

中央銀行專著選譯叢書 NO. 9

各國中央銀行法選輯 (2019 年版)

(下冊)

Collections of Central Bank

Acts of Selected Countries

(2019 Edition) (Volume 3)

《中英對照本》

中央銀行法務室編印
中華民國一〇八年十二月

序

中央銀行職掌一國貨幣政策，其決策影響國內經濟金融體系，國際間主要央行之貨幣政策甚至透過外溢效應，影響其他國家經濟金融情勢。而各國「中央銀行法」皆明訂該國中央銀行之組織架構、經營目標及業務運作等，對於央行政策施行與業務經營，至關重要。

綜觀各國「中央銀行法」，其中關於中央銀行於政府組織之定位、決策組織架構、職掌及管理制度等，因各國政治、經濟、金融及文化等因素有所差異，制度性安排亦不盡相同。部分國家（例如美國、加拿大、日本等國）之貨幣政策決策組織成員均為專任；另亦有部分國家（例如英國、紐西蘭及亞洲多數國家等）則是專、兼任並存。各國央行之制度結構，端視其國情及政府組織運作而定，並無優劣之分。

歷年來各國依其政治、經濟及金融環境之轉變，其「中央銀行法」亦迭有修正。例如 1997 年日本修正「日本銀行法」、英國修正「英格蘭銀行法」，均在提高彼等央行之獨立性，英格蘭銀行（BoE）並將金融監理權從 BoE 移轉至金融服務管理局（Financial Services Authority, FSA）。全球金融危機於 2008 年 9 月爆發後，凸顯央行除維持物價穩定目

標外，尚應兼負促進金融穩定之任務，因此，許多國家將「促進金融穩定」納入其「中央銀行法」，例如英國、馬來西亞、新加坡等國；此外，2012 年，英國裁撤 FSA，BoE 並修正「英格蘭銀行法」，將金融監理權回歸 BoE。相較之下，我國「中央銀行法」自 1979 年以來，即明定本行有「促進金融穩定」之職責；多年來，本行不僅致力於維持物價穩定，同時亦基於「促進金融穩定」之職責，對於可能危及金融穩定之各項風險，採行妥適之信用管制工具，包括調整特定房貸之房貸成數（LTV），促使銀行業落實對不動產市場風險控管等措施，堪為前瞻性之立法。

近年來，各國「中央銀行法」之修正，有旨在調整央行貨幣政策目標、變更貨幣政策決策方式，或優化央行治理等方向。例如印度準備銀行於 2016 年修正「印度準備銀行法」，俾為其彈性之通膨目標化架構（flexible inflation targeting framework）提供法律基礎，並成立貨幣政策委員會（Monetary Policy Committee, MPC）作為利率決策之組織；英國、澳洲、紐西蘭及新加坡則均有強化其央行治理之相關規定等。

就各國「中央銀行法」修訂沿革觀之，各有其不同之發展背景及特色，其中或有可供我國借鏡之處。為利各界對主要國家中央銀行制度進行比較參考，本行法務室於 2003 年、

2004 年、2009 年及 2013 年分別重行選譯出版歐、亞、美洲及大洋洲等各國中央銀行法之中文版及中英對照版；本次賡續編印「各國中央銀行法選輯（2019 年版）」（中英對照本），係審酌各主要國家之修法幅度、兼顧區域平衡等節，選編近年來法規內容變動較大及較受國際金融體系矚目國家之「中央銀行法」；其中「歐洲中央銀行體系及歐洲中央銀行條例」、「英格蘭銀行法」、「日本銀行法」、「澳大利亞準備銀行法」、「馬來西亞中央銀行法」及「中華民國中央銀行法」錄為「上冊」；「加拿大銀行法」及「新加坡貨幣管理局法」錄為「中冊」；「印度準備銀行法」及「紐西蘭準備銀行法」錄為「下冊」，並以「中央銀行專著選譯叢書」之系列方式出刊。敬祈各界先進續予指教。

中央銀行總裁

楊金龍 謹識

中華民國 108 年 10 月 25 日

各國中央銀行法選輯(2019年版)翻譯及審校人員

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Collections of Central Bank Acts of Selected Countries (2019 Edition)

Table of Contents (Volume 1)

1. Protocol on the Statute of the European System of Central Banks and of the ECB	1
2. Bank of England Act 1998	53
3. Bank of Japan Act	231
4. Reserve Bank Act 1959	283
5. Central Bank of Malaysia Act 2009	347

Appendix

The Central Bank of the Republic of China (Taiwan) Act	499
---	------------

Table of Contents (Volume 2)

1. Bank of Canada Act	1
2. Monetary Authority of Singapore Act.....	57

Table of Contents (Volume 3)

1. Reserve Bank of India Act, 1934.....	1
2. Reserve Bank of New Zealand Act 1989	175

各國中央銀行法選輯 (2019 年版)

簡 目 (上冊)

一、歐洲中央銀行體系及 歐洲中央銀行條例議定書	1
二、英格蘭銀行法	53
三、日本銀行法	231
四、澳大利亞準備銀行法	283
五、馬來西亞中央銀行法	347

附 錄

中華民國中央銀行法	499
-----------------	-----

簡 目 (中冊)

一、加拿大銀行法	1
二、新加坡貨幣管理局法	57

簡 目 (下冊)

一、印度準備銀行法	1
二、紐西蘭準備銀行法	175

Collections of Central Bank Acts of Selected Countries (2019 Edition)

Table of Contents (Volume 3)

1. Reserve Bank of India Act, 1934..... 1

Contents.....	2
Chapter I Preliminary	4
Chapter II Incorporation, Capital, Management and Business.....	10
Chapter III Central Banking Functions	52
Chapter IIIA Collection and Furnishing of Credit Information..	86
Chapter IIIB Provisions Relating to Non-Banking Institutions Receiving Deposits and Financial Institutions	92
Chapter IIIC Prohibition of Acceptance of Deposits by Unincorporated Bodies	126
Chapter IIID Regulation of Transactions in Derivatives, Money Market Instruments, Securities, etc.....	130
Chapter IIIE Joint Mechanism.....	134
Chapter IIIF Monetary Policy	136
Chapter IV General Provisions.....	150
Chapter V Penalties.....	164

各國中央銀行法選輯 (2019 年版)

細 目 (下冊)

一、印度準備銀行法1

目 次	3
第一章 總則	5
第二章 設立、資本、管理及業務	11
第三章 中央銀行之功能	53
第三 A 章 信用資訊之蒐集及提供	87
第三 B 章 非金融機構收受存款及金融機構 之有關規定	93
第三 C 章 禁止非公司型態之組織收受存款	127
第三 D 章 衍生性商品、貨幣市場工具及有價證券 等交易之監理	131
第三 E 章 聯合委員會機制	135
第三 F 章 貨幣政策	137
第四章 一般規定	151
第五章 罰則	165

2. Reserve Bank of New Zealand Act 1989 175

Contents.....	176
Title	184
Part 1 Constitution of Reserve Bank of New Zealand	196
Part 2 Functions and powers of Reserve Bank.....	198
Central Bank.....	198
Monetary Policy	198
Foreign Exchange.....	204
Currency	210
Other Functions and Powers	214
Part 3 Management of Reserve Bank	220
Governor and Deputy Governor.....	220
Board of Directors	230
Part 4 Use of Words 'Bank', 'Banker', and 'Banking'	244
Limit on Use of Restricted Words in Name or Title	244
Limit on Use of Restricted Words in Advertisement	250
Powers of Bank in Relation to Use of Restricted Words	250
Penalty for Offences Against This Part.....	260
Part 5 Registration of Banks and Prudential Supervision of Registered Banks	262
Registration of Banks.....	266
Financial Disclosure by Registered Banks.....	282
Advertising by Registered Banks.....	290
Provisions Applying to Disclosure Statements	290
Supply of Information	294
Access to Information by Home Country Supervisor	302

二、紐西蘭準備銀行法175

目次	177
名稱	185
第 1 章 紐西蘭準備銀行之設立	197
第 2 章 準備銀行之職能與權力	199
中央銀行	199
貨幣政策	199
外匯	205
貨幣	211
其他職能與權力	215
第 3 章 準備銀行之管理	221
總裁與副總裁	221
理事會	231
第 4 章 「銀行」、「銀行業者」與「銀行業」 之用詞	245
於名稱或稱號使用限定用詞之限制	245
於廣告使用限定用詞之限制	251
本行就限定用詞使用之權力	251
違反本章之犯罪處罰	261
第 5 章 銀行之註冊及對註冊銀行之審慎監理	263
銀行之註冊	267
註冊銀行之財務揭露	283
註冊銀行所為廣告	291
適用於揭露聲明之規定	291
資訊之提供	295
母國監理機關之使用資訊	303

	Powers to Obtain Information and Documents.....	306
	Investigations	308
	Miscellaneous Provisions.....	312
	Reserve Bank May Give Directions.....	322
	Statutory Management of Registered Banks.....	330
	Interpretation Relating to Covered Bonds.....	360
	Registration of Covered Bond Programmes	362
	Cover Pool Monitor.....	372
	Statutory Management, etc, of Issuer.....	376
	Miscellaneous Provisions.....	378
	Penalties for Offences Against This Part	394
Part 5A	Retention of Documents by Banks.....	400
Part 5B	Oversight of Payment Systems.....	404
	General	404
	Supply of Information Relating to Payment Systems...	404
	Penalties for Offences Against This Part	410
Part 5C	Designated Settlement Systems	410
	General	410
	Designation	412
	Designation	418
	Effect of Designation	420
	Effect of Designation	420
	Procedure for Making Designation	428
	Procedure for Making Designation	430
	Amendments to Rules	434

	取得資訊與文件之權力	307
	調查	309
	附則	313
	準備銀行得給予指示	323
	註冊銀行之法定監管	331
	有關擔保債券之解釋	361
	擔保債券方案之註冊	363
	資產池監控者	373
	發行人之法定監管等	377
	附則	379
	違反本章之犯罪處罰	395
第 5A 章	銀行文件之留存	401
第 5B 章	支付系統之監督	405
	總則	405
	與支付系統相關資訊之提供	405
	違反本章之犯罪處罰	411
第 5C 章	指定清算系統.....	411
	總則	411
	指定	413
	指定	419
	指定之效力	421
	指定之效力	421
	作成指定之程序	429
	作成指定之程序	431
	規則之修正	435

	Variation and Revocation of Designation	436
	Obligations to Give Notice and Supply Information ..	440
	Disclosure of Information	442
	Penalties for Offences Against This Part	446
Part 5D	Deposit Takers.....	446
	Preliminary Provisions	446
	Credit Ratings.....	448
	Governance Requirements	448
	Risk Management.....	448
	Minimum Capital Requirement.....	450
	Capital Ratio Requirement.....	450
	Restrictions on Related Party Exposures	450
	Liquidity Requirements.....	452
	Other Matters Relating to Trust Deeds	452
	Obligations of Trustees to Bank.....	452
	Investigation and Enforcement Powers of Bank	454
	Confidentiality of Information	454
	Offences and Penalties	456
	Miscellaneous.....	456
Part 6	Financial and Accountability Matters	458
	Income and Expenditure	458
	Accountability Documents.....	462
	Statement of Intent	464
	Annual Reports.....	466
	Financial Stability Reports.....	470

	指定之變更與撤銷	437
	給予通知及提供資訊之義務	441
	資訊揭露	443
	違反本章規定之處罰	447
第 5D 章	存款收受者.....	447
	通則	447
	信用評等	449
	治理要求	449
	風險管理	449
	最低資本之規定	451
	資本適足率之規定	451
	利害關係人暴險之限制	451
	流動性規定	453
	有關信託契據之其他事項	453
	受託人對本行之義務	453
	本行之調查與執行權力	455
	資訊之機密性	455
	犯罪與處罰	457
	附則	457
第 6 章	財務與有責性事項	459
	收入與支出	459
	有責性文件	463
	意向聲明	465
	年報	467
	金融穩定報告	471

Audits	472
Part 7 Miscellaneous Provisions.....	474
Schedule 1 Enactments Amended.....	492
Schedule 2 Enactments Repealed.....	494
Schedule 3 General Provisions Relating to Material Incorporated by Reference	498
Schedule 4 General Provisions Relating to Search Warrants Issued under Part 5D	498
Reserve Bank of New Zealand Amendment Act 1993	500
Reserve Bank of New Zealand Amendment Act 2003	502
Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013	504

審計	473
第 7 章 附則	475
附表 1 修正之立法	493
附表 2 廢止之立法	495
附表 3 有關提及納入資料之一般條款	499
附表 4 有關依第 5D 章發布搜索令之一般條款	499
1993 年紐西蘭準備銀行修正法	501
2003 年紐西蘭準備銀行修正法	503
2013 年紐西蘭準備銀行（擔保債券）修正法	505

一、RESERVE BANK OF
INDIA ACT, 1934
印度準備銀行法

RESERVE BANK OF INDIA ACT, 1934

<i>CHAPTER I</i>	<i>PRELIMINARY</i>
<i>CHAPTER II</i>	<i>INCORPORATION, CAPITAL, MANAGEMENT AND BUSINESS</i>
<i>CHAPTER III</i>	<i>CENTRAL BANKING FUNCTIONS</i>
<i>CHAPTER IIIA</i>	<i>COLLECTION AND FURNISHING OF CREDIT INFORMATION</i>
<i>CHAPTER IIIB</i>	<i>PROVISIONS RELATING TO NON-BANKING INSTITUTIONS RECEIVING DEPOSITS AND FINANCIAL INSTITUTIONS</i>
<i>CHAPTER IIIC</i>	<i>PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES</i>
<i>CHAPTER IIID</i>	<i>REGULATION OF TRANSACTIONS IN DERIVATIVES, MONEY MARKET INSTRUMENTS, SECURITIES, ETC.</i>
<i>CHAPTER IIIE</i>	<i>JOINT MECHANISM</i>
<i>CHAPTER IIIF</i>	<i>MONETARY POLICY</i>
<i>CHAPTER IV</i>	<i>GENERAL PROVISIONS</i>
<i>CHAPTER V</i>	<i>PENALTIES</i>

印度準備銀行法

法務室 鄭雅卉 譯

第一章	總則
第二章	設立、資本、管理及業務
第三章	中央銀行之功能
第三 A 章	信用資訊之蒐集及提供
第三 B 章	非金融機構收受存款及金融機構 之有關規定
第三 C 章	禁止非公司型態之組織收受存款
第三 D 章	衍生性商品、貨幣市場工具及有價證券 等交易之監理
第三 E 章	聯合委員會機制
第三 F 章	貨幣政策
第四章	一般規定
第五章	罰則

RESERVE BANK OF INDIA ACT, 1934**As amended by the Finance Act, 2018****6th March 1934****PREAMBLE****An Act to constitute a Reserve Bank of India.**

Whereas it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage;

AND WHEREAS it is essential to have a modern monetary policy framework to meet the challenge of an increasingly complex economy;

AND WHEREAS the primary objective of the monetary policy is to maintain price stability while keeping in mind the objective of growth;

AND WHEREAS the monetary policy framework in India shall be operated by the Reserve Bank of India;

It is hereby enacted as follows: -

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.

- (1) This Act may be called the Reserve Bank of India Act, 1934.
- (2) It extends to the whole of India.
- (3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date or dates as the Central Government may, by notification in the Gazette of India, appoint.

印度準備銀行法**1934 年 3 月 6 日制定****2018 年最新修正****前言****設立印度準備銀行之法律**

印度準備銀行之設立，係為規範鈔券之發行，建立儲備金制度，以確保幣值穩定，並建立通貨及信用系統之穩定運作機制，俾利維護全國之利益；

政府有必要建立一套現代化之貨幣政策架構，以因應日益複雜之經濟情勢所帶來的挑戰。

貨幣政策之主要目標係於兼顧經濟成長之目標下，維持物價之穩定；

印度之貨幣政策架構係由印度準備銀行來運作。

本法^{譯註}規定如下：

第 1 章 總則**第 1 條 簡稱、範圍及生效**

- (1) 本法稱為「1934 年印度準備銀行法」。
- (2) 本法效力範圍及於全印度境內。
- (3) 本條規定自即日起生效；本法其他條文之生效日依其所訂之特定日期，或由中央政府於政府公報以公告發布訂定之。

^{譯註} 為便於閱讀，本篇譯文所稱之「印度準備銀行法」一詞簡稱為「本法」。本法附有 4 則附表(錄)，因未直接涉及本法所定之實質內容，本篇譯文爰未予收錄，讀者如有參考需要，請自行參閱印度準備銀行法刊載之官方網站：
<https://rbi.org.in/Scripts/OccasionalPublications.aspx?head=Reserve%20Bank%20of%20India%20Act>

2. Definitions.

In this Act, unless there is anything repugnant in the subject or context:

- (a) [* * * *]
- (ai) [* * * *]
- (aii) "the Bank" means the Reserve Bank of India constituted by this Act;
- (aiii) "Bank for International Settlements" means the body corporate established with the said name under the law of Switzerland in pursuance of an agreement dated the 20th January, 1930, signed at the Hague;
- (b) "the Central Board" means the Central Board of Directors of the Bank;
- (bi) [* * * *]
- (bii) [* * * *]
- (biii) [* * * *]
- (biv) [* * * *]
- (bv) [* * * *]
- (bva) "Consumer Price Index" means the Consumer Price Index Combined published by the Government of India from time to time;
- (bvi) "Deposit Insurance Corporation" means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961;
- (bvii) [* * * *]
- (bviii) [* * * *]
- (bviiia) "Exim Bank" means the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981;
- (bix) "foreign currency" and "foreign exchange" have the meanings respectively assigned to them in the Foreign Exchange Regulation Act, 1973;
- (c) "Industrial Finance Corporation" means the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948;
- (ci) "inflation" means the year wise change in monthly Consumer Price Index expressed in terms of percentage;

第 2 條 定義

除本法另有規定者外，本法之用語定義如下：

- (a) (刪除)。
- (ai) (刪除)。
- (aii) 「本行」：係指依本法所設立之印度準備銀行。
- (aiii) 「國際清算銀行」：係指依據瑞士法律所設立，為履行 1930 年 1 月 20 日於海牙所簽署之協議，名為「國際清算銀行」之公司法人。
- (b) 「理事會」：係指本行理事會。
- (bi) (刪除)。
- (bii) (刪除)。
- (biii) (刪除)。
- (biv) (刪除)。
- (bv) (刪除)。
- (bva) 「消費者物價指數」：係指印度政府經常發布之綜合消費者物價指數。
- (bvi) 「存款保險公司」：係指依「1961 年存款保險公司法」第 3 條規定設立之存款保險公司。
- (bvii) (刪除)。
- (bviii) (刪除)。
- (bviiia) 「輸出入銀行」：係指依「1981 年印度輸出入銀行法」所設立之印度輸出入銀行。
- (bix) 「外國通貨」及「外匯」：係指依「1973 年管理外匯法」相關規定所稱之定義。
- (c) 「工業金融公司」：係指依「1948 年工業金融公司法」所設立之印度工業金融公司。
- (ci) 「通貨膨脹」：係指於一基準年度內，消費者物價指數每月之變動，而以百分比呈現之指標。

- (cii) "inflation target" means the inflation target determined in accordance with sub-section (1) of section 45ZA;
- (ca) "International Development Association" means the "Association" referred to in the International Development Association (Status, Immunities and Privileges) Act, 1960;
- (cb) "International Finance Corporation" means the "Corporation" referred to in the International Finance Corporation (Status, Immunities and Privileges) Act, 1958;
- (cc) "International Monetary Fund" and "International Bank for Reconstruction and Development" mean respectively the "International Fund" and the "International Bank", referred to in the International Monetary Fund and Bank Act, 1945;
- (cci) "Monetary Policy Committee" means the Committee constituted under sub-section (1) of section 45ZB;
- (ccc) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;
- (cccc) "National Housing Bank" means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987;
- (cccci) "Policy Rate" means the rate for repo-transactions under sub-section (12AB) of section 17;
- (ci) [*****]
- (cia) [*****]
- (cii) [*****]
- (ciii) [*****]
- (civ) [*****]
- (cv) "Reconstruction Bank" means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India, Act, 1984;
- (d) "rupee coin" means rupees which are legal tender in India under the provisions of the Indian Coinage Act, 1906;
- (e) "scheduled bank" means a bank included in the Second Schedule;

- (cii) 「通貨膨脹目標」：係指依本法第 45ZA 條第 1 項所定之通貨膨脹目標。
- (ca) 「國際發展協會」：係指依「1960 年國際發展協會（法律地位、豁免權、特許權）法」所稱之協會。
- (cb) 「國際金融公司」：係指依「1958 年國際金融公司（法律地位、豁免權、特許權）法」所稱之公司。
- (cc) 「國際貨幣基金」及「國際復興開發銀行」：係指依「1945 年國際貨幣基金及銀行法」所稱之「國際基金」及「國際銀行」。
- (cci) 「貨幣政策委員會」：係指依本法第 45ZB 條第 1 項所設立之委員會。
- (ccc) 「國家銀行」：係指依「1981 年農業及農村發展國家銀行法」第 3 條所設立之國家銀行。
- (cccc) 「國家住宅銀行」：係指依「1987 年國家住宅銀行法」第 3 條所設立之國家住宅銀行。
- (cccci) 「政策利率」：係指本法第 17 條第(12AB)項所稱附買回交易之利率。
- (ci) （刪除）。
- (cia) （刪除）。
- (cii) （刪除）。
- (ciii) （刪除）。
- (civ) （刪除）。
- (cv) 「重建銀行」：係指依「1984 年印度工業重建銀行法」第 3 條規定所設立之印度工業重建銀行。
- (d) 「盧比硬幣」：係指依「1906 年印度鑄幣法」規定於印度境內具有法償效力之盧比。
- (e) 「附表銀行」：係指本法附表二所列名單中之任一家銀行。

- (ea) "Sponsor Bank" means a Sponsor Bank as defined in the Regional Rural Banks Act, 1976;
- (eb) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955;
- (el) "Small Industries Bank" means the Small Industries Development Bank of India established under Section 3 of the Small Industries Development Bank of India Act, 1989".
- (f) [* * * *]
- (fi) "State Financial Corporation" means any State Financial Corporation established under the State Financial Corporations Act 1951.
- (g) "Unit Trust" means the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963;
- (h) "agricultural operations", "central co-operative bank", "co-operative society", "crops", "marketing of crops", "pisciculture", "regional rural bank" and "State co-operative bank" shall have the meanings respectively assigned to them in the National Bank for Agriculture and Rural Development Act, 1981;
- (i) "co-operative bank", "co-operative credit society", "director", "primary agricultural credit society", "primary co-operative bank" and "primary credit society" shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949;

CHAPTER II

INCORPORATION, CAPITAL, MANAGEMENT AND BUSINESS

3. Establishment and incorporation of Reserve Bank.

- (1) A bank to be called the Reserve Bank of India shall be constituted for the purposes of taking over the management of the currency from the Central Government and of carrying on the business of banking in accordance with the provisions of this Act.
- (2) The Bank shall be a body corporate by the name of the Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued.

- (ea) 「贊助銀行」：係指依「1976年區域農村銀行法」規定所定義之贊助銀行。
- (eb) 「州立銀行」：係指依「1955年印度州立銀行法」規定所設立之州立銀行。
- (el) 「小型工業銀行」：係指依「1989年印度小型工業開發銀行法」第3條所設立之小型工業開發銀行。
- (f) (刪除)。
- (fi) 「州立金融公司」：係指依「1951年州立金融公司法」規定所設立之州立金融公司。
- (g) 「單位信託」：係指依「1963年印度單位信託法」第3條規定所設立之印度單位信託。
- (h) 「農業營運」、「中央合作銀行」、「合作社」、「穀物」、「穀物行銷」、「養殖」、「區域農村銀行」及「州立合作銀行」：其定義依「1981年農業及農村發展國家銀行法」各該相關規定。
- (i) 「合作銀行」、「信用合作社」、「理事」、「主要農業信用合作社」、「主要合作銀行」、「主要信用社」：其定義依「1949年銀行管理法」第5節各該相關規定。

第2章 設立、資本、管理及業務

第3條 準備銀行之設立

- (1) 設立印度準備銀行之目的，在於依本法之規定，經營中央政府通貨之發行及銀行業務之營運。
- (2) 本行係以印度準備銀行為名之公司法人，具永續經營之權能，備有關防印信，並得以本行名義起訴或被訴。

4. Capital of the Bank.

The capital of the Bank shall be five crores of rupees.

5. Increase and reduction of share capital.

[Rep. by Act 62 of 1948, s.7 and Sch. (w.e.f. 1-1-1949)].

6. Offices, branches and agencies.

The Bank shall, as soon as may be, establish offices in Bombay, Calcutta, Delhi and Madras and may establish branches or agencies in any other place in India India India India or, with the previous sanction of the Central Government, elsewhere.

7. Management.

- (1) The Central Government may from time to time give such directions to the Bank as it may, after consultation with the Governor of the Bank, consider necessary in the public interest.
- (2) Subject to any such directions, the general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank.
- (3) Save as otherwise provided in regulations made by the Central Board, the Governor and in his absence the Deputy Governor nominated by him in this behalf, shall also have powers of general superintendence and direction of the affairs and the business of the Bank, and may exercise all powers and do all acts and things which may be exercised or done by the Bank.

8. Composition of the Central Board, and term of office of Directors.

- (1) The Central Board shall consist of the following Directors, namely:
 - (a) a Governor and not more than four Deputy Governors to be appointed by the Central Government;
 - (b) four Directors to be nominated by the Central Government, one from each of the four Local Boards as constituted by section 9;
 - (c) ten Directors to be nominated by the Central Government; and
 - (d) two Government officials to be nominated by the Central Government;

第 4 條 本行之資本

本行之資本定為 5 千萬盧比。

第 5 條 股本之增減

(刪除)。

第 6 條 辦公處所、分行及代理機構

本行應儘速於孟買、加爾各答、德里及馬德拉斯等地設立辦公處所，並得經中央政府許可，於印度其他地區設立分行及代理機構。

第 7 條 管理

- (1) 中央政府基於維護公共利益之必要性，得於洽徵本行總裁意見後，隨時向本行下達指令。
- (2) 理事會依據前項指令，對本行一切事務及營運業務具有一般監督及指揮權，並得行使本行各項權力，及執行或施行各項措施或行為。
- (3) 除理事會頒訂之法令另有規定外，總裁缺席時，由其所指定代行職務之副總裁，對本行一切事務及營運業務具有一般監督及指揮權，並得行使本行各項權力，及執行或施行各項措施或行為。

第 8 條 理事會之組成、理事之任期

- (1) 理事會由下列人員組成：
 - (a) 由中央政府所任命之總裁 1 人，及不超過 4 人之副總裁。
 - (b) 中央政府所任命之理事 4 人，分別由依本法第 9 條規定所組成 4 個區域委員會之成員出任。
 - (c) 中央政府所任命之理事 10 人。
 - (d) 中央政府所任命之政府官員 2 人。

- (2) The Governor and Deputy Governors shall devote their whole time to the affairs of the Bank, and shall receive such salaries and allowances as may be determined by the Central Board, with the approval of the Central Government:

Provided that the Central Board may, if in its opinion it is necessary in the public interest so to do, permit the Governor or a Deputy Governor to undertake, at the request of the Central Government or any State Government, such part-time honorary work, whether related to the purposes of this Act or not, as is not likely to interfere with his duties as Governor or Deputy Governor, as the case may be:

Provided further that the Central Government may, in consultation with the Bank, appoint a Deputy Governor as the Chairman of the National Bank, on such terms and conditions as that Government may specify.

- (3) A Deputy Governor and the Director nominated under clause (d) of sub-section (1) may attend any meeting of the Central Board and take part in its deliberations but shall not be entitled to vote:

Provided that when the Governor is, for any reason, unable to attend any such meeting, a Deputy Governor authorised by him in this behalf in writing may vote for him at that meeting.

- (4) The Governor and a Deputy Governor shall hold office for such term not exceeding five years as the Central Government may fix when appointing them and shall be eligible for re-appointment.

A Director nominated under clause (c) of sub-section (1) shall hold office for a period of four years and shall be eligible for reappointment:

Provided that any such Director shall not be appointed for more than two terms, that is, for a maximum period of eight years either continuously or intermittently.

A Director nominated under clause (d) of sub-section (1) shall hold office during the pleasure of the Central Government.

- (5) No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

- (6) [* * * *]

- (7) A retiring Director shall be eligible for re-nomination.

- (2) 總裁及副總裁應全職專任，其薪資及津貼，由理事會決定並報經中央政府同意。

於中央政府或州政府請求本行總裁、副總裁兼任與本法有關或無關之榮譽職務時，理事會認為於公共利益有必要，且無妨礙總裁、副總裁之職責者，得同意其兼任之。

中央政府於洽徵本行意見後，得任命副總裁 1 人，擔任國家銀行之主席，其任期及條件，由中央政府定之。

- (3) 依本條第(1)項第(d)款規定任命之副總裁 1 人及理事，得出席理事會之任何會議並參與審議，惟不得行使表決權。

總裁因故無法參加會議時，得以書面指派副總裁 1 人代為行使表決權。

- (4) 總裁及副總裁之任期不得超過 5 年；其個別之任期由中央政府於任命時指定，任期屆滿後如經再次任命，並得予續任。

依本條第(1)項第(c)款規定任命之理事，其任期為 4 年，任期屆滿後得再予任命。任何理事不得連任超過二屆，無論其任期係為連續或有間斷，其任期合計最長為 8 年。

依本條第(1)項第(d)款規定任命之理事，應隨其於中央政府之職務而異動。

- (5) 理事會之決議或程序，不得僅因理事缺席或其組成之瑕疵而受質疑。

- (6) (刪除)。

- (7) 離任之理事得再予任命。

9. Local Boards, their constitution and functions.

- (1) A Local Board shall be constituted for each of the four areas specified in the First Schedule and shall consist of five members to be appointed by the Central Government to represent, as far as possible, territorial and economic interests and the interests of co-operative and indigenous banks.
- (2) The members of the Local Board shall elect from amongst themselves one person to be the chairman of the Board.
- (3) Every member of a Local Board shall hold office for a term of four years and shall be eligible for reappointment:
Provided that any such Director shall not be appointed for more than two terms, that is, for a maximum period of eight years either continuously or intermittently.
- (4) A Local Board shall advise the Central Board on such matters as may be generally or specifically referred to it and shall perform such duties as the Central Board may delegate to it.

10. Disqualifications of Directors and members of Local Boards.

- (1) No person may be a Director or a member of a Local Board who -
 - (a) is a salaried Government official or
 - (b) is, or at any time has been, adjudicated an insolvent, or has suspended payment or has compounded with his creditors, or
 - (c) is found lunatic or becomes of unsound mind, or
 - (d) is an officer or employee of any bank, or
 - (e) is a Director of a banking company within the meaning of clause (c) of section 5 of the Banking Regulation Act, 1949, or of a co-operative bank.
- (2) No two persons who are partners of the same mercantile firm, or are Directors of the same private company, or one of whom is the general agent of or holds a power of procuration from the other, or from a mercantile firm of which the other is a partner, may be Directors or members of the same Local Board at the same time.
- (3) Nothing in clause (a), clause (d) or clause (e) of sub-section (1) shall apply to the Governor, or to a Deputy Governor, or to the Director nominated under clause (d) of sub-section (1) of section 8.

第 9 條 區域委員會之組成及功能

- (1) 區域委員會由本法附表一所列 4 個區域所組成，其成員包含由中央政府任命之代表 5 人。選任委員時，應將地域性、經濟性之利益，及合作銀行與當地銀行業之權益納入考量。
- (2) 區域委員會應由成員中相互推選 1 人，擔任委員會之主席。
- (3) 區域委員會之委員，其任期為 4 年，任期屆滿後得再予任命。任何委員不得連任超過 2 屆，無論其任期係為連續或有間斷，其任期合計最長為 8 年。
- (4) 區域委員會應就與其有關之一般或特定事項，向理事會提供建議，並應執行理事會交付之任務。

第 10 條 理事及區域委員會成員之消極資格

- (1) 下列人員不得擔任理事或區域委員會之成員：
 - (a) 政府部門有給職官員。
 - (b) 破產、曾經宣告破產、無力清償債務或與債務人達成償債和解者。
 - (c) 患有精神疾病或心智障礙者。
 - (d) 銀行之幹部或受雇人員。
 - (e) 擔任「1949 年銀行管理法」第 5 條第(c)款規定所稱銀行業務公司或合作銀行之董事。
- (2) 2 人為同一商業行號之合夥人，或為同一私人公司董事，或其中 1 人為另 1 人或另 1 人合夥經營之商業行號之一般代理人或訴訟代理人者，該 2 人均不得同時擔任理事會之理事或同一區域委員會之委員。
- (3) 第(1)項第(a)款、第(d)款及第(e)款之規定，於總裁、副總裁或依第 8 條第(1)項第(d)款規定任命之理事，不適用之。

11. Removal from and vacation of office.

- (1) The Central Government may remove from office the Governor, or a Deputy Governor or any other Director or any member of a Local Board.
- (2) A Director nominated under clause (b) or clause (c) of sub-section (1) of section 8 shall cease to hold office if without leave from the Central Board he absents himself from three consecutive meetings of the Board convened under sub-section (1) of section 13.
- (3) The Central Government shall remove from office any Director and the Central Board shall remove from office any member of a Local Board, if such Director or member becomes subject to any of the disqualifications specified in sub-section (1) or sub-section (2) of section 10.
- (4) A Director or member of a Local Board removed or ceasing to hold office, under the foregoing sub-sections shall not be eligible for re-appointment either as Director or as member of a Local Board until the expiry of the term for which his appointment was made.
- (5) The nomination as Director or member of a Local Board of any person who is a member of Parliament or the Legislature of any State shall be void, unless, within two months of the date of his nomination, he ceases to be such member, and, if any Director or member of a Local Board is elected or nominated as a member of Parliament or any such Legislature, he shall cease to be a Director or member of the Local Board as from the date of such election or nomination, as the case may be.
- (6) A Director may resign his office to the Central Government, and a member of a Local Board may resign his office to the Central Board, and on the acceptance of the resignation the office shall become vacant.

12. Casual Vacancies and absences

- (1) If the Governor or a Deputy Governor by infirmity or otherwise is rendered incapable of executing his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Central Government may, after consideration of the recommendations made by the Central Board in this behalf, appoint another person to officiate for him, and such person may, notwithstanding anything contained in clause (d) of sub-section (1) of section 10, be an officer of the Bank.

第 11 條 解任及去職

- (1) 中央政府得對總裁、副總裁、其他理事及區域委員會之委員予以解任。
- (2) 依第 8 條第(1)項第(b)款及第(c)款規定任命之理事，連續 3 次無故未出席依本法第 13 條第(1)項規定召開之理事會會議時，應終止其職務。
- (3) 理事及區域委員會之委員，有第 10 條第(1)項或第(2)項所定消極資格之情事時，應分別由中央政府解任該理事，及由理事會解任該區域委員會之委員。
- (4) 依前述各項規定解任或終止職務之理事或區域委員會之委員，於該屆任期屆滿前，不具續任資格。
- (5) 經任命為理事或區域委員會之委員，其同時具有國會議員或州議員之身分者，除被任命人自受任命之日起 2 個月內喪失國會議員或州議員之身分外，該項任命為無效。理事或區域委員會之委員因選舉或經任命，出任國會議員或州議員時，應停止執行其理事或區域委員會委員之職務。
- (6) 理事之辭任，應向中央政府為之；區域委員會委員之辭任，應向理事會為之。其職位，於辭任經批准時起出缺。

第 12 條 臨時出缺及缺席

- (1) 總裁、副總裁因身體不適或其他原因經認定無法執行職務，或因請假或其他非任職中之休假而缺席時，中央政府於徵詢理事會之意見後，得任命其他人員代行總裁、副總裁之職務。該代理職務之人員，無論是否具備第 10 條第(1)項第(d)款之身分，均視為本行之職員。

- (2) [*****]
- (3) Where any casual vacancy in the office of any member of a Local Board occurs the Central Board may nominate thereto any person recommended by the other members of the Local Board.
- (4) Where any casual vacancy occurs in the office of a Director other than the vacancies provided for in sub-section (1), the vacancy shall be filled by the Central Government.
- (5) A person nominated under this section to fill a casual vacancy shall hold office for the unexpired portion of the term of his predecessor.

13. Meetings of the Central Board.

- (1) Meetings of the Central Board shall be convened by the Governor at least six times in each year and at least once in each quarter.
- (2) Any four Directors may require the Governor to convene a meeting of the Central Board at any time and the Governor shall forthwith convene a meeting accordingly.
- (3) The Governor, or if for any reason, he is unable to attend, the Deputy Governor authorized by the Governor under the proviso to subsection (3) of section 8 to vote for him, shall preside at meetings of the Central Board, and, in the event of an equality of votes, shall have a second or casting vote.

14. to 16. General meetings. First constitution of the Central Board. First constitution of Local Board.

[Rep. by the Act 62 of 1948, s.7 and Sch. (w.e.f. 1-1-1949).]

17. Business which the Bank may transact.

The Bank shall be authorized to carry on and transact the several kinds of business hereinafter specified, namely:

- (1) the accepting of money on deposit without interest from and the collection of money for, the Central Government, the State Governments local authorities, banks and any other persons;

- (2) (刪除)。
- (3) 區域委員會之委員有臨時出缺之情形時，理事會得依區域委員會其他委員之建議，任命其他人員遞補。
- (4) 本條第(1)項人員以外之理事臨時出缺時，該缺額由中央政府任命人員遞補之。
- (5) 依本條規定受任命遞補人員之任期，至原任人員之任期屆滿時為止。

第 13 條 理事會會議

- (1) 理事會會議由總裁召集，每年至少 6 次，且每季至少 1 次。
- (2) 理事有 4 人以上之連署，即得隨時請求總裁召集理事會；總裁並應依其請求召開理事會會議。
- (3) 理事會會議由總裁主持。總裁無法出席時，得依第 8 條第(3)項之規定，授權副總裁主持會議並代理行使表決權。如表決結果正反票數相同時，主席可進行第 2 次表決，或由主席逕行裁決之。

第 14 條 一般性會議

(刪除)。

第 15 條 理事會第一次會議

(刪除)。

第 16 條 區域委員會第一次會議

(刪除)。

第 17 條 本行業務

本行依本法之授權，辦理下列業務：

- (1) 無息收受中央政府、州政府、當地政府機關、銀行及任何其他人之現金或存款。

- (2) (a) the purchase, sale and rediscount of bills of exchange and promissory notes, drawn on and payable in India and arising out of bona fide commercial or trade transactions bearing two or more good signatures, one of which shall be that of a scheduled bank or a State co-operative bank or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and maturing,
- (i) in the case of bills of exchange and promissory notes arising out of any such transaction relating to the export of goods from India, within one hundred and eighty days, and
- (ii) in any other case, within ninety days, from the date of such purchase or rediscount exclusive of days of grace;
- (b) the purchase, sale and rediscount of bills of exchange and promissory notes, drawn and payable in India and bearing two or more good signatures, one of which shall be that of a scheduled bank or a State co-operative bank or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and drawn or issued for the purpose of discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and drawn or issued for the purpose of discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and drawn or issued for the purpose of discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and drawn or issued for the purpose of discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and drawn or issued for the purpose of discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf and drawn or issued for the purpose of financing agricultural operations or the marketing of crops, and maturing within fifteen months from the date of such purchase or rediscount, exclusive of days of grace;

- (2) (a) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票須因實際商業行為或貿易交易而簽發，並有 2 人以上之背書，其中之一背書人應為附表銀行、州立合作銀行，或經本行核准以承兌或貼現匯票或本票為主要業務之金融機構。匯票或本票之到期日，自買入或重貼現之日起：
- (i) 因由印度出口貨物有關交易所簽發之匯票或本票者，應在 180 日以內。
 - (ii) 因其他原因簽發者，於扣除寬限期間後，自買入或重貼現之日起算，應在 90 日以內。
- (b) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票須因實際商業行為或貿易交易而簽發，並有 2 人以上之背書，其中之一背書人應為附表銀行、州立合作銀行，或經本行核准以承兌或貼現匯票、本票或辦理以重貼現為主要業務之金融機構。匯票或本票簽發或發行之目的，在於對農業營運或穀物行銷之融通，而其到期日於扣除寬限期間後，自買入或重貼現之日起算，應在 15 個月以內。

- (bb) the purchase, sale and rediscount of bills of exchange and promissory notes drawn and payable in India and bearing two or more good signatures, one of which shall be that of a State Co-operative bank or a State financial corporation or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf, and drawn or issued for the purpose of financing the production or marketing activities of cottage and small scale industries approved by the Bank and maturing within twelve months from the date of such purchase or rediscount, exclusive of days of grace, provided that the payment of the principal and interest of such bills of exchange or promissory notes is fully guaranteed by the State Government;
- (c) the purchase, sale and rediscount of bills of exchange and promissory notes drawn and payable in India and bearing the signature of a scheduled bank, and issued or drawn for the purpose of holding or trading in securities of the Central Government or a State Government and maturing within ninety days from the date of such purchase or rediscount, exclusive of days of grace;
- (3) (a) the purchase from and sale to scheduled banks of foreign exchange .
- (b) the purchase, sale and rediscount of bills of exchange (including treasury bills) drawn in or on any place in any country outside India which is a member of the International Monetary Fund and maturing,
 - (i) in the case of bills of exchange arising out of any bona fide transaction relating to the export of goods from India, within one hundred and eighty days, and
 - (ii) in any other case, within ninety days, from the date of such purchase or rediscount:

Provided that no such purchase, sale or rediscount shall be made in India except with a scheduled bank or a State co-operative bank;
- (3A) the making to any scheduled bank or State co-operative bank, of loans and advances, against promissory notes of such bank, repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days;

- (bb) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票應有 2 人以上之背書，其中之一背書人應為州立合作銀行、州立金融公司，或經本行核准以承兌或貼現匯票、本票或辦理以重貼現為主要業務之金融機構。匯票或本票簽發或發行之目的，在於對家庭工業、小型企業之生產或行銷行為之融通，而其到期日於扣除寬限期間後，自買入或重貼現之日起算，應在 12 個月以內。但此類匯票及本票本息之支付，應由州政府全額保證。
- (c) 買賣在印度境內簽發及付款之匯票、本票及辦理其重貼現。該匯票或本票應有附表銀行之背書。匯票或本票簽發或發行之目的，在於持有或買賣中央政府或州政府發行之有價證券，而其到期日於扣除寬限期間後，自買入或重貼現之日起算，應在 90 日以內。
- (3) (a) 對附表銀行買賣外匯。
- (b) 買賣國際貨幣基金會員國於印度境外所簽發之匯票，包含國庫券在內，或辦理該匯票之重貼現。匯票到期日，自買入或重貼現之日起算：
 - (i) 匯票因出口貨物實際交易有關而簽發者，應在 180 日以內。
 - (ii) 因其他原因簽發者，自買入或重貼現之日起算，應在 90 日以內。

除附表銀行或州立合作銀行以外，本行不得與其他銀行於印度買賣此類匯票或以其辦理重貼現。
- (3A) 對附表銀行或州立合作銀行以其簽發之本票而為之貸款或融通，該本票應為見票即付或定期清償，後者之到期日不得超過 180 日。

Provided that the borrowing bank furnishes a declaration in writing, to the effect that:

- (i) it holds bills of exchange arising out of any transaction relating to the export of goods from India, of a value not less than the amount of such loans or advances,
 - (a) drawn in India and on any place in any country outside India which is a member of the International Monetary Fund or in any other country notified in this behalf by the Bank in the Gazette of India, and
 - (b) maturing not later than one hundred and eighty days from the date of the loan or advance, and it will, so long as any part of such loans and advances remains unpaid, continue to hold such bills of exchange of a value not less than the amount of such loans or advances outstanding for the time being; or
 - (ii) it has granted a pre-shipment loan or advance to an exporter or any other person in India in order to enable him to export goods from India, the amount of the loan or advance drawn and outstanding at any time being not less than the outstanding amount of the loan or advance obtained by the borrowing bank from the Bank;
- (3B) the making to any scheduled bank or State co-operative bank of loans and advances repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days against promissory notes of such bank;
- Provided that the borrowing bank furnishes a declaration in writing to the effect that it has made loans and advances for bona fide commercial or trade transactions or for financing agricultural operations or the marketing of crops or for other agricultural purposes as set out in the declaration and the said declaration includes such other particulars as may be required by the Bank:
- (4) the making to local authorities, scheduled banks State co-operative banks and State Financial Corporations of loans and advances, repayable on demand or on the expiry of fixed periods not exceeding ninety days, against the security of –
 - (a) stocks, funds and securities (other than immovable property) in which a trustee is authorized to invest trust money by any Act of Parliament of the United Kingdom or by any law for the time being in force in India;

貸款行並應以書面提出下列聲明：

- (i) 該行持有由印度出口貨物交易而簽發之匯票，其金額不低於貸款或融通之金額；且
 - (a) 該匯票在印度境內、國際貨幣基金會會員國或本行於政府公報公告之其他國家付款。
 - (b) 匯票到期日自貸款或融通之日起算，不得超過 180 日；於該貸款或融通金額未全部清償前，該行將繼續持有該相關匯票，且持有金額將不低於貸款或融通當時之未償餘額；或
 - (ii) 該行已對印度境內之出口商或其他人核貸出貨前貸款或融通，俾其得自印度出口貨物。該出口商或其他人所提領之貸款或融通餘額，不低於該行自本行所貸得或墊借之餘額。
- (3B) 對附表銀行或州立合作銀行以其簽發之本票而為之貸款或融通，該本票應為見票即付或定期清償，後者之到期日不得超過 180 日。
- 貸款行應以書面聲明該貸款或融通係因商業或貿易之實際交易所需，或為農業營運、穀物行銷或其他於聲明所述農業目的之融通者所需。該聲明並應包含本行要求之其他特定事項。
- (4) 對地方政府機關、附表銀行、州立合作銀行、州立金融公司以下列標的物所為貸款或融通，該本票應為見票即付或定期付款，後者之到期日不得超過 90 日：
 - (a) 股票、基金及受託人依英國法律或印度現行法，有權投資信託資金之有價證券（不包含不動產）。

- (b) gold or silver or documents of title to the same;
- (c) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government;
- (d) promissory notes of any scheduled bank or State Co-operative bank, supported by documents of title to goods [such documents having been transferred], assigned, or pledged to any such bank as security for a loan or advance made for bona fide commercial or trade transactions, or for the purpose of financing agricultural operations or the marketing of crops:

Provided that loans and advances made against the security of bills of exchange and promissory notes arising out of any transaction relating to the export of goods from India shall be repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days;

- (4A) the making to any State Financial Corporation, of loans and advances repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government or of any State Government, of any maturity, or against bonds and debentures issued by that Corporation and guaranteed by the State Government concerned and maturing within a period not exceeding eighteen months from the date of such loan or advance:

Provided that the previous approval of the State Government shall be obtained for the borrowing by the State Financial Corporation and the amount of loans and advances granted to that Corporation under this clause shall not, at any time, exceed in the aggregate twice the paid up share capital thereof;

- (4AA) the making of annual contributions to the National Rural Credit (Long Term Operations) Fund and the National Rural Credit (Stabilisation) Fund established under sections 42 and 43, respectively, of the National Bank for Agriculture and Rural Development Act, 1981;

- (b) 黃金、白銀或其所有權之憑證。
- (c) 本行依法得買賣或辦理重貼現之匯票或本票，或其本息經州政府全額保證付款之匯票或本票。
- (d) 附表銀行或州立合作銀行之本票；該本票係因農業營運或穀物行銷所需之融資，或因實際商業或貿易交易所發生之貸款或融通，且以轉讓貨物權利憑證交予貸款或融通銀行作為擔保。

前項以自印度出口貨物有關交易所簽發之匯票或本票為見票即付或定期付款，後者之到期日不得超過 180 日。

- (4A) 對州立金融公司所提供之貸款或融通，以中央政府或州政府之有價證券為擔保者，相關有價證券之到期日無限制；以該州立金融公司所發行，經州政府保證之債券或金融債券為擔保者，相關債券或金融債券之到期日，自該貸款或融通之日起算，不得超過 18 個月。

前項借款應由州立金融公司於事前向管轄州政府取得許可，本行依前項條件所貸與或融通之總餘額，不得超過該州立金融公司已繳足股款之 2 倍。

- (4AA) 對依「1981 年國家農業及農村發展國家銀行法」第 42 條及第 43 條規定設立之國家農村信用（長期營運）基金及國家農村信用（穩定）基金為捐助。

- (4B) the making to the Industrial Finance Corporation of India of loans and advances,
- (a) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date of such loan or advance, against securities of the Central Government or of any State Government; or
 - (b) repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government of any maturity or against bonds and debentures issued by the said Corporation and guaranteed by the Central Government and maturing within a period not exceeding eighteen months from the date of such loan or advance:
- (4BB) the making to any financial institution notified by the Central Government in this behalf, of loans and advances,
- (a) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date of such loan or advance, against the securities of the Central Government or of any State Government, or
 - (b) repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government or of any State Government, of any maturity, or against bonds and debentures issued by that financial institution and guaranteed by the Central Government or any State Government, and maturing within a period not exceeding eighteen months from the date of such loan or advance:

Provided that the amount of loans and advances granted to a financial institution under sub-clause (b) shall not, at any time, exceed in the aggregate sixty per cent, of the paid-up share capital thereof;

- (4B) 對印度工業金融公司所為之貸款或融通：
- (a) 以中央政府或州政府之有價證券為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 日。
 - (b) 以中央政府發行，到期日不限定之有價證券為擔保，或以工業金融公司所發行，經中央政府保證，且到期日自該貸款或融通之日起不超過 18 個月之債券或金融債券為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 18 個月。
- (4BB) 依中央政府之通知，對金融機構辦理貸款或融通：
- (a) 以中央政府或州政府之有價證券為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 日。
 - (b) 以中央政府或州政府發行，到期日不限定之有價證券為擔保，或以金融機構所發行，經中央政府或該州政府保證，且到期日自該貸款或融通之日起不超過 18 個月之債券或金融債券為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 18 個月。
- 依第(b)款之貸款或融通，其餘額不得超過該金融機構實收資本額之 60 %。

(4BBB) the making to the Unit Trust of loans and advances:

- (i) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;
- (ii) repayable on demand or within a period of eighteen months from the date of such loan or advance against the security of the bonds of the Unit Trust issued with the approval of and guaranteed by the Central Government;
- (iii) for the purpose of any scheme other than the first unit scheme under the Unit Trust of India Act, 1963 on such terms and conditions and against the security of such other property of the Unit Trust as may be specified in this behalf by the Bank;

(4C) the making to a Warehousing Corporation established under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956, of loans and advances,

- (a) repayable on demand or on the expiry of fixed periods not exceeding ninety days, from the date of such loan or advance, against securities of the Central Government or of any State Government, or
- (b) repayable on the expiry of fixed periods not exceeding eighteen months from the date of such loan or advance, against securities of the Central Government or of any State Government, of any maturity, or against bonds and debentures issued by the Corporation to which the loan or advance is made, and guaranteed by the Central or a State Government, and maturing within a period not exceeding eighteen months from the date of such loan or advance:

Provided that the amount of loans and advances granted under clause (b) shall not at any time exceed, in the aggregate, three crores of rupees in the case of the Central Warehousing Corporation and fifty lakhs of rupees in the case of a State Warehousing Corporation;

(4BBB) 對單位信託辦理貸款或融通：

- (i) 以受託人依本國法律管理信託基金所投資之股票、基金或有價證券(不包括不動產)等標的為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自貸款或融通之日起，不得超過 90 日。
- (ii) 以中央政府同意發行並經其保證之單位信託債券為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自貸款或融通之日起，應在 18 個月以內。
- (iii) 「1963 年印度單位信託法」規定第一類單位信託計畫外之其他用途，其還款及以單位信託資產為擔保之條件，由本行另訂之。

(4C) 對依「1956 年農業生產(發展及倉儲)公司法」規定設立之「倉儲公司」辦理貸款或融通：

- (a) 以中央政府或州政府之有價證券為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自貸款或融通之日起，不得超過 90 日。
- (b) 以中央政府或州政府發行，到期日不限定之證券為擔保，或以該倉儲公司發行經中央政府或州政府保證，到期日自該貸款或融通之日起 18 個月之債券或金融債券為擔保者，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自貸款或融通之日起，不得超過 18 個月。
依第(b)款之貸款及融通餘額，於中央倉儲公司，不得過 3 千萬盧比；於州立倉儲公司，不得超過 5 百萬盧比。

- (4D) the making to the Deposit Insurance Corporation of loans and advances; and generally assisting the Corporation in such manner and on such terms as may be determined by the Central Board;
- (4DD) the making to the National Housing Bank of loans and advances and generally assisting the National Housing Bank in such manner and on such terms as may be determined by the Central Board;
- (4E) the making to the National Bank of loans and advances repayable on demand or on the expiry of fixed period not exceeding eighteen months from the date of making of the loan or advance, either-
 - (i) against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (ii) on such other terms and conditions as the Bank may specify;
- (4F) contributing to the initial capital of the Unit Trust;
- (4G) the making of loans and advances to, and the purchasing of bonds and debentures of, the Exim Bank or the Reconstruction Bank or the Small Industries Bank out of the National Industrial Credit (Long Term Operations) Fund established under section 46C;
- (4GG) the making of loans and advances to, and the purchasing of bonds and debentures of, the National Housing Bank out of the National Housing Credit (Long Term Operations) Fund established under section 46D;
- (4H) the making to the Small Industries Bank of loans and advances -
 - (a) repayable on demand or on the expiry of fixed periods not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;

- (4D) 對「存款保險公司」辦理貸款或融通，並依理事會決議所訂之條件及期限，對該公司為一般性協助。
- (4DD) 對「國家住宅銀行」辦理貸款或融通，並依理事會決議所訂之條件及期限，對該公司為一般性協助。
- (4E) 對「國家銀行」所為之下列貸款或融通，該貸款或融通應於請求時，即為清償；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 18 個月：
 - (i) 以受託人依印度法律有權投資信託資金之股票、基金或有價證券為擔保。
 - (ii) 本行所指定之期限及條件。
- (4F) 對單位信託創始資本之投資。
- (4G) 以依第 46C 條設立之「國家工業信用（長期營運）基金」，對「輸出入銀行」、「重建銀行」或「小型工業銀行」辦理貸款或融通，或購買其發行之債券或金融債券。
- (4GG) 以依第 46D 條設立之「國家住宅信用（長期營運）基金」，對「國家住宅銀行」辦理貸款或融通，或購買其發行之債券或金融債券。
- (4H) 對「小型工業銀行」辦理貸款或融通：
 - (a) 以受託人依印度法律有權投資信託資金之股票、基金及有價證券（不包含不動產）為擔保者，其貸款及融通應於請求時，即為償付；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 日。
 - (b) 以匯票或本票為擔保，此類票據係因實際之商業或貿易交易所發生，經 2 人以上之背書，其到期日自貸款或融通之日起，應在 5 年以內。

- (4I) the making to scheduled banks, the Exim Bank or the Reconstruction Bank or the Small Industries Bank, the Industrial Finance Corporation and any other financial institution as may, on the recommendation of the Bank, be approved in this behalf by the Central Government of loans and advances repayable on demand or otherwise and against such security and on such other terms and conditions as may be approved in this behalf by the Central Board for the purpose of enabling such banks, or financial institution, as the case may be, to purchase foreign exchange from the Bank for the purpose of financing the import of capital goods or for such other purposes as may be approved by the Central Government;
- (4J) the making to the Exim Bank of loans and advances –
- (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;
- (4K) the making to the Reconstruction Bank of loans and advances –
- (a) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or
 - (b) against the security of bills of exchange or promissory notes, arising out of bona fide commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;

- (4I) 為辦理資本財之進口融資，或其他經中央政府核准同意之其他用途，於報請中央政府核准，對「附表銀行」、「輸出入銀行」、「重建銀行」、「小型工業銀行」、「工業金融公司」及其他金融機構之貸款或融通者，應於請求時，即為償付；或辦理依理事會核定之有關擔保品、融通期限或其他條件，向本行購買外匯，以利辦理資本財進口融資，或為中央政府核准同意之其他用途。
- (4J) 對「輸出入銀行」辦理貸款或融通：
- (a) 以受託人依印度法律有權投資信託資金之股票、基金及有價證券（不包含不動產）為擔保者，其貸款及融通應於請求時，即為償付；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 日。
 - (b) 以匯票或本票為擔保，需此等票據係因實際之商業或貿易交易而生，並經 2 人以上之背書，其貸款及融通應於請求時，即為償付；如為定期清償，其到期日，應在 5 年以內。
- (4K) 對「重建銀行」辦理貸款或融通：
- (a) 以受託人依印度法律有權投資信託資金之股票、基金及有價證券（不包含不動產）為擔保者，其貸款及融通應於請求時，即為償付；如為定期清償，其到期日，自該貸款或融通之日起，不得超過 90 日。
 - (b) 以匯票或本票為擔保，需此等票據係因實際之商業或貿易交易所發生，經 2 人以上之背書，其貸款及融通應於請求時，即為償付；如為定期清償，其到期日，應在 5 年以內。

- (5) the making to the Central Government and State Governments of advances repayable in each case not later than three months from the date of the making of the advance;
- (6) the issue of demand drafts, telegraphic transfers and other kinds of remittances made payable at its own offices or agencies, the purchase of telegraphic transfers, and the making, issue and circulation of bank post bills;
- (6A) dealing in derivatives, and, with the approval of the Central Board, in any other financial instrument.

