</i>
<input type="checkbox"/>	<i>Charity Accounts / Child Accounts</i>	<i>Yes</i>
Operating Expenses		
<input type="checkbox"/>	<i>Utilities</i>	<i>No</i>
<input type="checkbox"/>	<i>Suppliers</i>	<i>No</i>
<input type="checkbox"/>	<i>Employee Benefits</i>	<i>No</i>
<input type="checkbox"/>	<i>IRD Payments</i>	
	<i>o Interest taxes</i>	<i>No</i>
	<i>o Payroll taxes</i>	<i>No</i>

Note:

1. The compendium is a listing of common banking products and instruments and whether they are in or out of scope for pre-positioning. The OBR functionality is available for pre-positioned liabilities at the date the compendium is issued. All other liabilities not pre-positioned are frozen in full until dealt with by the statutory manager in due course.
2. This compendium itemises the discrete classes of liabilities directly owed by the bank and does not include obligations of the bank pertaining to its role as funds manager (e.g. Kiwisaver and PIE funds), where the underlying customer liabilities are not on the bank's balance sheet. Kiwisaver and PIE funds invested in the bank's products such as deposits will be treated like other customer accounts.

Appendix: Standard conditions of registration

From 30 June 2013 New Zealand-incorporated registered banks with retail deposits over NZ\$1 billion must comply with the following conditions of registration.

1. That the bank is pre-positioned for Open Bank Resolution and in accordance with a direction from the Reserve Bank, the bank can –
 - (a) close promptly at any time of the day and on any day of the week and that effective upon the appointment of the statutory manager –
 - (i) all liabilities are frozen in full; and
 - (ii) no further access by customers and counterparties to their accounts (deposits, liabilities or other obligations) is possible;
 - (b) apply a *de minimis* to relevant customer liability accounts;
 - (c) apply a partial freeze to the customer liability account balances;
 - (d) reopen by no later than 9am the next business day following the appointment of a statutory manager and provide customers access to their unfrozen funds;
 - (e) maintain a full freeze on liabilities not pre-positioned for open bank resolution; and
 - (f) reinstate customers' access to some or all of their residual frozen funds.

For the purposes of this condition of registration, “*de minimis*”, “partial freeze”, “customer liability account”, and “frozen and unfrozen funds” have the same meaning as in the Reserve Bank of New Zealand document “Open Bank Resolution (OBR) Pre-positioning Requirements Policy” (BS17) dated September 2013.

2. That the bank has an Implementation Plan that—
 - (a) is up-to-date; and
 - (b) demonstrates that the bank's prepositioning for Open Bank Resolution meets the requirements set out in the Reserve Bank document: “Open Bank Resolution Pre-positioning Requirements Policy” (BS 17).

For the purposes of this condition of registration, “Implementation Plan” has the same meaning as in the Reserve Bank of New Zealand document “Open Bank Resolution (OBR) Pre-positioning Requirements Policy” (BS17) dated September 2013.

3. That the bank has a compendium of liabilities that—
 - (a) at the product-class level lists all liabilities, indicating which are—
 - (i) pre-positioned for Open Bank Resolution; and
 - (ii) not pre-positioned for Open Bank Resolution;
 - (b) is agreed to by the Reserve Bank; and
 - (c) if the Reserve Bank's agreement is conditional, meets the Reserve Bank's conditions.

For the purposes of this condition of registration, “compendium of liabilities”, and “pre-positioned and non pre-positioned liabilities” have the same meaning as in the Reserve Bank of New Zealand document “Open Bank Resolution (OBR) Pre-positioning Requirements Policy” (BS17) dated September 2013.

4. That on an annual basis the bank tests all the component parts of its Open Bank Resolution solution that demonstrates the bank’s prepositioning for Open Bank Resolution as specified in the bank’s Implementation Plan.

For the purposes of this condition of registration, “Implementation Plan” has the same meaning as in the Reserve Bank of New Zealand document “Open Bank Resolution (OBR) Pre-positioning Requirements Policy” (BS17) dated September 2013.