

Response to the

**Financial Markets Authority**

on the

**A New Zealand Response to Foreign  
Margin Requirements for OTC  
Derivatives**

24 August 2017

Strictly Confidential



## **1.0 INTRODUCTION**

- 1.1 This submission has been prepared by Bank of New Zealand ('BNZ') in response to the Reserve Bank of New Zealand (RBNZ)'s and the Ministry of Business, Innovation and Employment (MBIE)'s (together the Agencies) consultation document: A New Zealand Response to Foreign Margin Requirements for OTC Derivatives (July 2017).
- 1.2 BNZ welcomes this opportunity to provide a response to the consultation document and acknowledges the industry consultation undertaken on this matter.

## **2.0 BNZ's Submission**

- 2.1 BNZ supports the efforts of the Agencies to address the legal impediments to New Zealand's ability to comply with international requirements that require the exchange of margin. We recognise the pressure that some banks are under for this matter to be addressed urgently. In the interests of expediency, this may result in reform that does not address all issues. If this eventuates, we urge that, going forward, the Agencies continue to engage the industry in discussions relating to, among other issues, a stand-alone Netting Act for New Zealand. We are strongly persuaded by a number of advantages to a Netting Act, as exists in Australia, particularly making the law as clear as possible. In terms of legislative process, we welcome any increased political scrutiny of a Netting Act when we are talking about sensitive creditors' rights. Prioritising certain derivative counterparties rights in insolvency is a "ticket to the game" in the markets we operate.
- 2.2 A related and important aspect of that discussion would include the merits of a New Zealand framework for margining and risk mitigation for non-centrally cleared derivatives framework. A New Zealand framework is likely to be highly desirable given the advantages in achieving "substituted compliance" for New Zealand based derivative users with respect to the margin requirements of G20 regulators to enable efficient access to these important markets. At present, the large NZ based banks depend on Australian Prudential Regulation Authority (APRA) regulation for efficient access to major international derivatives markets. However, without our own framework there is uncertainty for New Zealand-based banks or entities not caught by APRA's rules in terms of whether they need to comply with multiple non-centrally cleared derivatives frameworks in other jurisdictions.

## **3.0 CONCLUSION**

- 3.1 BNZ is pleased to provide this submission and the information it contains. We would be happy to continue engagement with the Agencies on this matter.
- 3.2.1 Should the Agencies have any questions in relation to this submission, please contact:

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