Explanation. For the purposes of this clause, "derivative" means an instrument, to be settled at a future date, whose value is derived from change in one or a combination of more than one of the following underlyings, namely:

- (a) interest rate,
- (b) price of securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government,
- (c) price of foreign securities,
- (d) foreign exchange rate,
- (e) index of rates or prices,
- (f) credit rating or credit index,
- (g) price of gold or silver coins, or gold or silver bullion, or
- (h) any other variable of similar nature;
- (7) [*****]
- (8) the Purchase and sale of securities of the Central Government or a State Government of any maturity or of such securities of a local authority as may be specified in this behalf by the Central Government on the recommendation of the Central Board:

Provided that securities fully guaranteed as to principal and interest by any such Government or authority shall be deemed for the purposes of this clause to be securities of such government or authority;

- (5) 對中央政府及州政府所辦理之各項融通，其融通清償日自各融通之日起算，不得超過 3 個月。
- (6) 於本行辦公處所或代理機構，辦理即期匯票之簽發、電報匯款或其他種類之匯款者，有關電報匯款之解付，及銀行匯票之簽發、發行及流通等事項。
- (6A) 經理事會之核准，從事衍生性或其他金融商品之交易：
解釋：就本條之目的而言，「衍生性商品」係指於未來特定日期結算之金融工具，其價值來自於下列計價基礎中一個或多個組合之變化所衍生之交易契約：
(a) 利率。
(b) 中央政府或州政府之有價證券價格；或中央政府許可由地方機關所發行之有價證券價格。
(c) 外國有價證券之價格。
(d) 外匯牌價。
(e) 利率或價格指數。
(f) 信用等級或信用指數。
(g) 金幣（條）或銀幣（條）之價格。
(h) 其他類似上述性質者。
- (7) (刪除)。
- (8) 依理事會建議，並經中央政府之核准，買賣中央政府、州政府或地方政府（機關）發行，到期日不限定之有價證券。
有價證券之本息由各該政府或地方機關全額保證者，應視為本款規定之各該政府或地方機關發行之有價證券。

- (8A) the purchase and sale of shares in, or the capital of the National Bank the Deposit Insurance Corporation, the State Bank or any other bank or financial institution notified by the Central Government in this behalf;
- (8AA) the promoting, establishing, supporting or aiding in the promotion, establishment and support of any financial institution, whether as its subsidiary or otherwise;
- (8B) the keeping of deposits with the State Bank for such specific purposes as may be approved by the Central Government in this behalf;
- (9) the custody of monies, securities and other articles of value, and the collection of the proceeds, whether principal, interest or dividends, of any such securities;
- (10) the sale and realisation of all property, whether movable or immovable, which may in any way come into the possession of the Bank in satisfaction, or part satisfaction, of any of its claims;
- (11) the acting as agent for the Central Government or any State Government or any local authority or the Industrial Finance Corporation of India or any other body corporate which is established or constituted by or under any other law or the Government of any such country outside India or such country outside India or such country outside India or any such person or authority as may be approved in this behalf by the Central Government in the transaction of any of the following kinds of business, namely:
 - (a) the purchase and sale of gold or silver or foreign exchange;
 - (b) the purchase, sale, transfer and custody of bills of exchange, securities or shares in any company;
 - (c) the collection of the proceeds, whether principal, interest or dividends, of any securities or shares;
 - (d) the remittance of such proceeds, at the risk of the principal, by bills of exchange payable either in India or elsewhere;
 - (e) the management of public debt;
 - (f) the issue and management of bonds and debentures;

- (8A) 依中央政府之通知，買賣「國家銀行」、「存款保險公司」、「州立銀行」或其他銀行、金融機構之股票。
- (8AA) 促進、建立、支持或協助金融機構或其子公司(銀行)之升級、設立及維持。
- (8B) 依中央政府許可之特定目的，收受「州立銀行」之存款。
- (9) 保管金錢、有價證券及其他有價值之物品，並收取該等有價證券之本金、利息或股息等。
- (10) 本行因請求權之行使而獲得債權全部或部分清償之資產，無論其為動產或不動產，其出售及變現等相關事宜。
- (11) 依中央政府之許可，為中央政府、州政府或其他地方機關，或印度工業金融公司，或依其他法律設立或組成之公司法人、其他國家之政府、中央政府所許可之人或機關，辦理下列業務：
 - (a) 黃金、白銀或外匯之買賣。
 - (b) 公司匯票、有價證券或股份之買賣、移轉或保管。
 - (c) 收取所保管有價證券之本金、利息或股息等。
 - (d) 前項收益之匯款，無論係以印度境內或其他地方為匯票付款地，其本金之風險由委託人承擔。
 - (e) 公共債務之管理。
 - (f) 債券或金融債券之發行及管理。

- (11A) the acting as agent for the Central Government,
- (a) in guaranteeing the due performance by any small scale industrial concern, approved by the Central Government, of its obligations to any bank or other financial institution in respect of loans and advances made, or other credit facilities provided, to it by such bank or other financial institution and the making as such agent of payments in connection with such guarantee, and
 - (b) in administering any scheme for subsidising the rate of interest or other charges in relation to any loans or advances made, or other credit facilities provided, by banks or other financial institutions for the purpose of financing or facilitating any export from India and the making as such agent of payments on behalf of the Central Government;
- (12) the purchase and sale of gold or silver coins and gold and silver bullion and foreign exchange and the opening of a gold account with the principal currency authority of any foreign country or the Bank for International Settlements or any international or regional bank or financial institution formed by such principal currency authority or authorities or by the Government of any foreign country;
- (12A) the purchase and sale of securities issued by the Government of any country outside India or by any institution or body corporate established outside India and expressed to be payable in a foreign currency or any international or composite currency unit, being in the case of purchase by the Bank securities maturing within a period of ten years from the date of purchase:
- Provided that in the case of securities of an institution or body corporate, the repayment of principal and payment of interest in respect of such securities shall be guaranteed by the Government of the country concerned;
- (12AA) lending or borrowing of securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities;
- (12AB) dealing in repo or reverse repo:
- Provided that lending or borrowing of funds by way of repo or reverse repo shall not be subject to any limitation contained in this section.

- (11A) 為中央政府經理下列事項：
- (a) 擔保中央政府所核定之小規模產業對銀行或金融機構到期應付款項，包含該銀行或其他金融機構對該小型工業之貸款、融通或其他授信所生債務。
 - (b) 代理中央政府監管有關銀行或其他金融機構辦理為增進印度出口之目的之貸款或融通，或其他信貸服務之利率或其他費用補助之各項計畫。
- (12) 買賣金幣、銀幣、金銀條塊、外匯，以及於外國主要貨幣當局、國際清算銀行、國際或區域性銀行，或由該國貨幣當局、主管機關或外國政府所有之金融機構，開立黃金帳戶。
- (12A) 買賣印度以外之外國政府機構或公司法人所發行，載明以外幣、國際通用或混合貨幣支付之有價證券；購買銀行有價證券者，其到期日自購買之日起算，應在 10 年以內。
- 但外國機構或公司法人所發行之有價證券，其本金及利息之支付，須經該國政府之保證。
- (12AA) 貸放或貸入中央政府、州政府或地方機關所發行之有價證券，得以中央政府所指定者或外國證券為之。
- (12AB) 附買回/賣回交易之處理：
- 以附買回/賣回交易方式貸放或貸入之資金，不受本項規定之限制。

Explanation. For the purposes of this clause:

- (a) "repo" means an instrument for borrowing funds by selling securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to repurchase the said securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed;
- (b) "reverse repo" means an instrument for lending funds by purchasing securities of the Central Government or a State Government or of such securities of a local authority as may be specified in this behalf by the Central Government or foreign securities, with an agreement to resell the said securities on a mutually agreed future date at an agreed price which includes interest for the funds lent;
- (12B) the making of loans and advances in foreign currencies to scheduled banks, the Exim Bank, the Reconstruction Bank or the Small Industries Bank, the Industrial Finance Corporation, any State Financial Corporation and any other financial institution as may, on the recommendation of the Bank, be approved by the Central Government and on such terms and conditions as may be specified by the Central Board in this behalf, against promissory notes of such bank or financial institution, as the case may be:
 Provided that the borrowing bank or financial institution, as the case may be, furnishes a declaration in writing to the effect that –
 - (a) it has made loans and advances in foreign currencies for financing international trade or for the import of capital goods or for such other purposes as may be approved by the Central Government; and
 - (b) that the amount of loans or advances so made and outstanding at any time will not be less than the outstanding amount of the loans or advances obtained by it from the Bank;

以下解釋僅適用於本條款：

- (a) 「附買回交易」係指為貸入資金而以中央政府、州政府或地方政府機關發行之有價證券或外國政券為擔保品，經雙方合意約定於將來特定期日，按約定之價格（包含貸入資金之利息）買回該證券之交易協議。
- (b) 「附賣回交易」係指為貸放資金而買入中央政府、州政府或地方政府機關發行之有價證券或外國政券，經雙方合意約定於將來特定期日，按約定之價格（包含貸放資金之利息）回售該證券之交易協議。
- (12B) 依本行建議，並經中央政府之許可，以及依理事會所規定期限及條件，對「附表銀行」、「輸出入銀行」、「建設銀行」或「小型工業銀行」、「工業金融公司」、「州立金融公司」及其他金融機構所為之外幣貸款或融通，而以借款行或金融機構之本票為擔保者，該借款行或金融機構，應以書面聲明切結：
 - (a) 該銀行或金融機構業因國際貿易之融通、資本財物之進口或其他中央政府許可之目的，已辦理外幣貸款或融通。
 - (b) 已辦理貸款或融通之總額，或其未償付之金額，任何時候均不得低於其自本行所獲貸款或融通之未償付餘額。

(13) the opening of an account with an office outside India of any bank, including a bank incorporated in India or the making of an agency agreement with, and the acting as an agent or correspondent of, any bank incorporated outside India, or the principal currency authority of any country under the law for the time being in force in that country or any international or regional bank or financial institution formed by such principal currency authorities or foreign governments, and the investing of the funds of the Bank in the shares and securities of any such international or regional bank or financial institution or of any other foreign institution as may be approved by the Central Board in this behalf;

(13A) participation in any arrangement for the clearing and settlement of any amounts due from, or to, any person or authority on account of the external trade of India with any other country or group of countries or of any remittances to, or from, that country or group of countries, including the advancing, or receiving, of any amount in any currency in connection therewith, and, for that purpose, becoming, with the approval of the Central Government, a member of any international or regional clearing union of central banks, monetary or other authorities, or being associated with any such clearing arrangements, or becoming a member of any body or association formed by central banks, monetary or other similar authorities, or being associated with the same in any manner;

(14) the borrowing of money for a period not exceeding one month for the purposes of the business of the Bank, and the giving of security for money so borrowed:

Provided that no money shall be borrowed under this clause from any person in India other than a scheduled bank or from any person outside India outside India outside India other than a bank which is the principal currency authority of any country under the law for the time being in force in that country:

Provided further that the total amount of such borrowing from persons in India shall not at any time exceed the amount of the capital of the Bank:

(13) 對銀行之境外辦事處，包括在印度境內註冊之銀行，開立帳戶或簽訂代理機構合約；或擔任於印度境外註冊銀行依法為當時外國主要貨幣當局，或該外國貨幣國際或區域性銀行或金融機構之代理行或業務代表；經理事會核可，投資本行資金於國際或區域性銀行或金融機構之股份及有價證券。

(13A) 辦理印度與其他國家因貿易或匯款所生之應收或應付款項之結算及清算事宜；經中央政府許可，參與各種形式之跨國貨幣結算及清算機制；或成為國際性或區域性中央銀行組織之會員。

(14) 基於本行業務目的所為之放款，其期間不得超過 1 個月，借款人並應提供擔保。

依本款規定之放款對象，除附表銀行以外，不得包括在印度境內之其他任何人，或外國主要貨幣當局以外之銀行。

印度境內放款之總餘額，不得超過本行資本額。

- (15) the making and issue of bank notes subject to the provisions of this Act
- (15A) the exercise of powers and functions and the performance of duties entrusted to the Bank under this act or under any other law for the time being in force;
- (15B) the providing of facilities for training in banking and for the promotion of research, where, in the opinion of the Bank, such provision may facilitate the exercise by the Bank of its powers and functions, or the discharge of its duties;
- (16) generally, the doing of all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

18. Power of direct discount.

When, in the opinion of the Bank, a special occasion has arisen making it necessary or expedient that action should be taken under this section for the purpose of regulating credit in the interests of Indian trade, commerce, industry and agriculture, the Bank may, notwithstanding any limitation contained in trade, commerce, industry and agriculture, the Bank may, notwithstanding any limitation contained in trade, commerce, industry and agriculture, the Bank may, notwithstanding any limitation contained in section 17,

- (1) purchase, sell or discount any bill of exchange or promissory note though such bill or promissory note is not eligible for purchase or discount by the Bank under that section; or
- (2) [* * * *]
- (3) make loans or advances to :
 - (a) a State co-operative bank, or
 - (b) on the recommendation of a State co-operative bank, to a co-operative society registered within the area in which the State co-operative bank operates, or
 - (c) any other person, repayable on demand or on the expiry of fixed periods, not exceeding ninety days, on such terms and conditions as the Bank may consider to be sufficient.

- (15) 依本法之規定印製及發行鈔券。
- (15A) 依本法或其他有效法律所授予本行職務之行使及職責之履行。
- (15B) 提供對銀行業進行訓練及增進研究發展之相關設施，俾利本行職務之行使或職責之履行。
- (16) 其他依本法規定屬本行行使職務或履行職責之所有相關事宜或措施。

第 18 條 逕予重貼現之權限

本行為保護印度貿易、商業、工業或農業之利益，於特殊情況，依本條規定採行下列信用調節措施時，得不受第 17 條規定之限制：

- (1) 買賣不符合第 17 條規定之匯票、本票，或辦理其重貼現。
- (2) (刪除)。
- (3) 對下列機構之貸款或融通，應於請求時即予清償；如為定期清償，其到期日不得超過 90 日，其期限及條件由本行視情況定之：
 - (a) 州立合作銀行。
 - (b) 依州立合作銀行之建議，於其營運區域內立案之合作社。
 - (c) 其他人。

18A. Validity of loan or advance not to be questioned.

Notwithstanding anything to the contrary contained in any other law for the time being in force :

- (a) the validity of any loan or advance granted by the Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law as aforesaid or of any resolution, contract, memorandum, articles of association or other instrument:
Provided, that nothing in this clause shall render valid any loan or advance obtained by any company or co-operative society where such company or co-operative society is not empowered by its memorandum to obtain loans or advances;
- (b) where a loan or advance has been granted under clause (3A) or under clause (3B) of section 17 or a loan or advance granted under clause (3) of section 18 by the Bank to any person has been applied by such person, wholly or in part, in making a loan or advance to any borrowers, any sum received :
 - (i) by the borrowing bank on account of bills of exchange in respect of which the declaration under clause (i) of the proviso to clause (3A) of section 17 has been furnished or in repayment or realisation of the outstanding loans and advances referred to in clause (ii) of the said proviso or in the proviso to clause (3B) of the said section, or
 - (ii) by the borrowing bank or any other person in repayment or realisation of loans and advances granted to a borrower out of funds obtained by it or by him from the Bank under section 18, shall be utilised only for the repayment by the borrowing bank or other person, as the case may be, of the amounts due to be repaid by it or by him to the Bank, and shall be held by it or by him in trust for the Bank, until such time as the amounts are so repaid.

19. Business which the Bank may not transact.

Save as otherwise provided in sections 17, 18, 42 and 45, the Bank may not :

- (1) engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking except such interest as it may in any way acquire in the course of the satisfaction of any of its claims:
Provided that all such interests shall be disposed of at the earliest possible moment;
- (2) purchase the shares of any banking company or of any other company, or grant loans upon the security of any such shares;

第 18A 條 本行貸款或融通效力不容質疑

除其他法律另有規定外：

- (a) 本行依本法之規定所為貸款或融通之效力，不得因未符合前述其他現行法律、決議、契約、備忘錄、公司章程等之要求而被質疑。
但因個別公司或信用合作社之章程未授權該公司或信用合作社辦理貸款或融通者，各該公司或信用合作社不得援引上述規定作為貸款或融通行為有效之依據。
- (b) 本行依第 17 條第(3A)項或第(3B)項規定所核准之貸款或融通，或依第 18 條第(3)項規定所核准之貸款或融通，視下列個別情形，僅得於借款銀行或其他人於清償期屆至時向本行清償者，始得加以運用；於清償期屆至前，由借款行或該他人信託持有：
 - (i) 借款行依第 17 條第(3A)項(i)所為聲明有關之匯票業已提出、清償或兌付其依該項(ii)或同條第(3B)項所為之貸款或融通。
 - (ii) 借款行或其他人依第 18 條規定經本行核准之貸款或融通，業經借款行或該他人清償或兌付。

第 19 條 本行不得從事之業務

除第 17 條、第 18 條、第 42 條及第 45 條另有規定外，本行不得：

- (1) 從事貿易或其他與商業、工業或其他行業有直接利害關係之業務；其因行使法律上之請求權而取得之利益，應於最短時間內予以處分。
- (2) 購買金融公司或任何其他公司之股份，或以該等公司之股權為擔保而予以貸款。

- (3) advance money on mortgage of, or otherwise on the security of, immovable property or documents of title relating thereto, or become the owner of immovable property, except so far as is necessary for its own business premises and residences for its officers and servants;
- (4) make loans or advances;
- (5) draw or accept bills payable otherwise than on demand;
- (6) allow interest on deposits or current accounts.

CHAPTER III CENTRAL BANKING FUNCTIONS

20. Obligation of the bank to transact Government business.

The Bank shall undertake to accept monies for account of the Central Government and to make payments up to the amount standing to the credit of its account, and to carry out its exchange, remittance and other banking operations, including the management of the public debt of the Union.

21. Bank to have the right to transact Government business in India.

- (1) The Central Government shall entrust the Bank, on such conditions as may be agreed upon, with all its money, remittance, exchange and banking transactions in India, and, in particular, shall deposit free of interest all its cash balances with the Bank:
Provided that nothing in this sub-section shall prevent the Central Government from carrying on money transactions at places where the Bank has no branches or agencies, and the Central Government may hold at such places such balances as it may require.
- (2) The Central Government shall entrust the Bank, on such conditions as may be agreed upon, with the management of the public debt and with the issue of any new loans.
- (3) In the event of any failure to reach agreement on the conditions referred to in this section the Central Government shall decide what the conditions shall be.
- (4) Any agreement made under this section shall be laid, as soon as may be after it is made, before Parliament.

- (3) 對以不動產或與不動產權利有關之權狀作為抵押品，而予以融通；除作為辦公廳舍或宿舍使用之外，不得保有不動產所有權。
- (4) 辦理貸款或融通。
- (5) 簽發或收受未到期之票據。
- (6) 對存款或現金帳戶給予利息。

第 3 章 中央銀行之功能

第 20 條 本行經理政府業務之義務

本行應收受中央政府帳戶存款，於該帳戶金額之範圍內支付款項，並執行政府外匯、匯款及其他銀行業務，包括聯邦政府公共債務之管理等。

第 21 條 本行於印度境內經理政府業務

- (1) 中央政府應以雙方合意之條件，將政府於國內之通貨、匯款、外匯及金融交易，委託本行辦理；其現金並應以無息方式存放於本行。
前述規定於本行未設分支機構或代理行之地點，中央政府得視情況需要，將資金餘額存放適當處所。
- (2) 中央政府應以雙方協議之條件，將公共債務之管理及新債發行之事務，委託本行辦理。
- (3) 本條所規定之雙方協議條件未能達成時，由中央政府決定。
- (4) 依本條規定所為之協議，於該協議作成後，應儘速送交國會。

21A. Bank to transact Government business of States on agreement.

- (1) The Bank may by agreement with the Government of any State undertake –
 - (a) all its money, remittance, exchange and banking transactions in India, including in particular, the deposit, free of interest, of all its cash balances with the Bank; and
 - (b) the management of the public debt of, and the issue of any new loans by, that State.
- (2) Any agreement made under this section shall be laid, as soon as may be after it is made, before Parliament.

21B. Effect of agreements made between the Bank and certain States before the 1st November, 1956.

- (1) Any agreement made under section 21 or section 21A between the Bank and the Government of a State specified in the Explanation below and in force immediately before the 1st day of November, 1956, shall, as from that day have effect as if it were an agreement made on that day under section 21A between the Bank and the Government of the corresponding State subject to such modifications, if any, being of a character not affecting the general operation of the agreement, as may be agreed upon between the Bank and the Government of the corresponding State, or in default of such agreement, as may be made therein by order of the Central Government.

Explanation. In this sub-section "corresponding State" means:

- (a) in relation to the agreement between the Bank and the State of Andhra, the State of Andhra Pradesh;
- (b) in relation to the agreement between the Bank and any other Part-A State as it existed before the 1st day of November, 1956, the State with the same name, and
- (c) in relation to the agreement between the Bank and the Part B State of Mysore or Travancore-Cochin as it existed before the 1st day of November, 1956, the State of Mysore or Kerala respectively.
- (2) Any agreement made under section 21A between the Bank and the Government of the Part B State of Hyderabad, Madhya Bharat or Saurashtra shall be deemed to have terminated on the 31st day of October, 1956.

第 21A 條 本行依協議經理州政府業務

- (1) 本行得與各州政府達成協議後辦理下列業務：
 - (a) 該州政府於印度境內之通貨、匯款、外匯及其他金融交易，特別包括其現金餘額存放本行之無息存款。
 - (b) 管理該州之公共債務及新債發行事務。
- (2) 依本條規定所為之協議，於該協議作成後，應儘速送交國會。

第 21B 條 本行與特定各州於 1956 年 11 月 1 日前所為協議之效力

- (1) 本行與各相關州政府依第 21 條及第 21A 條所簽訂之任何協議，其相關之釋示臚列於下，並即時生效；本行與各相關州政府於 1956 年 11 月 1 日前所訂之協議，其效力並視同依第 21A 條所訂之協議。如有修正協議之必要者，於不影響該協議一般運作之情形下，得由本行與相關州政府共同商議之；如有違反該協議之情形，得由中央政府以命令決之。

解釋—本項所稱之「相關州」係指：

- (a) 於有關本行與安得拉州（Andhra）之協議，指安得拉州（Andhra Pradesh）。
- (b) 於有關本行與於 1956 年 11 月 1 日前既存之類別 A 各州所簽訂之協議，各該州仍沿用同一名稱。
- (c) 於有關本行與於 1956 年 11 月 1 日既存之類別 B 各州，例如邁索爾州（Mysore）或特拉凡哥爾-柯欽州（Travancore-Cochin）所簽訂之協議，各該州仍沿用同一名稱。
- (2) 本行與類別 B 中海德拉巴（Hyderabad）、瑪傑巴瑞（Madhya Bharat）及索拉什特拉（Saurashtra）等各州依第 21A 條規定所簽訂之任何協議，應視為自 1956 年 10 月 31 日起失其效力。

22. Right to issue bank notes.

- (1) The Bank shall have the sole right to issue bank notes in India, and may, for a period which shall be fixed by the Central Government on the recommendation of the Central Board, issue currency notes of the Government of India supplied to it by the Central Government, and the provisions of this Act applicable to bank notes shall, unless a contrary intention appears, apply to all currency notes of the Government of India issued either by the Central Government or by the Bank in like manner as if such currency notes were bank notes, and references in this Act to bank notes shall be construed accordingly.
- (2) On and from the date on which this Chapter comes into force the Central Government shall not issue any currency notes.

23. Issue Department.

- (1) The issue of bank notes shall be conducted by the Bank in an Issue Department which shall be separated and kept wholly distinct from the Banking Department, and the assets of the Issue Department shall not be subject to any liability other than the liabilities of the Issue Department as hereinafter defined in section 34.
- (2) The Issue Department shall not issue bank notes to the Banking Department or to any other person except in exchange for other bank notes or for such coin, bullion or securities as are permitted by this Act to form part of the Reserve.

24. Denominations of notes.

- (1) Subject to the provisions of sub-section (2), bank notes shall be of the denominational values of two rupees, five rupees, ten rupees, twenty rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees, five thousand rupees and ten thousand rupees or of such other denominational values, not exceeding ten thousand rupees, as the Central Government may, on the recommendation of the Central Board, specify in this behalf.
- (2) The Central Government may, on the recommendation of the Central Board, direct the non-issue or the discontinuance of issue of bank notes of such denominational values as it may specify in this behalf.

25. Form of bank notes.

The design, form and material of bank notes shall be such as may be approved by the Central Government after consideration of the recommendations made by Central Board.

第 22 條 發行鈔券之權利

- (1) 本行享有於印度境內發行鈔券之專屬權利，並於中央政府經理事會建議所訂之期間內，發行印度通用貨幣。本法有關鈔券之規定，除另有相反之規定外，適用於印度政府經由中央政府或委由本行所發行之所有通用貨幣；依本法規定對鈔券所為之解釋，亦同。
- (2) 自本章規定生效之日起，中央政府不得發行通用貨幣。

第 23 條 發行部門

- (1) 通用貨幣之發行，應由本行之發行部門辦理。發行部門之帳務應予獨立，並與本行之業務部門有所區隔。發行部門之資產，不得負擔與第 34 條所定發行部門債務無關之債務。
- (2) 發行部門除辦理鈔券或硬幣之兌換，及依本法之許可以金銀條塊或有價證券充當部分準備外，不得對業務部門或其他人發行鈔券。

第 24 條 鈔券面額

- (1) 依第 2 項規定，鈔券之面額可分為 2 盧比、5 盧比、10 盧比、20 盧比、50 盧比、100 盧比、500 盧比、1000 盧比、5000 盧比、10000 盧比，或中央政府依理事會建議，以其名義所規定之其他不高於 10000 盧比之面額。
- (2) 中央政府得依理事會建議，以其名義規定不發行或停止發行特定面額之鈔券。

第 25 條 鈔券形式

鈔券之設計、形式及成分，應由中央政府衡酌理事會之擬議後核定之。

26. Legal tender character of notes.

- (1) Subject to the provisions of sub-section (2), every bank note shall be legal tender at any place in India in payment or on account for the amount expressed therein and shall be guaranteed by the Central Government.
- (2) On recommendation of the Central Board the Central Government may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender save at such office or agency of the Bank and to such extent as may be specified in the notification.

26A. Certain bank notes to cease to be legal tender.

Notwithstanding anything contained in section 26, no bank note of the denominational value of five hundred rupees, one thousand rupees or ten thousand rupees issued before the 13th day of January, 1946, shall be legal tender in payment or on account for the amount expressed therein.

27. Re-issue of notes.

The Bank shall not re-issue bank notes which are torn, defaced or excessively soiled.

28. Recovery of notes lost, stolen, mutilated or imperfect.

Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall of right be entitled to recover from the Central Government or the Bank, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note:

Provided that the Bank may, with the previous sanction of the Central Government, prescribe the circumstances in and the conditions and limitations subject to which the value of such currency notes or bank notes may be refunded as of grace and the rules made under this proviso shall be laid on the table of Parliament.

第 26 條 鈔券之法償效力

- (1) 依第(2)項規定，本行所發行之鈔券，對於印度境內之支付，於該鈔券面額表彰之額度內，具有法償效力，並具有中央政府之保證。
- (2) 中央政府得依理事會建議，以政府公報公告，自公告所記載之日起，特定面額之鈔券失去法償效力，並僅得於本行公告指定之營業處所或代理機構兌換。

第 26A 條 喪失法償效力之特定鈔券

儘管有第 26 條之規定，但 1946 年 1 月 13 日前所發行，面額為 500 盧比、1000 盧比或 10000 盧比之鈔券，仍不具支付或該鈔券面額所表彰額度之法償效力。

第 27 條 鈔券之重發行

本行對破損、毀損或過度污損之鈔券不得重發行。

第 28 條 滅失、被竊、毀損或有瑕疵鈔券之請求兌回

除其他法律另有規定外，任何人均不得要求中央政府或本行兌回其已滅失、被竊、毀損或瑕疵之政府通用貨幣或鈔券。

本行得經中央政府之事先許可規定，前述通用貨幣及鈔券於特定情事、條件及限制範圍內，得請求兌回；該等規定，並應送交國會。

28A. Issue of special bank notes and special one-rupee notes in certain cases.

- (1) For the purpose of controlling the circulation of bank notes without India, the Bank may, notwithstanding anything contained in any other provision of this Act, issue bank notes of such design, form and material as may be approved under sub-section (3) (hereinafter in this section referred to as special bank notes) of the denominational values of five rupees, ten rupees and one hundred rupees.
- (2) For the purpose of controlling the circulation of Government of India one rupee notes without India, the Central Government may, notwithstanding anything contained in any other provision of this Act or in the Currency Ordinance, 1940, issue Government of India notes of the denominational value of one rupee of such design, form and material as may be adopted under sub-section (3) (hereinafter in this section referred to as special one rupees notes).
- (3) The design, form and material of the special bank notes shall be such as may be approved by the Central Government after consideration of the recommendations made by the Governor and of the special one-rupee notes shall be such as the Central Government may think fit to adopt.
- (4) Neither the special bank notes nor the special one-rupee notes shall be legal tender in India.
- (5) The special one-rupee note shall be deemed to be included in the expression "rupee coin" for all the purposes of this Act except section 39, but shall be deemed not to be a currency note for any of the purposes of this Act.
- (6) Where a special bank note is on its face expressed to be payable at a specified office or branch of the Bank, the obligation imposed by section 39 shall be only on the specified office or branch and, further, shall be subject to such regulations as may be made under this section.
- (7) The Bank may, with the previous sanction of the Central Government, make regulations to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this section, and, in particular, the manner in which, and the conditions or limitations subject to which:
 - (i) bank notes and one-rupee notes in circulation in any country outside India may be replaced by special notes issued under this section;
 - (ii) any such special notes may be exchanged for any other bank notes or one-rupee notes.

第 28A 條 發行特殊鈔券或特殊 1 盧比鈔券之特定情形

- (1) 為控管未標示印度字樣鈔券流通之目的，不論本法有無其他規定，本行得發行面額為 5 盧比、10 盧比及 100 盧比；其設計、形式及成分，依第 3 項規定核定之（以下稱特殊鈔券）。
- (2) 為控管未標示印度字樣 1 盧比政府鈔券流通之目的，不論本法、其他規定或「1940 年通貨條例」之規定，中央政府得發行面額為 1 盧比之印度政府鈔券；其設計、形式及成分，依第 3 項規定核定之（以下稱特殊 1 盧比鈔券）。
- (3) 第 1 項特殊鈔券之設計、形式及成分，中央政府應審酌本行總裁建議後核定之；第 2 項特殊 1 盧比鈔券之設計、形式及成分，應以中央政府認為適當者採用之。
- (4) 特殊鈔券及特殊 1 盧比鈔券，於印度均不具法償效力。
- (5) 除第 39 條外，特殊 1 盧比鈔券應被視為包含於本法之「盧比硬幣」範圍內，但依本法規範目的，不被視為通用鈔券。
- (6) 特殊鈔券僅得於本行特定營業場所或分支機構，以其面額作為支付之用；依第 39 條規定所生之義務，亦僅限於該特定營業場所或分支機構有效，並應受依本條規定所訂辦法之拘束。
- (7) 本行得經中央政府之事先同意，訂定相關辦法，俾規範或便於實施本條規定之各項事宜。特別是有關下列事項之方式及條件或限制等規定：
 - (i) 於印度境外流通之鈔券及 1 盧比鈔券，得由依本條規定發行之特殊鈔券取代。
 - (ii) 任何特殊鈔券得兌換任何其他鈔券及 1 盧比鈔券。

29. Bank exempt from stamp duty on bank notes.

The Bank shall not be liable to the payment of any stamp duty under the Indian Stamp Act, 1899, in respect of bank notes issued by it.

30. Powers of Central Government to supersede Central Board.

- (1) If in the opinion of the Central Government the Bank fails to carry out any of the obligations imposed on it by or under this Act the Central Government may, by notification in the Gazette of India, declare the Central Board to be superseded, and thereafter the general superintendence and direction of the affairs of the Bank shall be entrusted to such agency as the Central Government may determine, and such agency may exercise the powers and do all acts and things which may be exercised or done by the Central Board under this Act.
- (2) When action is taken under this section the Central Government shall cause a full report of the circumstances leading to such action and of the action taken to be laid before Parliament at the earliest possible opportunity and in any case within three months from the issue of the notification superseding the Board.

31. Issue of demand bills and notes.

- (1) No person in India other than the Bank or, as expressly authorized by this Act, the Central Government shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person:
Provided that cheques or drafts, including hundis, payable to bearer on demand or otherwise may be drawn on a person's account with a banker, shroff or agent.
- (2) notwithstanding anything contained in the Negotiable Instruments Act, 1881, no person in India other than the Bank or, as expressly authorised by this Act, the Central Government shall make or issue any promissory note expressed to be payable to the bearer of the instrument.

32. Penalty.

[Rep. by the Reserve Bank of India Amendment Act, 1974 (51 of 1974), S. 9.]

第 29 條 本行發行鈔券豁免印花稅

本行不因鈔券之發行而負擔「1899 年印花稅法」規定之印花稅。

第 30 條 中央政府取代理事會之權限

- (1) 中央政府於認為本行未能執行中央政府或本法所明定之職務時，得以公報刊登公告，宣告取代理事會。公告之後，本行之一般監督及行政事務之管理，由中央政府委任其他代理人為之。代理人之權限範圍，及於理事會依本法規定所得執行之權力及採取之行為。
- (2) 中央政府採取前項規定之措施，應就導致該措施之情形及其相關具體作法，提出完整報告，並於發布公告取代理事會 3 個月期間內，儘速送交國會。

第 31 條 即期匯票及本票之發行

- (1) 除本行或本法明定授權中央政府之項目外，任何人在印度境內不得提領、承兌、開立或簽發即期匯票、本票，或以上述票據借款或提領任何數量之金錢交付執票人。但支票或匯票無論是否即期，可在銀行、兌銀商店或其代辦處之發票人帳戶提領。
- (2) 雖有「1881 年可轉讓證券法」之規定，除本行或本法明定授權中央政府之項目外，任何人在印度境內不得開立或發行無記名本票。

第 32 條 處罰

(刪除)。

33. Assets of the Issue Department.

- (1) The assets of the Issue Department shall consist of gold coin, gold bullion, foreign securities, rupee coin and rupee securities to such aggregate amount as is not less than the total of the liabilities of the Issue Department as hereinafter defined.
- (2) The aggregate value of the gold coin, gold bullion and foreign securities held as assets and the aggregate value of the gold coin and gold bullion so held shall not at any time be less than two hundred crores of rupees and one hundred and fifteen crores of rupees, respectively.
- (3) The remainder of the assets shall be held in rupee coin, Government of India rupee securities of any maturity, promissory notes drawn by the National Bank for any loans or advances under clause (4E) of section 17 and such bills of exchange and promissory notes payable in India as are eligible for purchase by the Bank under sub-clause (a) or sub-clause (b) or sub-clause (bb) of clause (2) of section 17 or under clause (1) of section 18.
- (4) For the purposes of this section, gold coin and gold bullion shall be valued at a price not exceeding the international market price for the time being obtaining, rupee coin shall be valued at its face value, and securities shall be valued at rates not exceeding the market rates for the time being obtaining.
- (5) Of the gold coin and gold bullion held as assets, not less than seventeen-twentieths shall be held in India, and all gold coin and gold bullion held as assets shall be held in the custody of the Bank or its agencies;
Provided that gold belonging to the Bank which is in any other bank or in any mint or treasury or in transit may be reckoned as part of the assets.
- (6) For the purposes of this section, the foreign securities which may be held as part of the assets shall be :
 - (i) securities of the following kinds payable in the currency of any foreign country which is a member of the International Monetary Fund, namely:

第 33 條 發行部門之資產

- (1) 發行部門資產包括金幣、金條、外幣證券、盧比硬幣及盧比證券，其總數不得低於發行部門依下列規定之債務數額。
- (2) 資產之金幣、金條、外幣證券價值之總額，以及其中持有之金幣、金條價值之總額，分別不得低於 20 億盧比及 11 億 5 千萬盧比。
- (3) 其餘資產，應以持有盧比硬幣、到期日不限之政府盧比證券，國家銀行依第 17 條第(4E)項規定之貸款或融通所開立之本票，本行依第 17 條第(a)款、第(b)款、第(bb)款及第 17 條第(2)項或第 18 條第(1)項規定所得購買之付款地在印度境內之匯票及本票為限。
- (4) 為本法之目的，資產中之金幣及金條之估價標準，應不得超過其取得當時之國際市場價格；盧比硬幣應以其面額為準；證券應不超過其取得當時之市場價格。
- (5) 作為準備資產中之金幣及金條，於印度境內持有之比例不得低於 17/20。所有金幣及金條之準備資產，均應由本行或代理行保管。
本行所有之黃金存放於其他銀行、造幣廠、國庫或在運送途中者，均得視為資產之一部分。
- (6) 為本條規定之目的，外幣證券得作為準備資產之部分，包括：
 - (i) 下列各款證券之一種，得於國際貨幣基金之任一會員國內，以該國貨幣支付者：

- (a) balances with the bank which is the principal currency authority of that foreign country and any other balances or securities in foreign currency maintained with or issued by the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association or the International Finance Corporation or Asian Development Bank or the Bank for International Settlements or any banking or financial institution approved by the Central Government in this behalf, provided that they are repayable within a period of ten years;
 - (b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in that foreign country and having a maturity not exceeding ninety days; and
 - (c) Government securities of that foreign country maturing within ten years;
- (ii) any drawing rights representing a liability of the International Monetary Fund.

34. Liabilities of the Issue Department.

- (1) The liabilities of the Issue Department shall be an amount equal to the total of the amount of the currency notes of the Government of India and bank notes for the time being in circulation.
- (2) [* * * * *]
- (3) [* * * * *]

35. Initial assets and liabilities.

[Rep. by Act 62 of 1948, s. 7 and Sch.(w.e.f. 1-1-1949).]

36. Method of dealing with fluctuations in rupee coin assets.

[Rep. by Act 55 of 1963, s. 3 (w.e.f. 1-2-1964).]

37. Suspension of assets requirements as to foreign securities.

Notwithstanding anything contained in the foregoing provisions, the Bank may, with the previous sanction of the Central Government, for periods not exceeding six months in the first instance, which may, with the like sanction, be extended from time to time by periods not exceeding three months at a time, hold as assets foreign securities of less amount in value than that required by sub-section (2) of section 33.

- (a) 在該國主要貨幣發行銀行內之存款餘額；或在國際貨幣基金、國際復興開發銀行、國際發展協會、國際金融公司、亞洲開發銀行、國際清算銀行或經中央政府核准之其他金融機構內之存款餘額；或上述機構所發行到期日在 10 年以內之證券。
 - (b) 票面上有 2 人以上之合格簽名，於該外國之任一地方簽發及付款，到期日不超過 90 日之匯票。
 - (c) 外國政府證券，其到期日在 10 年以內者。
- (ii) 外幣提款權，其權利表彰國際貨幣基金之債務者。

第 34 條 發行部門之債務

- (1) 發行部門債務之總額，應與當時流通之政府通用貨幣及其他鈔券總數相當。
- (2) (刪除)。
- (3) (刪除)。

第 35 條 原始資產及負債

(刪除)。

第 36 條 盧比硬幣資產價值波動之處理方式

(刪除)。

第 37 條 暫停對外幣證券之資產要求

不論前述規定內容為何，本行得經中央政府之事先許可，於最初 6 個月以內之期間，或於必要時，隨時以一次 3 個月以內之期間，持有低於第 33 條第(2)項規定所定數額之外幣證券資產。

38. Obligations of Government and the Bank in respect of rupee coin.

The Central Government shall undertake not to put into circulation any rupees, except through the Bank ; and the Bank shall undertake not to dispose of rupee coin otherwise than for the purposes of circulation .

39. Obligation to supply different forms of currency.

- (1) The Bank shall issue rupee coin on demand in exchange for bank notes and currency notes of the Government of India, and shall issue currency notes or bank notes on demand in exchange for coin which is legal tender under the Coinage Act, 2011.
- (2) The Bank shall, in exchange for currency notes or bank notes of two rupees or upwards, supply currency notes or bank notes of lower value or other coins which are legal tender under the Coinage Act, 2011, in such quantities as may, in the opinion of the Bank, be required for circulation; and the Central Government shall supply such coins to the Bank on demand. If the Central Government at any time fails to supply such coins, the Bank shall be released from its obligations to supply them to the public.

40. Transactions in foreign exchange.

The Bank shall sell to or buy from any authorised person who makes a demand in that behalf at its office in Bombay, Calcutta, Delhi or Madras or at such of its branches as the Central Government may, by order, determine, foreign exchange at such rates of exchange and on such conditions as the Central Government may from time to time by general or special order determine, having regard so far as rates of exchange are concerned to its obligations to the International Monetary Fund:

Provided that no person shall be entitled to demand to buy or sell foreign exchange of a value less than two lakhs of rupees.

Explanation. In this section "authorised person" means a person who is entitled by or under the Foreign Exchange Regulation Act, 1973, to buy, or as the case may be, sell, the foreign exchange to which his demand relates.

41. Repealed

[Rep. by Act 23 of 1947, s. 4 (w.e.f. 18-4-1947).]

第 38 條 政府及本行對盧比硬幣之義務

中央政府應承諾，非經由本行不得發行盧比；本行應承諾，非為流通之目的不得處理盧比硬幣。

第 39 條 提供不同形式通貨之義務

- (1) 本行應隨時因需要而發行盧比硬幣，以兌換政府之銀行券或通貨鈔券；並應發行通貨鈔券或銀行券，以兌換依「1906 年硬幣法」規定有法償效力之硬幣。
- (2) 為兌換 2 盧比以上面額之通貨鈔券或銀行券，本行應提供本行認為足敷流通數量之面額較低之通貨鈔券、銀行券，或其他依「1906 年硬幣法」規定具法償效力之硬幣，中央政府應依本行要求提供該硬幣。於中央政府無法提供上述硬幣時，本行即免除對公眾供應硬幣之義務。

第 40 條 外匯交易

本行得向經許可之人，在本行位於孟買、加爾各達、德里、馬德拉斯或中央政府指定之其他分支機構，依中央政府就其對國際貨幣基金之義務，以一般或特別命令所定之兌換比率，買入或出售外匯。

任何人均不得要求買入或出售價值低於 20 萬盧比之外匯。

解釋—本條所稱「經許可之人」係指依「1973 年外匯管理法」規定，有權買入或出售與其需求有關之外匯之人。

第 41 條 買入英鎊之義務

(刪除)。

41A. Obligation to provide remittance between India and Burma.

[Rep. by Act 11 of 1947, s. 22 (w.e.f. 1-4-1947).]

42. Cash reserves of scheduled banks to be kept with the Bank.

- (1) Every bank included in the Second Schedule shall maintain with the Bank an average daily balance the amount of which shall not be less than such per cent. of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section (2), as the Bank may from time to time, having regard to the needs of securing the monetary stability in the country, notify in the Gazette of India:

Explanation. For the purposes of this section:

- (a) "average daily balance" shall mean the average of the balances held at the close of business on each day of a fortnight;
- (b) "fortnight" shall mean the period from Saturday to the second following Friday, both days inclusive;
- (c) "liabilities" shall not include -
 - (i) the paid-up capital or the reserves or any credit balance in the profit and loss account of the bank;
 - (ii) the amount of any loan taken from the Bank or from the Exim Bank or from the Reconstruction Bank or from the National Housing Bank or from the National Bank or from the Small Industries Bank.
 - (iii) in the case of a State co-operative bank, also any loan taken by such bank from a State Government or from the National Co-operative Development Corporation established under the National Co-operative Development Corporation Act, 1962 and any deposit of money with such bank representing the reserve fund or any part thereof maintained with it by any co-operative society within its area of operation;
 - (iv) in the case of a State co-operative bank, which has granted an advance against any balance maintained with it, such balance to the extent of the amount outstanding in respect of such advance;

第 41A 條 提供印度與緬甸間匯款服務之義務

(刪除)。

第 42 條 附表銀行存放於本行之現金準備

- (1) 附表二所列銀行應將現金存放於本行，其平均每日餘額，不得低於本條第(2)項所述有關該附表銀行於印度境內所收受活期及定期存款債務之百分比；且鑒於本行應隨時注意確保國內幣值穩定之需，並應將上述比率公布於印度政府公報。

依本條目的所為之解釋—

- (a) 「平均每日餘額」，係指每兩週中，每日營業終了時，於本行存款餘額之平均數。
- (b) 「兩週」，係指自週六起至次一個週五之期間，首尾兩日均包含在內。
- (c) 「債務」不包含—
 - (i) 實收資本額、準備金或該銀行損益表內之貸方餘額。
 - (ii) 向本行、「輸出入銀行」、「建設銀行」、「國家住宅銀行」、「國家銀行」或「小型工業銀行」所取得之貸款。
 - (iii) 屬州立合作銀行者，尚不包含該銀行自州政府依「1962年國家合作發展公司法」規定設立之國家發展合作公司所取得之貸款，以及當地合作社存於該行之準備資金部位。
 - (iv) 屬州立合作銀行者，以存款為擔保所核准之融通，其已動用之部分。

- (v) in the case of a Regional Rural Bank, also any loan taken by such bank from its Sponsor Bank;
- (d) the aggregate of the "liabilities" of a scheduled bank which is not a State co-operative bank, to:
 - (i) the State Bank;
 - (ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;
 - (iii) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
 - (iiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;
 - (iv) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
 - (v) a co-operative bank; or
 - (vi) any other financial institution notified by the Central Government in this behalf, shall be reduced by the aggregate of the liabilities of all such banks and institutions to the scheduled bank;
- (e) the aggregate of the "liabilities" of a scheduled bank which is a State co-operative bank, to:
 - (i) the State Bank;
 - (ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;
 - (iii) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;
 - (iiia) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.
 - (iv) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949; or
 - (v) any other financial institution notified by the Central Government in this behalf, shall be reduced by the aggregate of the liabilities of all such banks and institutions to the State Co-operative bank.

- (v) 屬區域農村銀行者，自其贊助銀行所取得之貸款。
- (d) 附表銀行非州立合作銀行者，其債務總額，應扣除下列各銀行或金融機構對該銀行債務之總額：
 - (i) 州立銀行。
 - (ii) 「1959 年印度州立銀行（附屬銀行）法」第 2 條定義之子銀行。
 - (iii) 「1970 年金融公司（企業購併及轉讓）法」第 3 條設立之相對應新銀行。
 - (iiia) 「1980 年金融公司（企業購併及轉讓）法」第 3 條設立之相對應新銀行。
 - (iv) 「1949 年銀行業管理法」第 5 條第(c)款規定之金融公司。
 - (v) 合作銀行。
 - (vi) 中央政府以其名義所公告之其他金融機構。
- (e) 附表銀行為州立合作銀行者，其債務總額應扣除下列銀行對該州立合作銀行債務之總額：
 - (i) 州立銀行。
 - (ii) 「1959 年印度州立銀行（附屬銀行）法」第 2 條定義之子銀行。
 - (iii) 「1970 年金融公司（企業購併及轉讓）法」第 3 條設立之相對應新銀行。
 - (iiia) 「1980 年金融公司（企業購併及轉讓）法」第 3 條設立之相對應新銀行。
 - (iv) 「1949 年銀行業管理法」第 5 條第(c)款規定之金融公司。
 - (v) 中央政府以其名義所公告之其他金融機構。

(1A) Notwithstanding anything contained in sub-section (1), the Bank may, by notification in the Gazette of India, direct that every scheduled bank shall, with effect from such date as may be specified in the notification, maintain with the Bank, in addition to the balance prescribed by or under sub-section (1), an additional average daily balance the amount of which shall not be less than the rate specified in the notification, such additional balance being calculated with reference to the excess of the total of the demand and time liabilities of the bank as shown in the return referred to in sub-section (2) over the total of its demand and time liabilities at the close of business on the date specified in the notification as shown by such return so however, that the additional balance shall, in no case, be more than such excess:

Provided that the Bank may, by a separate notification in the Gazette of India, specify different dates in respect of a bank subsequently, included in the Second Schedule.

(1AA) [****]

(1B) [****]

(1C) The Bank may, for the purposes of this section, specify from time to time with reference to any transaction or class of transactions that such transaction or transactions shall be regarded as liability in India of a scheduled bank, and if any question arises as to whether any transaction or class of transactions shall be regarded, for the purposes of this section, as liability in India of a schedule bank, the decision of the Bank thereon shall be final.

(2) Every scheduled bank shall send to the Bank a return signed by two responsible officers of such bank showing –

(a) the amount of its demand and time liabilities and the amount of its borrowings from banks in India classifying them into demand and time liabilities,

(aa) [****]

(b) the total amount of legal tender notes and coins held by it in India,

(c) the balance held by it at the Bank in India,

(d) the balances held by it at other banks in current account and the money at call and short notice in India.,

(e) the investments (at book value) in Central and State Government securities including treasury bills and treasury deposit receipts,

(1A) 雖有本條第(1)項之規定，本行得另以政府公報公告，自公告所載之日起，各附表銀行除依第(1)項規定存放於本行之現金準備外，並應增提額外準備金；其計提總額，不得低於依該附表銀行收受之活期及定期存款債務總額依公告所載比率計算之數額。額外準備金計算基礎，為各附表銀行依本條第(2)項定期申報資料中，其活期及定期存款債務總額高出公告當日相關債務之部分。

本行得以政府公報刊登另一公告，載明其他日期，適用於公告日之後始列入附表二之銀行。

(1AA) (刪除)。

(1B) (刪除)。

(1C) 為本條規定目的，本行得隨時以函釋認定任一項交易或任一類交易視為附表銀行於印度境內之債務；遇有疑義無法認定時，本行有最後決定權。

(2) 附表銀行應向本行申報，並由 2 位銀行負責人員簽署，載明下列事項：

(a) 該行活期及定期債務餘額，及其於印度境內向其他銀行借款之金額（分為活期及定期債務）。

(aa) (刪除)。

(b) 該行於印度境內持有具法償效力之鈔券及硬幣總額。

(c) 該行於印度境內本行帳戶之餘額。

(d) 該行於其他銀行之現金帳戶餘額，及其於印度境內之即期、短期資金。

(e) 該行投資中央或州政府證券之帳面價值，包括國庫券及國庫存款收據。

- (f) the amount of advances in India,
- (g) the inland bills purchased and discounted in India and foreign bills purchased and discounted, at the close of business on each alternate Friday, and every such return shall be sent not later than seven days after the date to which it relates:

Provided that the Bank may, by notification in the Gazette of India, delete or modify or add to any of the particulars specified in the foregoing clauses:

Provided further that where such alternate Friday is a public holiday under the Negotiable Instruments Act, 1881, for one or more offices of a scheduled bank, the return shall give the preceding working day's figures in respect of such office or offices, but shall nevertheless be deemed to relate to that Friday:

Provided also that where the Bank is satisfied that the furnishing of a fortnightly return under this sub-section is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may allow such bank:

- (i) to furnish a provisional return for the fortnight within the period aforesaid to be followed by a final return not later than twenty days after the date to which it relates, or
- (ii) to furnish in lieu of a fortnightly return a monthly return to be sent not later than twenty days after the end of the month to which it relates giving the details specified in this sub-section in respect of such bank at the close of business for the month.

(2A) Where the last Friday of a month is not an alternate Friday for the purpose of sub-section (2), every scheduled bank shall send to the Bank, a special return giving the details specified in sub-section (2) as at the close of business on such last Friday or where such last Friday is a public holiday under the Negotiable Instruments Act, 1881 as at the close of business on the preceding working day and such return shall be sent not later than seven days after the date to which it relates.

(f) 印度境內融通金額。

(g) 印度境內票據及外幣票據之買入及貼現。

本行得於政府公報公告，刪除、修正或增補上述須載明之具體事項。

依「1881 年可轉讓商品法」規定，上述申報日之星期五如適逢某一附表銀行 1 個以上辦事處之例假日者，申報數據應以其前 1 工作日之數據為基準，惟仍應視為其係屬星期五之申報內容。

本行於認為附表銀行依本項規定每兩週所寄送之報告，如因該寄送行或其分行地理位置之緣故而不符實際需要者，得允許此類銀行：

- (i) 於上述送達期限內，先行送交報告草稿，再於申報日 20 日內，寄發最後定案之報告。
- (ii) 以每月報告代替每兩週之報告，申報日為每月最後一個營業日；並依本項規定，載明該行於當月月底之營運情形，該報告應於申報日 20 日內送達。

(2A) 當月最後一週週五非第(2)項規定之隔週週五時，每一附表銀行應依第(2)項規定，寄送該週五之特別報告。該週週五如為「1881 年可轉讓商品法」所規定之例假日者，報告之數據應為其前一工作日之數據，該報告應於申報日後 7 日內送達本行。

- (3) If the average daily balance held at the Bank by a scheduled bank during any fortnight is below the minimum prescribed by or under sub-section (1) or sub-section (1A), such Scheduled bank shall be liable to pay to the Bank in respect of that fortnight penal interest at a rate of three per cent, above the bank rate on the amount by which such balance with the Bank falls short of the prescribed minimum, and if during the next succeeding fortnight, such average daily balance is still below the prescribed minimum the rates of penal interest shall be increased to a rate of five per cent, above the bank rate in respect of that fortnight and each subsequent fortnight during which the default continues on the amount by which such balance at the Bank falls short of the prescribed minimum.
- (3A) When under the provisions of sub-section (3) penal interest at the increased rate of five per cent, above the bank rate has become payable by a scheduled bank, if thereafter the average daily balance held at the Bank during the next succeeding fortnight is still below the prescribed minimum.
- (a) every director, manager or secretary of the scheduled bank, who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent fortnight during which the default continues, and
- (b) the Bank may prohibit the scheduled bank from receiving after the said fortnight any fresh deposit, and, if default is made by the scheduled bank in complying with the prohibition referred to in clause (b), every director and officer of the scheduled bank who is knowingly and wilfully a party to such default or who through negligence or otherwise contributes to such default shall in respect of each such default be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each day after the first on which a deposit received in contravention of such prohibition is retained by the scheduled bank.
- Explanation: In this sub-section "officer" includes a manager, secretary, branch manager, and branch secretary.

- (3) 附表銀行於本行帳戶內以兩週為單位計算之平均每日餘額低於第(1)項或第(1A)項所定最低標準者，該餘額不足之附表銀行，應就其不足額部分，向本行支付懲罰性利息，其利率為一般利率加 3 %；連續兩週期平均每日餘額未達最低標準者，其罰息提高至 5% 計算，並得連續計罰至改善為止。
- (3A) 依前款規定所追收之罰息提高至 5% 時，附表銀行於本行帳戶內之平均每日餘額連續未達法定最低標準時，即應支付：
- (a) 平均每日餘額未達最低標準之附表銀行董事、經理人或秘書人員明知並有意違規者，應科以最高 5 百盧比之罰鍰，違規期間內並得按次處以最高 5 百盧比之罰鍰。
- (b) 本行得對違反本款規定之附表銀行，勒令其自違規時起，禁止收受新存款。
- 附表銀行同時違反第(b)款之規定者，該附表銀行之董事或相關人員，無論係明知、故意或因疏忽導致違規者，應依其違規情節，科以最高 5 百盧比之罰鍰，並得自該附表銀行違反禁止收受新存款處分之日起，按日科以最高 5 百盧比之罰鍰。
- 解釋—本款所稱「相關人員」包括經理、秘書、分行經理及分行秘書等。

- (4) Any scheduled bank failing to comply with the provisions of subsection (2) shall be liable to pay to the Bank a penalty of one hundred rupees for each day during which the failure continues.
- (5) (a) The penalties imposed by sub-sections (3) and (4) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding the payment of the same is served on the scheduled bank, and in the event of a failure of the scheduled bank to pay the same within such period, may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting bank is situated, such direction to be made only upon an application made in this behalf to the court by the Bank;
- (b) when the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the scheduled bank and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit;
- (c) notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting bank had sufficient cause for its failure to comply with the provisions of sub-sections (1), (1A) or (2), it may not demand the payment of the penal interest or the penalty, as the case may be.
- (6) The Bank shall, save as hereinafter provided, by notification in the Gazette of India,
- (a) direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in India and which:
- (i) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees, and
- (ii) satisfies the Bank that its affairs are not being conducted in a manner detrimental to the interests of its depositors, and
- (iii) is a State co-operative bank or a company as defined in section 3 of the Companies Act, 1956, or an institution notified by the Central Government in this behalf or a corporation or a company incorporated by or under any law in force in any place outside India;

- (4) 附表銀行違反第(2)項規定者，於其違規情形持續期間，應向本行支付每日 100 盧比之罰鍰。
- (5) (a) 依第(3)項及第(4)項規定所科之罰鍰，應自本行對違規之附表銀行通知繳交罰鍰之日起算 14 日內支付；附表銀行未於前述期間繳清罰鍰者，得由該違規之附表銀行所在地有管轄權之地方民事法院發給扣押命令，該扣押命令僅得由本行向管轄法院申請時發給之。
- (b) 法院依前款規定核發命令時，應同時發給證明書，載明附表銀行應支付之金額；依此發給之證明書，具有與法院判決相同之執行效力。
- (c) 不論本條之其他規定，本行如認為附表銀行未能遵守本條第(1)項、第(1A)項及第(2)項係有正當充分之理由者，得視其情形免除追收懲罰性利息或免處罰鍰。
- (6) 本行應依下列各款規定，以政府公報公告之一—
- (a) 應以指示將於印度境內執行銀行業務，並合於下列要件且涵括於附表二之附表銀行，納入該附表：
- (i) 實收資本額及準備金之總價值不少於 5 百萬盧比。
- (ii) 本行認定其經營業務不致損及存款人權益。
- (iii) 州立信用合作銀行，或屬「1956 年公司法」第 3 條定義之公司，或中央政府公告之機構，或依印度境外有效法律所設立之各類公司。

(b) direct the exclusion from that Schedule of any scheduled bank:

- (i) the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees, or
- (ii) which is, in the opinion of the Bank after making an inspection under section 35 of the Banking Regulation Act, 1949, conducting its affairs to the detriment of the interests of its depositors, or

(iii) which goes into liquidation or otherwise ceases to carry on banking business:

Provided that the Bank may, on application of the scheduled bank concerned and subject to such conditions, if any, as it may impose, defer the making of a direction under sub-clause (i) or sub-clause (ii) of clause (b) for such period as the Bank considers reasonable to give the scheduled bank an opportunity of increasing the aggregate value of its paid-up capital and reserves to not less than five lakhs of rupees or, as the case may be, of removing the defects in the conduct of its affairs:

(c) alter the description in that Schedule whenever any scheduled bank changes its name.

Explanation: In this sub-section the expression "value" means the real or exchangeable value and not the nominal value which may be shown in the books of the bank concerned; and if any dispute arises in computing the aggregate value of the paid-up capital and reserves of a bank, a determination thereof by the Bank shall be final for the purposes of this sub-section.

(6A) In considering whether a State co-operative bank or a regional rural bank should be included in or excluded from the Second Schedule, it shall be competent for the Bank to act on a certificate from the National Bank on the question whether or not a State co-operative bank or a regional rural bank, as the case may be, satisfies the requirements as to paid-up capital and reserves or whether its affairs are not being conducted in a manner detrimental to the interests of its depositors.

(7) The Bank may, for such period and subject to such conditions as may be specified, grant to any scheduled bank such exemptions from the provisions of this section as it thinks fit with reference to all or any of its offices or with reference to the whole or any part of its assets and liabilities.

(b) 應以指示將附表二之附表銀行予以除名之情形：

(i) 實收資本額及準備金之總價值已低於 5 百萬盧比。

(ii) 本行於依「1949 年銀行管理法」第 35 條規定為檢查後，認定其經營業務有損害存款人權益之虞。

(iii) 即將清算或停止辦理銀行業務：

但因相關附表銀行之申請，本行認為有正當理由給予附表銀行增加資本或準備金之機會，使其不低於 5 百萬盧比者，得暫不依第(b)款第(i)目或第(ii)目之規定發布命令。

(c) 應於附表銀行更名時，配合修正附表二。

解釋-本款所稱「價值」，係指真實且具交換價值，非僅記載於相關銀行帳簿之帳面價值；於計算銀行實收資本或準備金總額發生爭議時，本行之決定具最終效力。

(6A) 於認定州立合作銀行或區域農村銀行是否列入附表銀行時，本行應依國家銀行出具之證明書，評定各該銀行實收資本額及準備金是否合於法定最低標準，以及其經營業務有無損害存款人利益之情形。

(7) 本行得視具體情形，於附表銀行之全部或部分營業處所，或其資產及負債之全部或部分合於規定時，許可附表銀行於一定期間及符合規定之情況下，豁免本條規定之適用。

43. Publication of consolidated statement by the Bank.

The Bank shall cause to be published each fortnight a consolidated statement showing the aggregate liabilities and assets of all the scheduled banks together, based on the returns and information received under this Act or any other law for the time being in force.

43A. Protection of action taken in good faith.

- (1) No suit or other legal proceeding shall lie against the Bank or any of its officers for anything which is in good faith done or intended to be done in pursuance of section 42 or section 43 or in pursuance of the provisions of Chapter IIIA.
- (2) No suit or other legal proceeding shall lie against the Bank or any of its officers for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of section 42 or section 43 or in pursuance of the provisions of Chapter IIIA.

44. Power to require returns from co-operative banks.

[Rep. by the Banking Laws (Application to Co-operative Societies) Act, 1965 (23 of 1965), s. 7 (w.e.f. 1-3-1966).]

45. Appointment of Agents.

- (1) Unless otherwise directed by the Central Government with reference to any place, the Bank may, having regard to public interest, convenience of banking, banking development and such other factors which in its opinion are relevant in this regard, appoint the National Bank, or the State Bank or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, as its agent at all places, or at any place in India for such purposes as the Bank may specify.
- (2) When any bank is appointed by the Bank as its agent under subsection (1) to receive on behalf of the Bank any payment required to be made into the Bank, or any bill, hundies or other securities required to be delivered into the Bank, under any law or rule, regulations or other instructions having the force of law, the same may be paid or delivered into the bank so appointed as the agent of the Bank.

第 43 條 銀行合併報表之公布

本行應就依本法或其他法律所獲得之資訊，每兩週將全體附表銀行負債及資產總額作成統計，並發布全體附表銀行之合併報表。

第 43A 條 善意行為之保護

- (1) 本行或本行職員之善意行為或依第 42 條、第 43 條或第 3A 章各條規定之意圖作為，任何人均不得對其進行訴訟或採取其他法律行動。
- (2) 本行或本行職員之善意行為或依第 42 條、第 43 條或第 3A 章各條規定之意圖作為，任何人均不得對其以訴訟或其他法律行動，請求賠償損害或可能之損害。

第 44 條 要求合作銀行報告之權力

(刪除)。

第 45 條 代理機構之指定

- (1) 除中央政府指示之地區外，本行得因公共利益之考量，或因銀行業或銀行業發展及其他本行認為與此有關之因素，選任「國家銀行」，或「州立銀行」，或依「1970 年金融公司（企業購併及轉讓）法」第 3 條設立之新銀行，或依「1980 年金融公司（企業購併及轉讓）法」第 3 條設立之新銀行，或「1959 年州立銀行（附屬銀行）法」所定義之附屬銀行，作為本行於全國各地區，或本行為特定目的在境內部分地區之代理機構。
- (2) 本行依前項規定選任之銀行，得以本行名義，收受依法律或法律授權訂定之規章、辦法或指令規定向本行所為之支付，或交付本行之票據或有價證券。

CHAPTER IIIA COLLECTION AND FURNISHING OF CREDIT INFORMATION

45A. Definitions.

In this Chapter, unless the context otherwise requires,

- (a) "banking company" means a banking company as defined in section 5 of the Banking Regulation Act, 1949, and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf;
- (b) "borrower" means any person to whom any credit limit has been sanctioned by any banking company, whether availed of or not, and includes:
 - (i) in the case of a company or corporation, its subsidiaries;
 - (ii) in the case of a Hindu Undivided Family, any member thereof or any firm in which such member is a partner;
 - (iii) in the case of a firm, any partner thereof of any other firm in which such partner is a partner; and
 - (iv) in the case of an individual, any firm in which such individual is a partner;
- (c) "credit information" means any information relating to –
 - (i) the amounts and the nature of loans or advances and other credit facilities granted by a banking company to any borrower or class of borrowers;
 - (ii) the nature of security taken from any borrower or class of borrowers for credit facilities granted to him or to such class;
 - (iii) the guarantee furnished by a banking company for any of its customers or any class of its customers;
 - (iv) the means, antecedents, history of financial transactions and the credit worthiness of any borrower or class of borrowers;
 - (v) any other information which the Bank may consider to be relevant for the more orderly regulation of credit or credit policy.

第 3A 章 信用資訊之蒐集及提供

第 45A 條 定義

除本法另有規定外，下列名詞於本章定義如下：

- (a) 「金融公司」：係指「1949 年銀行管理法」第 5 條所定義之金融公司，包括州立銀行，「1959 年印度州立銀行（附屬銀行）法」定義之附屬銀行，「1970 年金融公司（企業購併及轉讓）法」第 3 條所設立之新銀行，以及中央政府所指定之其他金融機構。
- (b) 「借款人」：係指經銀行批准授予信用額度之人，不論該額度是否已動用，包括：
 - (i) 對象為各類公司者，包括其附屬機構。
 - (ii) 對象為印度大家族成員者，包括其成員及各成員擔任合夥人之公司。
 - (iii) 對象為公司者，為其合夥人，或該合夥人亦為合夥人之其他公司。
 - (iv) 對象為個人者，該個人為合夥人之公司。
- (c) 「信用資訊」：係指關於下列之資訊：
 - (i) 金融公司對借款人或各類借款人為貸款、融通或其他授信之數額及性質。
 - (ii) 金融公司因授與借款人或各類借款人信用而收受擔保品之性質。
 - (iii) 金融公司對其客戶或各類客戶提供之保證。
 - (iv) 各類金融交易方式、先決條件、交易紀錄，以及借款人或各類借款人之信用程度等。
 - (v) 其他本行認為與授信管理規則或信用政策有關之其他資訊。

45B. Power of Bank to collect credit information.

The Bank may:

- (a) collect, in such manner as it may think fit, credit information from banking companies; and
- (b) furnish such information to any banking company in accordance with the provisions of section 45D.

45C. Power to call for returns containing credit information.

- (1) For the purpose of enabling the Bank to discharge its functions under this Chapter, it may at any time direct any banking company to submit to it such statements relating to such credit information and in such form and within such time as may be specified by the Bank from time to time.
- (2) A banking company shall, notwithstanding anything to the contrary contained in any law for the time being in force or in any instrument regulating the constitution thereof or in any agreement executed by it, relating to the secrecy of its dealings with its constituents, be bound to comply with any direction issued under sub-section (1).

45D. Procedure for furnishing credit information to banking companies.

- (1) A banking company may, in connection with any financial arrangement entered into or proposed to be entered into by it, with any person, make an application to the Bank in such form as the Bank may specify requesting it to furnish the applicant with such credit information as may be specified in the application.
- (2) On receipt of an application under sub-section (1), the Bank shall, as soon as may be, furnish the applicant with such credit information relating to the matters specified in the application, as may be in its possession:
Provided that the information so furnished shall not disclose the names of the banking companies which have submitted such information to the Bank.
- (3) The Bank may in respect of each application levy such fees, not exceeding twenty-five rupees, as it may deem fit for furnishing credit information.

45E. Disclosure of information prohibited.

- (1) Any credit information contained in any statement submitted by a banking company under section 45C or furnished by the Bank to any banking company under section 45D, shall be treated as confidential and shall not, except for the purposes of this Chapter, be published or otherwise disclosed.

第 45B 條 蒐集信用資訊之權力

本行得：

- (a) 以本行認為適當之方式，向金融公司收集信用資訊。
- (b) 依第 45D 條之規定，對金融公司提供資訊。

第 45C 條 要求提供信用資訊之權力

- (1) 為行使本章賦予之職權，本行得隨時要求金融公司依本行所定格式及期間，向本行提交信用資訊相關報表。
- (2) 不論其他法律就金融公司設立之文件，或金融公司簽署之合約就其與客戶間交易之保密義務有無相反之規定，金融公司對本行依第(1)項規定所為之指示有遵守之義務。

第 45D 條 對金融公司提供信用資訊之程序

- (1) 金融公司於簽訂金融協議之前後，得依本行所定格式，申請提供他方之信用資訊。
- (2) 本行於收受依第(1)項規定所為之申請時，應按申請書記載內容，就本行持有之資訊，儘速提供予申請人。但依本項提供之資訊，不得揭示向本行提供該資訊之金融公司之名稱。
- (3) 本行提供信用資訊時，對於申請者得收取最高不超過 25 盧比之費用。

第 45E 條 資訊揭露之禁止

- (1) 金融公司依第 45C 條提交本行之報表內容，以及本行依第 45D 條向金融公司提供之信用資訊，均應視為機密，除為本章規定之目的外，不得對外公布或揭露。

(2) Nothing in this section shall apply to :

- (a) the disclosure by any banking company, with the previous permission of the Bank, of any information furnished to the Bank under section 45.
- (b) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under section 45C, in such consolidated form as it may think fit without disclosing the name of any banking company or its borrowers:
- (c) the disclosure or publication by the banking company or by the Bank of any credit information to any other banking company or in accordance with the practice and usage customary among bankers or as permitted or required under any other law:

Provided that any credit information received by a banking company under this clause shall not be published except in accordance with the practice and usage customary among bankers or as permitted or required under any other law.

- (d) the disclosures of any credit information under the Credit Information Companies (Regulation) Act, 2005 (30 of 2005).

(3) Notwithstanding anything contained in any law for the time being in force, no court, tribunal or other authority shall compel the Bank or any banking company to produce or to give inspection of any statement submitted by that banking company under section 45C or to disclose any credit information furnished by the Bank to that banking company under section 45D.

45F. Certain claims for compensation barred.

No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Chapter.

45G. Penalties.

[Rep. by the Reserve Bank of India (Amendment) Act, 1974 (51 of 1974), s. 15.]

(2) 本條規定，於下列情形不適用之：

- (a) 金融公司經本行之事先許可，依第 45C 條規定向本行提供之資訊。
- (b) 為公共利益之必要，本行依第 45C 條規定所蒐集之資訊，得以不揭露金融公司或其借款人姓名之適當方式，將有關資訊編製合併報表，並予公布。
- (c) 依其他法律之許可或規定，或依據銀行實務或使用慣例，由金融公司或本行對其他金融公司所公布或揭露之信用資訊。
金融公司依本款規定獲得之信用資訊，除依其他法律之許可或規定，或依據銀行實務或使用慣例外，不得對外公布。
- (d) 依「2005 年信用資訊公司管理法」所揭露之任何信用資訊。

(3) 不論其他法律有無相反規定，法院、法庭或其他主管機關均不得強迫本行或金融公司編製或調查金融公司依第 45C 條所提交之報表，或本行依第 45D 條對該金融公司所揭露之信用資訊。

第 45F 條 特定損害賠償請求權之禁止

任何人均不得依契約或其他事由，就因執行本章規定所生之損失請求賠償。

第 45G 條 處罰

(刪除)。

CHAPTER IIIB

PROVISIONS RELATING TO NON-BANKING INSTITUTIONS
RECEIVING DEPOSITS AND FINANCIAL INSTITUTIONS

45H. Chapter IIIB not to apply in certain cases.

The provisions of this Chapter shall not apply to the State Bank or a banking company as defined in section 5 of the Banking Regulation Act, 1949 or a corresponding new bank as defined in clause (da) of section 5 of that Act or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 or a Regional Rural Bank or a co-operative bank or a primary agricultural credit society or a primary credit society:

Provided that for the purposes of this Chapter, the Tamil Nadu Industrial Investment Corporation Limited shall not be deemed to be a banking company.

45I. Definitions.

In this Chapter, unless the context otherwise requires:

- (a) "business of a non-banking financial institution" means carrying on of the business of a financial institution referred to in clause (c) and includes business of a non-banking financial company referred to in clause (f);
- (aa) "company" means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act;
- (b) "corporation" means a corporation incorporated by an Act of any legislature;
- (bb) "deposit" includes and shall be deemed always to have included any receipt of money by way of deposit or loan or in any other form, but does not include:
 - (i) amounts raised by way of share capital;
 - (ii) amounts contributed as capital by partners of a firm;
 - (iii) amounts received from a scheduled bank or a co-operative bank or any other banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
 - (iv) any amount received from,
 - (a) [*****]
 - (b) a State Financial Corporation,

第 3B 章 非金融機構收受存款及金融機構之有關規定

第 45H 條 不適用第 3B 章之特定情形

本章規定不適用於州立銀行、「1949 年銀行管理法」第 5 條定義之金融公司、同法第 5 條第(da)款之新銀行、「1959 年州立銀行（附屬銀行）法」定義之附屬銀行、區域農村銀行、合作銀行、主要農業信用社或主要信用社。

依本章規定之目的，Tamil Nadu 工業投資股份有限公司不視為金融公司。

第 45I 條 定義

除本法另有規定外，本章用語定義如下：

- (a) 「非銀行金融機構業務」：係指從事第(c)款之金融機構之業務，包括第(f)款所定之非銀行金融公司之業務。
- (aa) 「公司」：係指「1956 年公司法」第 3 條定義之公司，包括該法第 591 條規定之外國公司。
- (b) 「股份有限公司」：係指依任何法律規定設立之股份有限公司。
- (bb) 「存款」：包括以存入、借貸或其他方式收受之現金，但不包含下列款項：
 - (i) 充當股款之金額。
 - (ii) 公司合夥人繳交之資本。
 - (iii) 自附表銀行、合作銀行或「1949 年銀行管理法」第 5 條第(c)款所定義之其他金融公司收受之款項。
 - (iv) 自下列機構收受之款項：
 - (a) （刪除）。
 - (b) 州立金融公司。

- (c) any financial institution specified in or under section 6A of the Industrial Development Bank of India Act, 1964, or
 - (d) any other institution that may be specified by the Bank in this behalf;
 - (v) amounts received in the ordinary course of business, by way of –
 - (a) security deposit,
 - (b) dealership deposit,
 - (c) earnest money,
 - (d) advance against orders for goods, properties or services,
 - (vi) any amount received from an individual or a firm or an association of individuals not being a body corporate, registered under any enactment relating to money lending which is for the time being in force in any State; and
 - (vii) any amount received by way of subscriptions in respect of a chit.
- Explanation I: "Chit" has the meaning assigned to it in clause (b) of section 2 of the Chit Funds Act, 1982 (40 of 1982).
- Explanation II: Any credit given by a seller to a buyer on the sale of any property (whether movable or immovable) shall not be deemed to be deposit for the purposes of this clause;
- (c) "financial institution" means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:
 - (i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;
 - (ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature;
 - (iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972;
 - (iv) the carrying on of any class of insurance business;
 - (v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;

- (c) 「1964 年工業開發銀行法」第 6A 條規定或指定之金融機構。
 - (d) 本行指定之其他金融機構。
 - (v) 下列一般業務之經營所收受之款項：
 - (a) 客戶保證金。
 - (b) 代理商保證金。
 - (c) 定金。
 - (d) 訂購商品、財物或服務所生之定金。
 - (vi) 自個人、公司或非依各州有關金錢借貸規定而註冊之非公司組織所收受之款項。
 - (vii) 民間合會每期所收之會款。
- 解釋 I — 「合會」：其定義依「1982 年合會基金法」第 2 條第(b)款之規定。
- 解釋 II — 賣方因銷售動產或不動產而授予買方之信用額度，不屬於本款規定之存款。
- (c) 「金融機構」：係指非銀行機構，從事下列業務為其部分或全部之業務者：
 - (i) 融通業務，以貸款、融通或其他方式，將資金挹注於與本身無關之其他事業。
 - (ii) 買入股份、股票、金融債券或政府、地方主管機關發行或其他類似具有市場性之有價證券。
 - (iii) 依「1972 年分期付款買賣法」第 2 條第(c)款規定之分期付款買賣合約，出租或送交貨物予承租人。
 - (iv) 從事各種保險業務。
 - (v) 以會首、代理人或其他名義，召集、經營管理依法設立之合會。

(vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person, but does not include any institution, which carries on as its principal business,

(a) agricultural operations; or

(aa) industrial activity; or

(b) the purchase or sale of any goods (other than securities) or the providing of any services; or

(c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;

Explanation: For the purposes of this clause, "industrial activity" means any activity specified in sub-clauses (i) to (xviii) of clause (c) of section 2 of the Industrial Development Bank of India Act, 1964;

(d) "firm" means a firm as defined in the Indian Partnership Act, 1932 ;

(e) "non-banking institution" means a company, corporation or cooperative society.

(f) "non-banking financial company" means:

(i) a financial institution which is a company;

(ii) a non-banking institution which is a company, and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner;

(iii) such other non-banking institution or class of such institutions, as the Bank may, with the previous approval of the Central Government and by notification in the Official Gazette, specify;

(vi) 為任何商品訂購、銷售或因其他計畫或協議，向特定人收受或支付單筆或多筆現金，並對該人或他人給予獎金或贈品。

但不包括以下列為其主要業務之機構：

(a) 農業營運。

(aa) 工業活動。

(b) 貨物（有價證券以外）之買賣或服務之提供。

(c) 不動產買賣、興建，且該機構收入均非來自於他人資金所資助之不動產買賣、興建融資。

解釋—為本款規定目的，所稱「工業活動」係指「1964年工業開發銀行法」第2條第(c)款第(i)目至第(xviii)目所定之活動。

(d) 「合夥公司」：係指依據「1932年合夥事業法」所定義之公司。

(e) 「非銀行機構」：係指公司、股份有限公司或合作社。

(f) 「非銀行金融公司」：係指

(i) 公司組織之金融機構。

(ii) 公司組織之非銀行機構，其主要業務在依不同存款條件或方式收受存款或為貸款。

(iii) 本行經中央政府之事先許可，於政府公報指定之其他非銀行機構或此類型之機構。

45IA. Requirement of registration and net owned fund.

- (1) Notwithstanding anything contained in this Chapter or in any other law for the time being in force, no non-banking financial company shall commence or carry on the business of a non-banking financial institution without:
 - (a) obtaining a certificate of registration issued under this Chapter; and
 - (b) having the net owned fund of twenty-five lakh rupees or such other amount, not exceeding two hundred lakh rupees, as the Bank may, by notification in the Official Gazette, specify.
- (2) Every non-banking financial company shall make an application for registration to the Bank in such form as the Bank may specify:
 Provided that a non-banking financial company in existence on the commencement of the Reserve Bank of India (Amendment) Act, 1997 shall make an application for registration to the Bank before the expiry of six months from such commencement and notwithstanding anything contained in sub-section (1) may continue to carry on the business of a non-banking financial institution until a certificate of registration is issued to it or rejection of application for registration is communicated to it.
- (3) Notwithstanding anything contained in sub-section (1), a non-banking financial company in existence on the commencement of the Reserve Bank of India (Amendment) Act, 1997 and having a net owned fund of less than twenty-five lakh rupees may, for the purpose of enabling such company to fulfil the requirement of the net owned fund, continue to carry on the business of a non-banking financial institution –
 - (i) for a period of three years from such commencement; or
 - (ii) for such further period as the Bank may, after recording the reasons in writing for so doing, extend, subject to the condition that such company shall, within three months of fulfilling the requirement of the net owned fund, inform the Bank about such fulfilment:
 Provided that the period allowed to continue business under this subsection shall in no case exceed six years in the aggregate.
- (4) The Bank may, for the purpose of considering the application for registration, require to be satisfied by an inspection of the books of the non-banking financial company or otherwise that the following conditions are fulfilled:

第 45IA 條 登記及淨自有資金之規定

- (1) 不論本章或現行其他法律之規定，非銀行金融公司未符合下列條件，不得開始或從事非銀行金融機構之業務：
 - (a) 取得依本章規定核發之營業執照。
 - (b) 淨自有資金達 250 萬盧比或本行於政府公報訂定 2 千萬盧比以下之金額。
- (2) 非銀行金融公司應依本行所定格式，向本行申請登記。
 非銀行金融公司於「1997 年印度準備銀行（修正）法」生效前設立者，應自該法生效日起 6 個月內，向本行申請登記，並得繼續從事非銀行金融機構之業務，直到發給其營業執照或對其申請登記為否決之通知止，不受第(1)項規定之限制。
- (3) 非銀行金融公司於「1997 年印度準備銀行（修正）法」生效前設立，其淨自有資金低於 250 萬盧比者，得令其補足法定最低淨自有資金後，於下列期間，繼續從事非銀行金融機構業務，不受第(1)項規定之限制：
 - (i) 自該法生效之日起 3 年。
 - (ii) 經本行以書面記載許可之理由後，得展延期間。非銀行金融公司應於補足法定最低淨自有資金後 3 個月內通知本行。
 依本項規定繼續從事業務之期間，在任何情況下均不得超過 6 年。
- (4) 本行因申請登記之准駁，得要求對非銀行金融公司帳務進行檢查或其他查核，以確認其符合下列情形：

- (a) that the non-banking financial company is or shall be in a position to pay its present or future depositors in full as and when their claims accrue;
 - (b) that the affairs of the non-banking financial company are not being or are not likely to be conducted in a manner detrimental to the interest of its present or future depositors;
 - (c) that the general character of the management or the proposed management of the non-banking financial company shall not be prejudicial to the public interest or the interest of its depositors;
 - (d) that the non-banking financial company has adequate capital structure and earning prospects;
 - (e) that the public interest shall be served by the grant of certificate of registration to the non-banking financial company to commence or to carry on the business in India;
 - (f) that the grant of certificate of registration shall not be prejudicial to the operation and consolidation of the financial sector consistent with monetary stability, economic growth and considering such other relevant factors which the Bank may, by notification in the Official Gazette, specify; and
 - (g) any other condition, fulfilment of which in the opinion of the Bank, shall be necessary to ensure that the commencement of or carrying on of the business in India by a non-banking financial company shall not be prejudicial to the public interest or in the interest of the depositors.
- (5) The Bank may, after being satisfied that the conditions specified in sub-section (4) are fulfilled, grant a certificate of registration subject to such conditions which it may consider fit to impose.
- (6) The Bank may cancel a certificate of registration granted to a non-banking financial company under this section if such company –
- (i) ceases to carry on the business of a non-banking financial institution in India; or
 - (ii) has failed to comply with any condition subject to which the certificate of registration had been issued to it; or
 - (iii) at any time fails to fulfil any of the conditions referred to in clauses (a) to (g) of sub-section (4); or
 - (iv) fails:

- (a) 該非銀行金融公司於存款人提出請求時，有實力向其現在或未來之存款人清償。
 - (b) 該非銀行金融公司不會或不致發生損及其現在或未來存款人利益之行為。
 - (c) 非銀行金融公司之管理階層或擬推舉之管理階層之品格及操守，不得有損於公共利益或存款人利益之情形。
 - (d) 非銀行金融公司須有適足之資本結構及獲利潛力。
 - (e) 非銀行金融公司於印度境內開始或持續營業符合公共利益。
 - (f) 核發營業執照予該非銀行金融公司，須不致於損及金融產業之運作及整體性，並有助於貨幣穩定、經濟成長及符合本行於政府公報公告之其他考慮因素。
 - (g) 申請之非銀行金融公司須符合本行認定之其他各項條件，俾以確保其於印度境內營業時，不致損及公眾或存款人利益。
- (5) 本行於申請人符合第(4)項各款所定資格條件時，得核發營業執照。
- (6) 有下列情形之一者，本行得撤銷非銀行金融公司之登記執照：
- (i) 中止其於印度境內執行非銀行金融機構業務。
 - (ii) 未遵守核發執照之條件。
 - (iii) 未遵守第(4)項第(a)款至第(g)款之規定。
 - (iv) 未能：

- (a) to comply with any direction issued by the Bank under the provisions of this chapter; or
- (b) to maintain accounts in accordance with the requirements of any law or any direction or order issued by the Bank under the provisions of this Chapter; or
- (c) to submit or offer for inspection its books of account and other relevant documents when so demanded by an inspecting authority of the Bank; or
- (v) has been prohibited from accepting deposit by an order made by the Bank under the provisions of this Chapter and such order has been in force for a period of not less than three months:

Provided that before cancelling a certificate of registration on the ground that the non-banking financial company has failed to comply with the provisions of clause (ii) or has failed to fulfil any of the conditions referred to in clause (iii) the Bank, unless it is of the opinion that the delay in cancelling the certificate of registration shall be prejudicial to public interest or the interest of the depositors or the non-banking financial company, shall give an opportunity to such company on such terms as the Bank may specify for taking necessary steps to comply with such provision or fulfillment of such condition;

Provided further that before making any order of cancellation of certificate of registration, such company shall be given a reasonable opportunity of being heard.

- (7) A company aggrieved by the order of rejection of application for registration or cancellation of certificate of registration may prefer an appeal, within a period of thirty days from the date on which such order of rejection or cancellation is communicated to it, to the Central Government and the decision of the Central Government where an appeal has been preferred to it, or of the Bank where no appeal has been preferred, shall be final:

Provided that before making any order of rejection of appeal, such company shall be given a reasonable opportunity of being heard.

Explanation: For the purposes of this section,

- (a) 遵守本行依本章規定所頒訂之指令。
- (b) 依法律或本行依本章所定規定之要求管理帳務。
- (c) 於本行檢查部門要求時，送交或提供帳務資料或相關文件以供檢核。

- (v) 本行依本章規定所發命令停止其收受存款，且該命令生效已逾 3 個月。

非銀行金融公司因未遵守第(ii)目規定或未能履行第(iii)目規定所定條件者，於本行撤銷其註冊登記前，除延遲撤銷其註冊登記有損及公共利益、存款人或該非銀行金融公司利益者外，本行得給予該公司改正機會，並限其於一定期間內採行必要措施，以合於本章規定或履行所定條件。

本行於撤銷非銀行金融公司註冊登記前，應給予該公司陳述意見之機會。

- (7) 因本行駁回註冊之申請，或撤銷其註冊登記致受損害之非銀行金融公司，得於收受該駁回或撤銷通知送達之日起 30 天內，向中央政府提起訴願；中央政府對於訴願之決定，或本行之駁回或撤銷之決定未經提出訴願者，均具最終確定力；對本款之訴願為駁回之決定前，應給予訴願人陳述意見之機會。

解釋—基於本條之規範目的：

- (I) "net owned fund" means:
- (a) the aggregate of the paid-up equity capital and free reserves as disclosed in the latest balance-sheet of the company after deducting therefrom:
 - (i) accumulated balance of loss;
 - (ii) deferred revenue expenditure; and
 - (iii) other intangible assets; and
 - (b) further reduced by the amounts representing:
 - (1) investments of such company in shares of:
 - (i) its subsidiaries;
 - (ii) companies in the same group;
 - (iii) all other non-banking financial companies; and
 - (2) the book value of debentures, bonds, outstanding loans and advances (including hire-purchase and lease finance) made to, and deposits with,
 - (i) subsidiaries of such company; and
 - (ii) companies in the same group,
 to the extent such amount exceeds ten per cent of (a) above.
- (II) "subsidiaries" and "companies in the same group" shall have the same meanings assigned to them in the Companies Act, 1956.

45IB. Maintenance of percentage of assets.

- (1) Every non-banking financial company shall invest and continue to invest in India in unencumbered approved securities, valued at a price not exceeding the current market price of such securities, an amount which, at the close of business on any day, shall not be less than five per cent, or such higher percentage not exceeding twenty-five per cent, as the Bank may, from time to time and by notification in the Official Gazette, specify, of the deposits outstanding at the close of business on the last working day of the second preceding quarter:
- Provided that the Bank may specify different percentages of investment in respect of different classes of non-banking financial companies.
- (2) For the purpose of ensuring compliance with the provisions of this section, the Bank may require every non-banking financial company to furnish a return to it in such form, in such manner and for such period as may be specified by the Bank.

- (I) 「淨自有資金」：係指
- (a) 該公司最新揭露之資產負債表內實收資本及資本公積總額扣除下列項目：
 - (i) 累積虧損餘額。
 - (ii) 遞延收入支出。
 - (iii) 其他無形資產。
 - (b) 並扣除下列項目：
 - (1) 該公司對下列機構之投資：
 - (i) 附屬機構。
 - (ii) 同一集團內之其他公司。
 - (iii) 其他非銀行金融公司。
 - (2) 金融債券、債券之帳面價值，與下列機構間之貸款及融通餘額(包含分期付款及租賃金融)，其數額超過第(a)款所定 10% 者：
 - (i) 附屬機構。
 - (ii) 同一集團內之其他公司。
- (II) 「附屬機構」及「同一集團內之其他公司」與「1956 年公司法」所定義者相同。

第 45IB 條 資產比率之維持

- (1) 非銀行金融公司應投資並繼續持有無擔保且經核定之有價證券，其投資價格不得超過該有價證券之市價；每營業日結束時之投資總額，不得低於前二季最後營業日存款餘額之 5%，或本行於政府公報公告之 25% 以下之比例計算之金額。
- 本行得對不同類型非銀行金融公司之投資，訂定不同比例。
- (2) 為落實遵行本條之規定，本行得要求非銀行金融公司依本行所定格式、方式及期間，申報其執行情形。

- (3) If the amount invested by a non-banking financial company at the close of business on any day falls below the rate specified under subsection (1), such company shall be liable to pay to the Bank, in respect of such shortfall, a penal interest at a rate of three per cent per annum above the bank rate on such amount by which the amount actually invested falls short of the specified percentage, and where the shortfall continues in the subsequent quarters, the rate of penal interest shall be five per cent per annum above the bank rate on such shortfall for each subsequent quarter.
- (4) (a) The penal interest payable under sub-section (3) shall be payable within a period of fourteen days from the date on which a notice issued by the Bank demanding payment of the same is served on the non-banking financial company and, in the event of a failure of the non-banking financial company to pay the same within such period, penalty may be levied by a direction of the principal civil court having jurisdiction in the area where an office of the defaulting non-banking financial company is situated and such direction shall be made only upon an application made in this behalf to the court by the Bank; and
- (b) When the court makes a direction under clause (a), it shall issue a certificate specifying the sum payable by the non-banking financial company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a suit.
- (5) Notwithstanding anything contained in this section, if the Bank is satisfied that the defaulting non-banking financial company had sufficient cause for its failure to comply with the provisions of subsection (1), it may not demand the payment of the penal interest.

Explanation: For the purposes of this section,

- (i) "approved securities" means securities of any State Government or of the Central Government and such bonds, both the principal whereof and the interest whereon shall have been fully and unconditionally guaranteed by any such Government;
- (ii) "unencumbered approved securities" includes the approved securities lodged by the non-banking financial company with another institution for an advance or any other arrangement to the extent to which such securities have not been drawn against or availed of or encumbered in any manner;
- (iii) "quarter" means the period of three months ending on the last day of March, June, September or December.

- (3) 非銀行金融公司於每日營業結束時之投資金額，低於依第(1)項規定比例計算之金額者，應就其投資不足額部分，依一般銀行年利率加計 3%，支付本行懲罰性利息；其投資不足額情形於次季繼續存在時，每季應支付之懲罰性利息，改依一般銀行利率加計 5%。
- (4) (a) 第(3)項規定之懲罰性利息，應於本行對受處分之非銀行金融公司通知要求支付之日起 14 天內付清；未能如期支付者，由違規之非銀行金融公司營業所在地有管轄權之第一審民事法院，依本行之聲請，以命令科處罰鍰。
- (b) 法院依第(a)款規定所發命令應作成書面，載明該非銀行金融公司應支付之罰鍰數額；該書面命令之執行效力，與法院所為確定判決相同
- (5) 本行認為違規之非銀行金融公司有正當理由無法遵行第(1)項規定者，得不令其支付懲罰性利息。解釋—基於本條之規範目的：
- (i) 「經核定之有價證券」：係指州政府或中央政府之有價證券或債券，其本金及利息均由各該政府全額並無條件保證。
- (ii) 「無擔保且經核定之有價證券」：包含由非銀行金融公司提供予其他機構以供融通或其他財務安排之經核定之有價證券，惟其並未經提取或運用，或以任何方式設定質押者。
- (iii) 「季」：係指以每年 3 月、6 月、9 月及 12 月為末日之 3 個月期間。

45IC. Reserve fund.

- (1) Every non-banking financial company shall create a reserve fund and transfer therein a sum not less than twenty per cent of its net profit every year as disclosed in the profit and loss account and before any dividend is declared.
- (2) No appropriation of any sum from the reserve fund shall be made by the non-banking financial company except for the purpose as may be specified by the Bank from time to time and every such appropriation shall be reported to the Bank within twenty-one days from the date of such withdrawal:

Provided that the Bank may, in any particular case and for sufficient cause being shown, extend the period of twenty-one days by such further period as it thinks fit or condone any delay in making such report.

- (3) Notwithstanding anything contained in sub-section (1), the Central Government may, on the recommendation of the Bank and having regard to the adequacy of the paid-up capital and reserves of a non-banking financial company in relation to its deposit liabilities, declare by order in writing that the provisions of sub-section (1) shall not be applicable to the non-banking financial company for such period as may be specified in the order:

Provided that no such order shall be made unless the amount in the reserve fund under sub-section (1) together with the amount in the share premium account is not less than the paid-up capital of the non-banking financial company.

45J. Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money.

The Bank may, if it considers necessary in the public interest so to do, by general or special order,

- (a) regulate or prohibit the issue by any non-banking institution of any prospectus or advertisement soliciting deposits of money from the public; and
- (b) specify the conditions subject to which any such prospectus or advertisement, if not prohibited, may be issued.

第 45IC 條 準備基金

- (1) 非銀行金融公司應設立準備基金，並於宣布股利分配前，將揭示於損益表之淨利撥入，其比例不得低於年度淨利 20%。

- (2) 非銀行金融公司之準備基金，除本行所限定之特定事項外，不得任意動用；準備基金之支用，應自動用之日起 21 天內，向本行報告。

本行就個別情形認為有充分理由時，得延長 21 天之期間，另定本行認為合適之期間，或免除其遲延申報之責任。

- (3) 中央政府得依本行之建議，於認定非銀行金融公司之實收資本及準備基金與其存款債務相較已具適足性者，以書面命令宣布，第(1)項規定於該書面命令所定期間內，不適用於該指定之非銀行金融公司。

除第(1)項規定之準備基金數額與股票發行溢價帳戶合計不低於該非銀行金融公司實收資本額之情形外，不得發布前述命令。

第 45J 條 本行規範或禁止發布招募存款說明書或招攬廣告

本行因公共利益認為有必要時，得以一般或特別命令：

- (a) 規範或禁止非銀行金融機構向公眾發布招募存款說明書，或刊登招攬廣告。

- (b) 明定未經禁止之招募存款說明書或招攬廣告之發布條件。

45JA. Power of Bank to determine policy and issue directions.

- (1) If the Bank is satisfied that, in the public interest or to regulate the financial system of the country to its advantage or to prevent the affairs of any non-banking financial company being conducted in a manner detrimental to the interest of the depositors or in a manner prejudicial to the interest of the non-banking financial company, it is necessary or expedient so to do, it may determine the policy and give directions to all or any of the non-banking financial companies relating to income recognition, accounting standards, making of proper provision for bad and doubtful debts, capital adequacy based on risk weights for assets and credit conversion factors for off-balance-sheet items and also relating to deployment of funds by a non-banking financial company or a class of non-banking financial companies or non-banking financial companies generally, as the case may be, and such non-banking financial companies shall be bound to follow the policy so determined and the directions so issued.
- (2) Without prejudice to the generality of the powers vested under subsection (1), the Bank may give directions to non-banking financial companies generally or to a class of non-banking financial companies or to any non-banking financial company in particular as to –
 - (a) the purpose for which advances, or other fund based or non-fund-based accommodation may not be made; and
 - (b) the maximum amount of advances or other financial accommodation or investment in shares and other securities which, having regard to the paid-up capital, reserves and deposits of the non-banking financial company and other relevant considerations, may be made by that non-banking financial company to any person or a company or to a group of companies.

45K. Power of Bank to collect information from non-banking institutions as to deposits and to give directions.

- (1) The Bank may at any time direct that every non-banking institution shall furnish to the Bank, in such form, at such intervals and within such time, such statements, information or particulars relating to or connected with deposits received by the non-banking institution, as may be specified by the Bank by general or special order.

第 45JA 條 本行決定政策及發布指令之權力

- (1) 因公共利益，或為管理全國金融體系，或避免非銀行金融公司從事有危及存款人利益或損及非銀行金融公司利益之行為，本行認為有必要採行適當措施者，得就有關收入認列、會計準則、備抵呆帳以資產風險權衡為基礎之資本適足性、資產負債表外項目之信用轉換因素，以及個別非銀行金融公司、特定類型非銀行金融公司或一般非銀行金融公司資金之配置等，對全體或部分非銀行金融公司訂定政策及發布指令。各該非銀行金融公司有遵行本行政策及指令之義務。
- (2) 就無損於本行依第(1)項規定授與之權力範圍內，本行得對一般非銀行金融公司、特定類型非銀行金融公司或任何個別非銀行金融公司給予下列之指令：
 - (a) 不得對特定目的事項為融通、或為其他資金或非資金之融通。
 - (b) 對於任何人、個別公司或某類公司為融通、資金融通或投資其有價證券之最高限額；其最高限額之規定，應考量各該非銀行金融公司實收資本額、準備金、存款債務及其他相關因素。

第 45K 條 本行向非銀行機構蒐集存款資訊及給予指示之權力

- (1) 本行得隨時指示非銀行機構應遵照本行發布之一般或特別命令，依所定格式、週期、時間，向本行申報與該非銀行機構收受存款有關之報表、資訊及細節。

- (2) Without prejudice to the generality of the power vested in the Bank under sub-section (1), the statements, information or particulars to be furnished under sub-section (1) may relate to all or any of the following matters, namely, the amount of the deposits, the purposes and periods for which, and the rates of interest and other terms and conditions on which, they are received.
- (3) The Bank may, if it considers necessary in the public interest so to do, give directions to non-banking institutions either generally or to any non-banking institution or group of non-banking institutions in particular, in respect of any matters relating to or connected with the receipt of deposits, including the rates of interest payable on such deposits, and the periods for which deposits may be received.
- (4) If any non-banking institution fails to comply with any direction given by the Bank under sub-section (3), the Bank may prohibit the acceptance of deposits by that non-banking institution.
- (5) [*****]
- (6) Every non-banking institution receiving deposits shall, if so required by the Bank and within such time as the Bank may specify, cause to be sent at the cost of the non-banking institution a copy of its annual balance sheet and profit and loss account or other annual accounts to every person from whom the non-banking institution holds, as on the last day of the year to which the accounts relate, deposits higher than such sum as may be specified by the Bank.

45L. Power of Bank to call for information from financial institutions and to give directions.

- (1) If the Bank is satisfied that for the purpose of enabling it to regulate the credit system of the country to its advantage it is necessary so to do; it may:
 - (a) require financial institutions either generally or any group of financial institutions or financial institution in particular, to furnish to the Bank in such form, at such intervals and within such time, such statements, information or particulars relating to the business of such financial institutions or institution, as may be specified by the Bank by general or special order.
 - (b) give to such institutions either generally or to any such institution in particular, directions relating to the conduct of business by them or by it as financial institutions or institution.

- (2) 就無損於本行依第(1)項規定授與之權限力範圍內，依第(1)項規定提供之報表、資訊及細節，得包括收受之存款總額、存款目的、期間、利率及其他期限或條件等。
- (3) 本行認為基於公共利益之必要，得對全體、部分或特定非銀行機構或非銀行機構集團，就收受存款有關事項，包括對各該存款所支付之利率，以及各該存款之期間等事項，給予指示。
- (4) 非銀行機構未遵行本行依第(3)項規定所為指示者，本行得禁止其收受存款。
- (5) (刪除)。
- (6) 本行於必要時，得要求所有收受存款之非銀行機構，於指定期限內，自費將該機構年度資產負債表、損益表或其他年度會計帳目，送交當年度年底之存款達本行指定數額之存款人。

第 45L 條 本行向金融機構要求提供資訊及給予指示之權力

- (1) 本行於認為基於本行之利益而有管理全國信用體系之必要時，得—
 - (a) 要求全體、某類或個別之金融機構，依本行以一般或個別命令所定格式、週期、時點，向本行提供各項聲明、報表、資訊及與其業務有關事項之明細。
 - (b) 對於全體或任何個別金融機構所從事業務之有關事項給予指示。

- (2) Without prejudice to the generality of the power vested in the Bank under clause (a) of sub-section (1), the statements, information or particulars to be furnished by a financial institution may relate to all or any of the following matters, namely, the paid-up capital, reserves or other liabilities, the investments whether in Government securities or otherwise, the persons to whom, and the purposes and periods for which, finance is provided and the terms and conditions, including the rates of interest, on which it is provided.
- (3) In issuing directions to any financial institution under clause (b) of sub-section (1), the Bank shall have due regard to the conditions in which, and the objects for which, the institution has been established, its statutory responsibilities, if any, and the effect the business of such financial institution is likely to have on trends in the money and capital markets.

45M. Duty of non-banking institutions to furnish statements, etc., required by Bank.

It shall be the duty of every non-banking institution to furnish the statements, information or particulars called for, and to comply with any direction given to it, under the provisions of this Chapter.

45MA. Powers and duties of auditors.

- (1) It shall be the duty of an auditor of a non-banking institution to inquire whether or not the non-banking institution has furnished to the Bank such statements, information or particulars relating to or connected with deposits received by it, as are required to be furnished under this Chapter, and the auditor shall, except where he is satisfied on such inquiry that the non-banking institution has furnished such statements, information or particulars, make a report to the Bank giving the aggregate amount of such deposits held by the non-banking institution;
- (1A) The Bank may, on being satisfied that it is necessary so to do, in the public interest or in the interest of the depositors or for the purpose of proper assessment of the books of account, issue directions to any non-banking financial company or any class of non-banking financial companies or non-banking financial companies generally or to the auditors of such non-banking financial company or companies relating to balance-sheet, profit and loss account, disclosure of liabilities in the books of account or any matter relating thereto;
- (2) Where, in the case of a non-banking financial company the auditor has made, or intends to make, a report to the Bank under sub-section (1), he shall include in his report under sub-section (2) of section 227 of the Companies Act, 1956, the contents of the report which he has made, or intends to make to the Bank.

- (2) 就無損於第(1)項第(a)款賦予本行權力之範圍內，金融機構向本行提供之聲明、報表、資訊或相關細節資料，得涵蓋全部或部分下列項目：實收資本額、準備金數額、其他負債、對政府有價證券或其他之投資、對其他人提供融通之目的、期間、期限及條件，包括利率在內。
- (3) 本行於依第(1)項第(b)款規定發布命令時，應考量個別金融機構設立目的、設置條件、法定責任及其業務對貨幣與資本市場之影響。

第 45M 條 非銀行機構依本行要求提供報表資料之義務

非銀行機構有義務依本章規定，提供本行要求之報表、資訊及相關明細，並遵循本行所給予之指示。

第 45MA 條 稽核人員之權力與責任

- (1) 非銀行機構之稽核人員有責任查明該機構是否已依本章規定向本行提出其收受存款之報表、資訊及相關明細，且除其已確認該機構已辦理前述事項外，應向本行提出報告，並載明其所持有之存款總額。
- (1A) 本行因公共利益、存款人權益或為適當評定帳冊目的之必要，得對於任一非銀行金融公司、全體或某類型非銀行金融公司或該非銀行金融公司之稽核人員，要求申報有關資產負債、損益帳目或與前述事項有關帳冊之債務揭露等事項給予指示。
- (2) 非銀行金融公司之稽核人員依第(1)項規定製作或擬製作提供本行之報告時，該報告內容應依「1956 年公司法」第 227 條第 2 項規定，製作報告目錄。

- (3) Where the Bank is of the opinion that it is necessary so to do in the public interest or in the interest of the non-banking financial company or in the interest of the depositors of such company, it may at any time by order direct that a special audit of the accounts of the non-banking financial company in relation to any such transaction or class of transactions or for such period or periods, as may be specified in the order, shall be conducted and the Bank may appoint an auditor or auditors to conduct such special audit and direct the auditor or the auditors to submit the report to it.
- (4) The remuneration of the auditors as may be fixed by the Bank, having regard to the nature and volume of work involved in the audit and the expenses of or incidental to the audit, shall be borne by the non-banking financial company so audited.

45MB. Power of Bank to prohibit acceptance of deposit and alienation of assets.

- (1) If any non-banking financial company violates the provisions of any section or fails to comply with any direction or order given by the Bank under any of the provisions of this Chapter, the Bank may prohibit the non-banking financial company from accepting any deposit.
- (2) Notwithstanding anything to the contrary contained in any agreement or instrument or any law for the time being in force, the Bank, on being satisfied that it is necessary so to do in the public interest or in the interest of the depositors, may direct, the non-banking financial company against which an order prohibiting from accepting deposit has been issued, not to sell, transfer, create charge or mortgage or deal in any manner with its property and assets without prior written permission of the Bank for such period not exceeding six months from the date of the order.

45MC. Power of Bank to file winding up petition.

- (1) The Bank, on being satisfied that a non-banking financial company,
 - (a) is unable to pay its debt; or
 - (b) has by virtue of the provisions of section 45IA become disqualified to carry on the business of a non-banking financial institution; or
 - (c) has been prohibited by the Bank from receiving deposit by an order and such order has been in force for a period of not less than three months; or

- (3) 本行認為因公共利益、非銀行金融公司利益或該公司存款人利益之必要，得隨時以指令，就該非銀行金融公司於特定期間內之某些交易，或某幾類交易帳務，進行特別稽查；本行得指派稽核人員辦理此類特別稽查，並要求相關稽核人員向本行提交報告。
- (4) 稽核人員之報酬，由本行依其稽查工作性質及範圍定之；其稽查費用或其附隨費用，應由受稽查之非銀行金融公司負擔。

第 45MB 條 本行禁止收受存款及凍結資產之權力

- (1) 非銀行金融公司如違反本章規定，或未遵循本行依本章規定所頒布指示或命令者，本行得禁止該違規之非銀行金融公司收受存款。
- (2) 無論其他協議、文件或現行法律有無相反之規定，本行基於公共利益之考量，或為保障存款人利益等之必要，得指示該業經本行勒令禁止收受存款之非銀行金融公司，於未經本行事先書面同意，不得於前項禁止命令發布之日起 6 個月內，就其財產或資產為出售、轉讓、設定負擔或質押，或以其他方式交易。

第 45MC 條 本行訴請公司解散之權力

- (1) 本行於認定非銀行金融公司有下列情形之一者，得依「1956 年公司法」之規定，主動提出解散該非銀行金融公司之聲請：
 - (a) 無力清償債務。
 - (b) 因第 45-IA 條之規定致喪失從事非銀行金融機構業務之資格。
 - (c) 經本行勒令禁止收受存款，且該禁止命令生效期間已超過 3 個月。

- (d) the continuance of the non-banking financial company is detrimental to the public interest or to the interest of the depositors of the company, may file an application for winding up of such non-banking financial company under the Companies Act, 1956.
- (2) A non-banking financial company shall be deemed to be unable to pay its debt if it has refused or has failed to meet within five working days any lawful demand made at any of its offices or branches and the Bank certifies in writing that such company is unable to pay its debt.
- (3) A copy of every application made by the Bank under sub-section (1) shall be sent to the Registrar of Companies.
- (4) All the provisions of the Companies Act, 1956 relating to winding up of a company shall apply to a winding up proceeding initiated on the application made by the Bank under this provision.

45N. Inspection.

- (1) The Bank may, at any time, cause an inspection to be made by one or more of its officers or employees or other persons (hereafter in this section referred to as the inspecting authority)-
 - (i) of any non-banking institution, including a financial institution, for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to the Bank or for the purpose of obtaining any information or particulars which the non-banking institution has failed to furnish on being called upon to do so; or
 - (ii) of any non-banking institution being a financial institution, if the Bank considers it necessary or expedient to inspect that institution.
- (2) It shall be the duty of every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof to produce to the inspecting authority all such books, accounts and other documents in his custody or power and to furnish that authority with any statements and information relating to the business of the institution as that authority may require of him, within such time as may be specified by that authority.
- (3) The inspecting authority may examine on oath any director or member of any committee or body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof, in relation to its business and may administer an oath accordingly.

(d) 該非銀行金融公司繼續營業有損於公共利益或其存款人之權益。

- (2) 經非銀行金融公司拒絕，或未於5個營業日內對向該行或其分行提出之請求如期清償，經本行以書面認定該公司已無法清償債務者，視為無力清償。
- (3) 本行依第(1)項規定提出之聲請書，並應副知公司登記機關。
- (4) 「1956 年公司法」有關公司解散之規定，於本行依本條聲請之解散程序，亦適用之。

第 45N 條 檢查

- (1) 本行得隨時指派官員、行員或其他人員（以下統稱有權檢查人員），對下列對象辦理檢查—
 - (i) 本行為確認非銀行機構包含金融機構，提交本行之聲明、報表、資訊及各項明細之正確性及完整性，或接獲本行指示未向本行提供資訊及各項明細之非銀行機構。
 - (ii) 本行認為有必要或適宜檢查之將成為金融機構之非銀行機構。
- (2) 非銀行機構之董事、委員會成員，或當時被賦予經營管理權限之其他人員，或其職員、受雇人，有義務向檢查人員提供所持有或保管之簿冊、帳目及其他文件，並依檢查人員指定之時間，提供受檢機構業務有關之報表及資訊。
- (3) 檢查人員得要求非銀行機構之董事、委員會成員，或當時被賦予經營管理權限之其他人員，或其職員、受雇人宣誓，並對宣誓人員進行業務相關之詢問。

45NA. Deposits not to be solicited by unauthorised person.

No person shall solicit on behalf of any non-banking institution either by publishing or causing to be published any prospectus or advertisement or in any other manner deposits of money from the public unless-

- (a) he has been authorised in writing by the said non-banking institution to do so and specifies the name of the institution which has so authorised him, and
- (b) the prospectus or advertisement complies with any order made by the Bank under section 45J and with any other provision of law for the time being in force, applicable to the publication of such prospectus or advertisement.

45NB. Disclosure of information.

- (1) Any information relating to a non-banking financial company, -
 - (i) contained in any statement or return submitted by such company under the provisions of this Chapter; or
 - (ii) obtained through audit or inspection or otherwise by the Bank, shall be treated as confidential and shall not, except otherwise provided in this section, be disclosed.
- (2) Nothing in this section shall apply to-
 - (a) the disclosure by any non-banking financial company, with the previous permission of the Bank, of any information furnished to the Bank under sub-section (1);
 - (b) the publication by the Bank, if it considers necessary in the public interest so to do, of any information collected by it under sub-section (1) in such consolidated form as it may think fit without disclosing the name of any non-banking financial company or its borrowers;
 - (c) the disclosure or publication by the non-banking financial company or by the Bank of any such information to any other non-banking financial company or in accordance with the practice and usage customary amongst such companies or as permitted or required under any other law:

Provided that any such information received by a non-banking financial company under this clause shall not be published except in accordance with the practice and usage customary amongst companies or as permitted or required under any other law.

第 45NA 條 未經授權人員不得招攬存款

任何人均不得以任一非銀行機構名義招攬業務，包括印發或主導印發招募存款說明書、刊登廣告，向公眾吸收存款。除非：

- (a) 經該非銀行機構以書面授權，並載明授權者之名稱。
- (b) 所印製之招募存款說明書或廣告，符合本行依第 45J 條及其他對招募存款說明書或廣告有拘束力法律之規定。

第 45NB 條 資訊揭露

- (1) 與非銀行金融公司有關之下列資訊，應以機密文件處理，除本條另有規定外，不得揭露—
 - (i) 該公司依本章規定向本行提交之報表及報告。
 - (ii) 本行經由稽核、檢查或其他方式取得之資訊。
- (2) 本條規定於下列情形不適用之—
 - (a) 非銀行金融公司經本行事先許可，就其依第 (1) 項規定向本行提出之資訊為揭露。
 - (b) 本行基於公共利益之必要，得將依第 (1) 項規定取得之資訊作成合併報表，隱去個別非銀行金融公司或其借款人之名稱後公布之。
 - (c) 非銀行金融公司或本行對其他非銀行金融公司所提供或發布之資訊，或於此類公司間之實務運作或使用習慣所許可，或為其他法律規定所許可者。但非銀行金融公司依本款規定所獲得之資訊，除於此類公司間之實務運作或使用習慣所許可，或為其他法律規定所許可或要求者外，不得對外發布。

- (3) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Bank, if it is satisfied that, in the public interest or in the interest of the depositors or the non-banking financial company or to prevent the affairs of any non-banking financial company being conducted in a manner detrimental to the interest of the depositors, it is expedient so to do, may, either on its own motion or on being requested, furnish or communicate any information relating to the conduct of business by any non-banking financial company to any authority constituted under any law.
- (4) Notwithstanding anything contained in any law for the time being in force, no court or tribunal or other authority shall compel the Bank to produce or to give inspection of any statement or other material obtained by the Bank under any provisions of this chapter.

45NC. Power of Bank to exempt.

The Bank, on being satisfied that it is necessary so to do, may declare by notification in the Official Gazette that any or all of the provisions of this Chapter shall not apply to a non-banking institution or a class of non-banking institutions or a non-banking financial company or to any class or non-banking financial companies either generally or for such period as may be specified, subject to such conditions, limitations or restrictions as it may think fit to impose.

45O. Penalties.

[Rep. by the Reserve Bank of India (Amendment) Act, 1974, (51 of 1974). section 22 (w.e.f. 13-12-1974).]

45P. Cognizance of offence.

[Rep. by the Reserve Bank of India (Amendment) Act, 1974, section 22 (w.e.f. 13-12-1974).]

45Q. Chapter IIIB to override other laws.

The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

45QA. Power of Company Law Board to offer repayment of deposit.

- (1) Every deposit accepted by a non-banking financial company, unless renewed, shall be repaid in accordance with the terms and condition of such deposit.

- (3) 無論本法或其他法律有無其他規定，基於公共利益、存款人或非銀行金融公司之利益，或為避免非銀行金融公司業務經營之方式損及存款人之利益，本行得主動或依申請，將各該非銀行金融公司業務經營有關資訊，提供或通知依法設立之機關。
- (4) 無論現行法律有無其他規定，法院、法庭或其他機關均不得強迫本行製作，或對本行依本章規定取得之報表或其他資料進行調查。

第 45NC 條 本行之豁免權力

本行認為有必要時，得於政府公報公告，宣布本章之全部或部分規定，於某些情況下，或依本行所定之條件、限制或特定期間內，不適用於個別非銀行機構、某些類型之非銀行機構、個別非銀行金融公司或某些類型之非銀行金融公司。

第 45O 條 處罰

(刪除)。

第 45P 條 刑事案件之管轄

(刪除)。

第 45Q 條 第 3B 章優先於其他法律

本章規定對於其他法律或依其他法律生效之文件有不同規定者，有優先適用之效力。

第 45QA 條 公司法委員會對於存款償還命令之權力

- (1) 非銀行金融公司所收受之存款，除因合意更新存款契約外，應依原定之期限及條件，償付存款人。

- (2) Where a non-banking financial company has failed to repay and deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board constituted under section 10E of the Companies Act, 1956, may, if it is satisfied, either on its own motion or on an application of the depositor, that it is necessary so to do to safeguard the interests of the company, the depositors or in the public interest, direct, by order, the non-banking financial company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order:

Provided that the Company Law Board may, before making any order under this sub-section, give a reasonable opportunity of being heard to the non-banking financial company and the other persons interested in the matter.

45QB. Nomination by depositors.

- (1) Where a deposit is held by a non-banking financial institution to the credit of one or more persons, the depositor or, as the case may be, all the depositors together may nominate, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the non-banking financial institution.
- (2) Notwithstanding anything contained in any other law for the time being in force, or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made purports to confer on any person the right to receive the amount of deposit from the non-banking financial institution, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949.
- (3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint, in the manner prescribed by rules made by the Central Government under section 45ZA of the Banking Regulation Act, 1949, any person to receive the amount of deposit in the event of his death during the minority of the nominee.

- (2) 非銀行金融公司未能依前項規定向存款人償付全部或部分債務者，依「1956年公司法」第10E條規定設立之公司法委員會，為維護該公司之利益，或保護存款人或公共利益之目的，得主動或依存款人之申請，以命令指示該非金融公司依命令所定條件，並於指定期間內，償付存款之全部或部分。

公司法委員會於頒布上述命令前，應給予非銀行金融公司及其他利害關係人陳述意見之機會。

第 45QB 條 存款人之指名

- (1) 非銀行金融機構存款人之 1 人或多人，按中央政府依「1949 年銀行管理法」第 45ZA 條頒布之規定，得共同指派一人，於該存款人全部死亡時，領取其相關帳戶內之存款。
- (2) 不論當時其他法律之規定，或任何文件及證詞內容，非銀行金融機構存款人所指定之受款人，得於該存款人全部死亡時，領取相關帳戶內之存款。但該存款人之 1 人或多人依中央政府依「1949 年銀行管理法」第 45ZA 條頒布之規定，經變更或撤銷相關之指派者除外。
- (3) 指定之受款人為未成年人者，存款人得依中央政府依「1949 年銀行管理法」第 45ZA 條所頒布之規定，在該受款人尚未成年而存款人死亡之情形下，指派 1 人代為領取。

- (4) Payment by a non-banking institution in accordance with the provisions of this section shall constitute a full discharge to the non-banking institution of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.

- (5) No notice of the claim of any person, other than the person or persons in whose name a deposit is held by a non-banking institution, shall be receivable by the non-banking institution, nor shall the non-banking institution be bound by any such notice even though expressly given to it:

Provided that where any decree order, certificate or other authority from a court of competent jurisdiction relating to such deposit is produced before a non-banking institution, the non-banking institution shall take due note of such decree, order, certificate or other authority.

CHAPTER IIIC

PROHIBITION OF ACCEPTANCE OF DEPOSITS BY UNINCORPORATED BODIES

45R. Interpretation.

The words and expressions used in this Chapter and defined in Chapter IIIB shall have the meanings respectively assigned to them therein.

45S. Deposits not to be accepted in certain cases.

- (1) No person, being an individual or a firm or an unincorporated association of individuals shall, accept any deposit:
- (i) If his or its business wholly or partly includes any of the activities specified in clause (c) of section 45I; or
 - (ii) if his or its principal business is that of receiving of deposits under any scheme or arrangement or in any other manner, or lending in any manner;

Provided that nothing contained in this sub-section shall apply to the receipt of money by an individual by way of loan from any of his relatives or to the receipt of money by a firm by way of loan from the relative or relatives of any of the partners.

- (4) 非銀行機構依本條規定交付存款，即免除對相關存款之法律責任。但本項規定不影響任何人對受款人之權利或請求權。

- (5) 除存款人之請求權通知外，非銀行機構無須接受或因應其他任何人之請求權通知。但法院或具有管轄權之司法機構所簽發之裁決書、命令、證書或其他有效文件，於送交非銀行機構時，該機構應予承認，並正式簽收。

第 3C 章 禁止非公司型態之組織收受存款

第 45R 條 解釋

本章字彙及用語之涵義，依其上下文之文意而定。

第 45S 條 不得收受存款之情形

- (1) 任何人均不得收受存款，包括個人、合夥公司或非公司組織之自然人團體：
- (i) 該個人或公司之主要或部分業務，包括第 45I 條第(c)款所定之事項者。
 - (ii) 該個人或公司之主要業務，在於依特定計畫、安排或其他原因收受存款或貸款者。
- 本項規定於自然人因向其親屬借款而收受金錢，或公司因向關係人或合夥人親屬借款而收受金錢之情形，不適用之。

- (2) Where any person referred to in sub-section (1) holds any deposit on the 1st day of April 1997 which is not in accordance with sub-section (1), such deposit shall be repaid by that person immediately after such deposit becomes due for repayment or within three years from the date of such commencement, whichever is earlier;

Provided that if the Bank is satisfied on an application made by any person to the Bank that such person is unable to repay a part of the deposits for reasons beyond his control or such repayment shall cause extreme hardship to him, it may, by an order in writing, extend such period by a period not exceeding one year subject to such conditions as may be specified in the order.

- (3) On and from the 1st day of April 1997, no person referred to in sub-section (1) shall issue or cause to be issued any advertisement in any form for soliciting deposit.

Explanation: For the purposes of this section, a person shall be deemed to be a relative of another if, and only if,

- (i) they are members of a Hindu undivided family; or
- (ii) they are husband and wife; or
- (iii) the one is related to the other in the manner indicated in the

List of Relatives below:

List of relatives:

1. Father, 2. Mother (including step-mother), 3. Son (including stepson), 4. Son's wife, 5. Daughter (including step-daughter), 6. Father's father, 7. Father's mother, 8. Mother's mother, 9. Mother's father, 10. Son's son, 11. Son's son's wife, 12. Son's daughter, 13. Son's daughter's husband, 14. Daughter's husband, 15. Daughter's son, 16. Daughter's son's wife, 17. Daughter's daughter, 18. Daughter's daughter's husband, 19. Brother (including stepbrother), 20. Brother's wife, 21. Sister (including step-sister), 22. Sister's husband.

45T. Power to issue search warrants.

- (1) Any court having jurisdiction to issue a search warrant under the Code of Criminal Procedure, 1973 may, on an application by an officer of the Bank or of the State Government authorised in this behalf stating his belief that certain documents relating to acceptance of deposits in contravention of the provisions of section 45S are secreted in any place within the local limits of the jurisdiction of such court, issue a warrant to search for such documents.

- (2) 1997 年 4 月 1 日前非依第(1)項規定而有第(1)項規定之存款者，應於該存款到期時，或自該日起算 3 年內，以兩者中之較早日期為償付日期。因前項規定持有存款之人，因非可歸責自己之原因，或償付存款將造成重大困難致無法償付部分存款債務時，本行得因其申請，於認為有正當理由時，得以書面命令展延償付日期；展延期間，最長不超過 1 年，並應視個別狀況載明於命令中。

- (3) 自 1997 年 4 月 1 日起，第(1)項規定之人，不得以任何方式刊登廣告招攬存款。

解釋—基於本條規範之目的，1 人被視為另 1 人之親屬，僅限於下列情形：

- (i) 印度大家族成員之間。
- (ii) 配偶之間。

- (iii) 其他親屬關係，依下列親屬清單定之：

親屬清單：

1. 父親 2. 母親（包括繼母）3. 兒子（包括繼子）4. 子媳 5. 女兒（包括繼女）6. 祖父 7. 祖母 8. 外婆 9. 外公 10. 孫子 11. 孫媳 12. 孫女 13. 孫女婿 14. 女婿 15. 外孫 16. 外孫女婿 17. 外孫女 18. 外孫女婿 19. 兄弟（包括異父母之兄弟）20. 兄弟之妻 21. 姊妹（包括異父母之姊妹）22. 姊妹之夫。

第 45T 條 簽發搜索證之權力

- (1) 依「1973 年刑事訴訟法」規定有權簽發搜索證之法院，得依本行或州政府官員之申請，簽發搜索證，以便搜查轄區內足以證明違反第 45S 條不得收受存款之文件。

- (2) A warrant issued under sub-section (1) shall be executed in the same manner and shall have the same effect as a search warrant issued under the Code of Criminal Procedure, 1973.

CHAPTER IIID

REGULATION OF TRANSACTIONS IN DERIVATIVES, MONEY MARKET INSTRUMENTS, SECURITIES, ETC.

45U. Definitions.

For the purposes of this Chapter:

- (a) "derivative" means an instrument, to be settled at a future date, whose value is derived from change in interest rate, foreign exchange rate, credit rating or credit index, price of securities (also called "underlying"), or a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency swaps, foreign currency-rupee swaps, foreign currency options, foreign currency-rupee options or such other instruments as may be specified by the Bank from time to time;
- (b) "money market instruments" include call or notice money, term money, repo, reverse repo, certificate of deposit, commercial usance bill, commercial paper and such other debt instrument of original or initial maturity up to one year as the Bank may specify from time to time;
- (c) "repo" means an instrument for borrowing funds by selling securities with an agreement to repurchase the securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed;
- (d) "reverse repo" means an instrument for lending funds by purchasing securities with an agreement to resell the securities on a mutually agreed future date at an agreed price which includes interest for the funds lent;
- (e) "securities" means securities of the Central Government or a State Government or such securities of a local authority as may be specified in this behalf by the Central Government and, for the purposes of "repo" or "reverse repo", include corporate bonds and debentures.

- (2) 依前項規定簽發之搜索證，與依「1973 年刑事訴訟法」規定簽發之搜索證有同等效力。

第 3D 章 衍生性商品、貨幣市場工具及有價證券等 交易之監理

第 45U 條 定義

基於本章規範之目的而言：

- (a) 「衍生性商品」：係指其價值來自於利率、外幣匯率、信用評級或信用指數、有價證券價格（以上亦稱為「標的」）；或超過前述一個以上之組合商品，包含利率互換、遠期利率協議、外幣換匯交易、外幣-盧比換匯交易、外幣選擇權、外幣-盧比選擇權或其他本行不定期核定之市場工具。
- (b) 「貨幣市場工具」：係指包含短期拆借（隔夜、2 至 14 天期、15 天至 1 年期）、附買回或賣回交易、定期存單、商業債(票)券、商業本票或其他本行不定期核定之原始期限最長為 1 年期之借款工具。
- (c) 「附買回交易」：係指證券持有者將證券售予交易對手，並經雙方合意約定於將來特定期日，按約定之價格買回該證券之交易協議。
- (d) 「附賣回交易」：係指資金持有者向交易對手買入證券，並經雙方合意約定於將來特定期日，按約定之價格賣回該證券之交易協議。
- (e) 「有價證券」：係指由中央政府、州政府或地方政府（機關）發行，並經中央政府核准，以進行附買回或賣回交易為目的之公司債或其他債券。

45V. Transactions in derivatives.

- (1) Notwithstanding anything contained in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or any other law for the time being in force, transactions in such derivatives, as may be specified by the Bank from time to time, shall be valid, if at least one of the parties to the transaction is the Bank, a scheduled bank, or such other agency falling under the regulatory purview of the Bank under the Act, the Banking Regulation Act, 1949 (10 of 1949), the Foreign Exchange Management Act, 1999 (42 of 1999), or any other Act or instrument having the force of law, as may be specified by the Bank from time to time.
- (2) Transactions in such derivatives, as had been specified by the Bank from time to time, shall be deemed always to have been valid, as if the provisions of sub-section (1) were in force at all material times.

45W. Power to regulate transactions in derivatives, money market instruments, etc.

- (1) The Bank may, in public interest, or to regulate the financial system of the country to its advantage, determine the policy relating to interest rates or interest rate products and give directions in that behalf to all agencies or any of them, dealing in securities, money market instruments, foreign exchange, derivatives, or other instruments of like nature as the Bank may specify from time to time:
Provided that the directions issued under this sub-section shall not relate to the procedure for execution or settlement of the trades in respect of the transactions mentioned therein, on the Stock Exchanges recognised under section 4 of the Securities Contracts (Regulation) Act, 1956(42 of 1956).
- (2) The Bank may, for the purpose of enabling it to regulate agencies referred to in sub-section (1), call for any information, statement or other particulars from them, or cause an inspection of such agencies to be made.

45X. Duty to comply with directions and furnish information.

It shall be the duty of every director or member or other body for the time being vested with the management of the affairs of the agencies referred to in section 45W to comply with the directions given by the Bank and to submit the information or statement or particulars called for under that section.

第 45 V 條 衍生性商品之交易

- (1) 除「1956 年證券契約管理法」(1956 年第 42 號)或其他現行有效法律另有其他規定外,交易標的如係經本行核定之衍生性商品,且交易雙方中至少有一方當事人為係本行、附表銀行或其他受本行依本法、「1949 年銀行管理法」(1949 年第 10 號)及「1999 年外匯管理法」(1999 年第 42 號),或其他經本行核定具有法律效力之文書所定監理範圍內之機構者,該交易應受有效之推定。
- (2) 經本行核定之衍生性商品交易,如同前項之規定,應視為始終有效。

第 45W 條 監理衍生性商品、貨幣市場工具等交易之權力

- (1) 本行得基於公共利益或有利於國家金融體系之考量,制定有關於利率或與利率有關之衍生性商品等政策;並得對受監理之機構發布關於有價證券、貨幣市場工具、外匯交易、衍生性商品或其他經本行核定具有類似性質商品之規範指令:依本項所發布之指令,不得涉及「1956 年證券契約管理法」(1956 年第 42 號)第 4 節所定經核准於證券交易所進行交易之執行或結算程序有關。
- (2) 本行得基於管理第 1 項所述機構之目的,要求該等機構提供任何資料、書面聲明或其他所需之特定資訊,或進行檢查。

第 45X 條 遵循指令及提供資訊之義務

任職於第 45W 條所定機構之董事或其他有權管理該等機構事務之成員,應遵循本行依前條所發布之要求及指令,並據以提供相關資料、書面聲明或其他所需之特定資訊。

CHAPTER III JOINT MECHANISM

45Y. Joint Mechanism.

(1) Notwithstanding anything contained in this Act or the Securities and Exchange Board of India Act, 1992 or any other law for the time being in force, if any difference of opinion arises as to whether —

(i) any instrument, being derivative referred to in clause (a) or money market instrument referred to in clause (b) or repo referred to in clause (c) or reverse repo referred to in clause (d) or securities referred to in clause (e) of section 45U of this Act; or

(ii) any instrument, being policy of life insurance under the Insurance Act, 1938, or the rules or regulations made thereunder, or, scrips or any other securities referred to in subclauses (i), (ia), (ib), (ic), (id), (ie), (ii), (iia) and (iii) of clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956,

is hybrid or composite instrument, having a component of money market investment or securities market instrument or a component of insurance or any other instrument referred to in clause (i) or clause (ii) and falls within the jurisdiction of the Reserve Bank of India or the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 or the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999 or the Pension Fund Regulatory and Development Authority constituted by the Resolution of the Government of India number F.No. 1(6)2007-PR, dated the 14th November, 2008, such difference of opinion shall be referred to a Joint Committee consisting of the following, namely:

- (a) the Union Finance Minister — *ex officio* Chairperson;
- (b) the Governor, Reserve Bank of India — *ex officio* Vice-Chairperson;

第 3E 章 聯合委員會機制

第 45Y 條 聯合委員會機制

(1) 除本法、「1992 年印度證券交易委員會法」(1956 年第 42 號)或其他現行有效法律另有其他相反之規定者外：

(i) 任何屬第 45U 條第(a)款所稱之衍生性商品、第(b)款所稱之貨幣市場工具、第(c)款所稱之附買回交易、第(d)款所稱之附賣回交易，或第(e)款所稱之有價證券之市場工具；或

(ii) 任何依「1938 年保險法」或據以訂定之辦法或規章所定之人壽保險政策；或依「1956 年證券契約管理法」第 2 條第(i)款、第(ia)款、第(ib)款、第(ic)款、第(id)款、第(ie)款、第(ii)款、第(iia)款及第(iii)款規定之股票或任何其他有價證券等市場工具。

任何與上述第(i)款及第(ii)款有關，而涉及具有貨幣市場投資工具、證券市場工具或保險工具性質之複合型商品，須經本行、依「1992 年印度證券交易委員會法」第 3 條所設立之「印度證券交易委員會」、依「1999 年印度保險管理及發展法」第 3 條所設立之「印度保險管理及發展局」，或依印度政府 2008 年 11 月 14 日第 F.No. 1(6)2007-PR 號決議組成之「退休基金管理及發展局」核定之；各機關之意見如有分歧或抵觸者，應提交由下列成員組成之「聯合委員會」決之，亦即：

- (a) 財政部長—當然主席；
- (b) 印度儲備銀行總裁—當然副主席；

- (c) the Secretary, Department of Economic Affairs in the Ministry of Finance, Government of India — *ex officio* Member;
 - (d) the Secretary, Department of Financial Services in the Ministry of Finance, Government of India — *ex officio* Member;
 - (e) the Chairperson, Insurance Regulatory and Development Authority—*ex officio* Member;
 - (f) the Chairman, Securities and Exchange Board of India—*ex officio* Member;
 - (g) the Chairperson, Pension Fund Regulatory and Development Authority—*ex officio* Member.
- (2) The Secretary, Department of Financial Services in the Ministry of Finance, Government of India shall be the convener of the meetings of the Joint Committee referred to in sub-section (1).
 - (3) In case of any difference of opinion referred to in sub-section (1), any Member of the Joint Committee referred to in clauses (b), (e), (f) or (g) of that sub-section may make a reference to the Joint Committee.
 - (4) The Joint Committee shall follow such procedure as it may consider expedient and give, within a period of three months from the date of reference made under sub-section (3), its decisions thereon to the Central Government.
 - (5) The decision of the Joint Committee shall be binding on the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority.

CHAPTER III F MONETARY POLICY

45Z. Provisions of this Chapter to override other provisions of Act.

The provisions of this Chapter shall have effect, notwithstanding anything inconsistent therewith contained in any other provisions of this Act.

45ZA. Inflation target.

- (1) The Central Government shall, in consultation with the Bank, determine the inflation target in terms of the Consumer Price Index, once in every five years.

- (c) 印度政府財政部經濟事務司司長—當然成員；
 - (d) 印度政府財政部金融服務司司長—當然成員；
 - (e) 印度保險管理及發展局主任—當然成員；
 - (f) 印度證券交易委員會主席—當然成員；
 - (g) 退休基金管理及發展局主任—當然成員。
- (2) 印度政府財政部金融服務司司長，應為本條第(1)項所述「聯合委員會」會議之召集人。
 - (3) 如有第(1)項所述意見分歧或牴觸之情形時，任何該項第(b)款、第(e)款、第(f)款或第(g)款所定之成員，得將該意見相左之情形，提請「聯合委員會」審議。
 - (4) 「聯合委員會」應遵循其所認為適當之程序，並於依第(3)項規定提請其審議之日起三個月內，向中央政府提報其審議結果。
 - (5) 「聯合委員會」有關上述審議結果之決定，對本行、「印度證券交易委員會」、「印度保險管理及發展局」及「退休基金管理及發展局」具有法律上之拘束力。

第 3F 章 貨幣政策

第 45Z 條 本章之規定優先於本法其他規定

本章之規定縱與本法其他規定有不一致者，仍為有效。

第 45ZA 條 通貨膨脹目標

- (1) 中央政府應與本行協商後，定期每五年依消費物價指數決定通貨膨脹目標。

- (2) The Central Government shall, upon such determination, notify the inflation target in the Official Gazette.

45ZB. Constitution of Monetary Policy Committee.

- (1) The Central Government may, by notification in the Official Gazette, constitute a Committee to be called the Monetary Policy Committee of the Bank.
- (2) The Monetary Policy Committee shall consist of the following Members, namely:
- the Governor of the Bank—Chairperson, *ex officio*;
 - Deputy Governor of the Bank, in charge of Monetary Policy—Member, *ex officio*;
 - one officer of the Bank to be nominated by the Central Board—Member, *ex officio*; and
 - three persons to be appointed by the Central Government—Members.
- (3) The Monetary Policy Committee shall determine the Policy Rate required to achieve the inflation target.
- (4) The decision of the Monetary Policy Committee shall be binding on the Bank.

45ZC. Eligibility and Selection of Members appointed by Central Government.

- (1) The Members of the Monetary Policy Committee referred to in clause (d) of sub-section (2) of section 45ZB shall be appointed by the Central Government from amongst persons of ability, integrity and standing, having knowledge and experience in the field of economics or banking or finance or monetary policy:
Provided that no person shall be appointed as a Member, in case such person—
- has completed the age of seventy years on the date of appointment as Member;
 - is a Member of any Board or Committee of the Bank;
 - is an employee of the Bank;
 - is a public servant as defined under section 21 of the Indian Penal Code;
 - is a Member of Parliament or any State Legislature;
 - has been at any time, adjudged as an insolvent;

- (2) 中央政府應將上述通貨膨脹目標之決定，公告於政府公報。

第 45ZB 條 貨幣政策委員會之組成

- (1) 中央政府應設置一隸屬於本行之「貨幣政策委員會」，並於政府公報發布之。
- (2) 「貨幣政策委員會」由下列成員組成，亦即：
- 本行總裁—當然主席；
 - 本行負責貨幣政策之副總裁—當然成員；
 - 經理事會指派之 1 名本行官員—當然成員；
 - 中央政府派任之 3 名成員。
- (3) 「貨幣政策委員會」為達成所設定之通貨膨脹目標，應決定政策利率。
- (4) 「貨幣政策委員會」作成之決議，對本行具有拘束力。

第 45ZC 條 中央政府任命貨幣政策委員會成員之資格及選擇

- (1) 第 45ZB 條第 2 項第(d)款所定之成員，須由中央政府於具有能力、廉正且具有相當名譽者，且應自具備經濟學、銀行學、金融或貨幣政策等相關專業領域知識之人中任命之。
下列之人員不得受任命為貨幣政策委員會之成員：
- 受任命為成員之日已屆滿 70 歲；
 - 理事會或本行其他委員會之成員；
 - 本行職員；
 - 印度刑法第 21 條所指之公務員；
 - 受破產宣告而無力清償債務者；

- (vii) has been convicted of an offence which is punishable with an imprisonment for a term of one hundred and eighty days or more;
 - (viii) is physically or mentally incapable of discharging the duties of a Member of the Monetary Policy Committee; or
 - (ix) has a material conflict of interest with the Bank and is unable to resolve such conflict.
- (2) The Members of the Monetary Policy Committee referred to in clause (d) of sub-section (2) of section 45ZB shall be appointed by the Central Government on the recommendations made by Search-cum-Selection Committee consisting of the following members, namely:
- (a) Cabinet Secretary—Chairperson;
 - (b) Governor of the Reserve Bank of India or his representative (not below the rank of Deputy Governor)—member;
 - (c) Secretary, Department of Economic Affairs—member;
 - (d) three experts in the field of economics or banking or finance or Monetary policy to be nominated by the Central Government—members.
- (3) While selecting the Members of the Monetary Policy Committee, the Search cum- Selection Committee shall follow such procedure as may be prescribed by the Central Government.

45ZD. Terms and conditions of appointment of Members of Monetary Policy Committee.

- (1) The Members of the Monetary Policy Committee appointed under clause (d) of sub-section (2) of section 45ZB shall hold office for a period of four years and shall not be eligible for re-appointment.
- (2) The terms and conditions of appointment of Members of the Monetary Policy Committee shall be such as may be prescribed by the Central Government and the remuneration and other allowances payable to such Members shall be such as may be specified by the regulations made by the Central Board.
- (3) A Member may resign from the Monetary Policy Committee, at any time before the expiry of his tenure under sub-section (1), by giving to the Central Government, a written notice of not less than six weeks, and on the acceptance of the resignation by the Central Government, he shall cease to be a Member of the Monetary Policy Committee.

- (vii) 曾犯罪並經執行有期徒刑 180 天以上者；
 - (viii) 因身心障礙而無法履行「貨幣政策委員會」成員之職務者；
 - (ix) 與本行具有重大利益衝突，且該衝突尚無法解決者。
- (2) 第 45ZB 條第 2 項第(d)款所定之成員，須由中央政府參酌由下列成員組成之「尋查兼遴選委員會」所提出之建議，亦即：
- (a) 內閣秘書長—主席；
 - (b) 印度準備銀行總裁或其代表人（不得低於副總裁職級）—成員；
 - (c) 經濟部秘書長—成員；
 - (d) 由中央政府提名之具有經濟學、銀行學、金融或貨幣政策等相關領域之專家學者—3 名成員。
- (3) 於遴選「貨幣政策委員會」之成員時，「尋查兼遴選委員會」應遵循中央政府所訂之程序。

第 45ZD 條 貨幣政策委員會成員任命之任期及條件

- (1) 第 45ZB 條第 2 項第(d)款所定之成員，其任期為 4 年，且任期屆滿後不得續任。
- (2) 貨幣政策委員會成員任命之任期及條件，應依中央政府之規定；支付予成員之報酬及津貼，應依理事會訂定之辦法為之。
- (3) 貨幣政策委員會成員得於第(1)項所定任期屆滿前，不得少於 6 個星期之期間，以書面通知中央政府，隨時辭任委員之職務；並於中央政府收到該辭任通知後，不再具有貨幣政策委員會成員之資格。

45ZE. Removal of Members of Monetary Policy Committee.

- (1) The Central Government may remove from office any Member of the Monetary Policy Committee appointed under clause (d) of sub-section (2) of section 45ZB, who—
- (a) is, or at any time has been, adjudged as an insolvent; or
 - (b) has become physically or mentally incapable of acting as a Member; or
 - (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
 - (d) has failed to adequately disclose any material conflict of interest at the time of his appointment; or
 - (e) does not attend three consecutive meetings of the Monetary Policy Committee without obtaining prior leave; or
 - (f) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
 - (g) has acquired any post referred to in clauses (ii), (iii), (iv) and clause (v) of the proviso to sub-section (1) of section 45ZC; or
 - (h) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.
- (2) No Member appointed under clause (d) of sub-section (2) of section 45ZB shall be removed under clause (d) or clause (e) or clause (f) or clause (g) or clause (h) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

45ZF. Vacancies etc., not to invalidate proceedings of Monetary Policy Committee.

No act or proceeding of the Monetary Policy Committee shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of the Monetary Policy Committee; or
- (b) any defect in the appointment of a person acting as a Member of the Monetary Policy Committee; or
- (c) any irregularity in the procedure of the Monetary Policy Committee not affecting the merits of the case.

第 45ZE 條 貨幣政策委員會成員之解任

- (1) 中央政府於有下列情事時，得解任其所依第 45ZB 條第 2 項第(d)款派任之成員：
- (a) 已受破產宣告而無力清償債務者；或
 - (b) 因身心障礙而無法履行職務者；或
 - (c) 觸犯中央政府認屬道德敗壞而不堪擔當本職務之罪行；或
 - (d) 發現於任命當時未揭露之重大利益衝突；或
 - (e) 未經事先獲准，連續 3 次未出席貨幣政策委員會之會議；或
 - (f) 經查獲其取得財產或其他利益，而可能對其身為委員之職責有不良影響者；或
 - (g) 已擔任第 45ZC 條第 1 項第(ii)款、第(iii)款、第(iv)款及第(v)款所定之職務者；或
 - (h) 經中央政府認定有濫用職權之情事，如繼續使其在任將對公共利益有不利影響者。
- (2) 依第 45ZB 條第 2 項第(d)款所任命之成員，除該成員就其情事已被賦予合理陳述意見之機會外，不得依本條第(1)項第(d)款、第(e)款、第(f)款、第(g)款及第(h)款之規定予以解任。

第 45ZF 條 貨幣政策委員會進行之程序不因成員缺額等事由而失其效力

貨幣政策委員會之行為或程序，不得僅因下列之原因而失其效力—

- (a) 貨幣政策委員會之組成有缺額或瑕疵；或
- (b) 貨幣政策委員會成員之任命程序有瑕疵；或
- (c) 貨幣政策委員會進行之程序有不合常規者，亦不影響該案件之結論。

45ZG. Secretary to Monetary Policy Committee.

- (1) The Bank shall appoint a Secretary to the Monetary Policy Committee to provide secretariat support to the said Committee.
- (2) The Secretary shall perform such functions and, in such manner, as may be specified by the regulations made by the Central Board.

45ZH. Information for Monetary Policy Committee Members.

- (1) The Bank shall provide all information to the Members of the Monetary Policy Committee that may be relevant to achieve the inflation target.
- (2) In addition to information provided by the Bank under sub-section (1), any Member of the Monetary Policy Committee may, at any time, request the Bank for additional information, including any data, models or analysis.
- (3) The Bank shall provide the information, as referred to in sub-section (2), to the Member of the Monetary Policy Committee, within reasonable time, unless—
 - (a) the information pertains to an entity or person and is not publicly available; or
 - (b) the information allows an entity or person to be identified and the information is not publicly available.
- (4) Any information provided by the Bank to a Member of the Monetary Policy Committee shall be provided to all the Members of the Monetary Policy Committee.

45ZI. Meetings of Monetary Policy Committee.

- (1) The Bank shall organise at least four meetings of the Monetary Policy Committee in a year.
- (2) The meeting schedule of the Monetary Policy Committee for a year shall be published by the Bank at least one week before the first meeting in that year.
- (3) The meeting schedule may be changed only—
 - (a) by way of a decision taken at a prior meeting of the Monetary Policy Committee; or
 - (b) if, in the opinion of the Governor, an additional meeting is required, or a meeting is required to be rescheduled due to administrative exigencies.

第 45ZG 條 貨幣政策委員會之秘書長

- (1) 本行應派遣秘書長予貨幣政策委員會，俾供支持該委員會所需之秘書事務。
- (2) 秘書長應依理事會制訂之規定履行其職務。

第 45ZH 條 提供予貨幣政策委員會成員之資訊

- (1) 本行應提供貨幣政策委員會成員所有可能關於達成通貨膨脹目標所需之資訊。
- (2) 除本行依第(1)項所提供之資訊外，任何貨幣政策委員會之成員得隨時要求本行提供額外資訊，包括任何數據、模型或分析等資料。
- (3) 本行除有下列情事外，應於合理期間內，提供第(2)項所指之資訊予貨幣政策委員會成員：
 - (a) 該等資訊為其他個人、法人或團體所有，而非公開可得知者；或
 - (b) 該等資訊得以識別出個人、法人或團體，而非公開可得知者。
- (4) 本行向貨幣政策委員會個別成員所提供之資訊，亦應向該委員會所有成員為之。

第 45ZI 條 貨幣政策委員會之會議

- (1) 本行應於 1 年內至少召集 4 次貨幣政策委員會之會議。
- (2) 貨幣政策委員會全年度之會議期程，應由本行於該年度第 1 次會議召開 1 周前公布之。
- (3) 會議期程僅得於下列情形異動之：
 - (a) 由貨幣政策委員會於前次會議作成決定；或
 - (b) 如總裁認為有召開額外會議之必要性，或因行政管理上之緊急事項而有重新安排之情形。

- (4) Any change in meeting schedule shall be published by the Bank as soon as practicable.
- (5) The quorum for a meeting of the Monetary Policy Committee shall be four Members, at least one of whom shall be the Governor and, in his absence, the Deputy Governor who is the Member of the Monetary Policy Committee.
- (6) The meetings of the Monetary Policy Committee shall be presided over by the Governor, and in his absence by the Deputy Governor who is a Member of the Monetary Policy Committee.
- (7) Each Member of the Monetary Policy Committee shall have one vote.
- (8) All questions which come up before any meeting of the Monetary Policy Committee shall be decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Governor shall have a second or casting vote.
- (9) The Central Government may, if it considers necessary, convey its views in writing to the Monetary Policy Committee from time to time.
- (10) The vote of each Member of the Monetary Policy Committee for a proposed resolution shall be recorded against such Member.
- (11) Each Member of the Monetary Policy Committee shall write a statement specifying the reasons for voting in favour of, or against the proposed resolution.
- (12) The procedure, conduct, code of confidentiality and any other incidental matter for the functioning of the Monetary Policy Committee shall be such as may be specified by the regulations made by the Central Board.
- (13) The proceeding of the Monetary Policy Committee shall be confidential.

45ZJ. Steps to be taken to implement decisions of Monetary Policy Committee.

- (1) The Bank shall publish a document explaining the steps to be taken by it to implement the decisions of the Monetary Policy Committee, including any changes thereto.
- (2) The particulars to be included in such document and the frequency of publications of such document shall be such as may be specified by the regulations made by the Central Board.

45ZK. Publication of decisions.

The Bank shall publish, after the conclusion of every meeting of the Monetary Policy Committee, the resolution adopted by the said Committee;

- (4) 任何有關會議期程之變動，均應由本行儘速公布之。
- (5) 召集貨幣政策委員會之法定人數為 4 人，其中 1 人應為總裁；於總裁無法出席時，並應由副總裁代理其出席。
- (6) 貨幣政策委員會應由總裁擔任會議主席主持之；於總裁無法出席時，並應由副總裁代理之。
- (7) 每 1 位貨幣政策委員會之成員均有 1 票。
- (8) 任何提交於貨幣政策委員會之問題，均應由出席成員以多數決之過半數同意決議之；當可否同數時，總裁得享有第 2 次或決定性之投票。
- (9) 於中央政府認為有必要時，得隨時以書面向貨幣政策委員會傳達意見。
- (10) 貨幣政策委員會對於每位成員對提出議案之投票均應加以記錄。
- (11) 貨幣政策委員會之成員無論對提出之議案投下贊成或反對票，均應撰寫聲明說明所持理由。
- (12) 有關任何程序及行為準則、保密規範及其他與執行貨幣政策委員會之功能運作有關之附帶事項，均應依理事會制訂之規章辦理。
- (13) 貨幣政策委員會之議程應予保密。

第 45ZJ 條 執行貨幣政策委員會決策之步驟

- (1) 本行應發布相關文件說明為執行貨幣政策委員會之決定所採行之步驟，並包含任何之異動。
- (2) 上述文件所包含之詳細資訊，及發布該等文件之頻率，應依理事會所訂之辦法辦理。

第 45ZK 條 決議之公布

本行應於每次貨幣政策委員會之會議結束後，公布該委員會所通過之決議。

45ZL. Publication of proceedings of meeting of Monetary Policy Committee.

The Bank shall publish, on the fourteenth day after every meeting of the Monetary Policy Committee, the minutes of the proceedings of the meeting which shall include the following, namely:

- (a) the resolution adopted at the meeting of the Monetary Policy Committee;
- (b) the vote of each member of the Monetary Policy Committee, ascribed to such member, on resolutions adopted in the said meeting; and
- (c) the statement of each member of the Monetary Policy Committee under sub-section (11) of section 45ZL on the resolutions adopted in the said meeting.

45ZM. Monetary Policy Report.

- (1) The Bank shall, once in every six months, publish a document to be called the Monetary Policy Report, explaining:
 - (a) the sources of inflation; and
 - (b) the forecasts of inflation for the period between six to eighteen months from the date of publication of the document.
- (2) The form and contents of the Monetary Policy Report shall be such as may be specified by the regulations made by the Central Board.

45ZN. Failure to maintain inflation target.

Where the Bank fails to meet the inflation target, it shall set out in a report to the Central Government:

- (a) the reasons for failure to achieve the inflation target;
- (b) remedial actions proposed to be taken by the Bank; and
- (c) an estimate of the time-period within which the inflation target shall be achieved pursuant to timely implementation of proposed remedial actions.

Explanation: For the purposes of this section, the factors that constitute failure shall be such as may be notified by the Central Government in the Official Gazette, within three months from the date of the commencement of Part I of Chapter XII of the Finance Act, 2016.

45ZO. Power to make rules.

- (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Chapter.

第 45ZL 條 貨幣政策委員會會議紀錄之公布

本行應於貨幣政策委員會每次會議結束後之第 14 日公布該次會議紀錄，並應包含下列內容：

- (a) 貨幣政策委員會會議通過之決議；
- (b) 貨幣政策委員會之成員對其所表決議案之立場及投票結果。
- (c) 貨幣政策委員會每一成員依第 45ZI 條第(11)款所訂關於其所參與表決議案之聲明。

第 45ZM 條 貨幣政策報告

- (1) 本行應於每 6 個月發布一份所謂「貨幣政策報告」之文件，解釋—
 - (a) 通貨膨脹之因素；及
 - (b) 自該文件公布之日起 6 至 18 個月之通貨膨脹預測。
- (2) 貨幣政策報告之形式及內容，應依理事會所訂之辦法辦理。

第 45ZN 條 未能維持通貨膨脹目標

如本行未能達成通貨膨脹目標時，應於向中央政府提交之報告中載明下列事項：

- (a) 未能達成通貨膨脹目標之原因；
- (b) 本行建議採行之因應補救措施；
- (c) 評估上述及時建議採行之因應補救措施所需之時程。

解釋—基於本條規範之目的，未能達成所設定通貨膨脹目標之事由，應自「2016 年財政法」第 12 章第 1 節生效之日起 3 個月內，公告於中央政府公報。

第 45ZO 條 訂定規章之權力

- (1) 中央政府得制定相關規章，俾利執行本章之規定，並將其內容發布於政府公報。

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—
- (a) the procedure of functioning of the Search-cum-Selection Committee under sub-section (3) of section 45ZC;
 - (b) the terms and conditions of appointment, (other than the remuneration and other allowances), of Members of the Monetary Policy Committee under sub-section (2) of section 45ZD; and
 - (c) any other matter which is to be, or may be, prescribed by the Central Government by rules."

CHAPTER IV GENERAL PROVISIONS

46. Contribution by Central Government to the Reserve Fund.

The Central Government shall transfer to the Bank rupee securities of the value of five crores of rupees to be allocated by the Bank to the Reserve Fund.

46A. Contribution to National Rural Credit (Long Term Operations) Fund and National Rural Credit (Stabilisation) Fund.

The Bank shall contribute every year such sums of money as it may consider necessary and feasible to do so, to the National Rural Credit (Long Term Operations) Fund and the National Rural Credit (Stabilisation) Fund established and maintained by the National Bank under sections 42 and 43, respectively, of the National Bank for Agriculture and Rural Development Act, 1981.

46B.

Section 46-B omitted by National Bank for Agriculture & Rural Development Act, 1981 61 of 1981 (w.e.f. 12-7-1982).

46C. National Industrial Credit (Long Term Operations) Fund.

- (1) The Bank shall establish and maintain a Fund to be known as the National Industrial Credit (Long Term Operations) Fund to which shall be credited -
 - (a) an initial sum of ten crores of rupees by the Bank;
 - (b) such further sums of money as the Bank may contribute every year:

Provided that the annual contribution during each of the five years commencing with the year ending on the 30th day of June, 1965 shall not be less than five crores of rupees:

Provided further that the Central Government may, if the circumstances so require, authorise the Bank to reduce the said sum of five crores of rupees in any year.

- (2) 於不損及上述有關本行之職掌範圍，中央政府所制定之規章得涉及：

- (a) 第 45ZC 條第(3)項所訂有關「尋查兼遴選委員會」之運作程序等事項；
- (b) 第 45ZD 條第(2)項所訂有關貨幣政策委員會成員任命之任期及條件；惟關於其報酬及津貼等事宜，應予除外。
- (c) 其他經中央政府明訂或得由其訂定之事項。

第 4 章 一般規定

第 46 條 中央政府對本行準備金之撥付

中央政府應移轉價值 5 千萬盧比之盧比有價證券予本行，作為本行之準備金。

第 46A 條 本行對國家農村信用(長期運作)基金及國家農村信用(穩定)基金之撥款

本行認為必要且可行時，應每年撥款給國家銀行依「1981 年農業及農村發展法」第 42 條及第 43 條分別設立之國家農村信用（長期操作）基金及國家農村信用（穩定）基金。

第 46B 條

（刪除）。

第 46C 條 國家工業信用（長期運作）基金

- (1) 本行應設立並維持國家工業信用（長期運作）基金，且
 - (a) 由本行撥付創始基金 1 億盧比；
 - (b) 其餘資金由本行每年撥給：

自基金創始之日起至 1965 年 6 月 30 日止每 5 年之年度撥款總額，不得低於 5 千萬盧比。

但中央政府得視情形，允許本行於任一年度降低該總數 5 千萬盧比之撥款金額。

(2) The amount in the said Fund shall be applied by the Bank only to the following objects, namely:-

- (a) [*****]
- (b) [*****]
- (c) the making to the Exim Bank or the Reconstruction Bank or the Small Industries Bank as the case may be, of loans and advances for the purposes of any business of the Exim Bank or the Reconstruction Bank, or the Small Industries Bank as the case may be;
- (d) the purchasing of bonds and debentures issued by the Exim Bank or the Reconstruction Bank, or the Small Industries Bank as the case may be.

46D. National Housing Credit (Long Term Operations) Fund.

- (1) The Bank shall establish and maintain a Fund to be known as the National Housing Credit (Long Term Operations) Fund to which shall be credited every year such sums of money as it may consider necessary.
- (2) The amount in the said Fund shall be applied by the Bank only to the following objects, namely:
 - (a) the making to the National Housing Bank of loans and advances for the purpose of any business of the National Housing Bank;
 - (b) the purchasing of bonds and debentures issued by the National Housing Bank.

47. Allocation of surplus profits.

After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and for all other matters for which provision is to be made by or under this Act or which are usually provided for by bankers, the balance of the profits shall be paid to the Central Government.

48. Exemption of Bank from income-tax and super-tax.

- (1) Notwithstanding anything contained in the Income-Tax Act, 1961, or any other enactment for the time being in force relating to income-tax or super-tax, the Bank shall not be liable to pay income-tax or super-tax on any of its income, profits or gains.
- (2) [*****]

49. Publication of bank rate.

The Bank shall make public from time to time the standard rate at which it is prepared to buy or re-discount bills of exchange or other commercial paper eligible for purchase under this Act.

(2) 本基金應由本行僅限於下列目的之使用：

- (a) (刪除)。
- (b) (刪除)。
- (c) 因輸出入銀行、重建銀行或中小型工業銀行業務需要，給予貸款或融通；
- (d) 購買輸出入銀行、重建銀行或小型工業銀行所發行之債券或債務憑證。

第 46D 條 國家住宅信用(長期營運)基金

- (1) 本行應設立並維持國家住宅信用（長期營運）基金，並於本行認為必要時，每年撥給資金。
- (2) 本基金應由本行僅限於下列目的之使用：
 - (a) 對國家住宅銀行業務所需給予貸款或融通；
 - (b) 購買國家住宅銀行所發行之債券或債務憑證。

第 47 條 盈餘分配

本行盈餘於提列備抵呆帳、資產折舊、員工獎金、退休基金及依本法規定應提供之其他款項，或其他銀行經常提供之給付後之餘額，應撥交中央政府。

第 48 條 本行所得稅及附加稅之豁免

- (1) 無論「1961 年所得稅法」或其他與所得稅或附加稅有關之法律之規定，本行之所得、利潤及利得，均無須繳納所得稅及附加稅。
- (2) (刪除)。

第 49 條 利率之公布

本行應隨時公布買入本法規定之匯票、合格商業本票或對其辦理重貼現之利率水準。

50. Auditors.

- (1) Not less than two auditors shall be appointed, and their remuneration fixed, by the Central Government.
- (2) The auditors shall hold office for such term not exceeding one year as the Central Government may fix while appointing them and shall be eligible for re-ppointment.

51. Appointment of special auditors by Government.

Without prejudice to anything contained in section 50, the Central Government may at any time appoint the Comptroller and Auditor-General to examine and report upon the accounts of the Bank.

52. Powers and duties of auditors.

- (1) Every auditor shall be supplied with a copy of the annual balance-sheet, and it shall be his duty to examine the same, together with the accounts and vouchers, relating thereto; and every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank, employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director or officer of the Bank.
- (2) The auditors shall make a report to the Central Government upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and, in case they have called for any explanation or information from the Central Board, whether it has been given and whether it is satisfactory.

53. Returns.

- (1) The Bank shall prepare and transmit to the Central Government a weekly account of the Issue Department and of the Banking Department in such form as the Central Government may, by notification in the Gazette of India, prescribe. The Central Government shall cause these accounts to be published in the Gazette of India at such intervals and in such modified form as it may deem fit.

第 50 條 稽核人員

- (1) 中央政府任命之稽核人員不得少於 2 人，其薪資由中央政府定之。
- (2) 稽核人員之任期，由中央政府於指派時定之，最長不得超過 1 年，但得連任。

第 51 條 政府對特別稽核人員之指派

於不違反第 50 條規定之情形，中央政府得隨時指派審計長及總稽核，檢查本行帳目。

第 52 條 稽核人員之權力及職責

- (1) 本行年度資產負債表與相關帳目、單據及所有帳冊清單，應送交本行所有稽核人員，其有義務檢驗資產負債表內容及相關之帳戶與憑證。本行應給予其有合理期間以查核本行帳簿、帳戶及其他文件；必要時，並得以本行之經費，聘用會計師或其他人員協助調查本行帳戶，以及就帳目問題，詢問管理各該帳戶之主管或職員。
- (2) 稽核人員應就本行年度資產負債表及帳簿，向中央政府提出報告。報告內容應就本行資產負債表是否完整、真實，有無包括所有必要之明細，以及是否適當編製而足以顯示本行各項業務、財務之真實及正確情況等表示意見。

第 53 條 報表呈報

- (1) 本行應依中央政府於政府公報公告之格式，每週向中央政府遞送發行部門及業務部門之各項報表。中央政府應將前述報表及調整後之報表，定期刊登於政府公報。

- (2) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the Central Government a copy of the annual accounts signed by the Governor, the Deputy Governors and the Chief Accounting Officer of the Bank, and certified by the auditors, together with a report by the Central Board on the working of the Bank throughout the year, and the Central Government shall cause such accounts and report to be published in the Gazette of India.

54. Rural Credit and Development.

The Bank may maintain expert staff to study various aspects of rural credit and development and in particular it may:

- (a) tender expert guidance and assistance to the National Bank;
- (b) conduct special studies in such areas as it may consider necessary to do so for promoting integrated rural development.

54A. Delegation of powers.

- (1) The Governor may, by general or special order, delegate to a Deputy Governor, subject to such conditions and limitations, if any, as may be specified in the order, such of the powers and functions exercisable by him under this Act or under any other law for the time being in force as he may deem necessary for the efficient administration of the functions of the Bank.
- (2) The fact that a Deputy Governor exercises any power or does any act or thing in pursuance of this Act shall be conclusive proof of his authority to do so.

54AA. Power of Bank to depute its employees to other institutions.

- (1) The Bank may, notwithstanding anything contained in any law, or in any agreement, for the time being in force, depute any member of its staff for such period as it may think fit,
 - (a) to any institution which is wholly or substantially owned by the Bank;
 - (b) to the Development Bank, so, however, that no such deputation shall continue after the expiration of thirty months from the commencement of section 5 of the Public Financial Institutions Laws (Amendment) Act, 1975;

- (2) 本行應於年度結束後兩個月內，將年度報表送交中央政府。年度報表應由總裁、副總裁及會計主管簽名，由稽核人員簽證，並附上理事會對於該年度之營運報告。中央政府應將年度報表及年度營運報告刊登於政府公報。

第 54 條 農村信用及發展

本行得聘用專業人員，從事農村信用及發展之研究，並得：

- (a) 對國家銀行提供專家指導及協助；
- (b) 從事對促進農村發展所需之專業研究。

第 54A 條 授權

- (1) 總裁得依本法或其他現行法律之授權，發布一般或特別命令，在特定條件及範圍內，賦予副總裁各項職務及權限，以便有效管理本行各項業務。
- (2) 副總裁依本法所為之各項行為，視為依法行使職權。

第 54AA 條 本行調派行員至其他機構之權力

- (1) 無論當時其他有效法律或協議之內容，本行於必要時，得調派行員：
 - (a) 至本行百分之百投資或本行為主要投資者之機構。
 - (b) 調派至開發銀行，調派期間自「1975 年公共金融機構（修正）法」第 5 條生效後，不得超過 30 個月。

- (c) to the Unit Trust, so, however, that no such deputation shall continue after the expiration of thirty months from the date notified by the Central Government under sub-section (1) of section 4A of the Unit Trust of India Act, 1963, and thereupon the person so deputed shall, during the period of his deputation, render such service to the institution to which he is so deputed as that institution may require.
- (2) Where a person has been deputed to an institution under subsection (1), he shall not be entitled to claim any salary, emoluments and other terms and conditions of service which he would not have been entitled to claim if he had not been so deputed.
- (3) Nothing contained in this section shall empower the Bank to depute any member of its staff to any institution on any salary, emoluments or other terms and conditions which is or are less favourable to him than that or those to which he is entitled immediately before such deputation.
- (4) For the purposes of this section, an institution shall be deemed to be substantially owned by the Bank if in the capital of the institution the Bank has not less than forty per cent, share.

Explanation: The word "capital" means, in relation to the Unit Trust, the initial capital of that Trust.

55 and 56. Reports by the Bank. Power to require declaration as to ownership of registered shares.

[Rep. by Act 62 of 1948, s. 7 and Sch. (w.e.f. 1-1-1949).]

57. Liquidation of the Bank.

- (1) Nothing in the Companies Act, 1956, shall apply to the Bank, and the Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.
- (2) [*****]

58. Power of the Central Board to make regulations.

- (1) The Central Board may, with the previous sanction of the Central Government by notification in the official Gazette make regulations consistent with this Act to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:

(c) 調派至單位信託基金，調派期間自中央政府依「1963年印度單位信託法」第4A條第1項通知後，不得超過30個月。行員於上述規定之調派期間內，應依其到職機構之要求提供服務。

- (2) 行員依第(1)項規定調派至其他機構後，不得領取本行支給之原職薪資、津貼及其他相關福利。
- (3) 本條並未授權本行得調派任何行員至其他機構任職導致其薪資、津貼及其他福利均較該行員調職前為低。
- (4) 基於本條規範之目的，所稱本行為主要投資者之機構，係指本行持有該機構股份不低於40%者。解釋—上述「股份」，就單位信託而言，係指其原始股本。

第 55 條 本行之報告

(刪除)。

第 56 條 要求申報登記股權之權力

(刪除)。

第 57 條 本行之清算

- (1) 「1956年公司法」不適用於本行。本行除由中央政府命令並指定方式外，不得進行清算。
- (2) (刪除)。

第 58 條 理事會訂定規章之權力

- (1) 理事會得經中央政府事前同意，在政府公報發布與本行有關或便於本行有效執行本法之規定。
- (2) 於不妨礙前項規定之範圍內，理事會得訂定之規章包括：

- (a)~(e) [* * * * *]
- (f) the manner in which the business of the Central Board shall be transacted, and the procedure to be followed at meetings thereof;
- (g) the conduct of business of Local Boards and the delegation to such Boards of powers and functions;
- (h) the delegation of powers and functions of the Central Board to Deputy Governors, Directors or officers of the Bank;
- (i) the formation of Committees of the Central Board, the delegation of powers and functions of the Central Board to such Committees, and the conduct of business in such Committees;
- (j) the constitution and management of staff and superannuation funds for the officers and servants of the Bank;
- (k) the manner and form in which contracts binding on the Bank may be executed;
- (l) the provisions of an official seal of the Bank and the manner and effect of its use;
- (m) the manner and form in which the balance-sheet of the Bank shall be drawn up, and in which the accounts shall be maintained;
- (n) the remuneration of Directors of the Bank;
- (o) the relations of the scheduled banks with the Bank and the returns to be submitted by the scheduled banks to the Bank;
- (p) the regulation of clearing-houses for the banks (including post office savings banks).
- (pp) the regulation of fund transfer through electronic means between the banks or between the banks and other financial institutions referred to in clause (c) of section 45-I, including the laying down of the conditions subject to which banks and other financial institutions shall participate in such fund transfers, the manner of such fund transfers and the rights and obligations of the participants in such fund transfers.
- (q) the circumstances in which, and the conditions and limitations subject to which, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note may be refunded; and
- (qa) the remuneration and other allowances payable to Members of the Monetary Policy Committee under sub-section (2) of section 45ZD;
- (qb) the functions of the Secretary under sub-section (2) of section 45ZG;

- (a)至(e) (刪除)。
- (f) 理事會執行業務之方式及議事程序。
- (g) 區域委員會執行業務之方式，以及授予該等委員會之職權及功能。
- (h) 理事會授與副總裁、理事及本行官員之職權及功能。
- (i) 理事會內之委員會，其組織、授權及執行業務之方式。
- (j) 本行組織及人事管理規章，以及官員與行員之福利基金。
- (k) 本行對外合約簽署及生效之要式及程序。
- (l) 本行印信之準備及使用之效力。
- (m) 本行資產負債表製作之程序及格式，以及所應備具之帳目。
- (n) 本行理事之報酬。
- (o) 本行與附表銀行之關係及附表銀行須申報之事項。
- (p) 銀行間結算機構之規則（含郵政儲金銀行）。
- (pp) 依第 45I 條第(c)款規定，就銀行與金融機構間電子化資金調撥清算事宜訂定規則，包括銀行與金融機構參與清算作業所應具備之條件、作業方式及參與者之權利與義務。
- (q) 政府通貨鈔券及銀行鈔券遺失、失竊、損壞或有瑕疵時，向本行申請兌換之條件及限制之規定。
- (qa) 依第 45ZD 條第(2)項之規定，有關應支付予貨幣政策委員會成員之報酬及其他津貼等事項。
- (qb) 依第 45ZG 條第(2)項之規定，有關秘書長之職掌功能等事項。

- (qc) the procedure, manner of conducting of meetings and related matters of the Monetary Policy Committee under sub-section (12) of section 45ZI;
- (qd) the particulars and the frequency of publication of document under sub-section (2) of section 45ZJ;
- (qe) the form and contents of the Monetary Policy Report to be published under sub-section (2) of section 45ZM;
- (r) generally, for the efficient conduct of the business of the Bank.
- (3) Any regulation made under this section shall have effect from such earlier or later date as may be specified in the regulation.
- (4) Every regulation shall, as soon as may be after it is made by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.
- (5) Copies of all regulations made under this section shall be available to the public on payment.

58A. Protection of action taken in good faith.

- (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Bank or any other person in respect of anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.
- (2) No suit or other legal proceeding shall lie against the Central Government or the Bank for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.

- (qc) 依第 45ZI 條第(12)項之規定，有關貨幣政策委員會進行會議之程序、方式等事項。
- (qd) 依第 45ZJ 條第(2)項之規定，有關發布該文件之詳細資訊及發布頻率等事項。
- (qe) 依第 45ZM 條第(2)項之規定，有關公布「貨幣政策報告」之形式及內容等事項。
- (r) 其他有助於提升本行營運效率之規定。
- (3) 依本條發布之規定，自各該規定所定日期生效。
- (4) 理事會所發布之規章，應於理事會議決通過後，儘速送交中央政府；中央政府應作成副本，於國會開會期間，送國會各部門備查。備查期間為 30 天，其天數如超過該會期所餘天數，則延至下會期。在此期間，如國會之兩院均通過該備查規定中之某一部分修正案，則該修正案即為成立；如兩院均通過廢止案，該規章即告失效。國會之修正僅及於修正部分，未修正部分仍具效力。
- (5) 所有依本條發布之規定，於民眾支付費用申請發給時，均應提供。

第 58A 條 忠實執行業務之保障

- (1) 中央政府、本行或任何人依本法規定，或依命令、規章或指示，忠實執行之行為，不得對之提出訴訟、告訴或其他訴訟程序。
- (2) 中央政府或本行依本法規定，或依命令、規章或指示，忠實執行業務之行為，不得對其請求賠償因此所生或可能產生之民事損害。

CHAPTER V PENALTIES

58B. Penalties

- (1) Whoever in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act, or any order, regulation or direction made or given thereunder or in any prospectus or advertisement issued for or in connection with the invitation by any person, of deposits of money from the public wilfully makes a statement which is false in any material particular knowing it to be false or wilfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.
- (2) If any person fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, it is his duty to produce or furnish or to answer any question put to him in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and if he persists in such failure or refusal, with further fine which may extend to one hundred rupees for every day, after the first during which the offence continues.
- (3) If any person contravenes the provisions of section 31, he shall be punishable with fine, which may extend to the amount of the bill of exchange, hundi, promissory note or engagement for payment of money in respect whereof the offence is committed.
- (4) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment for a term, which may extend to six months, or with fine, which may extend to one thousand rupees, or with both.
- (4A) If any person contravenes the provisions of sub-section (1) of section 45IA, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees, but which may extend to five lakh rupees.
- (4AA) If any auditor fails to comply with any direction given or order made by the Bank under section 45MA, he shall be punishable with fine, which may extend to five thousand rupees.

第 5 章 罰則

第 58B 條 罰則

- (1) 任何人依本法、本法規範目的或依本法所頒布之命令、規定、指示，要求提供、出具或陳送明知為不實，或隱匿重要事項之申請書、聲明書、申報書、說明書、訊息或明細，以及散布明知為不實或隱匿重要事項之招募書或廣告而據以向社會大眾收受存款者，處 3 年以下有期徒刑，得併科罰金。
- (2) 違反本法或依本法規定頒布之命令、規定、指示，拒絕或未能提供帳冊、帳目、相關文件，或提交任何說明資訊、細目，或未能答復依本法規定所為詢問者，每一違規事項應科 2 千盧比以下罰金；持續違規者，得連續科每日 1 百盧比以下罰金。
- (3) 違反第 31 條規定者，應科罰金，其數額以違規匯票、本票或約定交付金額之額度為限。
- (4) 違反第 45E 條有關禁止揭露信用訊息之規定者，應處 6 個月以下有期徒刑，或科或併科 1 千盧比罰金。
- (4A) 違反第 45IA 條第(1)項規定者，應處 1 年以上 5 年以下有期徒刑，得併科 10 萬至 50 萬盧比罰金。
- (4AA) 稽核違反本行依第 45MA 條所發布之規定或給予之指示者，應科 5 千盧比以下罰金。

- (4AAA) Whoever fails to comply with any order made by the Company Law Board under sub-section (2) of section 45QA, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such non-compliance continues.
- (5) If any person, other than an auditor-
- (a) receives any deposit in contravention of any direction given or order made under Chapter IIIB; or
 - (aa) fails to comply with any direction given or order made by the Bank under any of the provisions of Chapter IIIB; or
 - (b) issues any prospectus or advertisement otherwise than in accordance with section 45NA or any order made under section 45J, as the case may be, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend,
 - (i) in the case of a contravention falling under clause (a), to twice the amount of the deposit received; and
 - (ii) in the case of a contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.
- (5A) If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more, or with both:
 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.
- (5B) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to impose a sentence of fine in excess of the limit specified in that section on any person convicted under subsection (5A).
- (6) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one, with further fine which may extend to one hundred rupees for every day after the first, during which the contravention or default continues.

- (4AAA) 違反公司法委員會依第 45QA 條第(2)項所頒布之命令者，應處 3 年以下有期徒刑，於違規存續期間每日併科 50 盧比以下罰金。
- (5) 除稽核人員外，任何人—
- (a) 違反第 3B 章所頒布之規定或命令，收受存款；或
 - (aa) 未能遵守依第 3B 章規定所頒布之規定或命令；或
 - (b) 違反第 45NA 條或依第 45J 條所頒布之命令，散佈存款招募書、說明書或廣告者，應處 3 年以下有期徒刑，並視違規情節，併科以下罰金：
 - (i) 違反上述第(a)款者，科以所收受存款金額兩倍以下罰金。
 - (ii) 涉及上述第(b)款者，科以因該招募書、說明書或廣告招攬所收受存款金額兩倍以下罰金。
- (5A) 違反第 45S 條規定，應科 2 年以下有期徒刑，或就違反該條規定所收存款金額兩倍或 2 千盧比兩者較高之金額，科以罰金，或徒刑與罰金併科。上述所為處罰，在法院審理時未能提出特別及充分之減輕理由，所處徒刑不得低於 1 年，所科罰金不得低於 1 千盧比。
- (5B) 除「1973 年刑事訴訟法」第 29 條另有規定外，首都法院法官或一級審理法官均得對違反第(5A)項之人科以較該條所定為高之罰金。
- (6) 違反或未能遵守本法其他各條規定或依本法其他各條所頒布之命令、規定或指示者，應科 2 千盧比以下罰金，於違反或未能遵守該項規定之持續期間，按日科以 1 百盧比以下罰金。

58C. Offences by companies.

- (1) Where a person committing a contravention or default referred to in section 58B is a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the contravention or default.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the same was committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, such director, manager, secretary, other officer or employee shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation 1: Any offence punishable under this Act shall be deemed to have been committed at the place where the registered office or the principal place of business, as the case may be, in India, of the company is situated.

Explanation 2: For the purpose of this section,

- (a) "a company" means any body corporate and includes a corporation, a non-banking institution, a firm, a co-operative society or other association of individuals;
- (b) "director", in relation to a firm, means a partner in the firm.

58D. Application of section 58B barred.

Nothing contained in section 58B shall apply to, or in respect of, any matter dealt with in section 42.

58E. Cognizance of offences.

- (1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Bank, generally or specially authorized in writing in this behalf by the Bank, and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence:

Provided that in respect of any offence punishable under sub-section (5A) of section 58B, a complaint in writing may also be made by an officer of the State Government, generally or specially authorised in writing in this behalf by that Government.

第 58C 條 公司之違規

- (1) 違反或未能遵守第 58B 條規定之主體為公司者，對該公司或該公司業務有執行或負責執行業務之人，均視同違反或未能遵守各該項規定之行為人，應併予追訴處罰。

該行為人如能個別證明其對違規或未能遵守規定之情事並不知情，或已盡力防止該情形之發生者，得免除其責任。

- (2) 無論前項規定之內容，公司違反本法且已證明該違反行為係由於該公司董事、經理、秘書、其他負責人員或員工之同意、串謀或怠忽職守所致，該董事、經理、秘書、其他負責人員或員工，均視為違規當事人，應併予追訴處罰。

解釋 1- 依本法規定得處罰之違規行為，以違反本法之行為地為該公司在境內之註冊地點或主要營業地點。

解釋 2- 基於本條規範之目的—

- (a) 「公司」：係指公司法人，包括股份有限公司、非銀行機構、合夥公司、合作社或社團。
- (b) 「董事」：於合夥公司，係指其合夥人。

第 58D 條 不適用第 58B 條之情形

第 58B 條之規定內容，不適用於第 42 條規定之事項。

第 58E 條 違法案件之管轄

- (1) 違反本法應予科罰之案件，僅得於本行以書面為一般或特別授權之官員，以本行名義起訴時，由首都法院法官、第一級司法行政官或其上級法院受理。

違反本法第 58B 條第(5A)項應予科罰之案件，經州政府以書面為一般或特別授權之官員，以該州政府名義起訴時，法院得予受理。

- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of the Bank filing the complaint, but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

58F. Application of fine.

A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.

58G. Power of Bank to impose fine.

- (1) Notwithstanding anything contained in section 58B, if the contravention or default of the nature referred to in section 58B is committed by a non-banking financial company, the Bank may impose on such non-banking financial company :
- a penalty not exceeding five thousand rupees; or
 - where the contravention or default is under sub-section (4A) or clause (a) or clause (aa) of sub-section (5) of section 58B, a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to twenty-five thousand rupees for every day, after the first, during which the contravention or default continues.
- (2) For the purpose of imposing penalty under sub-section (1), the Bank shall serve a notice on the non-banking financial company requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such non-banking financial company.
- (3) Any penalty imposed by the Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the Bank demanding payment of the sum is served on the non-banking financial company and, in the event of failure of the non-banking financial company to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office or the head office of the non-banking financial company is situated;
- Provided that no such direction shall be made, except on an application made by an officer of the Bank authorised in this behalf, to by the principal civil court.

- (2) 「1973 年刑事訴訟法」另有規定外，法官得視情形豁免本行起訴之官員出庭，但法官認為有需要時，得要求該官員在審理過程中出庭。

第 58F 條 罰金之運用

法院於個案科處罰金後，得指示將該罰金之全部或部分金額充作法院審理費用。

第 58G 條 本行處以罰鍰之權力

- (1) 無論第 58B 條規定內容，本行得對違反或未遵守第 58B 條規定之非銀行金融公司處以下列罰鍰：
- 5 千盧比以下罰鍰。
 - 違反或未遵守第(4A)項或第(5)項第(a)款、第(aa)款規定者，處以 50 萬盧比以下，或違規收受金額兩倍，以兩者之較高金額處以罰鍰；持續違反或未能遵守法規之要求，得於違規期間按日科以 2 萬 5 千盧比以下罰鍰。
- (2) 本行依第(1)項規定為處罰時，應對該非銀行金融公司送達書面通知，要求該公司對本行之處分表示意見，並應給予其適當之聽證機會。
- (3) 非銀行金融公司對於本行依本條規定所處罰鍰，應於本行送達罰鍰通知書之日起 30 天內繳納。其未如期繳納者，得由該違規機構所在地有管轄權之第一審民事法院簽發命令，徵收罰鍰。上述第一審民事法院之命令，未經本行授權人員以本行名義起訴者，不得發給。

- (4) The court, which makes a direction under sub-section (3), shall issue a certificate specifying the sum payable by the non-banking financial company and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.
- (5) No complaint shall be filed against any non-banking financial company in any court of law pertaining to any contravention or default in respect of which any penalty has been imposed by the Bank under this section.
- (6) Where any complaint has been filed against a non-banking financial company in a court in respect of contravention or default of the nature referred to in section 58B, no proceedings for imposition of penalty against that non-banking financial company shall be taken under this section.

59 to 61. Amendment of Act 3 of 1906. Repeals, Amendment of section 11, Act 7 of 1913.

[Rep. by Act 20 of 1937, s. 3 Sch. II.]

- (4) 法院依第(3)項規定簽發之命令，應同時製作證明書載明違規機構應繳之罰鍰金額，該證明書之執行力與法院確定判決有相同效力。
- (5) 本行依本條規定對違反或未遵守規定之非銀行金融公司處以罰鍰後，不得再就同一事項向法院提起訴訟。
- (6) 本行依第 58B 條規定對違規或未遵守規定之非銀行金融公司起訴後，不得再依本條規定就同一案件處以罰鍰。

第 59 條 1906 年第 3 號法律修正案

(刪除)。

第 60 條 廢止

(刪除)。

第 61 條 1913 年第 7 號法律第 11 條修正案

(刪除)。

二、Reserve Bank of New Zealand Act 1989 紐西蘭準備銀行法

Reserve Bank of New Zealand Act 1989**紐西蘭準備銀行法**

法務室 謝淑芬 譯

*Title**Part 1 Constitution of Reserve Bank of New Zealand**Part 2 Functions and powers of Reserve Bank**Central bank**Monetary policy**Foreign exchange**Currency**Other functions and powers**Part 3 Management of Reserve Bank**Governor and Deputy Governor**Board of directors**Part 4 Use of words 'bank', 'banker', and 'banking'**Limit on use of restricted words in name or title**Limit on use of restricted words in advertisement**Powers of Bank in relation to use of restricted words**Penalty for offences against this Part**Part 5 Registration of banks and prudential supervision of registered banks*

名稱

第 1 章 紐西蘭準備銀行之設立

第 2 章 準備銀行之職能與權力

中央銀行

貨幣政策

外匯

貨幣

其他職能與權力

第 3 章 準備銀行之管理

總裁與副總裁

理事會

第 4 章 「銀行」、「銀行業者」與「銀行業」之用詞

於名稱或稱號使用限定用詞之限制

於廣告使用限定用詞之限制

本行就限定用詞使用之權力

違反本章之犯罪處罰

第 5 章 銀行之註冊及對註冊銀行之審慎監理

Registration of banks

Financial disclosure by registered banks

Advertising by registered banks

Provisions applying to disclosure statements

Supply of information

Access to information by home country supervisor

Powers to obtain information and documents

Investigations

Miscellaneous provisions

Reserve Bank may give directions

Statutory management of registered banks

Interpretation relating to covered bonds

Registration of covered bond programmes

Cover pool monitor

Statutory management, etc, of issuer

Miscellaneous provisions

Penalties for offences against this Part

Part 5A Retention of documents by banks

Part 5B Oversight of payment systems

General

Supply of information relating to payment systems

Penalties for offences against this Part

銀行之註冊

註冊銀行之財務揭露

註冊銀行所為廣告

適用於揭露聲明之規定

資訊之提供

母國監理機關之使用資訊

取得資訊與文件之權力

調查

附則

準備銀行得給予指示

註冊銀行之法定監管

有關擔保債券之解釋

擔保債券方案之註冊

資產池監控者

發行人之法定監管等

附則

違反本章之犯罪處罰

第 5A 章 銀行文件之留存

第 5B 章 支付系統之監督

總則

與支付系統相關資訊之提供

違反本章之犯罪處罰

*Part 5C Designated settlement systems**General**Designation**Designation**Effect of designation**Effect of designation**Procedure for making designation**Procedure for making designation**Amendments to rules**Variation and revocation of designation**Obligations to give notice and supply information**Disclosure of information**Penalties for offences against this Part**Part 5D Deposit takers**Preliminary provisions**Credit ratings**Governance requirements**Risk management**Minimum capital requirement**Capital ratio requirement**Restrictions on related party exposures**Liquidity requirements**Other matters relating to trust deeds*

第 5C 章 指定清算系統

總則

指定

指定

指定之效力

指定之效力

作成指定之程序

作成指定之程序

規則之修正

指定之變更與撤銷

給予通知及提供資訊之義務

資訊揭露

違反本章規定之處罰

第 5D 章 存款收受者

通則

信用評等

治理要求

風險管理

最低資本之規定

資本適足率之規定

利害關係人暴險之限制

流動性規定

有關信託契據之其他事項

Obligations of trustees to Bank

Investigation and enforcement powers of Bank

Confidentiality of information

Offences and penalties

Miscellaneous

Part 6 Financial and accountability matters

Income and expenditure

Accountability documents

Statement of intent

Annual reports

Financial stability reports

Audits

Part 7 Miscellaneous provisions

Schedule 1 Enactments amended

Schedule 2 Enactments repealed

Schedule 3 General provisions relating to material incorporated
by reference

Schedule 4 General provisions relating to search warrants issued
under Part 5D

Reserve Bank of New Zealand Amendment Act 1993

Reserve Bank of New Zealand Amendment Act 2003

Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013

受託人對本行之義務

本行之調查與執行權力

資訊之機密性

犯罪與處罰

附則

第 6 章 財務與有責任事項

收入與支出

有責任文件

意向聲明

年報

金融穩定報告

審計

第 7 章 附則

附表 1 修正之立法

附表 2 廢止之立法

附表 3 有關提及納入資料之一般條款

附表 4 有關依第 5D 章發布搜索令之一般條款

1993 年紐西蘭準備銀行修正法

2003 年紐西蘭準備銀行修正法

2013 年紐西蘭準備銀行（擔保債券）修正法

Reserve Bank of New Zealand Act 1989

Public Act 1989 No 157
Date of assent 20 December 1989
Commencement see section 1(2)

Title [Repealed]

1 Short Title and commencement

- (1) This Act may be cited as the Reserve Bank of New Zealand Act 1989.
- (2) Except as provided in section 181(5) and (9), this Act shall come into force on 1 February 1990.

1A Purpose

- (1) The purpose of this Act is to provide for the Reserve Bank of New Zealand, as the central bank, to be responsible for—
 - (a) formulating and implementing monetary policy designed to promote stability in the general level of prices, while recognising the Crown's right to determine economic policy; and
 - (b) promoting the maintenance of a sound and efficient financial system; and
 - (c) carrying out other functions, and exercising powers, specified in this Act.
- (2) This section does not limit the functions or powers given to the Bank by any other enactment.

2 Interpretation

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

bank note or **note** means any negotiable instrument used or circulated, or intended for use or circulation, as currency

banking group has the meaning given to it in the Orders in Council made under section 81

debt security has the same meaning as in section 8 of the Financial Markets Conduct Act 2013

Deputy Chief Executive means, if 1 person is appointed under this Act as the Deputy Governor of the Bank, that person, and if 2 persons are appointed under this Act as Deputy Governors of the Bank, the Deputy Governor designated by the Board as the Deputy Chief Executive

Deputy Governor means, if 1 person is appointed under this Act as the Deputy Governor of the Bank, that person, and if 2 persons are appointed under this Act as Deputy Governors, each of those persons

紐西蘭準備銀行法

公法 1989 年第 157 號
批准日期 1989 年 12 月 20 日
施行 詳見第 1 條第(2)項

名稱

[刪除]

第 1 條 簡稱與施行

- (1) 本法稱為 1989 年紐西蘭準備銀行法。
- (2) 除第 181 條第(5)項及第(9)項另有規定外，本法於 1990 年 2 月 1 日生效。

第 1A 條 目的

- (1) 本法之目的在於規定紐西蘭準備銀行作為中央銀行之下列責任—
 - (a) 制定及執行貨幣政策，以促進價格穩定，同時承認君王決定經濟政策之權利；及
 - (b) 促進健全有效率金融體系之維持；及
 - (c) 執行本法明定之其他職掌及行使權力。
- (2) 本條並未限制任何其他立法賦與本行之職掌或權力。

第 2 條 解釋

- (1) 除上下文另有規定外，於本法—**鈔券**或**紙鈔**係指作為貨幣使用或流通、或擬供使用或流通之任何可轉讓證券。
銀行集團之定義依第 81 條規作成之樞密院令所給予之定義。
債券之定義與 2013 年金融市場行為法第 8 條之定義相同。
副執行長，如依本法任命 1 人擔任本行副總裁，係指該位人士；如依本法任命 2 人擔任本行副總裁，係指理事會指定擔任副執行長之該名副總裁。
副總裁，如依本法任命 1 人擔任本行副總裁，係指該位人士；如依本法任命 2 人擔任本行副總裁，係指該 2 位人士。

designated settlement system has the meaning set out in section 156M

director, except in relation to the Bank, means—

- (a) a person occupying the position of director by whatever name called;
- (b) in the case of an entity that does not have directors as such, any trustee, manager, or other person who acts in relation to that entity in the same or a similar fashion as a director would act were that entity a company incorporated in New Zealand under the Companies Act 1993

disclosure statement means the document referred to in section 81 (2)(a)

document means a document in any form, whether signed or initialled or otherwise authenticated by its maker or not; and includes—

- (a) any writing on any material;
- (b) any information recorded or stored by means of any tape-recorder, computer, or other device; and any material subsequently derived from information so recorded or stored;
- (c) any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means;
- (d) any book, map, plan, graph, or drawing;
- (e) any photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced

financial institution means any person including a body of persons whether incorporated or not, who carries on the business of borrowing and lending money, or providing financial services, or both, and without limiting the generality of the foregoing includes—

- (a) an insurer that issues, or is liable under, life policies within the meaning of section 6 (1) of the Insurance (Prudential Supervision) Act 2010; and includes any branch, division, or office of that insurer; and
- (b) a building society as defined in section 2 of the Building Societies Act 1965; and
- (c) a registered bank; and
- (d) a specified person or class of persons (including a body or bodies of persons, whether incorporated or not) who is or are declared by the Governor-General, by Order in Council, to be a financial institution or institutions for the purposes of this Act

指定清算系統之定義明定於第 156M 條。

董事，除與本行相關者外，指—

- (a) 居於董事職位之人，無論其職稱為何；
- (b) 就沒有董事之實體而言，係指受託人、經理人；或就依 1993 年公司法於紐西蘭設立公司之實體而言，係指其作為相同或類似於董事行為之其他人士。

揭露聲明書係指第 81 條第(2)項第(a)款所指之文件。

文件係指無論其製作者是否簽名、簽署或認證之任何形式文件；且包括—

- (a) 於任何資料上之任何書寫；
- (b) 以任何錄音器材、電腦、或其他裝置記錄或儲存之任何資訊；以及該記錄或儲存資訊後續衍生之任何資料；
- (c) 證明或描述任何事物之任何標籤、標記或任何書寫並構成該事物之一部分者，或以任何方式附著於該事物者；
- (d) 任何書本、地圖、計畫、圖表或圖畫；
- (e) 任何照片、影片、底片、錄音帶或收錄一個或數個視覺影像且得以複製（無論是否藉助無其他設備）之其他裝置。

金融機構係指任何人士包括無論是否組成具法人地位之團體，經營金錢借貸、提供金融服務或兩者兼營者，且在未限制上述規定一般性之情況下，包括—

- (a) 發行 2010 年保險（審慎監理）法第 6 條第(1)項定義之保單或依該保單負責之保險人；及
- (b) 1965 年建築資金融資合作社法第 2 條定義之建築資金融資合作社；及
- (c) 註冊銀行；及
- (d) 為本法之目的，總督或樞密院令宣布其為金融機構之特定人士或特定類別人士（包括無論是否組成有法人地位之團體）。

financial product has the same meaning as in section 7 of the Financial Markets Conduct Act 2013

financial year has the meaning given to it by section 157

FMA means the Financial Markets Authority established under Part 2 of the Financial Markets Authority Act 2011

foreign exchange means—

- (a) the bank notes or other currency, postal notes, or money orders of any country other than New Zealand;
- (b) promissory notes and bills of exchange payable otherwise than in New Zealand currency;
- (c) a right to receive payment in the currency of a country other than New Zealand;
- (d) an obligation to make payment in the currency of a country other than New Zealand;
- (e) a debt security in respect of which any amount payable is payable in a country other than New Zealand or in a foreign currency

Governor means the Governor of the Bank appointed under this Act

holding company means a holding company within the meaning of section 5 of the Companies Act 1993

home country supervisor means any central bank, authority, or body in any country other than New Zealand that exercises functions in relation to a parent bank or an overseas incorporated registered bank that correspond with, or are similar to, those conferred on the Bank under Part 5

home jurisdiction means,—

- (a) in the case of an overseas person that is a body corporate, the country in which that body is incorporated;
- (b) in the case of an overseas person that is an unincorporated body, the country in which that body has its head office or principal place of business

licensed insurer has the same meaning as in section 6 (1) of the Insurance (Prudential Supervision) Act 2010

managed investment scheme has the same meaning as in section 9 of the Financial Markets Conduct Act 2013

Minister means the Treasurer, or other Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or particular provisions of this Act

net income, in relation to a financial year, means the total revenue of the Bank reported in its statement of financial performance for that year calculated after deducting all expenses incurred by the Bank in that year

金融產品之定義與 2013 年金融市場行為法第 7 條之定義相同。

會計年度之定義明定於第 157 條。

FMA 係指依 2011 年金融市場主管機關法第 2 章設立之金融市場主管機關。

外匯係指—

- (a) 紐西蘭以外任何國家之鈔券或其他貨幣、郵政票據或匯票；
- (b) 非以紐西蘭貨幣支付之本票或商業匯票；
- (c) 得以紐西蘭以外國家之貨幣收取支付款之權利；
- (d) 以紐西蘭以外國家之貨幣付款之義務；
- (e) 應在紐西蘭以外國家或以外幣支付任何應付款之債券。

總裁係指依本法任命之本行總裁。

控股公司之定義依 1993 年公司法第 5 條之定義。

母國監理機關係指紐西蘭以外國家之任何中央銀行、主管機關或實體，其對母銀行或在海外設立註冊銀行行使與第 5 章賦與本行之職掌相當或類似之職掌。

母國管轄地區，指—

- (a) 如海外人士為法人團體，係指該團體之設立國；
- (b) 如海外人士為非法人團體，係指其總部或主要營業所之所在國。

特許保險人之定義與 2010 年保險（審慎監理）法第 6 條第(1)項之定義相同。

經理投資計畫之定義與 2013 年金融市場行為法第 9 條之定義相同。

部長係指財政部長，或依授權命令或總理授權負責主管本法或本法特定規定之其他部長。

淨所得，就某會計年度而言，係指扣除本行於該年度所生之所有支出之後核算，並於本行該年度財務績效表報告之本行總收入。

New Zealand chief executive officer, in relation to an overseas incorporated registered bank, means—

- (a) the most senior officer of that bank who is ordinarily resident in New Zealand; or
- (b) another person who may be nominated by that bank and agreed to in writing by the Bank; or
- (c) if section 82 (3) applies, an employee of that bank who has been specified by the Bank under that section

non-voting security, in relation to any body, means a specified security that does not confer a voting right

operating expenses, in relation to a financial year,—

- (a) includes all expenses incurred by the Bank and reported in its statement of financial performance for that year; but
- (b) does not include—
 - (i) interest, foreign exchange losses, and losses (or provision for losses) on financial instruments or revaluation of financial instruments; or
 - (ii) any payments made to the Crown under section 21; or
 - (iii) any expenses agreed by the Minister and the Bank not to be operating expenses

operator, in relation to either a settlement system or a payment system, means any person that provides clearing, settlement, or processing services in respect of that system

overseas bank means any person that is formed, licensed, or registered as a bank in any country other than New Zealand

overseas person means—

- (a) a body corporate incorporated outside New Zealand; or
- (b) an unincorporated body that has its head office or principal place of business outside New Zealand

parent bank means an overseas bank that is a holding company of a registered bank

participant, in relation to either a settlement system or a payment system,—

- (a) means a person who has agreed to participate in either a settlement system or a payment system in accordance with the rules of that system; and
- (b) in the case of a designated settlement system, includes an operator of the settlement system if the designation under section 156N (3)(b) so provides

payment system—

- (a) means a system or arrangement for—

紐西蘭執行長，就海外設立之註冊銀行而言，—

- (a) 係指該銀行最資深且通常居住於紐西蘭之行員；或
- (b) 係指該銀行提名且經本行書面同意之其他人士；或
- (c) 如適用第 82 條第(3)項之規定，係指本行依該條指定之該銀行受雇人員。

無投票權有價證券，就任何機構而言，係指未賦與投票權之特定有價證券。

營運費用，就某會計年度而言，—

- (a) 包括本行於該年度所承受並於財務績效表報告之全部支出；但
- (b) 不包括—
 - (i) 利息、匯兌損失及金融工具之損失（或損失準備）或金融工具價值重估；或
 - (ii) 依第 21 條之規定對君王所為之支付款項；或
 - (iii) 部長與本行同意營運費用以外之任何支出。

營運者，就清算系統或支付系統而言，係指就該系統提供清算、結算或處理服務之任何人士。

海外銀行係指於紐西蘭以外之任何國家設立、特許或註冊為銀行之任何人士。

海外人士係指—

- (a) 於紐西蘭境外設立之法人團體；或
- (b) 總部或主營業所位於紐西蘭境外之非法人團體。

母銀行係指一家海外銀行，其係註冊銀行之控股公司。

參加人，就清算系統或支付系統而言，—

- (a) 係指已同意依清算系統或支付系統之參加規則參加該系統之人士；及
- (b) 就指定清算系統而言，如第 156N 條第(3)項第(b)款之指定明定包括其營運者在內，則包括該清算系統之營運者。

支付系統—

- (a) 係指下列系統或安排—

- (i) the clearing or settlement of payment obligations; or
- (ii) the processing of payment instructions; and
- (b) includes any instruments, rules, and procedures that relate to the matters referred to in paragraph (a)

qualifying interest, in relation to a specified security, means—

- (a) the legal or beneficial ownership of the specified security; or
- (b) the power to exercise, or control the exercise of, any voting right attached to the specified security; or
- (c) the power to acquire or dispose of the specified security; or
- (d) the power to control the acquisition or disposition of the specified security by another person; or
- (e) the powers referred to in paragraphs (b) to (d) under, or by virtue of, any trust, agreement, arrangement, or understanding relating to the specified security

registered bank means a person whose name is entered in the register maintained under section 69 or who continues to be a registered bank by virtue of the provisions of section 76

Reserve Bank or **the Bank** means the Reserve Bank of New Zealand constituted under this Act

restricted word—

- (a) means the words "bank", "banker", and "banking"; and
- (b) includes—
 - (i) any of those words as part of any other word;
 - (ii) a translation of those words into another language (whether or not the translation of those words is part of any other word)

settlement system has the meaning set out in section 156M

significant influence, in relation to a registered bank, means—

- (a) the ability to directly or indirectly appoint 25% or more of the board of directors (or other persons exercising powers of management, however described) of the registered bank; or
- (b) a direct or indirect qualifying interest in 10% or more of the voting securities issued or allotted by the registered bank

specified operator has the meaning set out in section 156M

specified security has the meaning given to security in section 6 (1) of the Overseas Investment Act 2005

subsidiary means a subsidiary within the meaning of section 5 (1)(a)(iii) and (b) of the Companies Act 1993

- (i) 支付債務之結算或清算；或
 - (ii) 支付指示之處理；及
 - (b) 包括有關第(a)款提及事項之任何指示、規則與程序。
- 合格利益**，就特定有價證券而言，係指—
- (a) 該特定有價證券之法定或受益所有權；或
 - (b) 有權行使或可控制行使附著於該特定有價證券之任何投票權；或
 - (c) 取得或處分該特定有價證券之權力；或
 - (d) 控制由其他人士取得或處分該特定有價證券之權力；或
 - (e) 與或基於該特定有價證券相關之任何信託、安排或協議之第(b)款至第(d)款所提及之權力。

註冊銀行係指其名稱登錄於依第 69 條規定所維護之登記簿或依第 76 條規定繼續為註冊銀行之人士。

準備銀行或**本行**係指依本法組成之紐西蘭準備銀行。

限定用詞—

- (a) 係指「銀行」、「銀行家」或「銀行業」；且
- (b) 包括—
 - (i) 任何該等文字當成任何其他文字之一部分；
 - (ii) 該等文字翻譯成另一種語言（無論該等文字之譯文是否為任何其他文字之一部分）。

清算系統之定義明定於第 156M 條。

重大影響，就註冊銀行而言，係指—

- (a) 直接或間接任命註冊銀行之 25% 以上董事會成員（或行使管理權之人士）之能力；或
- (b) 註冊銀行發行或分派 10% 以上有投票權有價證券之直接或間接合格利益。

指定營運者之定義明定於第 156M 條。

特定有價證券之定義依 2005 年海外投資法第 6 條第(1)項所為之有價證券定義。

子公司係指 1993 年公司法第 5 條第(1)項第(a)款第(iii)目與第(b)款定義內之子公司。

trade mark has the meaning given to it by section 5 (1) of the Trade Marks Act 2002

voting right, in relation to any body,—

- (a) means a currently exercisable right to cast a vote at meetings of shareholders or members of that body; but
- (b) does not include a right to vote that is exercisable only in 1 or more of the following circumstances:
 - (i) during a period in which a payment or distribution (or part of a payment or distribution) in respect of the security that confers the voting right is in arrears or some other default exists;
 - (ii) on a proposal that affects rights attached to the security that confers the voting right;
 - (iii) on a proposal to put the body into liquidation or voluntary administration;
 - (iv) on a proposal for the disposal of the whole, or a material part, of the property, business, or undertaking of the body;
 - (v) during the liquidation, receivership, voluntary administration, bankruptcy, or statutory management of the body; and
- (c) does not include a right to vote that is exercisable only for a special, immaterial, or remote matter that is inconsequential to the control of the body

voting security, in relation to any body, means a specified security that confers a voting right.

- (2) For the purposes of section 36, Parts 4 and 5, and sections 179 and 179A, a person is an associated person of a financial institution or a registered bank, as the case may be, if—
 - (a) that person directly or indirectly controls the management of the financial institution or registered bank; or
 - (b) that person has a direct or indirect qualifying interest in 20% or more of the voting or non-voting securities issued by the financial institution or registered bank; or
 - (c) that financial institution or registered bank directly or indirectly controls the management of that person; or
 - (d) that financial institution or registered bank has a direct or indirect qualifying interest in 20% or more of the voting or non-voting securities issued by that person.

商標之定義依 2002 年商標法第 5 條第(1)項所為之定義。

投票權，就任何機構而言，—

- (a) 係指目前得於該機構之股東或成員會議行使投票之權利；但
- (b) 不包括僅得於下列一種或數種情況行使投票之權利：
 - (i) 有投票權有價證券之付款或分派延後或存在其他遲延情形之期間；
 - (ii) 影響附著於有投票權有價證券之權利之提案；
 - (iii) 機構進入清算或自願管理破產程序之提案；
 - (iv) 處分該機構財產、事業或協議之全部或實質部分之提案；
 - (v) 清算、接管、自願管理、破產或法定監管之期間；及
- (c) 不包括僅得就對該機構控制權無關緊要之特別、不重要或細微事項行使投票之權利。

有投票權有價證券，就任何機構而言，係指有投票權之特定有價證券。

- (2)就第 36 條、第 4 章與第 5 章、第 179 條與第 179A 條之目的而言，所謂某位人士係指於下列情況，與金融機構或註冊銀行（視情況而定）「**有關聯之人士**」—
 - (a) 該人士直接或間接控制該金融機構或註冊銀行之管理階層；或
 - (b) 該人士擁有該金融機構或註冊銀行已發行有投票權或無投票權有價證券之 20% 以上之直接或間接合格利益；或
 - (c) 該金融機構或註冊銀行直接或間接控制該人士之管理階層；或
 - (d) 該金融機構或註冊銀行擁有該人士已發行有投票權或無投票權有價證券之 20% 以上之直接或間接合格利益。

- (3) For the purposes of section 77A, transaction includes the—
- (a) sale or transfer of property or financial products; and
 - (b) issue or allotment of financial products; and
 - (c) entering into, or giving effect to a provision in, a contract or arrangement; and
 - (d) arriving at, or giving effect to, an understanding.
- (4) For the purposes of Part 5, a holding company of a registered bank has a **substantial interest** in a body if—
- (a) that holding company directly or indirectly controls the management of that body; or
 - (b) that holding company has a direct or indirect qualifying interest in 20% or more of the voting securities issued by that body.

3 Interpretation of provisions relating to false or misleading information

For the purposes of this Act, a reference to information or data that is false or misleading includes a reference to information or data that is false or misleading by reason of—

- (a) the form or context in which it is published or supplied; or
- (b) the omission of any other information that is material in the form and context in which it is published or supplied.

4 Act to bind the Crown

This Act shall bind the Crown.

Part 1

Constitution of Reserve Bank of New Zealand

5 Reserve Bank of New Zealand

- (1) There shall continue to be a bank called the Reserve Bank of New Zealand.
- (2) The Bank shall be a body corporate with perpetual succession and a common seal and shall be capable of acquiring, holding and disposing of real and personal property and of suing and being sued.
- (3) Without limiting any other provision of this Act, the Bank shall have the rights, powers, and privileges of a natural person.
- (4) The Bank is the same body corporate as that which was continued in existence by the Reserve Bank of New Zealand Act 1964.

- (3) 就第 77A 條目的而言，「交易」包括—

- (a) 財產或金融產品之銷售或移轉；及
- (b) 金融產品之發行或分配；及
- (c) 簽訂契約或協議，或使契約或協議之條款生效；
- (d) 達成合意，或使合意生效。

- (4) 就第 5 章目的而言，如有下列情況，註冊銀行之控股公司對該機構具有「實質利益」—

- (a) 控股公司直接或間接控制該機構管理階層；或
- (b) 控股公司擁有該機構已發行有投票權有價證券 20% 以上之直接或間接合格利益。

第 3 條 有關不實或誤導資訊條款之解釋

就本法目的而言，不實或誤導資訊或資料包括下列之不實或誤導—

- (a) 發布或提供之格式或內文；或
- (b) 所發布或提供之格式或內文係屬重要之任何其他資訊之遺漏。

第 4 條 本法對君王之拘束

本法對君王具有拘束力。

第 1 章 紐西蘭準備銀行之設立

第 5 條 紐西蘭準備銀行

- (1) 紐西蘭準備銀行應予存續。
- (2) 本行應為永久存續與具有印信之法人團體，並應有能力取得、持有及處分動產與不動產，亦得起訴與被訴。
- (3) 在未限制本法任何其他規定之情況下，本行應具有自然人之權利、權力與特權。
- (4) 本行係依 1964 年紐西蘭銀行法繼續存在之同一法人團體。

6 Branches and agencies

The Bank may establish branches and agencies and appoint agents in New Zealand or elsewhere.

Part 2**Functions and powers of Reserve Bank***Central bank***7 Bank to act as central bank**

The Bank shall act as the central bank for New Zealand.

*Monetary policy***8 Primary function of Bank**

The primary function of the Bank is to formulate and implement monetary policy directed to the economic objective of achieving and maintaining stability in the general level of prices.

9 Policy targets

- (1) The Minister shall, before appointing, or reappointing, any person as Governor, fix, in agreement with that person, policy targets for the carrying out by the Bank of its primary function during that person's term of office, or next term of office, as Governor.
- (2) In the case of a person who is deemed to have been appointed as Governor under section 191 (1), policy targets for that person's term of office shall be fixed by the Minister, in agreement with the Governor, within 30 days after the commencement of this Act.
- (3) Policy targets may be fixed for the term of office of the Governor, or for specified periods during the term of office of the Governor, or for both.
- (4) The Minister and the Governor may, from time to time,—
 - (a) review or alter any policy targets fixed under this section; or
 - (b) substitute new policy targets for targets fixed under this section.
- (5) Where policy targets are fixed under this section,—
 - (a) the Minister shall ensure that they are recorded in writing; and
 - (b) the Governor shall ensure that they are tabled at the first Board meeting held after the date on which they are fixed; and
 - (c) the Minister shall, as soon as practicable after they are fixed, publish them in the *Gazette* and lay a copy of them before the House of Representatives.

第 6 條 分行與代表處

本行得於紐西蘭及其他地方設立分行及代表處，並指定代表人。

第 2 章 準備銀行之職能與權力*中央銀行***第 7 條 本行為中央銀行**

本行應為紐西蘭之中央銀行。

*貨幣政策***第 8 條 本行之首要職能**

本行之首要職能為制定及實施貨幣政策，以達成並維持一般物價水準穩定之經濟目標。

第 9 條 政策目標

- (1) 部長應於任命或續命任何人士擔任總裁之前，商得該人士同意，訂定該總裁之任期內或續任期間內，由本行執行首要職能之政策目標。
- (2) 依第 191 條第(1)項之規定視為已被任命為總裁之人士，部長應於本法生效後之 30 日內，商得該人士同意，訂定其任期內之政策目標。
- (3) 政策目標之訂定，得針對總裁之任期、任期中之特定期間或此二期間。
- (4) 部長與總裁得隨時—
 - (a) 審查或變更依本條訂定之任何政策目標；或
 - (b) 以新政策目標替代依本條訂定之政策目標。
- (5) 依本條訂定政策目標時—
 - (a) 部長應負責以書面記錄之；及
 - (b) 總裁應負責將政策目標送交該目標訂定後之第一次理事會會議；及
 - (c) 政策目標一經訂定，部長應儘速公布於政府公報，並提交眾議院。

10 Formulation and implementation of monetary policy

In formulating and implementing monetary policy the Bank shall—

- (a) have regard to the efficiency and soundness of the financial system;
- (b) consult with, and give advice to, the Government and such persons or organisations as the Bank considers can assist it to achieve and maintain the economic objective of monetary policy.

11 Governor to ensure policy targets followed

It is the duty of the Governor to ensure that the actions of the Bank in implementing monetary policy are consistent with the policy targets fixed under section 9.

12 Bank may be directed to formulate and implement monetary policy for different economic objective

- (1) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister, direct the Bank to formulate and implement monetary policy for any economic objective, other than the economic objective specified in section 8, for such period not exceeding 12 months as shall be specified in the order.
- (2) Notwithstanding anything in section 8, the Bank shall formulate and implement monetary policy in accordance with any economic objective specified in an Order in Council in force under subsection (1).
- (3) The Governor-General may, by Order in Council, on the advice of the Minister, before the period specified in an Order in Council made under subsection (1) expires, extend the period specified in that order for a period, which shall be specified in the order, not exceeding 12 months, and may in the same manner extend that period on successive occasions.
- (4) Every Order in Council made under subsection (1) shall expire with the close of the last day of the period specified in the order or any extension of that period.
- (5) An Order in Council made under subsection (1) may be revoked.
- (6) The Minister shall, as soon as practicable after the making of an Order in Council under this section, publish a copy of the order in the *Gazette* and lay a copy of the order before the House of Representatives.
- (7) While an Order in Council made under subsection (1) remains in force,—
 - (a) the policy targets fixed under section 9 shall cease to have effect; and
 - (b) the Minister and the Governor shall,—
 - (i) within 30 days of the making of the order, or the making of an Order in Council under subsection (3), as the case may be, fix new policy targets for the period that the order remains in force; and

第 10 條 貨幣政策之制定與實施

本行制定及執行貨幣政策時，應—

- (a) 注意金融體系之效率及健全；
- (b) 與政府及本行認為能協助本行達成與維護貨幣政策之經濟目標之人士及團體磋商，並提供建議。

第 11 條 總裁應確保遵循政策目標

總裁負有使本行執行貨幣政策之行動，與依第 9 條所定政策目標一致之義務。

第 12 條 本行經指示得為不同經濟目標制定及實施貨幣政策

- (1) 總督得隨時依部長之建議，以樞密院令指示本行為第 8 條所定經濟目標以外之任何經濟目標，制定及實施貨幣政策；其期間，不應超過 12 個月。
- (2) 儘管有第 8 條之規定，本行仍應依第(1)項之有效樞密院令所明定之任何經濟目標，制定及實施貨幣政策。
- (3) 總督得依部長之建議，於依第(1)項作成之樞密院令所指定期間屆滿前，以樞密院令將該令指定之期間延長一段特定期間；該期間，不應超過 12 個月，並得連續不斷地以相同方式延長該期間。
- (4) 依第(1)項作成之樞密院令，應於該令之指定期間或延長期間之最後一天結束時屆滿。
- (5) 依第(1)項作成之樞密院令，得予以廢止。
- (6) 部長應儘快於依本條作成樞密院令之後，將一份公布於政府公報，一份送交眾議院。
- (7) 依第(1)項作成之樞密院令仍有效時—
 - (a) 依第 9 條決定之政策目標，應停止效力；且
 - (b) 部長與總裁應—
 - (i) 作成該令或第(3)項樞密院令後之 30 天內，訂定該令有效期間之新政策目標；及

- (ii) within 30 days of the expiry or revocation of the order, fix new policy targets for the carrying out by the Bank of its primary function.

(8) Subsections (4) and (5) of section 9 shall apply in relation to any policy targets fixed under subsection (7)(b) of this section.

13 Bank's primary function not affected

Except as provided in sections 9 to 12, nothing in this Act or in any other Act whether passed before or after the commencement of this Act limits or affects the obligation of the Bank to carry out its primary function.

14 Advice concerning effects of monetary policy

Where the Bank gives advice to the Minister under any provision of this Act and the Governor considers that giving effect to that advice would, or would be likely to, affect the monetary policy of the Bank, the Governor shall advise the Minister of—

- (a) the effect, or likely effects, on monetary policy; and
- (b) any action that may be taken by the Bank in implementing the Bank's monetary policy if effect is given to that advice.

15 Policy statements

- (1) The Bank shall deliver to the Minister and publish, in accordance with subsection (1A), policy statements for the period of 6 months from and after the date of publication.
- (1A) The Bank shall deliver and publish a policy statement on or before 1 October 1990 and thereafter at intervals not exceeding 6 months from the date of publication of each preceding statement.
- (1B) The Bank shall, if directed to do so by the Minister, in addition to its obligation under subsection (1), deliver to the Minister and publish policy statements at such intervals and for such periods as may be specified in the direction.
- (2) The policy statement shall be signed by the Governor and shall—
 - (a) specify the policies and means by which the Bank intends to achieve the policy targets fixed under section 9;
 - (b) state the reasons for adopting those policies and means;
 - (c) contain a statement of how the Bank proposes monetary policy might be formulated and implemented during the next 5 years;

- (ii) 於該令屆滿或撤銷後之 30 天內，訂定本行執行其首要職能之新政策目標。

(8) 第 9 條第(4)項及第(5)項之規定，應適用於有關依第(7)項第(b)款訂定之任何政策目標。

第 13 條 本行之首要職能不受影響

除第 9 條至第 12 條規定者外，本法或在本法生效前後通過之任何其他法律之規定，不應限制或影響本行執行其首要職能之義務。

第 14 條 有關影響貨幣政策之建議

本行依本法任何規定給予部長建議時，且總裁認為施行該建議將影響或可能影響本行貨幣政策時，總裁應告知部長—

- (a) 該建議對貨幣政策之影響或可能影響；及
- (b) 如果施行該建議，本行實施本行貨幣政策時可能採取之任何行動。

第 15 條 政策聲明

- (1) 本行應依第(1A)項之規定，向部長提交並公布自公布日起 6 個月期間之政策聲明。
- (1A) 本行於 1990 年 10 月 1 日或其前後，應自前次聲明公布日起算每隔不超過 6 個月之期間，提交並公布政策聲明。
- (1B) 除第(1)項規定之義務外，本行應依部長之指示明定之時間間隔與期間，向部長提交並公布政策聲明。
- (2) 政策聲明應由總裁簽名，並應—
 - (a) 具體說明本行預定達成依第 9 條所定政策目標之政策與方式；
 - (b) 敘明採行該等政策與方法之理由；
 - (c) 包含 1 份本行提議於未來 5 年期間內如何制定及實施貨幣政策之聲明；

- (d) contain a review and assessment of the implementation by the Bank of monetary policy during the period to which the preceding policy statement relates.
- (3) Every policy statement stands referred, by virtue of this section, to the House of Representatives.

Foreign exchange

16 Dealing in foreign exchange by Bank

For the purposes of performing its functions and fulfilling its obligations under this Act or any other enactment, the Bank may deal in foreign exchange, on such terms and conditions as it thinks fit,—

- (a) with any person, including the Crown; and
- (b) on behalf of any person, including the Crown.

17 Power of Minister to direct Bank to deal in foreign exchange within guidelines

- (1) The Minister may, for the purpose of influencing the exchange rate or exchange rate trends, from time to time, by notice in writing to the Bank, direct the Bank to deal in foreign exchange within guidelines prescribed by the Minister in the notice.
- (2) Notwithstanding section 16, while the direction remains in force all foreign exchange dealing by the Bank shall comply with the direction.
- (3) The Minister may, from time to time, by notice in writing to the Bank, vary or revoke any direction given under subsection (1).

18 Power of Minister to fix exchange rates for foreign exchange dealing by Bank

- (1) Subject to this section, the Minister may from time to time, by notice in writing to the Bank,—
 - (a) direct that all foreign exchange dealing by the Bank shall be at rates of exchange, or within a range of rates of exchange, specified by the Minister in the direction;
 - (b) direct the Bank to deal in foreign exchange at those rates or within that range of rates with such persons or class or classes of persons as may be specified by the Minister in the direction.
- (2) Notwithstanding sections 16 and 17, the Bank shall, on receiving a direction under this section,—
 - (a) conduct its foreign exchange dealing at the rates, or within the range of rates, specified;
 - (b) deal in foreign exchange at those rates, or within that range of rates, with such of the persons or class or classes of persons specified in the direction as may require the Bank to do so.

- (d) 包含就與先前政策聲明相關之期間內，本行實施貨幣政策之審查及評估。

- (3) 每項政策聲明係透過本條之規定有效提交眾議院。

外匯

第 16 條 本行之外匯交易

為執行職能及履行本法或任何其他立法所定義務，本行得依其認為適合之條款與條件，以下列方式從事外匯交易—

- (a) 與包括君主在內之任何人士；及
- (b) 代表包括君王在內之任何人士。

第 17 條 部長指示本行於指導原則內從事外匯交易之權力

- (1) 部長基於影響匯率或匯率趨勢之目的，得隨時以書面通知本行，指示本行依部長於該通知所定之指導原則內從事外匯交易。
- (2) 儘管有第 16 條之規定，當指示仍有效時，本行所為之所外匯交易應遵守該指示。
- (3) 部長得隨時以書面通知本行，變更或撤銷依第(1)項規定給予之任何指示。

第 18 條 部長決定本行所為外匯交易匯率之權力

- (1) 依本條規定，部長得隨時以書面通知本行—
 - (a) 指示本行應依部長於該指示明定之匯率或匯率範圍內從事所有外匯交易；
 - (b) 指示本行依該等匯率或於該匯率範圍內，與部長於該指示指定之人士或指定類型人士從事外匯交易。
- (2) 儘管有第 16 條及第 17 條之規定，本行收到本條規定之指示時應—
 - (a) 依指定之匯率或匯率範圍，進行其外匯交易；
 - (b) 以該等匯率或於該匯率範圍內，依指示之要求，與指定人士或指定類型人士從事外匯交易。

- (3) The Minister may from time to time, by notice in writing to the Bank, vary or revoke any direction given under subsection (1).
- (4) The Minister shall not give a direction under subsection (1) unless the Minister has been authorised to do so by the Governor-General by Order in Council within 30 days before the direction is given and a separate authorisation shall be required for each separate occasion on which a direction is given.
- (5) The Minister shall give notice in the *Gazette* of the fact that a direction has been given and that a direction has been revoked.

19 Effect of directions on policy targets

- (1) If the Governor considers that the giving effect to by the Bank of a direction under either section 17 or section 18 would, while not being inconsistent with the economic objective of monetary policy, be inconsistent with achieving the policy targets fixed under section 9, the Governor may, by notice in writing to the Minister, advise the Minister that the Bank will, in giving effect to the direction, be unable to achieve those policy targets and request new policy targets to be fixed.
- (2) Where a notice is given under this section —
 - (a) the Bank is not required to achieve the existing policy targets;
 - (b) the Minister and the Governor shall, within 1 month after the notice is given, substitute new policy targets in accordance with section 9 (4)(b) and, in that event, the provisions of section 9 (5) shall apply to those policy targets.

20 Effect of directions on monetary policy

- (1) If the Governor considers that the giving effect to by the Bank of a direction under either section 17 or section 18 would be inconsistent with the economic objective of monetary policy the Governor may, by notice in writing, advise the Minister that the Bank does not propose to give effect to the direction.
- (2) Where a notice is given under this section the Bank shall not, unless an Order in Council is made under section 12 that requires the Bank to formulate and implement monetary policy in accordance with an economic objective that is consistent with the direction, be required to comply with that direction.

21 Foreign exchange gains and losses

- (1) The Bank shall pay into a Crown Bank Account any exchange gains (whether realised or unrealised) made by the Bank as a result of dealing in foreign ex-change under sections 17 and 18.

- (3) 部長得隨時以書面通知本行，變更或撤銷依第(1)項規定給予之任何指示。
- (4) 除非部長於給予本條第(1)項指示之 30 天前已獲總督以樞密令授權其給予指示，否則不得給予該指示，且必須就每次給予指示之各別情況，取得各別授權。
- (5) 部長應將有關已給予或已撤銷指示之事實，以通知刊登於政府公報。

第 19 條 指示對政策目標之影響

- (1) 總裁如認為本行實施第 17 條或第 18 條之指示，雖未與貨幣政策之經濟目標相互矛盾，但與達成依第 9 條所定政策目標不一致時，總裁得以書面通知部長，告知部長本行實施該指示將無法達成該等政策目標，並要求訂定新的政策目標。
- (2) 依本條規定發出通知時 —
 - (a) 本行無須達成現有政策目標；
 - (b) 該通知發出後 1 個月內，部長與總裁應依第 9 條第(4)項第(b)款之規定更換新政策目標，於此情況下，第 9 條第(5)項之規定應適用於該等政策目標。

第 20 條 指示對貨幣政策之影響

- (1) 總裁如認為本行實施依第 17 條或第 18 條所為之指示，將與貨幣政策之經濟目標不一致時，得以書面告知部長不擬實施該指示。
- (2) 依本條給予通知時，除非依第 12 條作成之樞密院令要求本行依經濟目標制定及實施之貨幣政策，係與該指示一致，否則本行無須遵守該指示。

第 21 條 外匯利得與損失

- (1) 本行依第 17 條或第 18 條從事外匯交易之任何外匯利得（無論實現與否），應存入皇家銀行帳戶。

- (2) The Minister shall, without further appropriation, pay to the Bank out of a Crown Bank Account the amount of any exchange losses (whether realised or unrealised) incurred by the Bank as a result of dealing in foreign exchange under sections 17 and 18.

22 Temporary suspension of foreign exchange business

- (1) The Governor may, if the Governor is satisfied that it is necessary to avoid dis-order in the foreign exchange market, from time to time, by notice in writing to all registered banks, direct that, subject to any exceptions specified in the notice, no registered bank shall, except with permission granted by the Bank, deal until further notice in any foreign exchange or foreign exchange of such kinds as are specified in the notice.
- (2) The Governor shall, as soon as practicable, give notice in writing to the Minister of the exercise of the power conferred under subsection (1).
- (3) Every notice under subsection (1) shall remain in force until it is revoked—
- by Order in Council; or
 - by notice in writing given by the Governor to all registered banks.
- (4) An obligation on a person to do a thing on a day on which that person is prevented from doing it by a notice under this section, or is unable to do it by reason of any such notice, shall be deemed to be complied with if that person does it as soon as practicable after the notice is revoked.
- (5) Where any transaction to which a notice issued under this section applies is subject to the Bills of Exchange Act 1908 or the Banking Act 1982, then, in relation to that transaction, every day on which the notice remains in force shall be deemed to be a non-business day for the purposes of the Bills of Exchange Act 1908.

23 Bank to advise Minister on foreign exchange matters

The Bank shall, from time to time, advise the Minister on—

- foreign exchange rate systems;
- the management of foreign reserves;
- the operation of the foreign exchange market;
- any other matters relating to foreign exchange.

24 Foreign reserves

- (1) The Minister shall, from time to time, in consultation with the Bank, determine the level at which, or the levels within which, foreign reserves shall be maintained for the purpose of enabling the Bank to exercise the powers conferred by this Act.

- (2) 本行依第 17 條或第 18 條從事外匯交易之任何外匯損失（無論實現與否），應在無任何進一步提撥之情況下，自皇家銀行帳戶支付之。

第 22 條 外匯業務之暫停

- (1) 如總裁確信有避免外匯市場失序之必要，得隨時以書面通知所有註冊銀行，並於該通知指示註冊銀行非經本行許可不得交易，直到對該通知所指定之任何外匯或該類外匯有進一步通知為止，但應受到該通知明定之任何例外規定拘束。
- (2) 總裁應儘速通知部長行使第(1)項賦與之權力。
- (3) 第(1)項之通知應繼續有效直到依下列規定撤銷為止：
- 以樞密院令；
 - 以總裁給予全體註冊銀行之書面通知。
- (4) 於一定期日有為一定行為義務者，因本條之通知致未能於該期日履行或因該通知致不能履行時，如其於該通知撤銷後儘速履行，應視為遵守該義務。
- (5) 當任何適用依本條核發通知之交易，受到 1908 年匯票法或 1982 年銀行法規範者，則就該交易而言，於該通知繼續有效之每 1 日，應被視為 1908 年匯票法之非營業日。

第 23 條 本行向部長為外匯事項之建議

本行應隨時向部長建議—

- 外匯匯率制度；
- 外匯準備之管理；
- 外匯市場之操作；
- 關於外匯之任何其他事項。

第 24 條 外匯準備

- (1) 部長應隨時洽商本行，以決定應維持外匯準備之水準或水準之幅度，使本行得以行使本法賦與之權力。

- (2) The Bank must hold and maintain foreign reserves at that level or within those levels.

Currency

25 Issue of currency by Bank

- (1) The Bank shall have the sole right to issue bank notes and coins in New Zealand.
- (2) The Bank shall determine the denominations, form, design, content, weight, and composition of its bank notes and coins.
- (3) Every bank note issued by the Bank before the commencement of this Act, and every coin issued by the Minister under the Decimal Currency Act 1964 or under the Coinage Act 1933 by virtue of the Decimal Currency Act 1964, which is legal tender at the commencement of this Act shall be deemed for all purposes to have been made or issued under this Act.

26 Power of Bank to call in currency

- (1) The Bank may, from time to time, with the prior consent of the Minister, by notice in the *Gazette*, call in any bank notes or coins issued or deemed to have been issued under this Act.
- (2) Every notice shall take effect on a date specified in it.
- (3) When the notice takes effect, all bank notes or coins to which it applies shall cease to be legal tender; but the Bank shall continue to be liable to pay any such bank note or coin on presentation at the head office of the Bank.
- (4) The Bank shall continue to be liable to pay any bank note issued before the commencement of this Act which has ceased to be legal tender before the commencement of this Act and which the Bank was, immediately before the commencement of this Act, liable to pay, on presentation at the head office of the Bank.
- (5) The Bank shall be liable to pay any coin issued by the Minister before the commencement of this Act which has ceased to be legal tender before the commencement of this Act, on presentation at the head office of the Bank.

27 Legal tender

- (1) Every bank note issued, or deemed to be issued, under this Act shall be a legal tender for the amount expressed in the note.
- (2) A tender of payment of money, to the extent that it is made in coins issued, or deemed to be issued, under this Act, shall be a legal tender,—
 - (a) in the case of coins of a denomination of \$10 or more, for the payment of any amount;

- (2) 本行必須持有並維持該水準或該等水準內之外匯準備。

貨幣

第 25 條 本行發行貨幣

- (1) 本行具有於紐西蘭發行鈔券及硬幣之專屬權利。
- (2) 本行應決定其鈔券及硬幣之面額、設計、內容、重量與成分。
- (3) 本行於本法施行前發行之鈔券，以及部長依 1964 年十進位貨幣法或透過該法繼續有效之 1933 年貨幣法所發行之硬幣，係本法施行時之法償貨幣，應視為已依本法發行。

第 26 條 本行收回貨幣之權力

- (1) 本行得隨時經部長事先同意，於政府公報通告收回依本法發行或視為已依本法發行之鈔券或硬幣。
- (2) 通告應於其指定之日生效。
- (3) 當通告生效時，該通告適用之所有鈔券及硬幣，應不再為法償貨幣，但當任何該鈔券或硬幣向本行總行提示時，本行應繼續負支付之義務。
- (4) 以本法施行前已發行並在本法施行前已不再為法償貨幣，且係本行在本法施行前負有支付義務者之任何鈔券，向本行總行提示時，本行應繼續負支付之義務。
- (5) 部長在本法施行前發行且在本法施行前已不再為法償貨幣之任何硬幣，向本行總行提示時，本行應負支付之義務。

第 27 條 法償貨幣

- (1) 依本法發行或視為依本法發行之每張鈔券，應具該券上所載金額之法償貨幣。
- (2) 依本法發行或視為依本法發行之硬幣，其法償效力範圍如下—
 - (a) 以面額 10 紐元以上之硬幣支付時，對一切金額之支付有法償效力；

- (b) in the case of coins of a denomination of \$1 or more but less than \$10, for the payment of any amount not exceeding \$100;
 - (c) in the case of coins of the denomination of 5 cents or more, but less than \$1, for the payment of an amount not exceeding \$5;
 - (d) in the case of any coins of the denomination of less than 5 cents, for the payment of an amount not exceeding 20 cents.
- (3) The references to coins and bank notes in subsections (1) and (2) do not include references to coins and bank notes that have been called in.

28 Defacing bank notes

- (1) No person shall, without the prior consent of the Bank, wilfully deface, disfigure, or mutilate any bank note.
- (2) No person who is a party to the defacement, disfigurement, or mutilation of any bank note, shall—
 - (a) pay away; or
 - (b) part with; or
 - (c) put in circulation; or
 - (d) demand payment of; or
 - (e) deposit or offer to deposit in any bank,—
 that bank note.
- (3) Every person who contravenes subsection (1) or subsection (2) commits an offence against this Act and is liable on conviction to a fine not exceeding \$1,000.

29 Making or issuing of other bank notes or coins

- (1) No person shall make or issue any bank note or coin, other than a bank note or coin issued under this Act.
- (2) Every person who contravenes subsection (1) commits an offence against this Act and shall be liable on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$100,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$300,000.

30 Reproduction or imitation of currency

- (1) No person shall, without the prior consent of the Bank,—
 - (a) make, design, engrave, print, or reproduce; or

- (b) 以面額 1 紐元以上未滿 10 紐元之硬幣支付時，對不超過 100 紐元金額之支付，有法償效力；
 - (c) 以面額 5 紐分以上未滿 1 紐元之硬幣支付時，對不超過 5 紐元金額之支付，有法償效力；
 - (d) 以面額未滿 5 紐分之硬幣支付時，對不超過 20 紐分金額之支付，有法償效力。
- (3) 第(1)項與第(2)項提及之硬幣與鈔券，不包括已收回之硬幣與鈔券。

第 28 條 污損鈔券

- (1) 未經本行事前同意，任何人不得故意污損、毀損或嚴重損壞任何鈔券。
- (2) 污損、毀損或嚴重損壞任何鈔券者，不得—
 - (a) 以該鈔券付款；或
 - (b) 將該鈔券脫手；或
 - (c) 流通該鈔券；或
 - (d) 要求支付該鈔券；或
 - (e) 存入或要約存入任何銀行。
- (3) 違反第(1)項或第(2)項之規定者，犯本法之罪，應科 1,000 紐元以下罰金。

第 29 條 其他鈔券或硬幣之製造或發行

- (1) 除依本法發行之鈔券或硬幣外，任何人不得製造或發行任何鈔券或硬幣。
- (2) 違反第(1)項之規定者，犯本法之罪—
 - (a) 其為個人者，應處 3 年以下有期徒刑或科 100,000 紐元以下罰金；
 - (b) 其為法人團體者，應科 300,000 紐元以下罰金。

第 30 條 貨幣之重製或仿造

- (1) 未經本行事先同意，任何人不得—
 - (a) 製造、設計、雕刻、印刷或重製；或

- (b) use, issue, or publish—
any article or thing resembling a bank note or coin or so nearly resembling or having such a likeness to a bank note or coin as to be likely to be confused with or mistaken for it.
- (2) Every person who contravenes subsection (1) commits an offence against this Act.
- (3) Where a person is convicted of an offence against subsection (2), the court may order—
 - (a) the article or thing;
 - (b) any copy of it;
 - (c) any plates, blocks, dies, and other instruments used or capable of being used for printing or reproducing it—
in the possession of that person to be destroyed.

Other functions and powers

31 Bank to act as lender of last resort

The Bank shall, if the Bank considers it necessary for the purpose of maintaining the soundness of the financial system, act as lender of last resort for the financial system.

32 Bank may provide settlement account services

The Bank may provide settlement account services for financial institutions on such terms and conditions as may be determined by agreement.

33 Policy advice

- (1) On request by the Minister, the Bank must provide advice to the Minister on any matter specified in the request that is connected with the functions of the Bank.
- (2) A request may not be made under subsection (1) that may limit the Bank in exercising its primary function in section 8.
- (3) The Bank may also provide advice to the Minister, at any time, on any matters or subjects within the responsibility of the Bank.

34 Government banking business

- (1) Subject to the Public Finance Act 1989, the Bank may, in accordance with an agreement with the Minister, undertake all or part of the banking business of the Government.

- (b) 使用、發行或出版—

類似鈔券或硬幣、十分類似或相似於鈔券或硬幣，致可能與鈔券或硬幣混淆或誤認之任何物品或物件。

- (2)違反第(1)項之規定者，犯本法之罪。

- (3)經判定第(2)項之罪者，法院得命令銷毀該人士持有之下列物品—

- (a) 物品或物件；
- (b) 其任何複製品；
- (c) 用以或能夠用以印刷或重製該物品或物件之任何金屬板、木板、鑄版及其他器具。

其他職能與權力

第 31 條 本行為最後資金融通者

本行基於維持金融體系之健全而認為有必要時，應作為金融體系之最後資金融通者。

第 32 條 本行得提供清算帳戶服務

本行得依合約所定之條款與條件，提供金融機構清算帳戶服務。

第 33 條 政策建議

- (1)依部長之要求，本行必須就該項要求明定與本行職能相關之任何事項，向部長提供建議。
- (2)不得依第(1)項之規定作成可能會限制本行行使第 8 條本行既有首要職能之要求。
- (3)本行亦得於任何時候就本行責任範圍內之任何事項或主題，向部長提供建議。

第 34 條 政府銀行業務

- (1)本行應依 1989 年公共財政法，商與部長同意，從事全部或部分政府銀行業務。

- (2) Any such agreement may provide for the Bank to charge for the provision of banking services.

35 Financial products registry services

- (1) The Bank may provide financial products registry services for any person including services in connection with—
- (a) the issue, registration, exchange, transfer, or replacement of financial products;
 - (b) the calling and acceptance of tenders for financial products;
 - (c) the making or receiving of payment in respect of any financial product.
- (2) Financial products registry services may be provided for such remuneration, and on such terms and conditions, as may be agreed by the Bank and the person for whom they are provided.

36 Bank may require financial institution to supply information

- (1) For the purposes of enabling the Bank to carry out the functions and exercise the powers conferred on it by this Part, the Bank may, from time to time, by notice in writing to any financial institution, or by notice in the *Gazette* applying to any specified class of financial institutions, require the institution or, as the case may be, institutions of that class, to supply to the Bank such information and data relating to the business of the institution or institutions of that class for such periods, and in such form, as may be specified in the notice.
- (2) Without limiting subsection (1), a notice may require information and data to be supplied relating to the assets and liabilities, income and expenditure (including interest rates charged and payable), fees and charges, obligations and commitments, and risk exposures of, and classes of transactions entered into by, that institution or class of institutions and any associated person and, where specified, in consolidated form, in respect of business carried on in New Zealand or elsewhere and whether as principal, broker, agent, or intermediary.
- (3) A notice given pursuant to this section may, by a subsequent notice, be revoked, varied, or amended by the Bank.
- (4) Information and data required to be supplied pursuant to this section shall be supplied to the Bank at such place in New Zealand and at such time as are specified in the notice.
- (5) A financial institution shall not be required to supply data or information under this section relating to the affairs of a particular customer or client.

- (2) 前項同意得規定本行因提供銀行服務得收取費用。

第 35 條 金融產品註冊服務

- (1) 本行得為任何人士提供金融產品註冊服務，包括有關—
- (a) 金融產品之發行、註冊、交易、轉讓或替換；
 - (b) 金融產品之招標與決標；
 - (c) 任何金融產品款項之收付。
- (2) 金融產品註冊服務之提供，得由本行與受服務者約定其報酬、條款與條件。

第 36 條 本行得要求金融機構提供資訊

- (1) 為使本行得執行及行使本章賦與本行之職能與權力，本行得隨時以書面通知任何金融機構，或於政府公報通知適用之任何指定種類金融機構，要求該機構或該種類機構依該通知指定之期間及方式，提供本行有關該機構或該種類機構之業務資訊與資料。
- (2) 在未限制第(1)項規定之情況下，該通知得就無論係以本人、經紀商、代理人或仲介人身分於紐西蘭或其他地方執行之業務，要求以合併方式提供有關資產與負債、所得與支出（包括應收取及應支付之利率）、服務費及收費、債務與承諾及該機構或該種類機構與任何關聯人士簽訂交易之暴險與種類之資訊與資料。
- (3) 依本條核發之通知，得以本行後續核發之通知予以撤銷、變更或修正。
- (4) 依本條必須提供之資訊與資料，應於該通知指定之紐西蘭境內地點及指定時間提供予本行。
- (5) 不得依本條之規定要求金融機構提供有關特定客戶事務之資料或資訊。

(6) Sections 156G to 156I and 156J (2)(c) and (d) (which relate to the publication or disclosure of information or data supplied to the Bank) apply with all necessary modifications in respect of information and data supplied to the Bank under this section as if for each reference to section 156C in sections 156G (1) and (3) and 156J (2)(c) there were substituted a reference to section 36.

37 Failure to supply information

Every financial institution commits an offence against this Act if, without lawful justification or excuse, it—

- (a) fails to comply in any respect with any of the provisions of section 36 or of any requirements of the Bank under that section; or
- (b) supplies any information or data which it is required to supply under section 36 which is false or misleading in any material particular.

38 Requirement that information be audited

- (1) Where the Bank believes that any information or data supplied by a financial institution pursuant to section 36 is, or may be, inadequate or inaccurate, it may, by notice in writing to that financial institution, require that information or data to be audited by an auditor approved by the Bank.
- (2) Every financial institution commits an offence against this Act if, without lawful justification or excuse, it fails to comply with a requirement under subsection (1).

39 Powers

Without limiting section 5 or any other provision of this Act, the Non-bank Deposit Takers Act 2013, or the Insurance (Prudential Supervision) Act 2010, the Bank has power, whether in New Zealand or elsewhere, to—

- (a) carry on the business of banking;
- (b) issue financial products;
- (c) give a fixed or floating charge over all or any part of the undertaking or property of the Bank;
- (d) if the Bank ceases to carry out any function, make provision, whether or not it is in the Bank's interest to do so, for the benefit of employees of the Bank, or former employees, or their dependants;
- (e) enter into agreements or arrangements and obtain assurances necessary or desirable for carrying out its functions and exercising its powers:

(6) 第 156G 條至第 156I 條及第 156J 條第(2)項第(c)款與第(d)款（有關提供予本行之資訊或資料之公布或揭露）之規定，適用於所有依本條之規定提供予本行之資訊或資料之所有必要修正，亦如每次在第 156G 條第(1)項與第(3)項及第 156J 條第(2)項第(c)款提及之第 156C 條，已改由提及第 36 條代之。

第 37 條 未提供資訊

金融機構如無法律正當性或理由而有下列情形，係違反本法之規定—

- (a) 未遵守第 36 條之任何規定或本行依該條所定之任何要求；或
- (b) 提供依第 36 條必須提供之任何資訊或資料，有重大不實或誤導。

第 38 條 資訊稽核之要求

- (1) 當本行相信金融機構依第 36 條所提供之任何資訊或資料可能不充分或不正確時，得以書面通知該金融機構，由本行核可之稽核人員查核該資訊或資料。
- (2) 金融機構如無法律正當性或理由而未遵守第(1)項之要求，係違反本法之規定。

第 39 條 權力

在未限制第 5 條或本法之任何其他規定、2013 年非銀行收受存款者法、或 2010 年保險（審慎監理）法之情況下，本行無論係於紐西蘭或其他地方，具有下列權力—

- (a) 經營銀行業之業務；
- (b) 發行金融產品；
- (c) 對本行之所有或任何事業或財產訂定固定或浮動費用；
- (d) 如本行無論是否為本行利益而不再執行任何職能，得為本行受雇人員或前受僱人員或其受扶養人之利益提撥準備金；
- (e) 為執行本行職能與行使權力，締結合約與約定並取得必要或適當之保證；

- (f) carry on any business or exercise any powers, not inconsistent with any other function of the Bank, which can be conveniently carried on, or exercised in conjunction with its functions and the exercise of its powers.

Part 3 Management of Reserve Bank

Governor and Deputy Governor

40 Governor

- (1) There shall be a Governor of the Bank who shall be appointed by the Minister on the recommendation of the Board.
- (2) The Governor shall be the Chief Executive of the Bank.

41 Duties of Governor

- (1) It is the duty of the Governor to ensure that the Bank carries out the functions imposed on it by—
 - (a) this Act; and
 - (b) the Anti-Money Laundering and Countering Financing of Terrorism Act 2009; and
 - (c) the Insurance (Prudential Supervision) Act 2010; and
 - (d) the Non-bank Deposit Takers Act 2013.
- (2) The Governor has the authority, in the performance of those functions, to act in relation to all matters that are not required, by any Act referred to in subsection (1), to be dealt with by the Board.

42 Conditions of employment of Governor

- (1) The Governor shall be appointed for a term of 5 years and may be reappointed for a further term or terms, each of up to 5 years.
- (2) The conditions of employment of the Governor, including remuneration, shall be—
 - (a) determined by agreement between the Minister and the Governor after consultation with the Board; and
 - (b) tabled at the first Board meeting after they are agreed.
- (3) No condition of the agreement shall have effect if it is inconsistent with the Bank's functions or limits or prevents the Governor from ensuring that those functions are carried out.

43 Deputy Governor

- (1) There shall be either 1 Deputy Governor or 2 Deputy Governors of the Bank who shall be appointed by the Board on the recommendation of the Governor.

- (f) 執行或行使不會與本行任何其他職能不一致，且係為方便執行或行使其職能及權力之任何業務或任何權力。

第 3 章 準備銀行之管理

總裁與副總裁

第 40 條 總裁

- (1) 本行總裁應由部長依理事會建議任命之。
- (2) 總裁應為本行之執行長。

第 41 條 總裁職責

- (1) 總裁職責在於確保本行執行下列法律賦與之職能—
 - (a) 本法；及
 - (b) 2009 年洗錢防制及打擊資恐法；及
 - (c) 2010 年保險（審慎監理）法；及
 - (d) 2013 年非銀行收受存款者法。
- (2) 總裁在本行職能之執行上，有權就第(1)項所提任何法律未規定應由理事會處理之所有事項採取行動。

第 42 條 總裁之任命條件

- (1) 總裁任期為 5 年，並得續任，每次任期 5 年。
- (2) 總裁之任命條件，包括報酬在內—
 - (a) 洽商理事會後，應由部長與總裁協議定之；且
 - (b) 應提出於達成協議後之第一次理事會。
- (3) 協議條件如與本行職能不一致，或限制或阻礙總裁確保該等職能之執行者，不生效力。

第 43 條 副總裁

- (1) 本行應有 1 至 2 名副總裁，由理事會依總裁建議任命之。

- (2) If 2 Deputy Governors are appointed, the Board shall, on the recommendation of the Governor, designate 1 of them as the Deputy Chief Executive of the Bank.
- (3) Subject to this Act, the Deputy Governor or Deputy Governors, as the case may be, shall perform such duties and functions as are determined by the Governor.

44 Conditions of employment of Deputy Governor

- (1) The Deputy Governor or Deputy Governors, as the case may be, shall be appointed for a term of 5 years and may be reappointed for a further term or terms, each of up to 5 years.
- (2) The conditions of employment, including remuneration, of the Deputy Governor or Deputy Governors, shall be determined by the Board and shall specify the grounds on which the Governor may recommend that the Deputy Governor may be removed from office by the Board.

45 Removal of Deputy Governor from office

- (1) The Board may, on the recommendation of the Governor, remove any Deputy Governor from office.
- (2) A recommendation under subsection (1) may be made only on the grounds specified for that purpose in the conditions of employment of the Deputy Governor to whom the recommendation relates.

46 Disqualification of Governor and Deputy Governor

- (1) No person shall be appointed or reappointed, or continue to hold office, as Governor, Deputy Governor, or a Deputy Governor, if that person—
- (a) is a member of Parliament; or
 - (b) is an employee of a registered bank or of a licensed NBDT as defined in the Non-bank Deposit Takers Act 2013 or of a licensed insurer; or
 - (c) is 70 years of age or over; or
 - (d) is a chief executive of a Government department or an employee of a Government department, appointed under the State Sector Act 1988; or
 - (e) is a bankrupt who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
 - (f) is a person who is convicted of any offence punishable by imprisonment for a term of 2 years or more; or
 - (g) is a person who is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence; or
 - (h) *[Repealed]*
 - (i) *[Repealed]*

- (2) 如有 2 名副總裁，理事會應依總裁建議指定其中 1 名為本行之副執行長。
- (3) 在本法之規定下，副總裁應執行總裁決定之職責與職能。

第 44 條 副總裁之任命條件

- (1) 副總裁任期為 5 年，並得續任，每次任期為 5 年。
- (2) 副總裁之任命條件，包括報酬在內，應由理事會決定，並應明定總裁得建議理事會免除副總裁職位之事由。

第 45 條 副總裁之免職

- (1) 理事會得依總裁之建議，免除副總裁職位。
- (2) 第(1)項之建議，僅得以副總裁任用條件之特定目的為之。

第 46 條 總裁與副總裁之消極資格

- (1) 下列人士不得受任命、續任或繼續擔任總裁或副總裁—
- (a) 國會議員；或
 - (b) 註冊銀行、2013 年非銀行收受存款者法定義之特許非銀行存款收受者或特許保險業者之受僱人員；或
 - (c) 70 歲以上者；或
 - (d) 依 1988 年國家機關法任命之政府部門之行政首長或政府部門職員；或
 - (e) 尚未取得確定破產解除命令、破產解除命令經暫停一段時間且尚未屆期或有條件暫停破產解除命令但未履行條件之破產人；或
 - (f) 觸犯任何應處 2 年以上有期徒刑之罪者；或
 - (g) 觸犯任何應處少於 2 年有期徒刑之罪並經判刑者；或
 - (h) [刪除]
 - (i) [刪除]

(j) is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, or the Financial Markets Conduct Act 2013, or the Takeovers Act 1993.

(k) *[Repealed]*

(2) The Governor, the Deputy Governor, or a Deputy Governor, as the case may be, shall be deemed to have resigned office if that person is prohibited from continuing to hold office under this section.

47 Incapacity of Governor and Deputy Chief Executive

- (1) In the case of the absence or incapacity of the Governor, the Deputy Chief Executive shall have all the duties, responsibilities, and functions of the Governor under this Act and may exercise all the powers of the Governor under this Act or the Non-bank Deposit Takers Act 2013.
- (2) In the case of the absence or incapacity of the Governor and the Deputy Chief Executive, the Minister shall, on the recommendation of the Board, appoint—
 - (a) a director of the Bank; or
 - (b) an officer of the Bank—to act as Governor.
- (3) If the Minister is unable to make an appointment under subsection (2) by reason of the fact that, in the circumstances, it is impracticable for a meeting of the Board to be held, the Minister shall appoint—
 - (a) a director of the Bank; or
 - (b) an officer of the Bank—to act as Governor for a period not exceeding 28 days.
- (4) The person appointed to act as Governor shall, so long as the appointment continues, have all the duties, responsibilities, and functions of the Governor under this Act and may exercise all the powers of the Governor under this Act or the Non-bank Deposit Takers Act 2013.
- (5) While any of the following persons is acting as Governor in accordance with this section, he or she must be taken to be a director of the Bank:
 - (a) the Deputy Chief Executive;
 - (b) a person appointed to act as Governor, but who is not a director of the Bank.

48 Vacancy in office of Governor

- (1) If the office of Governor becomes vacant, the Minister shall, on the recommendation of the Board, appoint—

(j) 禁止成為 1993 年公司法、2013 年金融市場行為法或 1993 年收購法規定之法人團體或非法人團體之董事、發起人或參與經營者；或

(k) [刪除]

(2) 依本條禁止其擔任總裁或副總裁者，應視為已辭職。

第 47 條 總裁與副執行長無行為能力

- (1) 總裁缺席或無行為能力時，副執行長應有本法所定之總裁職責、責任與職能，並得行使本法或 2013 年非銀行收受存款者法所定之總裁權力。
- (2) 總裁或副執行長缺席或無行為能力時，部長應依理事會之建議，任命下列之一擔任總裁—
 - (a) 本行理事；或
 - (b) 本行職員。
- (3) 如因實務上不可能舉行理事會之狀況，部長無法作成第(2)項之任命，部長應任命下列之一擔任總裁，其任期不得超過 28 天—
 - (a) 本行理事；或
 - (b) 本行職員。
- (4) 經任命擔任總裁者，於任命存續中，應有本法所定之總裁職責、責任與職能，並得行使本法或 2013 年非銀行收受存款者法所定之總裁權力。
- (5) 下列人士依本條規定擔任總裁時，應視為理事會之理事：
 - (a) 副執行長；
 - (b) 本行理事以外之人擔任總裁者。

第 48 條 總裁職位出缺

- (1) 如總裁職位出缺，部長應依理事會之建議，任命下列人員之一擔任總裁，並以不超過 6 個月或總裁剩餘任期之兩者中較短期間為其任期—

- (a) a director of the Bank; or
 - (b) an officer of the Bank; or
 - (c) any other person—
to act as Governor for a period not exceeding 6 months or for the remainder of the Governor's term, whichever is less.
- (2) Pending the appointment of a person to act as Governor under subsection (1), the Deputy Chief Executive shall act as Governor for a period of 28 days or until a person is appointed under that subsection, whichever is less.
- (3) The person appointed to act as Governor or the Deputy Chief Executive, as the case may be, shall, so long as that person acts as Governor, have all the duties, responsibilities and functions of the Governor under this Act and may exercise all the powers of the Governor under this Act.
- (4) A person who is appointed to act as Governor under this section, but who is not a director of the Bank, shall, while acting as Governor, be deemed to be a director of the Bank.

49 Removal of Governor from office

- (1) The Governor-General may, by Order in Council, on the advice of the Minister, remove the Governor from office.
- (2) The Minister may tender advice under subsection (1) if the Minister is satisfied—
- (a) that the Bank is not adequately carrying out its functions; or
 - (b) that the Governor has not adequately discharged the responsibilities of office; or
 - (c) that the Governor has obstructed, hindered, or prevented the Board from discharging its responsibilities under this Act; or
 - (d) that the performance of the Governor in ensuring that the Bank achieves the policy targets fixed under section 9 or section 12 (7)(b) has been inadequate; or
 - (e) that, in a case where section 9 (2) or subparagraph (i) or subparagraph (ii) of section 12 (7)(b) applies, the Minister and the Governor have not been able, within the time prescribed, to agree on new policy targets; or
 - (f) that a policy statement made pursuant to section 15 is inconsistent in a material respect with the Bank's primary function or any policy target fixed under section 9 or section 12 (7)(b); or
 - (g) that the resources of the Bank have not been properly or effectively managed; or
 - (h) that the Governor, except as provided in his or her conditions of employment, has, while holding office as Governor,—
 - (i) held any other office of profit; or

- (a) 本行理事；或
- (b) 本行職員；或
- (c) 任何其他人士。

- (2) 尚未依第(1)項之規定任命總裁時，應由副執行長擔任總裁，並以 28 天，或直到依第(1)項規定任命總裁為止之兩者中較短期間為其任期。
- (3) 經任命擔任總裁之人或副執行長擔任總裁時，應有本法所定之總裁職責、責任與職能，並得行使本法或 2013 年非銀行收受存款者法所定之總裁權力。
- (4) 本行理事以外之人依本條規定經任命擔任總裁者，其擔任總裁時，應視為本行理事。

第 49 條 總裁之免職

- (1) 總督得依部長之建議，以樞密院令免除總裁職位。
- (2) 如部長確信有下列情形之一，得提出第(1)項建議—
- (a) 本行未充分執行其職能；或
 - (b) 總裁未充分履行該職位之責任；或
 - (c) 總裁已阻礙、妨礙或阻止理事會履行本法所定責任；
或
 - (d) 總裁確保本行達成第 9 條或第 12 條第(7)項第(b)款所定政策目標之績效不足；或
 - (e) 當適用第 9 條第(2)項或第 12 條第(7)項第(b)款第(i)目或第(ii)目之規定時，總裁與部長已無法於所定時間內就新政策目標達成合意；或
 - (f) 依第 15 條規定作成之政策聲明，與本行首要職能或第 9 條或第 12 條第(7)項第(b)款所定政策目標不一致；
或
 - (g) 未適當或有效管理本行資源；或
 - (h) 除總裁任命條件規定者外，總裁擔任總裁職位時—
 - (i) 擔任任何其他有收益之職位；或

- (ii) engaged in any other occupation for reward; or
 - (iii) had an interest in a registered bank or a licensed NBDT as defined in the Non-bank Deposit Takers Act 2013 or a licensed insurer; or
 - (iv) had an interest in a bank carrying on business outside New Zealand; or
 - (i) that the Governor is unable to carry out the responsibilities of office, or has been guilty of serious neglect of duty or misconduct.
- (3) The Minister may tender advice under this section whether or not the Board has made a recommendation under section 53 (3) that the Governor be removed from office.

50 Removal of Deputy Governor from office by Order in Council

- (1) The Governor-General may, by Order in Council, on the advice of the Minister, remove the Deputy Governor or a Deputy Governor from office.
- (2) The Minister may tender advice under subsection (1) if the Minister is satisfied that the Deputy Governor—
- (a) *[Repealed]*
 - (b) has been guilty of misconduct; or
 - (c) has obstructed, hindered, or prevented the Governor from discharging the responsibilities of the Governor under this Act; or
 - (d) except as provided in his or her conditions of employment, has, while holding office as Deputy Governor,—
 - (i) held any other office of profit; or
 - (ii) engaged in any other occupation for reward; or
 - (iii) had an interest in a registered bank or a licensed NBDT as defined in the Non-bank Deposit Takers Act 2013 or a licensed insurer; or
 - (iv) had an interest in a bank carrying on business outside New Zealand.
- (3) If a person who holds office as the Deputy Governor or as a Deputy Governor is removed from office under this section, that person shall, unless that person's conditions of employment provide for that person to cease to be employed as an officer of the Bank in the event of removal from office of Deputy Governor under this section, continue to be employed by the Bank.

51 Delegation

- (1) The Governor may, at any time, delegate to the Deputy Chief Executive any of the Governor's functions and powers including the power of delegation under subsection (2).

- (ii) 從事任何其他有報酬之工作；或
 - (iii) 對註冊銀行或 2013 年非銀行收受存款者法定義之非銀行存款收受者享有利益；或
 - (iv) 對在紐西蘭境外營業之銀行享有利益；或
 - (i) 總裁無法執行該職位之責任、嚴重怠忽職守或行為不當。
- (3) 無論理事會是否依第 53 條第(3)項作成免除總裁職位之建議，部長得提出本條之建議。

第 50 條 以樞密院令對副總裁免職

- (1) 總督得依部長之建議，以樞密院令免除副總裁職位。
- (2) 如部長確信副總裁有下列情形之一，得提出第(1)項建議—
- (a) [刪除]
 - (b) 行為不當而獲罪；或
 - (c) 已阻礙、妨礙或阻止總裁履行本法所定總裁責任；或
 - (d) 除總裁任命條件規定者外，總裁擔任總裁職位時—
 - (i) 擔任任何其他有收益之職位；或
 - (ii) 從事任何其他有報酬之工作；或
 - (iii) 對註冊銀行或 2013 年非銀行收受存款者法定義之非銀行存款收受者享有利益；或
 - (iv) 對在紐西蘭境外營業之銀行享有利益；或
- (3) 如擔任副總裁職位或副總裁之人士依本條予以免職者，除該人士任命條件規定當該人士依本條予以免職時，其不再受僱為本行職員之外，應繼續受僱於本行。

第 51 條 委任

- (1) 總裁得隨時將包括第(2)項之委任權力在內之總裁職能與權力委任予副執行長。

- (2) The Governor may, at any time, delegate any of the Governor's functions and powers—
- (a) if there is more than 1 Deputy Governor of the Bank, to the Deputy Governor who is not the Deputy Chief Executive;
 - (b) to any officer of the Bank.
- (3) The fact that the Deputy Chief Executive exercises any powers or functions of the Governor shall be conclusive proof of the authority to do so, and no person shall be concerned to inquire whether the occasion for doing so has arisen or has ceased.
- (4) A Deputy Governor who is not the Deputy Chief Executive and any officer of the Bank who purports to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (5) Subject to any general or special directions given or conditions attached by the Governor, any person to whom any powers or functions are delegated under this section may exercise them in the same manner and with the same effect as if they had been conferred directly by this Act or under any of the following Acts, and not by delegation:
- (a) the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
 - (b) the Insurance (Prudential Supervision) Act 2010;
 - (c) the Non-bank Deposit Takers Act 2013.
- (6) A delegation under this section may be revoked at any time.
- (7) A delegation of any power or function under this section shall not prevent the exercise of the power or function by the Governor.
- (8) Any such delegation, until it is revoked, shall continue in force according to its tenor, notwithstanding that the Governor who made it may have ceased to hold office.
- (9) To avoid doubt, the Governor's functions and powers include his or her functions and powers under the following Acts:
- (a) the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
 - (b) the Insurance (Prudential Supervision) Act 2010;
 - (c) the Non-bank Deposit Takers Act 2013.

Board of directors

52 Board of directors

There shall be a board of directors of the Bank.

(2) 總裁得隨時將總裁職能與權力—

- (a) 本行如有 1 名以上副總裁，委任予副執行長以外之副總裁；
 - (b) 委任予本行任何職員。
- (3) 副執行長行使總裁權力或職能之事實，即為該項授權之確切證明，任何人不得質問是否已發生或不再具有行得使該權力或職能之原因。
- (4) 副執行長以外之副總裁及本行任何職員擬依本條之委任作為時，在無相反證明之情況下，推定為係依委任之條款所為。
- (5) 在受到總裁給予之任何一般或特別指示或所附條件拘束下，依本條規定受委任權力或職能之任何人士，得以如同其權力係本法或下列任一法律直接賦與而非受委任之方式與效力，行使本法委任之權力或職能—
- (a) 2009 年洗錢防制與打擊資恐法；
 - (b) 2010 年保險（審慎監理）法；
 - (c) 2013 年非銀行收受存款者法。
- (6) 本條之委任，得隨時撤銷之。
- (7) 本條規定之權力或職能委任，不應禁止總裁行使權力或職能。
- (8) 雖然作成委任之總裁已不再擔任該職位，該項委任應依其委任期限繼續有效直到被撤銷為止。
- (9) 為避免疑義，總裁之職能與權力包括下列法律所定之職能與權力：
- (a) 2009 年洗錢防制與打擊資恐法；
 - (b) 2010 年保險（審慎監理）法；
 - (c) 2013 年非銀行收受存款者法。

理事會

第 52 條 理事會

本行應設理事會。

53 Duties of Board

- (1) Subject to this Act, the Board of the Bank shall—
- (a) keep under constant review the performance of the Bank in carrying out—
 - (i) its primary function; and
 - (ii) its functions relating to promoting the maintenance of a sound and efficient financial system; and
 - (iii) its other functions under this Act or any other enactment;
 - (b) keep under constant review the performance of the Governor in discharging the responsibilities of that office;
 - (c) keep under constant review the performance of the Governor in ensuring that the Bank achieves the policy targets agreed to with the Minister under section 9 or section 12 (7)(b);
 - (d) determine whether policy statements made pursuant to section 15 are consistent with the Bank's primary function and the policy targets agreed to with the Minister under section 9 or section 12 (7)(b);
 - (e) keep under constant review the use of the Bank's resources.
- (2) The Board may give advice to the Governor on any matter relating to the performance of the Bank's functions and the exercise of its powers.
- (3) If the Board is satisfied—
- (a) that the Bank is not adequately carrying out its functions; or
 - (b) that the Governor has not adequately discharged the responsibilities of that office; or
 - (c) that the performance of the Governor in ensuring that the Bank achieves the policy targets fixed under section 9 or section 12 (7)(b) has been inadequate; or
 - (d) that a policy statement made pursuant to section 15 is inconsistent in a material respect with the Bank's primary function or any policy target fixed under section 9 or section 12 (7)(b); or
 - (e) that the resources of the Bank have not been properly or effectively managed; or
 - (f) that the Governor, except as provided in his or her conditions of employment has, while holding office as Governor,—
 - (i) held any other office of profit; or
 - (ii) engaged in any other occupation for reward; or
 - (iii) had an interest in a registered bank or a licensed NBDT as defined in the Non-bank Deposit Takers Act 2013 or a licensed insurer; or

第 53 條 理事會職責

- (1) 本行理事會應依本法—
- (a) 持續審查本行執行下列職能之績效—
 - (i) 首要職能；及
 - (ii) 與維護健全效率金融體系相關之職能；及
 - (iii) 本法或任何其他立法規定之其他職能；
 - (b) 持續審查總裁履行該職位責任之績效；
 - (c) 持續審查總裁確保本行達成依第 9 條或第 12 條第(7)項第(b)款規定洽商部長同意之政策目標之績效；
 - (d) 決定依第 15 條規定作成之政策聲明，是否與本行首要職能及依第 9 條或第 12 條第(7)項第(b)款規定洽商部長同意之政策目標一致；
 - (e) 持續審查本行資源之使用。
- (2) 理事會得就與本行職能履行及權力行使之相關事項，提供總裁意見。
- (3) 如理事會確信有下列任一情況，理事會應給予部長書面意見，並得向部長建議免除總裁職位—
- (a) 本行未充分執行其職能；或
 - (b) 總裁未充分履行該職位之責任；或
 - (c) 總裁確保本行達成第 9 條或第 12 條第(7)項第(b)款所定政策目標之績效不足；或
 - (d) 依第 15 條規定作成之政策聲明，與本行首要職能或第 9 條或第 12 條第(7)項第(b)款所定政策目標不一致；或
 - (e) 未適當或有效管理本行資源；或
 - (f) 除總裁任命條件規定者外，總裁擔任總裁職位時—
 - (i) 擔任任何其他有收益之職位；或
 - (ii) 從事任何其他有報酬之工作；或
 - (iii) 對註冊銀行或 2013 年非銀行收受存款者法定義之非銀行存款收受者享有利益；或

- (iv) had an interest in a bank carrying on business outside New Zealand; or
 - (g) that the Governor is unable to carry out the responsibilities of office, or has been guilty of serious neglect of duty, or has been guilty of misconduct,—
- the Board shall advise the Minister in writing and may recommend to the Minister that the Governor be removed from office.

53A Board must prepare annual report

- (1) The Board must prepare, for each financial year, a report setting out the Board's assessment of the matters referred to in section 53 (1).
- (2) The report must—
 - (a) be signed by the chairperson and 1 other non-executive director; and
 - (b) be delivered to the Minister within 3 months after the end of the financial year.
- (3) The report stands referred, by virtue of this section, to the House of Representatives.

54 Membership of Board

- (1) The Board must consist of—
 - (a) not less than 5, and not more than 7, non-executive directors appointed by the Minister; and
 - (b) the Governor.
- (2) The appointment of every non-executive director must be notified in the *Gazette*.
- (3) The Governor is the only person employed in the service of the Bank who may be a director of the Bank.
- (4) The validity of any act of the Board is not affected by—
 - (a) any vacancy in its membership; or
 - (b) any defect in the appointment of a director; or
 - (c) the fact that any non-executive director is disqualified from appointment under section 58.
- (5) Subsection (3) is subject to sections 47 and 48.

55 Term of office of non-executive directors

- (1) Except as provided in subsection (2) and in sections 57 to 59, every nonexecutive director shall hold office for a term of 5 years.
- (2) The first non-executive directors of the Bank appointed under this Act shall be appointed for terms, not exceeding 5 years, which ensure that not more than 2 of those directors retire in the same year.

- (iv) 對在紐西蘭境外營業之銀行享有利益；或
- (g) 總裁無法執行該職位之責任、嚴重怠忽職守或行為不當。

第 53A 條 理事會應製作年報

- (1) 理事會應就每 1 會計年度編製一份臚列第 53 條第(1)項所提理事會評量事項之報告。
- (2) 本報告必須—
 - (a) 由主席及 1 名非常務理事簽署；並
 - (b) 於會計年度結束後 3 個月內提交部長。
- (3) 本報告係透過本條之規定有效提交眾議院。

第 54 條 理事會成員

- (1) 理事會必須由下列成員組成一
 - (a) 部長任命之 5 至 7 名非常務理事；及
 - (b) 總裁。
- (2) 非常務理事之任命，必須於政府公報公告之。
- (3) 總裁係唯一受僱於本行服務並得為本行理事之人士。
- (4) 理事會作為之效力，不受下列情況影響—
 - (a) 其成員出缺；或
 - (b) 理事任命之瑕疵；或
 - (c) 非常務理事依第 58 條之規定不具備任命資格之事實。
- (5) 第(3)項規定應受第 47 條及第 48 條規定之拘束。

第 55 條 非常務理事之任期

- (1) 除第(2)項及第 57 條至第 59 條另有規定外，非常務理事任期為 5 年。
- (2) 依本法任命之首屆本行非常務理事之任期，不得超過 5 年，以確保同一年無 2 名以上理事退休。

- (3) A non-executive director may from time to time be reappointed.
- (4) A non-executive director may at any time resign office by notice in writing to the Minister.

56 Considerations affecting appointment of non-executive directors

In considering the appointment or reappointment of a person to the office of non-executive director of the Bank, the Minister shall have regard, in relation to that office, to—

- (a) that person's knowledge, skill, and experience; and
- (b) the likelihood of any conflict between the interests of the Bank and any interests which that person has or represents.

57 Extraordinary vacancies

- (1) If a non-executive director dies, or resigns or is removed from office, that office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.
- (2) A non-executive director shall be deemed to have resigned office if that director—
 - (a) is prohibited by section 58 from holding office as a director; or
 - (b) fails, without the Board's consent, to attend 3 consecutive meetings of the Board.
- (3) The manner of filling an extraordinary vacancy shall be the manner prescribed by section 54.
- (4) A person who is appointed to fill an extraordinary vacancy shall be appointed for the residue of the term of the vacating director.

58 Disqualification of non-executive directors

No person shall be appointed, or reappointed, to the office of non-executive director of the Bank, or hold that office, if that person—

- (a) is a member of Parliament; or
- (b) is an employee of a registered bank or a licensed insurer or a licensed NBDT (as defined in the Non-bank Deposit Takers Act 2013); or
- (c) is a bankrupt who has not obtained a final order of discharge, or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled; or
- (d) is a person who is convicted of any offence punishable by imprisonment for a term of 2 years or more; or
- (e) is a person who is convicted of any offence punishable by imprisonment for a term of less than 2 years and is sentenced to imprisonment for that offence; or
- (f) *[Repealed]*

- (3) 非常務理事得隨時續任命之。
- (4) 非常務理事得隨時以書面通知部長之方式辭職。

第 56 條 影響非常務理事任命之考慮原因

考慮任命或續任某人士擔任本行非常務理事時，部長應就該職位考慮—

- (a) 該人士之學識、專業與經驗；及
- (b) 本行利益與該人士擁有或代表之利益間之衝突可能性。

第 57 條 特別出缺

- (1) 如非常務理事死亡、辭職或被免職，其出缺之職位應視為特別出缺。
- (2) 如非常務理事有下列情形，應視為該理事已辭職—
 - (a) 依第 58 條規定不得擔任理事；或
 - (b) 未經理事會同意，連續 3 次未出席理事會會議。
- (3) 填補特別出缺之方法，係依第 54 條規定之方式。
- (4) 經任命填補特別出缺之人士，其任期應為出缺理事之剩餘任期。

第 58 條 非常務理事之消極資格

下列人士不得被任命或續任命為本行非常務理事—

- (a) 國會議員；或
- (b) 註冊銀行、特許保險業者、（2013 年非銀行收受存款者法定義之）特許非銀行收受存款者之受僱人員；或
- (c) 尚未取得確定破產解除命令、破產解除命令經暫停一段時間且尚未屆期，或有條件暫停破產解除命令但未履行條件之破產人；或
- (d) 觸犯任何應處 2 年以上有期徒刑之罪者；或
- (e) 觸犯任何應處少於 2 年有期徒刑之罪並經判刑者；或
- (f) *[刪除]*

(g) *[Repealed]*

(h) is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, or the Financial Markets Conduct Act 2013, or the Takeovers Act 1993.

(i) *[Repealed]*

59 Removal from office of non-executive directors

- (1) The Governor-General may, by Order in Council, on the advice of the Minister, remove a non-executive director of the Bank from office.
- (2) The Minister may tender advice under subsection (1) if the Minister is satisfied that the director—
 - (a) is unable, or has failed, to perform the duties of a director of the Bank under this Act; or
 - (b) has been guilty of misconduct; or
 - (c) has obstructed, hindered, or prevented the Governor from discharging the responsibilities of the Governor under this Act.

59A Chairperson of Board

- (1) The non-executive directors of the Bank must appoint 1 of their number, by majority vote, to be chairperson of the Board.
- (2) A chairperson holds that office for a term of 12 months unless he or she—
 - (a) resigns from that office; or
 - (b) is removed from that office, at any time, by a majority vote of the non-executive directors; or
 - (c) ceases to be a non-executive director.
- (3) A chairperson whose term of office has expired—
 - (a) is eligible for reappointment so long as he or she continues to be a non-executive director; and
 - (b) continues to hold that office until a successor is appointed.
- (4) A vacancy in the office of chairperson must be filled as soon as practicable in the manner set out in subsection (1).

60 Meetings of Board

- (1) The Board may meet as often as necessary, but must meet at least 6 times each financial year.
- (2) The chairperson, or any 2 directors, may, at any time, call a meeting of the Board.
- (3) At any meeting of the Board, the quorum necessary for the transaction of business is 4 directors.

(g) [刪除]

(h) 禁止成為 1993 年公司法、2013 年金融市場行為法、1993 年收購法規定之法人團體或非法人團體之董事、發起人或參與經營者。

(i) [刪除]

第 59 條 非常務理事之免職

- (1) 總督得依部長之建議，以樞密院令免除非常務理事職能。
- (2) 部長如確信非常務理事有下列情形之一，得提出第(1)項建議—
 - (a) 無法或未履行本法所定本行理事職能；或
 - (b) 行為不當而獲罪；或
 - (c) 已阻礙、妨礙或阻止總裁履行本法所定責任。

第 59A 條 理事會主席

- (1) 本行非常務理事必須以多數決任命 1 名理事擔任理事會主席。
- (2) 除有下列情形外，主席任期為 12 個月—
 - (a) 辭職；或
 - (b) 非常務理事以多數決予以免職；或
 - (c) 不再為非常務理事。
- (3) 任期已屆期之主席—
 - (a) 只要其繼續為非常務理事，有資格續任；並
 - (b) 繼續擔任該職位至任命繼任人為止。
- (4) 主席出缺時，必須儘快依第(1)項所定方式填補之。

第 60 條 理事會會議

- (1) 理事會得於必要時開會，但每 1 會計年度至少應開會 6 次。
- (2) 主席或 2 名理事得隨時召開理事會會議。
- (3) 理事會會議事務處理之法定人數為 4 名理事。

- (4) All questions arising at any meeting of the Board that cannot be resolved by consensus must be decided by a majority of the votes cast by the directors present.
- (5) If a vote is tied, the chairperson or, if the chairperson is not present, the director presiding at the meeting has a casting vote.
- (6) Subject to this Act, the Board may regulate its own procedure.

60A Teleconference meeting

A resolution is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted if—

- (a) a telephone or video conference of at least 4 directors is held; and
- (b) notice of the conference has been given under section 60B and all reasonable efforts have been made to enable every director to participate in the conference; and
- (c) each director who participates in the conference is able to individually express his or her views, and vote, on any question arising during the meeting; and
- (d) the resolution is assented to by a majority of the directors participating in the conference.

60B Directors to be notified of meetings

- (1) The person or persons calling a meeting must ensure that each director is given—
 - (a) at least 2 days' notice of a meeting; or
 - (b) if a meeting is to be convened as a matter of urgency, reasonable notice of the meeting.
- (2) The notice must—
 - (a) indicate the business to be transacted at the meeting; and
 - (b) be given in writing or, if the director to whom the notice is to be given agrees, orally.
- (3) A notice in writing may be given by personal delivery, by post, or by electronic transmission (for example, by fax or email).
- (4) At a meeting of the Board, any director may, with the leave of the chairperson or the majority of the directors present, raise any matter for the consideration of the Board, even though that matter has not been included in the notice of meeting under subsection (2)(a).
- (5) For the purposes of subsection (1), it is enough if the person or persons calling a meeting made all reasonable efforts to ensure each director was given the notice by the time required under that subsection.

- (4) 於理事會會議發生之任何問題無法以一致同意決議者，應由在場理事以多數決決定。
- (5) 如正反投票數相同，主席或因主席不在場而主持該會議之理事，有決定性之投票權。
- (6) 在本法之規定下，理事會得訂定其會議程序。

第 60A 條 電訊會議

下列決議之效力，與以合法召開及組成之理事會會議通過之決議相同—

- (a) 至少 4 名理事舉行之電話或視訊會議；及
- (b) 已依第 60B 條規定給予會議通知，並盡所有合理努力使每位理事參加該會議；及
- (c) 參加會議之每位理事能夠就會議期間發生之任何問題各別表達其觀點及投票；及
- (d) 決議係經參加會議之過半數理事同意。

第 60B 條 向理事通知會議

- (1) 召開會議之人士必須確保給予每位理事—
 - (a) 至少 2 天之會議通知；或
 - (b) 如會議係依緊急事項召開，合理之會議通知。
- (2) 通知必須—
 - (a) 指明會議擬處理之業務；及
 - (b) 以書面為之，或經被通知理事同意以口頭為之。
- (3) 書面通知得以親送、郵寄或電子傳輸（例如傳真或電子郵件）為之。
- (4) 於理事會會議上，任何理事經主席或過半數出席理事之許可，得提出任何由理事會考量之事項，即使該事項並未納入第(2)項第(a)款規定之會議通知。
- (5) 就第(1)項之目的而言，召開會議之人士應盡合理之努力，使每位理事於該項規定之時間前受通知即可。

60C Who presides at meetings of Board

- (1) At all meetings of the Board, the chairperson presides if he or she is present and willing to do so.
- (2) The non-executive directors present must appoint 1 of their number to be the chairperson for the meeting if—
 - (a) the chairperson is not present; or
 - (b) there is no chairperson; or
 - (c) the chairperson is present, but is unwilling or unable to preside.
- (3) The person appointed under subsection (2) has and may exercise all the powers, duties, and functions of the chairperson for the purposes of that meeting.

61 Directors to disclose interests

- (1) A director who is interested in a contract or proposed contract with the Bank, or in the exercise or proposed exercise by the Bank of a power, shall declare that interest at every meeting of the Board at which that contract or proposed contract, or the exercise or proposed exercise of the power, is considered by the Board.
- (2) A director who is interested in a contract or proposed contract or in the exercise or proposed exercise of a power—
 - (a) is not entitled to vote on a resolution that relates to the contract or proposed contract or the exercise or proposed exercise of the power;
 - (b) shall not be counted for the purpose of determining whether a quorum is present when—
 - (i) the contract or proposed contract or the exercise or proposed exercise of the power is considered by the Board; or
 - (ii) a resolution relating to the contract or proposed contract or the exercise or proposed exercise of the power is voted on.

62 Committees

- (1) The Board may, from time to time, appoint committees of 1 or more directors and may delegate any of its functions and powers, except this power of delegation, to such committees.
- (2) The Board may from time to time—
 - (a) discharge, alter, or reconstitute a committee; or
 - (b) discharge a member of a committee and appoint another member in that member's place.

第 60C 條 主持理事會會議之人

- (1) 在所有理事會會議上，如主席出席並願意主持，由其主持會議。
- (2) 如有下列情況，出席之非常務理事必須任命其 1 名成員擔任會議主席—
 - (a) 主席未出席；或
 - (b) 無主席；或
 - (c) 主席出席但不願意或無法主持會議。
- (3) 依第(2)項規定任命之人士，就該次會議具有並得行使主席之所有權力、職責與職能。

第 61 條 理事利益之揭露

- (1) 理事就與本行間之契約或擬議契約、本行行使或擬行使之權力享有利益者，應於理事會考量該契約或擬議契約、行使或擬行使該權力之每次會議上宣布該項利益。
- (2) 理事就契約或擬議契約、行使或擬行使之權力享有利益者—
 - (a) 就與該契約或擬議契約、行使或擬行使該權力之決議，無權投票；
 - (b) 於下列情況，就決定出席人數是否達法定人數之目的而言，不應將其計入—
 - (i) 當理事會考量該契約或擬議契約、行使或擬行使該權力時；或
 - (ii) 與該契約或擬議契約、行使或擬行使該權力相關之決議進行投票時。

第 62 條 委員會

- (1) 理事會得隨時指定 1 名或數名理事組成委員會，並得將其任何職能與權力委任予該等委員會，但此項委任權力除外。
- (2) 理事會得隨時—
 - (a) 解散、變更或重組委員會；或
 - (b) 解任委員會之成員，並任命另一名成員遞補之。

- (3) Subject to any direction given by the Board, the functions and powers delegated to a committee may be performed or exercised with the same effect as if they had been conferred by this Act and not by delegation.
- (4) A committee purporting to act under delegation shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the delegation.
- (5) A delegation may be revoked by the Board at any time.
- (6) A delegation does not prevent the Board from performing or exercising its functions and powers.
- (7) A delegation to a committee shall continue in force even though the membership of the Board or the committee changes.
- (8) Subject to this Act and to any directions given by the Board, a committee may regulate its own procedure.

63 Fees and expenses of non-executive directors

- (1) The Bank shall pay the non-executive directors such fees as the Minister, after considering any recommendation by the Board, determines.
- (2) The Bank shall pay the non-executive directors travelling and other expenses incurred in carrying out their duties.

Part 4

Use of words 'bank', 'banker', and 'banking'

Limit on use of restricted words in name or title

64 Limit on use of restricted words in name or title

- (1) No person may —
 - (a) be formed, incorporated, or registered using a name or title that includes a restricted word; or
 - (b) change a person's name or title to a name or title that includes a restricted word; or
 - (c) carry on any activity directly or indirectly in New Zealand (whether through an agent or otherwise) using a name or title that includes a restricted word.
- (2) Subsection (1) does not apply to —
 - (a) the Bank; or
 - (b) a registered bank; or

- (3) 在遵守理事會指示下，委任委員會之職能與權力之執行與行使，具有如同係由本法授與而非委任之相同效力。
- (4) 委員會聲稱係依委任作為者，在無反證之情況下，應推定其係依委任作為。
- (5) 理事會得隨時撤銷委任。
- (6) 委任並未禁止理事會執行或行使其職能與權力。
- (7) 即使理事會或委員會之成員變動，對委員會之委任應繼續有效。
- (8) 在遵守本法及理事會指示下，委員會得訂定其程序。

第 63 條 非常務理事之報酬與開支

- (1) 本行應支付非常務理事由部長考量理事會建議後所決定之報酬。
- (2) 本行應支付非常務理事執行其職責時所承擔之差旅費及其他開支。

第 4 章 「銀行」、「銀行業者」與「銀行業」之用詞

於名稱或稱號使用限定用詞之限制

第 64 條 名稱或稱號使用限定用詞之限制

- (1) 任何人士 —
 - (a) 設立、組成或註冊時，不得使用含有限定用詞之名稱或稱號；或
 - (b) 不得將其名稱或稱號變更為含有限定用詞之名稱或稱號；或
 - (c) 直接或間接於紐西蘭從事活動（無論是否透過代理人或其他方式）時，不得使用含有限定用詞之名稱或稱號。
- (2) 第(1)項之規定不適用於 —
 - (a) 本行；或
 - (b) 註冊銀行；或

- (c) any person who is authorised by the Bank under section 65 to use a name or title that includes a restricted word but only to the extent that the person is acting within the scope of that authorisation; or
 - (d) any person who is exempted under section 66 but only to the extent that the person is acting within the scope of that exemption.
- (3) Despite subsection (2)(b), a registered bank must not use, without an authorisation from the Bank under section 65 (1)(e), a name or title that includes a restricted word in respect of a managed investment scheme of which the registered bank is a supervisor or a manager within the meaning of section 6 (1) of the Financial Markets Conduct Act 2013.
- (4) Subsection (2)(b) does not extend to a person carrying on any activity by means of, or through the agency of, a registered bank.
- (5) A person commits an offence if the person contravenes this section.
- (6) The penalty for an offence against this section is set out in section 66M.
- (7) In this section (except subsection (1)(a) to (c)) and sections 65 and 66, use, in relation to a restricted word, means act in a manner prohibited by subsection (1)(a) to (c) (as the context requires).

65 Bank may authorise use of restricted words in name or title

- (1) The Bank may authorise any of the following persons to use a name or title that includes a restricted word:
- (a) a person licensed or registered as a bank in a country other than New Zealand;
 - (b) a class of persons licensed or registered as banks in a country other than New Zealand;
 - (c) a person that is formed, incorporated, or registered to represent the interests of—
 - (i) any registered bank; or
 - (ii) any person connected with a registered bank;
 - (d) an associated person of a registered bank;
 - (e) a registered bank or an associated person of a registered bank that intends to use a name or title that includes a restricted word in respect of a managed investment scheme of which the registered bank or the associated person is a supervisor or a manager within the meaning of section 6 (1) of the Financial Markets Conduct Act 2013;
 - (f) a person that is not a financial institution.

- (c) 本行依第 65 條之規定授權得使用含有限定用詞之名稱或稱號之人士，但僅限於該人士於該授權範圍內之作為；或
 - (d) 依第 66 條之規定予以豁免之任何人士，但僅限於該人士於該授權範圍內之作為。
- (3) 儘管有第(2)項第(b)款之規定，無本行依第 65 條第(1)項第(e)款規定之授權者，註冊銀行就該註冊銀行擔任 2013 年金融市場行為法第 6 條第(1)項定義之監督人或經理人所經理之投資計畫，不得使用含有限定用詞之名稱或稱號。
- (4) 第(2)項第(b)款之規定不擴及藉由或透過註冊銀行之代理而進行活動之人士。
- (5) 違反本條規定者，即屬犯罪。
- (6) 違反本條規定之處罰，明定於第 66M 條。
- (7) 於本條（第(1)項第(a)款至第(c)款除外）、第 65 條及第 66 條，就某一限定用詞而言，「使用」係指以第(1)項第(a)款至第(c)款禁止之方式作為（按照上下文而定）。

第 65 條 本行得授權於名稱或稱號使用限定用詞

- (1) 本行得授權下列人士使用含有限定用詞之名稱或稱號：
- (a) 於紐西蘭以外國家，經授權或註冊為銀行之某位人士；
 - (b) 於紐西蘭以外國家，經授權或註冊為銀行之某類人士；
 - (c) 代表下列利益而設立、組成或註冊之人士—
 - (i) 任何註冊銀行；或
 - (ii) 與註冊銀行相關之任何人士；
 - (d) 註冊銀行之相關人士；
 - (e) 註冊銀行或註冊銀行之相關人士，其打算就該註冊銀行或該相關人士擔任 2013 年金融市場行為法第 6 條第(1)項定義之監督人或經理人所經理之投資計畫，使用含有限定用詞之名稱或稱號；
 - (f) 非金融機構之人士。

- (2) In the case of an authorisation under subsection (1)(a), the Bank must—
- (a) give the authorisation by notice in writing to the person; and
 - (b) impose both of the following conditions:
 - (i) the condition that the person use a particular name or title approved by the Bank; and
 - (ii) the condition that the person carry on in New Zealand only those activities specified by the Bank in the notice.
- (3) In the case of an authorisation under subsection (1)(b), the Bank must—
- (a) give the authorisation by notice in the *Gazette*; and
 - (b) impose the condition that each member of the class of persons carries on in New Zealand only those activities specified by the Bank in the notice in the *Gazette* in respect of the class to which that member belongs.
- (4) In the case of an authorisation under subsection (1)(c) to (f), the Bank must—
- (a) give the authorisation by notice in writing to the person; and
 - (b) impose the condition that the person uses a particular name or title approved by the Bank.
- (5) Nothing in subsections (2) to (4) prevents the Bank from imposing any other conditions to the authorisation that it thinks fit.
- (6) The Bank may, at any time, revoke an authorisation, or vary or remove a condition of an authorisation, or add a condition of an authorisation, by,—
- (a) in the case of an authorisation that relates to a person, notice in writing to the person; or
 - (b) in the case of an authorisation that relates to a class of persons, notice in the *Gazette*.
- (7) Any authorisation given under this section applies to any other person (for example, the Registrar of Companies), but only to the extent that the acts of that person are necessary to allow the person to whom the authorisation is given to have the benefit of that authorisation.

66 Certain persons exempt from application of section 64

Nothing in section 64 (1) applies to a person using a name or title that includes a restricted word if—

- (a) the restricted word signifies a geographic place name or the name of a natural person; and
- (b) the name or title is not used in respect of a financial institution, or could not reasonably be mistaken for the name or title of a financial institution.

- (2) 依第(1)項第(a)款之規定授權時，本行必須—
- (a) 以書面通知該人士該項授權；並且
 - (b) 加諸下列條件：
 - (i) 該人士使用本行核准之特定名稱或稱號之條件；及
 - (ii) 該人士僅得於紐西蘭進行本行於該通知所指定活動之條件。
- (3) 依第(1)項第(b)款之規定授權時，本行必須—
- (a) 於政府公報公告該項授權；及
 - (b) 加諸該類人士之每位成員僅得於紐西蘭進行本行於政府公報公告就該成員所屬類別所指定活動之條件。
- (4) 依第(1)項第(c)款至第(f)款之規定授權時，本行必須—
- (a) 以書面通知該人士該項授權；並且
 - (b) 加諸該人士使用本行核准之特定名稱或稱號之條件。
- (5) 第(2)項至第(4)項並未禁止本行加諸其認為適合之任何其他條件。
- (6) 本行得隨時以下列方式撤銷授權、更改或移除授權之某項條件，或增加授權之某項條件—
- (a) 如係對某位人士之授權，以書面通知該人士；或
 - (b) 如係對某類人士之授權，於政府公報公告。
- (7) 本條之授權得適用於任何其他人士（例如，公司登記機關），但僅限於該人士之行為係為使授權對象享有該項授權之利益所需之範圍內。

第 66 條 豁免適用第 64 條規定之人士

如有下列情況，第 64 條第(1)項之規定不適用於使用含有限定用詞之名稱或稱號之人士—

- (a) 限定用詞係表達地名或自然人之姓名；及
- (b) 該名稱或稱號並非用於金融機構，或不可能合理被誤認為金融機構之名稱或稱號。

66A Application of Companies Act 1993

Nothing in sections 65 and 66 affects or limits the following sections of the Companies Act 1993:

- (a) sections 20 to 24 (which relate to company names);
- (b) section 333 (which relates to the reservation of the name of an overseas company).

*Limit on use of restricted words in advertisement***66B Limit on use of restricted words in advertisement**

- (1) No specified person may use a restricted word in any advertisement unless the advertisement contains a statement that complies with subsection (2).
- (2) The statement must—
 - (a) state that the specified person is not a registered bank; and
 - (b) be communicated in a manner that ensures, as far as is reasonably practicable, that the statement attracts the attention of the persons to whom the advertisement is directed.
- (3) A specified person commits an offence if the specified person contravenes this section.
- (4) The penalty for an offence against this section is set out in section 66M.
- (5) In this section and sections 66D and 66M,—
 - advertisement** —
 - (a) means any thing used to promote—
 - (i) the interests of a specified person; or
 - (ii) the services or products of that person; and
 - (b) includes a trade mark of a specified person; but
 - (c) does not include the name or title of a specified person
 - specified person** means a person that—
 - (a) is a financial institution; and
 - (b) is not a registered bank.

*Powers of Bank in relation to use of restricted words***66C Power to obtain information**

- (1) If the Bank believes or has reasonable grounds for believing that there has been a contravention of section 64 or section 66B, the Bank, for the purpose of determining whether there has been a contravention of either of those sections, may, by notice in writing, require any person to—

第 66A 條 1993 年公司法之適用

第 65 條或第 66 條之規定未影響或限制 1993 年公司法之下列條文：

- (a) 第 20 條至第 24 條（有關公司名稱）；
- (b) 第 333 條（有關海外公司名稱之保留）。

*於廣告使用限定用詞之限制***第 66B 條 廣告使用限定用詞之限制**

- (1) 任何特定人士不得於任何廣告使用限定用詞，但廣告含有遵守第(2)項規定之聲明者，不在此限。
- (2) 該項聲明必須—
 - (a) 表明特定人士並非註冊銀行；及
 - (b) 盡合理可能以確保該項聲明會吸引廣告對象注意之方式溝通。
- (3) 如特定人士違反本條之規定，該特定人士即屬犯罪。
- (4) 違反本條規定之處罰，明定於第 66M 條。
- (5) 本條與第 66D 條及第 66M 條—

廣告—

- (a) 係指用以促進以下所列之任何事物—
 - (i) 特定人士之利益；或
 - (ii) 該人士之服務或產品；及
- (b) 包括特定人士之商標；但
- (c) 不包括特定人士之名稱或稱號。

特定人士係指下列人士—

- (a) 金融機構；及
- (b) 非註冊銀行。

*本行就限定用詞使用之權力***第 66C 條 取得資訊之權力**

- (1) 本行如相信或有合理事由相信有違反第 64 條或第 66B 條規定之情事者，為決定是否有該等違反情事之目的，本行得以書面通知要求任何人士—

- (a) produce to the Bank a document in the person's possession, custody, or control;
- (b) supply the Bank with information or an explanation about any information.
- (2) The Bank may exercise the power in subsection (1) only if the Bank has reasonable cause to believe that the person may have information or documents relevant to the purpose of that subsection.
- (3) A person to whom a notice is given must comply with the notice within the period of time specified by the Bank (which period must be reasonable in the circumstances).
- (4) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (5) The penalty for an offence against this section is set out in section 66M.

66D Power to require change of name, etc

- (1) If the Bank is satisfied on reasonable grounds that a person has contravened, or is contravening, section 64 or section 66B, it may, by notice in writing, require that person to—
 - (a) change that person's name or title to a name or title that does not include a restricted word;
 - (b) cease using a restricted word in an advertisement;
 - (c) cease carrying on any activity using a name or title that includes a restricted word.
- (2) The Bank may require any person to whom a notice is given to supply the Bank with information or documents that may be necessary for the Bank to verify that the notice has been complied with.
- (3) A person must comply with a requirement of the Bank under this section within the period of time specified by the Bank (which period must be reasonable in the circumstances).
- (4) A person commits an offence if the person fails to comply with this section.
- (5) The penalty for an offence against this section is set out in section 66M.

66E Power to appoint person to enter and search premises

- (1) This section applies if the Bank has reasonable cause to believe—
 - (a) that any information or documents supplied to the Bank under section 66C or section 66D (2) are false or misleading in a material particular; or
 - (b) that a person has failed to comply with any requirement to supply information or documents under section 66C or section 66D (2).

- (a) 向本行提示該人士持有、保管或控制之文件；
- (b) 提供本行資訊或有關任何資訊之解釋。
- (2) 僅限於本行有合理事由相信該人士可能擁有與本條規定相關之資訊或文件，本行方得行使第(1)項之權力。
- (3) 受通知之人士必須於本行規定之合理期間內遵守該項通知。
- (4) 該人士如無法律正當性或理由而未遵守本條規定，該人士即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 66M 條。

第 66D 條 要求變更名稱等之權力

- (1) 本行如有合理事由確信某人士已違反或正在違反第 64 條或第 66B 條之規定，得以書面通知要求該人士—
 - (a) 將該人士之名稱或稱號變更為不包含限定用詞之名稱或稱號；
 - (b) 停止於廣告使用限定用詞；
 - (c) 停止以包含限定用詞之名稱或稱號進行任何活動。
- (2) 本行得要求受通知之人士，提供本行為查證其已遵守該項通知所需之資訊或文件。
- (3) 該人士必須於本行規定之合理期間內遵守本行依本條所定之要件。
- (4) 該人士如未遵守本條規定，該人士即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 66M 條。

第 66E 條 指派人員進入及搜索場所之權力

- (1) 本行如有合理事由確信下列情事，適用本條之規定—
 - (a) 依第 66C 條或第 66D 條第(2)項之規定提供予本行之任何資訊或文件，係嚴重不實或誤導；或
 - (b) 該人士未遵守依第 66C 條或第 66D 條第(2)項規定應提供資訊或文件之要求。

- (2) If this section applies, the Bank may appoint, in writing, any suitably qualified person to enter and search any premises.
- (3) A person appointed under subsection (2) may—
 - (a) inspect, remove, and take copies of any documents relating to the use of a restricted word that may be in the possession, custody, or control of any person; and
 - (b) if necessary, require the reproduction in usable form of any information recorded or stored in those documents.
- (4) A person commits an offence if, without lawful justification or excuse, the person hinders, obstructs, or delays the conduct of any search by a person appointed under subsection (2).
- (5) The penalty for an offence against this section is set out in section 66M.

66F Requirements on entering and searching premises

- (1) A person appointed under section 66E (2) must not enter and search any premises, or inspect, remove, or take copies of any documents in the possession, custody, or control of any person, or require the reproduction in usable form of any information recorded or stored in any documents, unless—
 - (a) the occupier of the premises, or the person who has possession, custody, or control of the documents, agrees; or
 - (b) the person appointed under section 66E (2) obtains a warrant under section 66I.
- (2) A person authorised to enter and search any premises under a warrant must, on first entering those premises and, if requested, at any subsequent time, produce—
 - (a) evidence of that person's authority to enter the premises; and
 - (b) evidence of that person's identity.

66G Confidentiality of information or documents

- (1) This section applies to information or documents supplied or disclosed to, or obtained by, the Bank for the purposes of, or in connection with, the exercise of powers conferred by this Part.
- (2) The Bank, any officer or employee of the Bank, or a person appointed under section 66E (2) must not publish or disclose any information or documents to which this section applies except—
 - (a) with the consent of the person to whom the information relates or of the person to whom the information is confidential; or

- (2) 如適用本條之規定，本行得以書面指派任何適格人士進入及搜索任何場所。
- (3) 依第(2)項被指派之人士得—
 - (a) 檢查、移除或複製由任何人士持有、保管或控制且與使用限定用詞相關之任何文件；及
 - (b) 於必要時，要求以可使用之格式複製任何記錄或儲存於該等文件之資訊。
- (4) 該人士如無法律正當性或理由而妨礙、阻撓或延誤依第(2)項被指派之人士進行任何搜索，該人士即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 66M 條。

第 66F 條 進入及搜索場所之要件

- (1) 除非依下列規定，依第 66E 條第(2)項指派之人士不得進入及搜索任何場所，或檢查、移除或複製由任何人士持有、保管或控制之任何文件，或要求以可使用之格式複製任何記錄或儲存於該等文件之資訊—
 - (a) 場所之佔有人、或文件之持有、保管或控制人同意；或
 - (b) 依第 66E 條第(2)項被指派之人士取得第 66I 條之搜索令。
- (2) 搜索令授權得進入並搜索任何場所之人士，必須於第一次進入該等場所時，如有被要求者並應於任何後續時間，提示—
 - (a) 該人士得進入場所之權限證據；及
 - (b) 該人士之身分證明。

第 66G 條 資訊或文件之保密

- (1) 為行使本章所賦與權力之目的，向本行提供或向本行揭露或由本行取得之資訊或文件，適用本條之規定。
- (2) 本行、本行之任何職員或受雇人員，或依第 66E 條第(2)項被指派之人士，不得公布或揭露任何適用本條規定之資訊或文件，除非—
 - (a) 與該資訊相關或該資訊對其而言係屬機密之人士同意；或

- (b) to the extent that the information is available to the public under any Act, including the Official Information Act 1982, or is otherwise publicly available; or
 - (c) for the purposes of, or in connection with, the exercise of powers conferred by this Part; or
 - (d) in connection with any investigation or inquiry (whether or not preliminary to any proceedings) in respect of, or any proceedings for, an offence against this Act or any other Act; or
 - (e) to any central bank, authority, or body in any other country that exercises functions that correspond with, or are similar to, those conferred on the Bank under this Act or under the Non-bank Deposit Takers Act 2013 for the purposes of the exercise by that central bank, authority, or body of those functions; or
 - (f) to any person who the Bank is satisfied has a proper interest in receiving the information.
- (3) The Bank, any officer or employee of the Bank, or a person appointed under section 66E (2) must not publish or disclose any information or documents under subsection (2)(e) or (f) unless the Bank is satisfied that satisfactory provision exists to protect the confidentiality of that information or those documents.
- (4) A person referred to in subsection (5) commits an offence if the person contravenes this section.
- (5) The persons are—
- (a) any officer or employee of the Bank; or
 - (b) a person appointed under section 66E (2).
- (6) The penalty for an offence against this section is set out in section 66M.

66H Limits on further disclosure of information or documents published or disclosed under section 66G

- (1) A person to whom any information or documents are published or disclosed under section 66G must not publish, disclose, or use that information or those documents unless the publication, disclosure, or use is,—
- (a) in the case of a publication or disclosure under section 66G (2)(a), in accordance with the terms and conditions of the consent referred to in that paragraph;
 - (b) in the case of a publication or disclosure under section 66G (2)(c),—

- (b) 依包括 1982 年政府資訊法在內之任何法律之規定，該資訊係可提供予大眾或可公開者；或
 - (c) 為行使本章賦與之權力；或
 - (d) 就違反本法或任何其他法律之任何法律程序而言，有關任何調查或質詢（無論是否在任何法律程序之前）；或
 - (e) 其對象係在任何其他國家行使相當於或類似於本法或 2013 年非銀行收受存款者法賦與本行之職能之任何中央銀行、當局或機構，且係為該中央銀行、當局或機構行使該等職能之目的；或
 - (f) 對象為本行確信其具有收取該資訊之適當利益之任何人士。
- (3) 本行、本行之任何職員或受雇人員或依第 66E 條第(2)項被指派之人士，不得公布或揭露第(2)項第(e)款或第(f)款之資訊或文件，但本行確信存在對該資訊或該等文件機密性有充分保護之規定者，不在此限。
- (4) 第(5)項提及之人士如違反本條之規定，該人士即屬犯罪。
- (5) 該人士係指—
- (a) 本行之任何職員或受雇人員；或
 - (b) 依第 66E 條第(2)項被指派之人士。
- (6) 違反本條規定之處罰，明定於第 66M 條。

第 66H 條 進一步揭露依第 66G 條規定所公布或揭露資訊或文件之限制

- (1) 依第 66G 條之規定而向其公布或揭露任何資訊或文件之人士，不得公布、揭露或使用該資訊或該等文件。但下列情況之公布、揭露或使用，不在此限—
- (a) 依第 66G 條第(2)項第(a)款公布或揭露者，遵守該項所指之同意條款與條件者；
 - (b) 依第 66G 條第(2)項第(c)款公布或揭露者—

- (i) for the purposes of, or in connection with, the exercise of powers conferred by this Part; and
- (ii) in accordance with any conditions that the Bank may have imposed;
- (c) in the case of a publication or disclosure under section 66G (2)(f),—
 - (i) authorised by the Bank and in accordance with any conditions that the Bank may have imposed; or
 - (ii) necessary or desirable for the performance of any function or exercise of any power conferred by any enactment.
- (2) A person commits an offence if the person contravenes this section.
- (3) The penalty for an offence against this section is set out in section 66M.

66I Procedure for obtaining warrants

- (1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may issue a warrant to a person appointed under section 66E (2) if the issuing officer is satisfied, on application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing —
 - (a) that any information or documents supplied to the Bank under section 66C or section 66D (2) are false or misleading in a material particular; or
 - (b) that a person has failed to comply with any requirement to supply information or documents under section 66C or section 66D (2).
- (2) The provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply.

66J Effect of warrant

[Repealed]

66K Effect of proceedings

- (1) If any person commences any proceedings in any court in respect of the exercise of any powers conferred by section 66E, until a final decision in relation to those proceedings is given, the powers may be, or may continue to be, exercised as if the proceedings had not been commenced, and no person is excused from fulfilling any obligation under that section by reason of those proceedings.

- (i) 係為行使本章所賦與權力之目的；並
- (ii) 依本行可能加諸之任何條件；
- (c) 依第 66G 條第(2)項第(f)款公布或揭露者—
 - (i) 係經本行授權，並遵守本行可能加諸之任何條件；或
 - (ii) 係為執行或行使任何立法賦與之任何職能或任何權力所需。
- (2) 該人士如違反本條之規定，該人士即屬犯罪。
- (3) 違反本條規定之處罰，明定於第 66M 條。

第 66I 條 取得搜索令之程序

- (1) 依 2012 年搜索與監控法第 3 條定義之簽發人員，就依該法第 4 章第 3 節規定方式所提出之申請，有合理事由確信下列情況者，得簽發搜索令予依第 66E 條第(2)項被指派之人士—
 - (a) 依第 66C 條或第 66D 條第(2)項提供予本行之任何資訊或文件，係嚴重不實或誤導；或
 - (b) 該人士未遵守依第 66C 條或第 66D 條第(2)項規定應提供資訊或文件之要求。
- (2) 2012 年搜索與監控法第 4 章之規定（第 118 條與第 119 條除外）適用之。

第 66J 條 搜索令之效果

[刪除]

第 66K 條 法律程序之效果

- (1) 任何人士就行使第 66E 條賦與之任何權力，於任何法院發動任何法律程序，直到該等法律程序作成最後決定為止，得如同未曾發動法律程序般地行使或繼續行使權力，且不得以該等法律程序為藉口，不履行該條規定之任何義務。

- (2) This section applies despite the provisions of any other Act or any rule of law.

66L Effect of final decision that exercise of powers under section 66E unlawful

- (1) This section applies if—
- (a) any power conferred by section 66E has been exercised; and
 - (b) that exercise has been declared to be unlawful in a final decision given in proceedings in respect of the exercise of that power.
- (2) The Bank must ensure that, as soon as practicable after the decision is given,—
- (a) any information supplied by a person and any documents or records obtained as a result of the unlawful exercise of the power are returned to the person previously having possession, custody, or control of those documents or records, and any copies of those documents or records are destroyed;
 - (b) any documents or records derived from, or based on, the documents or records are destroyed.
- (3) No information, documents, or records obtained as a result of the unlawful exercise of the power are admissible in evidence in any proceedings.

Penalty for offences against this Part

66M Penalty for offences

- (1) A person who commits an offence against any of the provisions listed in subsection (2) is liable, on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100,000; and
 - (b) in the case of a body corporate, to a fine not exceeding \$1,000,000.
- (2) The provisions are—
- (a) section 64 (which relates to the use of restricted words in a name or title);
 - (b) section 66B (which relates to the use of restricted words in an advertisement);
 - (c) section 66C (which relates to failing to produce a document or supply information to the Bank after being required to do so);
 - (d) section 66D (which relates to failing to change a person's name or title or cease using a restricted word in an advertisement or cease carrying on any activity after being required to do so);

- (2) 儘管有任何其他法律或任何法律規則，仍適用本條之規定。

第 66L 條 依第 66E 條行使權力不合法之最終決定之效果

- (1) 如有下列情況，適用本條之規定—
- (a) 已行使第 66E 條賦與之任何權力；且
 - (b) 有關該權力行使之法律程序之最終決定，已宣布該權力行使違法。
- (2) 本行於最終決定作成之後，必須儘快確保—
- (a) 將因非法行使權力而由某位人士提供之任何資訊及所取得之任何文件或紀錄，歸還先前持有、保管或控制該等文件或紀錄之人士，並將該等文件或紀錄之任何複印本予以銷毀；
 - (b) 將該等文件或紀錄所衍生或以之為基礎之任何文件或紀錄予以銷毀。
- (3) 任何訴訟程序不接受以非法行使權力取得之資訊、文件或紀錄為證據。

違反本章之犯罪處罰

第 66M 條 違反規定之處罰

- (1) 任何人士違反第(2)項明定之任何規定者—
- (a) 如係自然人，應處不超過 12 個月有期徒刑，或科不超過 100,000 紐元罰金；
 - (b) 如係法人團體，應科不超過 1,000,000 紐元罰金。
- (2) 前項係指違反下列規定—
- (a) 第 64 條（有關名稱或稱號使用限定用詞）；
 - (b) 第 66B 條（有關廣告使用限定用詞）；
 - (c) 第 66C 條（有關未依要求提示文件或提供資訊予本行）；
 - (d) 第 66D 條（有關未依要求變更名稱或稱號、停止於廣告使用限定用詞或停止進行任何活動）；

- (e) section 66E (which relates to obstructing a person appointed to conduct a search);
- (f) section 66G (which relates to breaches of confidentiality provisions);
- (g) section 66H (which relates to further disclosures of information).

Part 5

Registration of banks and prudential supervision of registered banks

67A Interpretation in this Part

In this Part, unless the context otherwise requires,—

action that is likely to have a detrimental effect on financial system stability in Australia includes an action that prevents or interferes with any outsourcing arrangement

authorised deposit-taking institution has the same meaning as in section 5 (1) of the Banking Act 1959 of the Parliament of the Commonwealth of Australia

outsourcing arrangement means an arrangement for business, or functions relating to any business, of an authorised deposit-taking institution to be carried on by a person other than that authorised deposit-taking institution

prescribed Australian financial authority means an Australian public authority prescribed by regulations made under section 68A.

67 Registration and prudential supervision

The Bank shall in accordance with this Part—

- (a) register banks; and
- (b) undertake prudential supervision of registered banks.

68 Exercise of powers under this Part

The powers conferred on the Governor-General, the Minister, and the Bank by this Part shall 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.

68A Trans-Tasman co-operation

- (1) When performing functions or duties or exercising powers under this Part or the Insurance (Prudential Supervision) Act 2010, the Bank must—

- (e) 第 66E 條（有關阻礙被指派人士進行搜索）；
- (f) 第 66G 條（有關違反保密規定）；
- (g) 第 66H 條（有關資訊之進一步揭露）。

第 5 章 銀行之註冊及對註冊銀行之審慎監理

第 67A 條 本章之解釋

除上下文另有規定外，於本章—

對澳洲金融體系穩定可能有不利影響之行動，包括阻止或干涉任何委外安排。

特許收受存款機構之定義與澳大利亞聯邦國會 1959 年銀行法第 5 條第(1)項之定義相同。

委外安排係指特許收受存款機構以外之人士，進行與特許收受存款機構之任何業務相關之業務或職能安排。

指定澳大利亞金融主管機關係指依第 68A 條訂定之法規所指定之澳大利亞公共主管機關。

第 67 條 註冊及審慎監理

本行應依本章之規定—

- (a) 為銀行之註冊；並
- (b) 對註冊銀行進行審慎監理。

第 68 條 本章所定權力之行使

應基於下列目的行使本章賦與總督、部長及本行之權力—

- (a) 促進維護健全效率之金融體系；或
- (b) 避免可能導致註冊銀行倒閉之金融體系重大損害。

第 68A 條 泛塔斯漫 (Trans-Tasman) 合作

- (1) 當依本章或 2010 年保險（審慎監理）法之規定，履行職能或職責或行使權力時，本行應—

- (a) support prescribed Australian financial authorities in meeting their statutory responsibilities relating to prudential regulation and financial system stability in Australia; and
 - (b) to the extent reasonably practicable, avoid any action that is likely to have detrimental effect on financial system stability in Australia.
- (2) Subsection (3) applies where the Bank has reasonable cause to believe that an action it proposes to take is an action that is likely to have a detrimental effect on financial system stability in Australia.
- (3) The Bank must, to the extent it considers reasonably practicable in the circumstances having regard to urgency or other similar constraint, consult with and consider the advice of every prescribed Australian financial authority it considers to be relevant in the circumstances before taking the proposed action.
- (4) No performance of a function or duty or exercise of a power is invalid by reason only of a failure to comply with the provisions of this section.
- (5) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations prescribing Australian financial authorities for the purposes of this section and section 121A.

68B Bank to have regard to directions about government policy objectives

- (1) The Minister may direct the Bank to have regard to a government policy that relates to the Bank's functions under this Part and Parts 5B and 5C.
- (2) The Bank must have regard to every direction given by the Minister under this section.
- (3) The Minister must consult with the Bank before giving a direction.
- (4) A direction must—
 - (a) be set out in a written statement signed by the Minister; and
 - (b) as soon as practicable after it is given, be—
 - (i) presented to the House of Representatives by the Minister; and
 - (ii) published in the *Gazette*.
- (5) The Minister may not give a direction that requires the performance or non-performance of a particular act by the Bank, or any employee or office holder of the Bank, or the bringing about of a particular result, in respect of a particular person.
- (6) A direction may be amended, revoked, or replaced in the same way as it may be given.

- (a) 支持指定澳大利亞金融主管機關符合澳大利亞審慎監管與金融體系穩定之相關法定責任；及
 - (b) 在合理可能範圍內，避免可能對澳大利亞金融體系穩定有不利影響之行動。
- (2) 本行有合理事由相信其擬採取之行動，可能對澳大利亞金融體系穩定有不利影響之行動時，應適用第(3)項之規定。
- (3) 本行認為在緊急或類似約束情況之合理可能範圍內，於採取擬議行動之前，應洽商並考慮其認為與情況相關之每個指定澳大利亞金融主管機關之意見。
- (4) 不得僅以未遵守本條規定為由，而使職能或職責之履行或權力之行使無效。
- (5) 總督對於部長依本行建議所給予之意見，得為本條與第121A條之目的，以樞密院令作成指定澳大利亞金融主管機關之法規。

第 68B 條 本行考慮有關政府政策目標之指示

- (1) 部長得指示本行考慮本章與第 5B 章及第 5C 章所定本行職能相關之政府政策。
- (2) 本行必須考慮部長依本條給予之每項指示。
- (3) 部長給予指示之前必須洽商本行。
- (4) 前述指示必須—
 - (a) 以部長簽署之書面聲明表明之；及
 - (b) 給予指示之後儘速—
 - (i) 由部長提交眾議院；及
 - (ii) 於政府公報公告之。
- (5) 部長給予之指示不得要求本行、本行之任何受僱人員或任何官員就特定人士執行或不執行特定行為或帶來特定結果。
- (6) 得以與給予指示之相同方式，修正、撤銷或取代該項指示。

*Registration of banks***69 Register**

- (1) The Bank must keep a public register of persons known as registered banks.
- (2) The Bank must determine the form of the register and may amend the form from time to time as it considers necessary.
- (2A) The register must include—
 - (a) the name of each registered bank; and
 - (b) the current rating of each registered bank under section 80 (if any); and
 - (c) any other prescribed information.
- (3) The Bank must take all reasonable steps to ensure that the information contained in the public register is available to members of the public at all reasonable times.

70 Application for registration

- (1) Any person may apply to the Bank to be registered as a registered bank.
- (2) Applications to be registered as a registered bank shall be—
 - (a) made in such manner as may be specified by the Bank; and
 - (b) accompanied by payment of such fee as may be determined by the Bank from time to time and approved by the Minister by notice in the *Gazette*.
- (3) Every person who makes an application under this section shall furnish to the Bank such information as may be required by the Bank to assist it in determining the application.
- (4) A person commits an offence if the person provides false or misleading information to the Bank for the purposes of an application.
- (5) The penalty for an offence against this section is set out in section 156AC.

71 Voluntary removal of name from register

- (1) A registered bank may, by notice in writing, require the Bank to remove the name of that registered bank from the register on a date specified in the notice, not being a date earlier than 28 days, or such shorter period as the Bank may agree to, after the date the notice is given.
- (2) The registered bank shall, within 7 days of giving that notice, give public notice of the fact that it had given the notice to the Bank.
- (3) The Bank must—
 - (a) remove the name of the registered bank from the register on the date specified in the notice; and
 - (b) within 7 days after that date, arrange for the publication in the *Gazette* of a notice that indicates the removal of that name.

*銀行之註冊***第 69 條 登記簿**

- (1) 本行應備有註冊銀行之公開登記簿。
- (2) 本行應決定登記簿之格式，並得於必要時隨時修正之。
- (2A) 登記簿應包括—
 - (a) 每家註冊銀行之名稱；及
 - (b) 第 80 條規定之每家註冊銀行當前評等（如果有的話）；及
 - (c) 任何其他規定之資訊。
- (3) 本行應採取合理程序，以確保於合理之時間，將公開登記簿所涵蓋之資訊提供予大眾。

第 70 條 註冊之申請

- (1) 任何人士得向本行申請成為註冊銀行。
- (2) 申請註冊成為註冊銀行者，應—
 - (a) 以本行明定之方式為之；及
 - (b) 支付於政府公報公告之本行隨時決定並經部長核准之費用。
- (3) 依本條提出申請之人士應提供本行要求之資訊，以協助本行決定該項申請。
- (4) 如該人士為申請目的而提供本行不實或誤導資訊，該人士即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 156AC 條。

第 71 條 自願自登記簿除名

- (1) 註冊銀行得以書面通知要求本行於該通知指定之日期，將該註冊銀行自登記簿除名，但該日期不得早於其給予通知日後之 28 天或本行可能同意之較短期間。
- (2) 註冊銀行應於給予通知後之 7 天內，公開公告其給予本行該通知之事實。
- (3) 本行應—
 - (a) 於指定日期將該註冊銀行自登記簿除名；及
 - (b) 該日期之後 7 天內，安排將表明移除名稱之通知公布於政府公報。

- (4) Except with the consent of the Bank, a registered bank shall not give a notice under subsection (1) if—
- (a) a notice has been given to that registered bank under section 99 (2)(a); or
 - (b) a person has been appointed under section 99 (2)(b) to exercise, in relation to that registered bank, the powers conferred by that paragraph; or
 - (c) a person has been appointed under section 101 to carry out an investigation of the affairs of that registered bank; or
 - (d) a direction is in force under section 113 in relation to that registered bank; or
 - (e) the registered bank is subject to statutory management.
- (5) The Bank may refuse to remove the name of a registered bank from the register if—
- (a) a notice has been given to the registered bank under section 99 (2)(a); or
 - (b) a person has been appointed under section 99 (2)(b) to exercise, in relation to that registered bank, the powers conferred by that paragraph; or
 - (c) a person has been appointed under section 101 to carry out an investigation into the affairs of that registered bank; or
 - (d) a direction is in force under section 113 in relation to that registered bank; or
 - (e) the registered bank is subject to statutory management.

72 Offence for person who is not registered bank to hold itself out to be registered bank

- (1) A person commits an offence if the person—
- (a) is not a registered bank; and
 - (b) uses any name, title, trade mark, style, designation, or description that represents or implies that the person is a registered bank.
- (2) The penalty for an offence against this section is set out in section 156AC.

73 Determination of applications

- (1) The Bank shall not register any person as a registered bank unless it is satisfied that the business carried on, or proposed to be carried on, by the applicant consists of, or to a substantial extent consists of, or will, or will to a substantial extent, consist of, the borrowing and lending of money, or the provision of other financial services, or both.
- (2) In determining an application under section 70, the Bank must have regard to all of the following:

- (4) 如有下列情況，除非經本行同意，註冊銀行不得給予第(1)項之通知—
- (a) 已依第 99 條第(2)項第(a)款之規定給予該註冊銀行通知；或
 - (b) 已依第 99 條第(2)項第(b)款之規定指派 1 名人士，對該註冊銀行行使該款賦與之權力；或
 - (c) 已依第 101 條指派 1 名人士調查該註冊銀行之事務；或
 - (d) 第 113 條就該註冊銀行之指示生效；或
 - (e) 註冊銀行受到法定監管。
- (5) 如有下列情況，本行得拒絕將註冊銀行自登記簿除名—
- (a) 已依第 99 條第(2)項第(a)款給予該註冊銀行通知；或
 - (b) 已依第 99 條第(2)項第(b)款指派 1 名人士就該註冊銀行行使該款賦與之權力；或
 - (c) 已依第 101 條指派 1 名人士調查該註冊銀行之事務；或
 - (d) 第 113 條就該註冊銀行之指示生效；或
 - (e) 註冊銀行受到法定監管。

第 72 條 非註冊銀行自稱為註冊銀行之犯罪

- (1) 任何人士如有下列情況，即屬犯罪—
- (a) 非註冊銀行；且
 - (b) 使用任何名稱、稱號、商標、風格、設計或描述，而明示或暗示該人士為註冊銀行。
- (2) 違反本條規定之處罰，明定於第 156AC 條。

第 73 條 申請案之決定

- (1) 除非本行確信申請人從事或擬從事之業務，包含或於實質範圍包含、擬包含或擬於實質範圍包含有金錢借貸、提供其他金融服務或兼有兩者，否則本行不得將任何人士註冊為註冊銀行。
- (2) 決定第 70 條之申請時，本行必須考慮下列情況：

- (a) the incorporation and ownership structure of the applicant; and
 - (b) the size and nature of the applicant's business or proposed business, or any part of the applicant's business or proposed business; and
 - (c) the ability of the applicant to carry on its business or proposed business in a prudent manner; and
 - (d) the standing of the applicant in the financial markets; and
 - (e) the suitability for their positions of the directors and senior managers of the applicant; and
 - (f) the standing of the owner of the applicant in the financial markets; and
 - (g) any other matters that may be prescribed in regulations.
- (3) For the purposes of subsection (2)(g), the Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations prescribing additional matters to which the Bank shall have regard in considering applications for registration.
- (4) The Bank shall give notice in the *Gazette* of the registration of any person as a registered bank under this section.

73A Further matters to which Bank must have regard if applicant is overseas person

In determining an application from an overseas person, the Bank must, in addition to the matters set out in section 73 (2), have regard to all of the following:

- (a) the law and regulatory requirements of the applicant's home jurisdiction that relate to—
 - (i) the recognition and priorities of claims of creditors or classes of creditors in the event of the insolvency of the applicant; and
 - (ii) the disclosure by the applicant of financial and other information of the kind that a registered bank must disclose under section 81; and
 - (iii) the accounting and auditing standards applicable to the applicant; and
 - (iv) the duties and powers of directors of the applicant; and
 - (v) the licensing, registration, authorisation, and supervision of the applicant; and
- (b) the nature and extent of the financial and other information disclosed to the public by the applicant.

73B Further matters to which Bank must have regard if applicant is subsidiary of overseas person

In determining an application from a subsidiary of an overseas person, the Bank must, in addition to the matters set out in section 73 (2), have regard to all of the following:

- (a) 申請人之組成與所有權結構；及
 - (b) 申請人之業務或擬辦業務，或申請人之業務或擬辦業務之任何部分之規模與性質；及
 - (c) 申請人以審慎方式從事其業務或擬辦業務之能力；及
 - (d) 申請人於金融市場之名聲；及
 - (e) 申請人之董事與資深經理人職位之適合性；及
 - (f) 申請人之所有人於金融市場之名聲；及
 - (g) 法規可能訂定之任何其他事項。
- (3) 就第(2)項第(g)款之目的而言，總督得隨時就部長依本行建議所為之意見，以樞密院令訂定本行考量註冊申請時應考慮額外事項之法規。
- (4) 本行應於政府公報公告有關任何人士依本條之規定成為註冊銀行之註冊情事。

第 73A 條 申請人為海外人士之其他應考慮事項

決定海外人士之申請時，除第 73 條第(2)項所列事項外，本行亦應考慮下列所有規定：

- (a) 海外人士母國有關下列事項之法律及監管規定—
 - (i) 如申請人破產，債權人債權或債權人分類之承認與優先性；及
 - (ii) 申請人揭露註冊銀行依第 81 條之規定必須揭露之該類財務資與其他資訊；及
 - (iii) 適用於申請人之會計與稽核標準；及
 - (iv) 申請人之董事職責與權力；及
 - (v) 申請人之特許、註冊、授權與監理。
- (b) 申請人向大眾揭露之財務與其他資訊之性質與範圍。

第 73B 條 申請人為海外人士子公司之其他應考慮事項

決定海外人士子公司之申請時，除第 73 條第(2)項所列事項外，本行亦應考慮下列所有規定：

- (a) the law and regulatory requirements of the home jurisdiction of the overseas person that relate to—
 - (i) the disclosure by the overseas person of financial and other information of the kind that a registered bank must disclose under section 81; and
 - (ii) the accounting and auditing standards applicable to the overseas person; and
 - (iii) the duties and powers of the directors of the overseas person; and
 - (iv) the licensing, registration, authorisation, and supervision of the overseas person; and
- (b) the nature and extent of the financial and other information disclosed to the public by the overseas person.

74 Conditions of registration

- (1) A person may be registered as a registered bank unconditionally or subject to any conditions that the Bank may impose.
- (2) The Bank may, by notice in writing to a registered bank,—
 - (a) impose conditions of registration (whether or not the registration of the bank is subject to conditions); or
 - (b) vary, remove, add to, or substitute any conditions of registration.
- (3) The Bank must not exercise a power referred to in subsection (2) unless—
 - (a) the Bank gives the registered bank not less than 7 days' notice in writing of the Bank's intention to do so; and
 - (b) the notice contains, or is accompanied by, a statement of the Bank's reasons; and
 - (c) the registered bank has a reasonable opportunity to make submissions to the Bank; and
 - (d) the Bank has regard to those submissions.
- (4) The Bank may impose conditions that relate to any of the following matters:
 - (a) the matters to which the Bank must have regard under sections 73 to 73B in determining an application for registration, including any matters prescribed by regulations made under section 73 (2)(g); and
 - (b) the matters referred to in section 78, including any matters prescribed by regulations made under that section; and
 - (c) the matters referred to in section 81, including any matters prescribed by an Order in Council made under that section.
- (5) A registered bank commits an offence if the registered bank fails to comply with a condition of registration imposed by the Bank under this section.
- (6) The penalty for an offence against this section is set out in section 156AB.

- (a) 海外人士母國有關下列事項之法律及監管規定—
 - (i) 海外人士揭露與註冊銀行依第 81 條應揭露資訊同類之財務與其他資訊；及
 - (ii) 適用於海外人士之會計與稽核標準；及
 - (iii) 海外人士之董事職責與權力；及
 - (iv) 海外人士之特許、註冊、授權與監理。
- (b) 海外人士向大眾揭露之財務與其他資訊之性質與範圍。

第 74 條 註冊之條件

- (1) 任何人士得無條件或依本行可能加諸之條件註冊為註冊銀行。
- (2) 本行得以書面通知註冊銀行—
 - (a) 加諸註冊條件（無論銀行之註冊是否受條件拘束）；或
 - (b) 更改、移除、新增或取代任何註冊條件。
- (3) 除非依下列規定，否則本行不得行使第(2)項所定之權力—
 - (a) 本行給予註冊銀行有關本行打算行使該權力之書面通知，不得少於 7 天；且
 - (b) 該通知含有或附隨 1 份本行理由之聲明；且
 - (c) 註冊銀行有合理機會向本行提交意見書；且
 - (d) 本行應考慮該等意見書。
- (4) 本行得就任何下列事項加諸條件：
 - (a) 依第 73 條至第 73B 條決定註冊申請時，本行應考慮之事項，包括依第 73 條第(2)項第(g)款作成之法規所訂定之任何事項；及
 - (b) 第 78 條提及之事項，包括依該條作成之法規所訂定之任何事項；及
 - (c) 第 81 條提及之事項，包括依該條作成之樞密院令所訂定之任何事項。
- (5) 如註冊銀行未遵守本行依本條加諸之註冊條件，該註冊銀行即屬犯罪。
- (6) 違反本條規定之處罰，明定於第 156AB 條。

75 Publication of principles

The Bank shall publish the principles on which it acts, or proposes to act,—

- (a) in determining applications for registration; and
- (b) in imposing, varying, removing, or adding to conditions of registration.

76 Registration of certain persons

- (1) Every person, that immediately before the commencement of this Act, was a registered bank, or deemed to be a registered bank, pursuant to Part 5A of the Reserve Bank of New Zealand Act 1964, shall continue to be a registered bank as if that person had been registered under this Act.
- (2) If that person was registered, or deemed to have been registered, under that Act subject to any conditions, those conditions shall continue to apply as if they had been imposed under section 74 of this Act.
- (3) Nothing in subsection (1) or subsection (2) limits any other provisions of this Part.

77 Cancellation of registration

- (1) The Minister may, by notice in writing to the Bank given in accordance with a recommendation of the Bank, direct the Bank to cancel the registration of a registered bank.
- (2) The Bank shall not make a recommendation under subsection (1) unless it is satisfied—
 - (a) that the registered bank was registered on information that was false or misleading in a material particular; or
 - (b) that, in relation to a registered bank,—
 - (i) there has been a change in any of the matters to which the Bank must have regard under section 73 (including a change in any of the matters prescribed by regulations made under section 73 (2)(g)); and
 - (ii) the Bank considers the change to be materially adverse to the registered bank's standing or financial position; or
- (ba) that, in relation to a registered bank,—
 - (i) there has been a transfer of direct or indirect control of the registered bank; and
 - (ii) the Bank considers the transfer to be materially adverse to the registered bank's standing or financial position; or

第 75 條 原則之公布

本行應公布其下列行動或擬議行動之原則—

- (a) 對註冊申請之決定；及
- (b) 加諸、更改、移除或新增註冊條件。

第 76 條 特定人士之註冊

- (1) 本法施行前，依 1964 年紐西蘭準備銀行法第 5A 章之規定已為或視為註冊銀行者，應視同已依本法註冊，繼續為註冊銀行。
- (2) 如該人士在受任何條件拘束下已依該法註冊或視為已註冊，該等條件應視同係依本法第 74 條所加諸而繼續適用。
- (3) 第(1)項或第(2)項之規定並未限制本章之任何其他條文。

第 77 條 註冊之取消

- (1) 部長得依本行之建議給予本行書面通知，指示本行取消註冊銀行之註冊。
- (2) 除非本行確信下列情事，否則本行不得作成第(1)項之建議—
 - (a) 該註冊銀行係依特別嚴重不實或誤導資訊而為註冊；或
 - (b) 有關註冊銀行—
 - (i) 本行依第 73 條應考慮之事項已變動（包括依第 73 條第(2)項第(g)款作成之法規所規定之任何事項變動）；且
 - (ii) 本行認為該變動將嚴重不利於註冊銀行之名聲或財務狀況；或
- (ba) 有關註冊銀行—
 - (i) 註冊銀行之直接或間接控制權已移轉；且
 - (ii) 本行認為該移轉將嚴重不利於註冊銀行之名聲或財務狀況；或

- (bb) that, in relation to a registered bank,—
 - (i) there has been a change in any of the matters to which the Bank must have regard under section 73A or section 73B; and
 - (ii) the Bank considers the change to be materially adverse; or
 - (c) if the registered bank is a body corporate—
 - (i) that an order has been made for the winding up of that body corporate; or
 - (ii) that a resolution has been passed for the voluntary winding up of that body corporate; or
 - (iii) that a receiver has been appointed in respect of that body corporate; or
 - (d) *[Repealed]*
 - (e) that a condition of registration has not been complied with; or
 - (f) that the registered bank has not carried on its business in a prudent manner; or
 - (g) that the registered bank has failed to comply with an obligation imposed under this Act or imposed by regulations made under this Act.
- (3) The Bank shall not make a recommendation under subsection (1) unless—
- (a) the Bank gives the registered bank not less than 7 days' notice in writing of the Bank's intention to consider making the recommendation; and
 - (b) the notice contains or is accompanied by a statement of the Bank's reasons; and
 - (c) the registered bank has a reasonable opportunity to make submissions to the Bank; and
 - (d) the Bank has regard to those submissions.
- (4) A copy of any written submission made by the registered bank shall be sent to the Minister together with any recommendation by the Bank.
- (5) The Bank must, as soon as practicable after receiving a notice from the Minister under subsection (1),—
- (a) inform the registered bank in writing of—
 - (i) the fact that the Minister has directed the Bank to cancel the registration of the registered bank; and
 - (ii) the grounds on which the Bank's recommendation to cancel the registration of the registered bank was made; and
 - (iii) the date of cancellation of the registration of the registered bank; and
 - (b) publish a notice of the cancellation in the *Gazette*.

- (bb) 有關註冊銀行—
 - (i) 本行第 73A 條或第 73B 條應考慮之事項已變動；且
 - (ii) 本行認為係嚴重不利之變動；或
 - (c) 如註冊銀行為法人團體—
 - (i) 已作成該法人團體結束營業之命令；或
 - (ii) 已通過該法人團體自願結束營業之決議；或
 - (iii) 已就該法人團體指派接管人；或
 - (d) [刪除]
 - (e) 未遵守註冊條件；或
 - (f) 註冊銀行未以審慎方式從事其業務；或
 - (g) 註冊銀行未遵守本法加諸之義務或依本法訂定之法規所加諸之義務。
- (3) 除非依下列規定，否則本行不得作成第(1)項之建議—
- (a) 本行給予註冊銀行有關本行打算考慮作成該建議之書面通知，不得少於 7 天；且
 - (b) 該通知含有或附隨 1 份本行理由之聲明；且
 - (c) 註冊銀行有合理機會向本行提交意見書；且
 - (d) 本行應考慮該等意見書。
- (4) 本行應將註冊銀行作成之書面意見書併同本行建議寄送予部長。
- (5) 本行應於收到第(1)項之部長通知後儘速—
- (a) 以書面告知註冊銀行—
 - (i) 部長已指示本行取消註冊銀行之註冊事實；及
 - (ii) 本行作成取消註冊銀行註冊之建議原因；及
 - (iii) 取消註冊銀行註冊之日期；並
 - (b) 於政府公報公布該取消通知。

77A Changes of ownership

- (1) A person must obtain the written consent of the Bank before giving effect to a transaction if,—
- (a) in the case of a person who does not have a significant influence over a registered bank, the transaction would result in that person acquiring a significant influence over that registered bank; or
 - (b) in the case of a person who has, with the consent of the Bank, acquired a significant influence over a registered bank, the transaction would result in that person increasing the level of the person's significant influence over that registered bank beyond the level permitted in the existing consent; or
 - (c) in the case of a person who acquired a significant influence over a registered bank before the commencement of the Reserve Bank of New Zealand Amendment Act 2003, the transaction would result in that person increasing the person's significant influence over that registered bank beyond the existing level.
- (2) The Bank may, in giving its consent,—
- (a) specify the level of significant influence that a person may have or acquire over any registered bank without the need for a further consent; and
 - (b) impose any terms and conditions the Bank thinks fit.
- (3) The Bank may, at any time, by notice in writing, vary or revoke—
- (a) a consent given under this section; or
 - (b) any term or condition of a consent.
- (4) A person commits an offence if the person fails to comply with subsection (1).
- (5) The penalty for an offence against this section is set out in section 156AA.
- (6) For the purposes of this section, a reference to a registered bank is a reference to a registered bank that is not an overseas person.

77B Effect of section 77A on contracts, etc

Nothing in section 77A invalidates any contract, or transfer of ownership, made without the written consent of the Bank.

78 Carrying on business in prudent manner

- (1) In—
- (a) having regard, under section 73 (2)(c), to the ability of an applicant for registration as a registered bank to carry on its business or proposed business in a prudent manner; or

第 77A 條 所有權之變動

- (1) 如有下列情事，任何人士應於交易生效之前取得本行同意—
- (a) 如該人士對註冊銀行無重大影響力，而該交易將導致該人士取得對註冊銀行之重大影響力；或
 - (b) 如該人士經本行同意已取得對註冊銀行之重大影響力，而該交易將導致該人士增加對註冊銀行之個人重大影響力，係超過既有同意之許可程度；
 - (c) 如該人士於 2003 年紐西蘭準備銀行法實施前取得對註冊銀行之重大影響力，而該交易將導致該人士增加對註冊銀行之個人重大影響力，係超過既有程度。
- (2) 本行同意時得—
- (a) 明定該人士在無需取得進一步同意之情況下，得擁有或取得對任何註冊銀行重大影響力之程度；及
 - (b) 增訂本行認為適合之任何條款與條件。
- (3) 本行得隨時以書面通知更改或撤銷—
- (a) 依本條所為之同意；或
 - (b) 同意之任何條款或條件。
- (4) 如該人士未遵守第(1)項之規定，即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 156AA 條。
- (6) 就本條目的而言，註冊銀行係指非海外人士之註冊銀行。

第 77B 條 第 77A 條對契約等之影響

第 77A 條之規定並未使未經本行書面同意之任何契約或所有權轉讓失效。

第 78 條 以審慎方式從事業務

- (1) 在—
- (a) 依第 73 條第(2)項第(c)款之規定考慮申請為註冊銀行之申請人以審慎方式從事其業務或擬辦業務之能力；或

- (b) determining under section 77 (2)(f) or section 113 (1)(e) that a registered bank has not carried on its business in a prudent manner,—
the Bank shall confine its consideration to the following matters:
 - (c) capital in relation to the size and nature of the business or proposed business:
 - (d) loan concentration or proposed loan concentration and risk exposures or proposed risk exposures:
 - (e) separation of the business or proposed business from other business and from other interests of any person owning or controlling the applicant or registered bank:
 - (f) internal controls and accounting systems or proposed internal controls and accounting systems:
 - (fa) risk management systems and policies or proposed risk management systems and policies:
 - (fb) arrangements for any business, or functions relating to any business, of the applicant or registered bank to be carried on by any person other than the applicant or the registered bank:
 - (g) such other matters as may from time to time be prescribed in regulations.
- (2) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations prescribing additional matters for the purposes of subsection (1)(g).
- (3) The Governor may, from time to time, issue, in such manner as the Governor may determine, guidelines for the purpose of interpreting any of the matters referred to in paragraphs (c) to (g) of subsection (1).

79 Annual fee

[Repealed]

80 Credit rating of registered banks

- (1) The Bank may, by notice in writing to any registered bank or to all registered banks or to all members of any class of registered banks, require each of those banks to—
 - (a) obtain a rating of its creditworthiness or financial condition by a person or organisation nominated or approved by the Bank; and
 - (b) maintain a current rating of the type referred to in paragraph (a).
- (2) The Bank may require a registered bank to publish the registered bank's current rating, and all the qualifications to that rating, in the manner and with the frequency that the Bank directs.

- (b) 依第 77 條第(2)項第(f)款或第 113 條第(1)項第(e)款之規定認定註冊銀行並未以審慎方式從事其業務時—
本行應闡明其對下列事項之考量：
 - (c) 針對業務或擬辦業務之規模與性質之資本；
 - (d) 貸款集中度或擬辦貸款集中度，以及暴險或預計暴險；
 - (e) 業務或擬辦業務與任何擁有或控制申請人或註冊銀行之人士之其他業務與其他利益區隔；
 - (f) 內控及會計系統或擬議內控及會計系統；
 - (fa) 風險管理系統與政策或擬議之風險管理系統與政策；
 - (fb) 申請人或註冊銀行以外之任何人士，將對申請人或註冊銀行之任何業務或與任何業務相關之職能進行之安排；
 - (g) 法規隨時可能訂定之其他事項。
- (2)總督得隨時就部長依本行建議所為之意見，以樞密院令訂定第(1)項第(g)款之額外事項。
- (3)總裁得隨時依總裁決定之方式，發布第(1)項第(c)款至第(g)款所提事項之解釋指導原則。

第 79 條 年費

[刪除]

第 80 條 註冊銀行之信用評等

- (1)本行得以書面通知任何或所有註冊銀行，或任何一類註冊銀行之所有成員，要求各該銀行—
 - (a) 取得本行提名或指定之人士或組織對其所作信用或財務狀況之評等；並
 - (b) 維持第(a)款所提評等類型之當前評等。
- (2)本行得要求註冊銀行依本行指示之方式與頻率，公布該註冊銀行當前評等及評等之所有資格條件。

- (3) A person commits an offence if the person fails to comply with this section.
- (4) The penalty for an offence against this section is set out in section 156AC.

Financial disclosure by registered banks

81 Public disclosure of information or data by registered banks

- (1) The Governor-General may, by Order in Council made on the advice of the Minister that is given in accordance with a recommendation of the Bank, prescribe information or data that must be published by—
 - (a) all registered banks; or
 - (b) any class of registered banks specified in the order.
- (2) A registered bank to which an Order in Council applies must publish the information or data specified in the order—
 - (a) in a document to be known as a disclosure statement; and
 - (b) in the manner and with the frequency specified in the order.
- (3) The information or data that may be prescribed in an Order in Council includes, without limitation, information or data about—
 - (a) the corporate matters of a registered bank; and
 - (b) the financial matters of a registered bank; and
 - (c) the prudential matters of a registered bank; and
 - (d) any other matters relating to the business, operation, and management of a registered bank.
- (4) The Order in Council must be published in the *Gazette*.
- (5) An Order in Council made under this section is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

81AA Further matters that may be prescribed

- (1) An Order in Council made under section 81 may, in addition to the matters referred to in section 81 (3), require a registered bank to disclose information or data—
 - (a) about an associated person of the registered bank if the associated person is incorporated, domiciled, or resident in New Zealand;
 - (b) about an associated person of the registered bank if the information or data is publicly available in the country in which the associated person is incorporated, domiciled, or resident and if that country is not New Zealand;

- (3)如該人士未遵守本條之規定，即屬犯罪。
- (4)違反本條規定之處罰，明定於第 156AC 條。

註冊銀行之財務揭露

第 81 條 註冊銀行資訊或資料之公開揭露

- (1)總督得就部長依本行建議所為之意見，以樞密院令訂定下列機構應公布之資訊或資料—
 - (a) 全體註冊銀行；或
 - (b) 該命令指定之任何一類註冊銀行。
- (2)適用該樞密院令之註冊銀行，應依下列規定公布該命令所指定之資訊或資料—
 - (a) 被視為揭露聲明之文件；及
 - (b) 依該命令指定之方式與頻率。
- (3)樞密院令可能指定之資訊或資料，包括但不限於有關下列事項之資訊或資料—
 - (a) 註冊銀行之公司事項；及
 - (b) 註冊銀行之財務事項；及
 - (c) 註冊銀行之審慎事項；及
 - (d) 與註冊銀行之業務、營運及管理相關之任何其他事項。
- (4)樞密院令應公布於政府公報。
- (5)就 2012 年法制法之目的而言，依本條作成之樞密院令係指導文書，而非立法文書，且應依該法第 41 條之規定提交眾議院。

第 81AA 條 得訂定之其他事項

- (1)除第 81 條第(3)項所定事項外，依第 81 條作成之樞密院令亦得要求註冊銀行揭露下列資訊或資料—
 - (a) 如註冊銀行之關聯人士係設立、居住於紐西蘭，或為紐西蘭居民，有關該關聯人士之資訊或資料；
 - (b) 如註冊銀行之關聯人士係設立、居住於紐西蘭以外國家，或為該國居民，且其資訊或資料於該國係公開可取得者，有關該關聯人士之資訊或資料；

- (c) about any individual member of its banking group, whether or not the member is incorporated, domiciled, or resident in New Zealand;
 - (d) about a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of the registered bank has a substantial interest.
- (2) An Order in Council made under section 81 may also—
- (a) prescribe information that is required to be contained in financial statements;
 - (b) require the publication of financial statements and notes to those statements for any period or periods specified in the order;
 - (c) require the information to be published in consolidated form;
 - (d) require financial information that is required to be published to be taken from audited financial statements;
 - (e) require the information that is required to be published to be audited and to be accompanied by an auditor's report;
 - (f) require a disclosure statement to contain any statements specified in the order that are made by—
 - (i) the directors of the registered bank or persons authorised in writing by the directors of the bank; and
 - (ii) in the case of an overseas incorporated registered bank, its New Zealand chief executive officer;
 - (g) incorporate by reference a framework, standard, specification, or requirement that is published by, or on behalf of, any body or person in any country—
 - (i) in whole or in part; and
 - (ii) with any modifications, additions, or variations specified in the Order in Council.
- (3) Schedule 1 of the Non-bank Deposit Takers Act 2013 applies to any material incorporated by reference in an Order in Council made under section 81 of this Act as if references in that schedule to regulations were references to an Order in Council made under section 81.

81AB Disclosure statement not required to include information or data about customers or clients of registered banks

- (1) Despite sections 81 and 81AA, a registered bank is not required to publish in a disclosure statement any information or data about the affairs of a particular customer or client of—
- (a) the registered bank; or
 - (b) an associated person of the registered bank; or

- (c) 無論其銀行集團之任何各別成員是否設立、居住於紐西蘭，或為紐西蘭居民，有關各別成員之資訊或資料；
 - (d) 有關於紐西蘭設立之機構，或依 1993 年公司法第 337 條註冊之海外公司之資訊或資料，且註冊銀行之控股公司對其享有實質利益者。
- (2) 依第 81 條作成之樞密院令亦得—
- (a) 訂定財務報表應包含之資訊；
 - (b) 要求於該命令指定期間，公布財務報表及該等報表之附註；
 - (c) 要求以綜合型式公布之資訊；
 - (d) 要求公布取自於已查核財務報表之財務資訊；
 - (e) 要求公布已查核並檢附查核人報告之資訊；
 - (f) 要求由下列人士作成且包含該命令所指定報表之揭露聲明—
 - (i) 註冊銀行之董事或該銀行董事授權之人士；且
 - (ii) 如係海外設立之註冊銀行，其於紐西蘭之執行長。
 - (g) 參考由或代表任何國家之任何機構或人士所公布之架構、標準、指示或規定予以整併—
 - (i) 以全部或部分為之；且
 - (ii) 係以樞密院令指定之任何修正、新增或更改為之。
- (3) 2013 年非銀行收受存款者法之附表 1，適用於依本法第 81 條作成之樞密院令所提及納入之任何資料，就如同該附表所指之法規，係於依第 81 條作成之樞密院令所指者。

第 81AB 條 揭露聲明無須包含註冊銀行之客戶資訊或資料

- (1) 儘管有第 81 條與第 81AA 條之規定，註冊銀行無須於揭露聲明中公布下列機構之特定客戶事務資訊或資料—
- (a) 註冊銀行；或
 - (b) 註冊銀行之關聯人士；或

- (c) a company in which a holding company of the registered bank has a substantial interest.
- (2) Nothing in subsection (1) applies to the publication by a registered bank of information or data about transactions with related parties of—
 - (a) the registered bank; or
 - (b) an associated person of the registered bank; or
 - (c) a company in which a holding company of the registered bank has a substantial interest.
- (3) Subsection (1) does not extend to the publication of the following matters:
 - (a) the amount of any loan or risk exposure (without disclosing the identity of the particular customer or client to whom it relates); or
 - (b) the number of loans or risk exposures that fall within a specified range of amounts and the actual amounts of those loans or risk exposures; or
 - (c) the number of loans or risk exposures that fall within a specified range of percentages or are above a specified percentage, as the case may be, of the capital or equity of the registered bank, or an associated person of the registered bank, or the banking group or a company in which a holding company of a registered bank has a substantial interest, and the actual amounts involved.

81AC Duty to supply information or data to registered bank

- (1) This section applies to—
 - (a) an associated person of a registered bank; and
 - (b) a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of a registered bank has a substantial interest.
- (2) A person to whom this section applies must, on being required by a registered bank to do so for the purpose of enabling the registered bank to comply with an Order in Council made under section 81, supply the registered bank with any information or data that the registered bank may be required to disclose under section 81AA if that information or data—
 - (a) is in the possession, custody, or control of that person; and
 - (b) is not in the possession, custody, or control of the registered bank.
- (3) A person to whom this section applies commits an offence if, without lawful justification or excuse, the person fails to comply with a requirement of a registered bank under this section.
- (4) The penalty for an offence against this section is set out in section 156AC.

- (c) 註冊銀行之控股公司對其享有實質利益之公司。
- (2) 第(1)項之規定不適用於由註冊銀行公布下列機構利害關係人之交易資訊或資料—
 - (a) 註冊銀行；或
 - (b) 註冊銀行之關聯人士；或
 - (c) 註冊銀行之控股公司對其享有實質利益之公司。
- (3) 第(1)項之規定不擴及適用於下列事項之公布：
 - (a) 任何貸款或暴險之金額（在未揭露其相關特定客戶之身分情況下）；或
 - (b) 落在指定金額範圍內之貸款或暴險數量，以及該等貸款或暴險之實際金額；或
 - (c) 註冊銀行、註冊銀行之關聯人士或註冊銀行之控股公司對其享有實質利益之銀行集團或公司之資本或股權之貸款或暴險落在指定百分比範圍內或高於指定百分比（視情況而定）之數量，以及所涉實際金額。

第 81AC 條 提供資訊或資料予註冊銀行之職責

- (1) 本條規定適用於—
 - (a) 註冊銀行之關聯人士；及
 - (b) 於紐西蘭設立之機構，或依 1993 年公司法第 337 條註冊且註冊銀行之控股公司對其享有實質利益之海外公司。
- (2) 適用本條規定之人士，依註冊銀行為使註冊銀行遵守依第 81 條作成之樞密院令之目的所提出之要求，必須將第 81AA 條可能要求註冊銀行提供之任何下列資訊或資料提供予註冊銀行—
 - (a) 係由該人士持有、保管或控制者；及
 - (b) 非該註冊銀行持有、保管或控制者。
- (3) 該人士如無法律正當性或理由而未遵守本條規定者，係違反本法之規定。
- (4) 違反本條規定之處罰，明定於第 156AC 條。

81A Bank to consult

- (1) Before making a recommendation under section 81 (1) (including a recommendation to amend any Order in Council made under that subsection) the Bank must—
 - (a) consult with—
 - (i) the FMA; and
 - (ii) registered banks that will be affected by any Order in Council made under that subsection; and
 - (iii) such other persons as the Bank considers will be substantially affected by any Order in Council made under that subsection or organisations representing those persons; and
 - (b) ensure that the persons referred to in paragraph (a) have a reasonable opportunity to make submissions to the Bank; and
 - (c) have regard to those submissions.
- (2) Failure to comply with subsection (1) does not affect the validity of any Order in Council under section 81 (1).
- (3) Any action taken by the Bank before the coming into force of the Reserve Bank of New Zealand Amendment Act 1995 that would, if this section had then been in force, have constituted action taken under this section, shall be treated as having been taken under this section.

82 Disclosure statements must be signed

- (1) Every disclosure statement that a registered bank is required to publish under section 81 must be dated and signed,—
 - (a) in the case of a body corporate, by every director of the body corporate or by each director's agent authorised in writing to do so; and
 - (b) in the case of an overseas incorporated registered bank, by its New Zealand chief executive officer or that person's agent authorised in writing to do so.
- (2) Every overseas incorporated registered bank must notify the Bank in writing of the name and address of its New Zealand chief executive officer and any subsequent changes to those details.
- (3) If an overseas incorporated registered bank fails to comply with subsection (2), the Bank may, after giving the registered bank 14 days' notice in writing of its intention to do so, specify a particular employee of that registered bank to be its New Zealand chief executive officer for the purposes of this Act.
- (4) If the Bank exercises the power conferred by subsection (3), it must give notice in writing to the registered bank as soon as practicable.

第 81A 條 本行之洽商

- (1) 本行作成第 81 條第(1)項之建議（包括修正依該項規定作成之樞密院令之建議）前，應—
 - (a) 洽商—
 - (i) FMA；及
 - (ii) 將受到依該項規定作成之樞密院令影響之註冊銀行；及
 - (iii) 本行認為將實質受到依該項規定作成之樞密院令影響之其他人士或代表該等人士之組織；及
 - (b) 確保第(a)款所指之人士有合理機會向本行提出意見書；及
 - (c) 考慮該等意見書。
- (2) 未遵守第(1)項之規定，不影響依第 81 條第(1)項所作任何樞密院令之效力。
- (3) 本行於 1995 年紐西蘭準備銀行修正法生效前採取之任何行動，於本條生效時，即構成並應視為係依本條所採取之行動。

第 82 條 揭露聲明應簽署

- (1) 註冊銀行依第 81 條必須公布之每份揭露聲明，應註明日期，並由下列人士簽署—
 - (a) 如係法人團體，由法人團體之每位董事，或每位董事書面授權得於揭露聲明簽署之代理人；及
 - (b) 如係海外設立之註冊銀行，由其於紐西蘭之執行長，或該人士書面授權得於揭露聲明簽署之代理人。
- (2) 每家海外設立之註冊銀行，應以書面通知本行其紐西蘭執行長之姓名與地址及後續變動細節。
- (3) 如海外設立之註冊銀行未遵守第(2)項之規定，本行將其意圖作為以 14 天之書面通知後，得指定該註冊銀行之特定受僱人員就本法目的擔任其紐西蘭執行長。
- (4) 本行如行使第(3)項賦予之權力，應儘速通知註冊銀行。

83 Bank may require disclosure statement to be corrected

Where the Bank considers that a disclosure statement published by a registered bank—

- (a) contains information that is false or misleading; or
 - (b) does not contain information which it is required to contain, whether or not the information contained in the disclosure statement is false or misleading as a result of the omission,—
- the Bank may, by notice in writing to the registered bank, require the registered bank to—
- (c) publish a disclosure statement that does not contain false or misleading information; or
 - (d) publish a disclosure statement that contains the information that was previously omitted; or
 - (e) take such other corrective action as the Bank may specify in the notice.

Advertising by registered banks

[Repealed]

84 Interpretation

[Repealed]

85 Content of advertisements by registered banks

[Repealed]

86 Regulations

[Repealed]

87 Offence to advertise in contravention of regulations

[Repealed]

88 Bank may prohibit advertisements by registered banks

[Repealed]

Provisions applying to disclosure statements

89 Offence to fail to publish required information in disclosure statement

- (1) A registered bank commits an offence if, without lawful justification or excuse, the registered bank fails to publish information that it is required to publish in a disclosure statement under section 81.

第 83 條 本行得要求更正揭露聲明

本行認為註冊銀行公布之揭露聲明—

- (a) 包含不實或誤導資訊；或
 - (b) 未包含其必須包含之資訊，無論揭露聲明所涵蓋資訊之不實或誤導是否係因遺漏導致—
- 本行得以書面通知註冊銀行，要求註冊銀行—
- (c) 公布未含有不實或誤導資訊之揭露聲明；或
 - (d) 公布含有先前遺漏資訊之揭露聲明；或
 - (e) 採取本行於該通知所指定之其他補正行動。

註冊銀行所為廣告

[刪除]

第 84 條 解釋

[刪除]

第 85 條 註冊銀行所為廣告之內容

[刪除]

第 86 條 規範

[刪除]

第 87 條 違規廣告之罪

[刪除]

第 88 條 本行得禁止註冊銀行廣告

[刪除]

適用於揭露聲明之規定

第 89 條 未公布揭露聲明中必要資訊之罪

- (1) 註冊銀行如無法律正當性或理由，未公布揭露聲明中依第 81 條規定應揭露之資訊，該註冊銀行即屬犯罪。

(2) The penalty for an offence against this section is set out in section 156AC.

89A Offence to publish false or misleading disclosure statements

- (1) If a disclosure statement that includes information that is false or misleading is published by a registered bank, all of the following persons commit an offence:
- (a) the registered bank; and
 - (b) every director of the registered bank who signed the disclosure statement or on whose behalf the disclosure statement was signed; and
 - (c) in the case of an overseas incorporated registered bank, the New Zealand chief executive officer who signed the disclosure statement or on whose behalf the disclosure statement was signed.
- (2) It is a defence to a prosecution for an offence against this section if—
- (a) the defendant proves that the information was immaterial; or
 - (b) in the case of a defendant who is director of a registered bank or a New Zealand chief executive officer of an overseas incorporated registered bank, that defendant proves that he or she had reasonable grounds to believe, and believed, up to the publication of the disclosure statement, that the information was true.
- (3) The penalty for an offence against this section is set out in section 156AC.

89B Offence to fail to make most recent disclosure statement publicly available

- (1) A registered bank commits an offence if, without lawful justification or excuse, the registered bank fails to make its most recent disclosure statement publicly available in the manner set out in an Order in Council made under section 81.
- (2) The penalty for an offence against this section is set out in section 156AB.

89C Other offences in relation to disclosure statements

- (1) A registered bank commits an offence if the registered bank fails to comply with a requirement of the Bank under section 83 for the registered bank to—
- (a) publish a disclosure statement that does not contain false or misleading information; or
 - (b) publish a disclosure statement that contains information that was previously omitted; or
 - (c) take the corrective action specified by the Bank in a notice given under that section.
- (2) The penalty for an offence against this section is set out in section 156AC.

(2) 違反本條規定之處罰，明定於第 156AC 條。

第 89A 條 公布不實或誤導揭露聲明之罪

- (1) 如註冊銀行公布包含不實或誤導資訊之揭露聲明，所有下列人士即屬犯罪：
- (a) 該註冊銀行；及
 - (b) 該註冊銀行每位於揭露聲明簽署或由他人代表其於揭露聲明簽署之董事；
 - (c) 如係海外設立之註冊銀行，於揭露聲明簽署或由他人代表其於揭露聲明簽署之執行長。
- (2) 以下係對違反本條之犯罪起訴之抗辯—
- (a) 被告證明該資訊不重要；或
 - (b) 如被告係註冊銀行之董事或海外設立之註冊銀行之紐西蘭執行長，該被告證明其有合理事由相信截至揭露聲明公布時，該資訊係屬真實。
- (3) 違反本條規定之處罰，明定於第 156AC 條。

第 89B 條 未公開提供最新揭露聲明之罪

- (1) 註冊銀行如無法律正當性或理由，未依第 81 條作成之樞密院令所定方式公開提供其最新揭露聲明，該註冊銀行即屬犯罪。
- (2) 違反本條規定之處罰，明定於第 156AB 條。

第 89C 條 其他與揭露聲明相關之罪

- (1) 註冊銀行如未遵守第 83 條所定本行對註冊銀行之下列要求，該註冊銀行即屬犯罪—
- (a) 公布未含有不實或誤導資訊之揭露聲明；或
 - (b) 公布含有先前遺漏資訊之揭露聲明；或
 - (c) 採取本行依該條給予之通知所指定之補正行動。
- (2) 違反本條規定之處罰，明定於第 156AC 條。

90 Civil liability

Subject to section 91, the following persons are liable to pay compensation to any person who sustains a loss by reason of subscribing for any debt security issued by a registered bank in reliance on false or misleading information contained in a disclosure statement, namely,—

- (a) the registered bank; and
- (b) every person holding office as a director of the registered bank at the time of the publication of the disclosure statement; and
- (c) the New Zealand chief executive officer of an overseas incorporated registered bank at the time of the publication of the disclosure statement.

91 Defences

A person is not liable under section 90 in relation to false or misleading information that is included in a disclosure statement if that person proves that—

- (a) the disclosure statement was published without his or her knowledge or consent and, on becoming aware of the publication, he or she forthwith gave notice to the Bank that it was published without his or her knowledge or consent and, as soon as practicable, also gave reasonable public notice that it was published without his or her knowledge or consent; or
- (b) after publication of the disclosure statement and before the securities were subscribed for, he or she, on becoming aware of the false or misleading information, withdrew his or her consent to the disclosure statement, forthwith gave notice to the Bank of the withdrawal of that consent and, as soon as practicable, also gave reasonable public notice of the withdrawal of that consent; or
- (c) he or she had reasonable grounds to believe and did, up to the time of the subscription for the securities, believe that the statement was true.

92 Fair Trading Act 1986 not affected

Nothing in sections 89 to 91 limits or affects the Fair Trading Act 1986.

*Supply of information***93 Supply of information by registered banks for purposes of prudential supervision**

- (1) For the purposes of this Part, the Bank may, by notice in writing to any registered bank or by notice in the *Gazette* that applies to any specified class of registered banks, require the registered bank or, as the case may be, registered banks of that class to supply to the Bank any information, data, or forecasts about—

第 90 條 民事責任

配合第 91 條之規定，下列人士有責任支付賠償金予任何因信賴揭露聲明所涵蓋不實或誤導資訊，而認購註冊銀行所發行之任何債券，因而遭受損失之人士，亦即—

- (a) 註冊銀行；及
- (b) 揭露聲明公布期間擔任註冊銀行董事職位之人士；及
- (c) 揭露聲明公布時，海外設立之註冊銀行之紐西蘭執行長。

第 91 條 抗辯

任何人士如得證明下列事項，其無須依第 90 條之規定就揭露聲明所涵蓋之不實或誤導資訊負責—

- (a) 揭露聲明在未經其知悉或同意之情況下公布，且知悉公布時，其立即通知本行該聲明係在未經其知悉或同意之情況下公布，且亦儘速合理公告該聲明係在未經其知悉或同意之情況下公布；或
- (b) 揭露聲明公布後及有價證券被認購之前，其知悉有不實或誤導資訊，經撤銷其對揭露聲明之同意，並立即通知本行該同意之撤銷，且亦儘速合理公告該同意之撤銷。
- (c) 其有合理事由相信，且直到有價證券認購時相信該聲明係屬真實。

第 92 條 1986 年公平交易法不受影響

第 89 條至第 91 條之規定並未限制或影響 1986 年公平交易法。

*資訊之提供***第 93 條 註冊銀行為審慎監理目的提供資訊**

- (1) 就本章目的而言，本行得以書面通知任何註冊銀行，或以適用於任何特定種類註冊銀行之政府公報通知，要求註冊銀行或該類註冊銀行（視情況而定）提供本行下列資料、資訊或預測—

- (a) the corporate matters of the registered bank;
 - (b) the financial matters of the registered bank;
 - (c) the prudential matters of the registered bank;
 - (d) any other matters relating to the business, operation, or management of the registered bank.
- (2) A registered bank may be required to supply information, data, or forecasts—
- (a) relating to business carried on by the registered bank in New Zealand or elsewhere (whether that business is carried on as principal, broker, agent, or intermediary); and
 - (b) in a consolidated form (if specified by the Bank).
- (3) A notice may specify—
- (a) the periods for which, and the form in which, the information, data, or forecasts must be supplied; and
 - (b) the time by which, and the place in New Zealand at which, the information, data, or forecasts must be supplied.
- (4) The Bank may, by a subsequent notice, vary, revoke, or amend a notice.
- (5) A registered bank commits an offence if, without lawful justification or excuse, the registered bank—
- (a) fails to comply in any respect with any requirements of the Bank under this section; or
 - (b) supplies information or data that the registered bank is required to supply under this section that is false or misleading in a material particular.
- (6) The penalty for an offence against this section is set out in section 156AB.

93A Scope of notice under section 93

The Bank may, by notice under section 93, require a registered bank or a specified class of registered banks to supply, without limitation, information, data, or forecasts in relation to—

- (a) any associated person of a registered bank; or
- (b) a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of a registered bank has a substantial interest.

93B Certain persons may be required to supply information to registered banks

- (1) A person referred to in section 93A(a) or (b) must, on being required by a registered bank to do so, supply the registered bank with information, data, or forecasts relating to that person in order to enable the registered bank to comply with a notice under section 93.

- (a) 註冊銀行之公司事項；及
 - (b) 註冊銀行之財務事項；及
 - (c) 註冊銀行之審慎事項；及
 - (d) 與註冊銀行之業務、營運及管理相關之任何其他事項。
- (2) 註冊銀行可能被要求依下列規定提供資料、資訊或預測—
- (a) 有關註冊銀行於紐西蘭或其他地方從事之業務（無論係以本人、經紀商、代理人或中介者身分從事之業務）；及
 - (b) 以合併形式提供（依本行之指定）。
- (3) 該通知得明定—
- (a) 資料、資訊或預測提供之期間及形式；及
 - (b) 資料、資訊或預測提供之紐西蘭時間及地點。
- (4) 本行得以後續通知更改、撤銷或修正該項通知。
- (5) 註冊銀行如無法律正當性或理由而有下列情形，該註冊銀行即屬犯罪—
- (a) 未遵守本行依本條所為之要求；或
 - (b) 提供該註冊銀行依本條必須提供之資訊或資料，係嚴重不實或誤導。
- (6) 違反本條規定之處罰，明定於第 156AB 條。

第 93A 條 第 93 條所定通知之範圍

本行得以第 93 條所定之通知，要求註冊銀行或特定類別註冊銀行提供不限於與下列相關之資訊、資料或預測—

- (a) 註冊銀行之任何關聯人士；或
- (b) 於紐西蘭設立之機構，或依 1993 年公司法第 337 條註冊且註冊銀行之控股公司對其享有實質利益之海外公司。

第 93B 條 得要求特定人士提供資訊予註冊銀行

- (1) 第 93A 條第(a)款或第(b)款所指之人士依註冊銀行之要求，必須提供註冊銀行有關該人士之資訊、資料或預測，俾使註冊銀行遵守第 93 條之通知。

- (2) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (3) The penalty for an offence against this section is set out in section 156AB.

93C Supply of information by other persons for purposes of prudential supervision

- (1) If the Bank has reasonable grounds to believe that a person has information, data, or forecasts that the Bank could require a registered bank or a class of registered banks to supply under section 93, it may, by notice in writing to that person, require that person to supply the information, data, or forecasts to the Bank.
- (2) A notice may specify—
 - (a) the periods for which, and the form in which, the information, data, or forecasts must be supplied; and
 - (b) the time by which, and the place in New Zealand at which, the information, data, or forecasts must be supplied.
- (3) The Bank may, by a subsequent notice, vary, revoke, or amend a notice.
- (4) A person commits an offence if, without lawful justification or excuse, the person—
 - (a) fails to comply with any requirements of the Bank under this section; or
 - (b) supplies information or data that the person is required to supply under this section that is false or misleading in a material particular.
- (5) The penalty for an offence against this section is set out in section 156AB.

94 Requirement that information, data, or forecasts be audited

- (1) The Bank may, by notice in writing, require a registered bank or other person to obtain an audit, by an auditor approved by the Bank, of any information, data, or forecasts that the registered bank or other person, as the case may be, is required to supply under section 93 or section 93C.
- (2) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (3) The penalty for an offence against this section is set out in section 156AA.

95 Bank may require report relating to registered banks, etc

- (1) The Bank may, by notice in writing to a registered bank, require that registered bank to supply the Bank with a report or series of reports, prepared by a person approved by the Bank, on—

- (2) 任何人士如無法律正當性或理由而未遵守本條規定，該人士即屬犯罪。
- (3) 違反本條規定之處罰，明定於第 156AB 條。

第 93C 條 其他人士為審慎監理目的提供資訊

- (1) 本行如有合理事由相信某人士擁有本行依第 93 條要求某家註冊銀行或某類註冊銀行提供之資訊、資料或預測，其得以書面通知該人士，要求該人士提供本行該資訊、資料或預測。
- (2) 該通知得明定—
 - (a) 資訊、資料或預測提供之期間及形式；及
 - (b) 資訊、資料或預測提供之紐西蘭時間及地點。
- (3) 本行得以後續通知更改、撤銷或修正該項通知。
- (4) 任何人士如無法律正當性或理由而有下列情形，該人士即屬犯罪—
 - (a) 未遵守本行依本條所為之要求；或
 - (b) 提供該人士依本條必須提供之資訊或資料，係嚴重不實或誤導。
- (5) 違反本條規定之處罰，明定於第 156AB 條。

第 94 條 對資訊、資料或預測予以查核之要求

- (1) 本行得以書面通知要求註冊銀行或其他人士，接受本行核可之查核人員對該註冊銀行或其他人士（視情況而定）依第 93 條或第 93C 條應提供資訊、資料或預測之查核。
- (2) 任何人士如無法律正當性或理由而未遵守本條規定，該人士即屬犯罪。
- (3) 違反本條規定之處罰，明定於第 156AA 條。

第 95 條 本行得要求有關註冊銀行之報告等

- (1) 本行得以書面通知註冊銀行，要求註冊銀行將由本行核准人士製作有關下列事項之報告或一系列報告提供予本行—

- (a) the corporate matters of the registered bank;
 - (b) the financial matters of the registered bank;
 - (c) the prudential matters of the registered bank;
 - (d) any other matters relating to the business, operation, or management of the registered bank;
 - (e) any of the matters referred to in paragraphs (a) to (d) in relation to—
 - (i) any associated person of the registered bank;
 - (ii) a body incorporated in New Zealand, or an overseas company registered under section 337 of the Companies Act 1993, in which a holding company of the registered bank has a substantial interest.
- (2) A person referred to in subsection (1)(e)(i) or (e)(ii) must, if required to do so by a registered bank, supply information relating to that person in order to enable the registered bank to comply with a notice under this section.
- (3) A person commits an offence if, without lawful justification or excuse, the person fails to comply with this section.
- (4) The penalty for an offence against this section is set out in section 156AC.

95A Bank may require report under section 95 to be published

- (1) The Bank may, by notice in writing to a registered bank, require that the report or series of reports, as the case may be, that has been prepared under section 95 in relation to the registered bank be published by that registered bank in the form specified in the notice.
- (2) A registered bank commits an offence if, without lawful justification or excuse, the registered bank fails to comply with this section.
- (3) The penalty for an offence against this section is set out in section 156AC.

96 Disclosure of information to Bank by auditors

Every person who holds, or at any time has held, office as required by any enactment, as an auditor of a registered bank or an associated person of a registered bank, shall disclose to the Bank information relating to the affairs of that registered bank or associated person obtained in the course of holding that office if, in the opinion of that person,—

- (a) the registered bank or associated person is insolvent or is likely to become insolvent or is in serious financial difficulties; and

- (a) 註冊銀行之公司事項；及
 - (b) 註冊銀行之財務事項；及
 - (c) 註冊銀行之審慎事項；及
 - (d) 與註冊銀行之業務、營運及管理相關之任何其他事項；
 - (e) 與第(a)款至第(d)款所指之任何事項相關聯之—
 - (i) 註冊銀行之任何關聯人士；
 - (ii) 於紐西蘭設立之機構，或依 1993 年公司法第 337 條註冊且註冊銀行之控股公司對其享有實質利益之海外公司。
- (2) 第(1)項第(e)款第(i)目或第(e)款第(ii)目所指之人士依註冊銀行之要求，必須提供註冊銀行有關該人士之資訊，俾使註冊銀行遵守本條之通知。
- (3) 任何人士如無法律正當性或理由而未遵守本條規定，該人士即屬犯罪。
- (4) 違反本條規定之處罰，明定於第 156AC 條。

第 95A 條 本行得要求將第 95 條之報告予以公布

- (1) 本行得以書面通知註冊銀行，要求註冊銀行以該通知指定之格式公布已依第 95 條規定就該註冊銀行所製作之報告或系列報告（視情況而定）。
- (2) 註冊銀行如無法律正當性或理由而未遵守本條規定，該註冊銀行即屬犯罪。
- (3) 違反本條規定之處罰，明定於第 156AC 條。

第 96 條 查核人員向本行揭露資訊

每位依任何立法要求擔任或於任何時候曾擔任註冊銀行或註冊銀行關聯人士之查核人員，如認為有下列情況，其應向本行揭露其擔任該職位過程中取得有關該註冊銀行或關聯人士之資訊—

- (a) 該註冊銀行或關聯人士破產或可能破產，或有嚴重財務問題；及

- (b) the disclosure of that information is likely to assist, or be relevant to, the exercise by the Bank of its powers under this Part.

97 Auditor to inform of intention to disclose

Every auditor shall, before disclosing any information to the Bank under section 96, take reasonable steps to inform the registered bank or associated person of the intention to disclose the information and the nature of the information.

98 Protection of auditors

- (1) No civil, criminal, or disciplinary proceedings shall lie against any auditor arising from the disclosure in good faith of information to the Bank pursuant to section 96.
- (2) No tribunal, body, or authority, having jurisdiction in respect of the professional conduct of any auditor shall make any order against, or do any act in relation to, that person in respect of such disclosure.
- (3) No information received by the Bank pursuant to section 96 shall be admissible in evidence in any proceedings against the auditor concerned.
- (4) Nothing in subsection (3) of this section shall limit the admissibility of any information obtained in any other way.

Access to information by home country supervisor

98A Access to information by home country supervisor

- (1) This section applies to—
 - (a) a registered bank; and
 - (b) any member of the registered bank's banking group (being a member that has a physical presence in New Zealand).
- (2) For the purpose of the exercise by a home country supervisor of its supervisory functions, the Bank may authorise a home country supervisor to—
 - (a) conduct an inspection of any person to whom this section applies; or
 - (b) require any person to whom this section applies to supply to the home country supervisor any information, data, or forecasts relating to that person.
- (3) The information, data, or forecasts that a home country supervisor may be authorised to obtain may include, without limitation, information about the affairs of a particular customer or client of a person to whom this section applies.

- (b) 該資訊之揭露可能有助於或有關於本行行使本章賦與之權力。

第 97 條 查核人員告知揭露意圖

每位查核人員依第 96 條向本行揭露任何資訊之前，應採取合理步驟將資訊揭露之意圖及資訊之性質告知註冊銀行或關聯人士。

第 98 條 對查核人員之保護

- (1) 任何查核人員依第 96 條善意向本行揭露資訊，不得對其為任何民事、刑事或懲戒訴訟程序。
- (2) 對任何查核人員之專業行為有管轄權之任何裁判機關、機構或主管機關，不得就該人士之揭露作成任何命令或為任何行為。
- (3) 本行依第 96 條收到之任何資訊，於任何針對案關查核人員之訴訟程序，不得當成證據。
- (4) 本條第(3)項規定並未限制以任何其他方式取得之任何資訊之可採用性。

母國監理機關之使用資訊

第 98A 條 母國監理機關之使用資訊

- (1) 本條適用於—
 - (a) 註冊銀行；及
 - (b) 註冊銀行之銀行集團成員（係指在紐西蘭有實體存在之成員）。
- (2) 就母國監理機關行使其監管職能而言，本行得授權母國監理機關—
 - (a) 對適用本條規定之任何人士進行檢查；或
 - (b) 要求適用本條規定之任何人士提供母國監理機關有關該人士之任何資訊、資料或預測。
- (3) 母國監理機關經授權可取得之資訊、資料或預測，包括但不限於有關適用本條規定之任何人士之特定客戶事項之資訊。

- (4) The Bank may grant an authorisation only if it is satisfied that sufficient provision exists to protect the confidentiality of the information, data, or forecasts obtained or required by the home country supervisor.
- (5) An authorisation may be—
 - (a) granted for the period or periods that the Bank thinks fit; and
 - (b) varied, revoked, or amended by the Bank at any time.
- (6) The Bank must give notice in writing to a person to whom this section applies if the Bank—
 - (a) grants an authorisation in relation to that person; or
 - (b) varies, revokes, or amends that authorisation.
- (7) This section has effect despite anything to the contrary in any other enactment or rule of law.
- (8) For the purposes of this section, a member of a registered bank's banking group has a physical presence in New Zealand if that member—
 - (a) has an office in New Zealand; or
 - (b) has an agent in New Zealand.

98B Duties of person on receipt of notice under section 98A

- (1) A person to whom section 98A applies must, on receipt of a notice from the Bank under that section, comply with that notice by, as the case may be,—
 - (a) permitting the home country supervisor to conduct an inspection of that person; or
 - (b) supplying the home country supervisor with the required information, data, or forecasts within the time, and at the place, specified in the notice.
- (2) A person commits an offence if, without lawful justification or excuse, the person—
 - (a) fails to comply in any respect with any requirements notified by the Bank under this section; or
 - (b) supplies any information or data that the person is required to supply under this section that is false or misleading in a material particular.
- (3) The penalty for an offence against this section is set out in section 156AA.

- (4) 僅限於本行確信有足以保護母國監理機關所取得或要求資訊、資料或預測機密性之規定時，本行始得給予該項授權。
- (5) 該項授權—
 - (a) 係依本行認為適合之授權期間而給予之；且
 - (b) 本行得隨時變更、撤銷或修正之。
- (6) 本行如對適用本條規定之人士為下列行為時，本行應以書面通知該人士—
 - (a) 給予之授權係與該人士相關；或
 - (b) 更改、撤銷或修正該項授權。
- (7) 儘管任何其他立法或法則另有相反規定，本條之規定仍有效。
- (8) 就本條目的而言，註冊銀行之銀行集團成員如為下列情況，視為該成員實體存在於紐西蘭—
 - (a) 在紐西蘭設有辦公室；或
 - (b) 在紐西蘭任有代理人。

第 98B 條 收受第 98A 條通知者之責任

- (1) 適用第 98A 條規定之人士收到本行依該條規定所為之通知時，應以下列方式（視情況而定）遵守該通知—
 - (a) 允許母國監理機關對該人士進行檢查；或
 - (b) 於該通知指定之時間內及場所，提供母國監理機關所要求之資訊、資料或預測。
- (2) 該人士如無法律正當性或理由而有下列情形，該人士即屬犯罪—
 - (a) 未於任何方面遵守本行於本條通知所明定之任何要求；或
 - (b) 提供依該條規定必須提供之任何資訊或資料，係屬嚴重不實或誤導。
- (3) 違反本條規定之處罰，明定於第 156AA 條。

*Powers to obtain information and documents***99 Powers to obtain information and documents**

- (1) This section applies if the Bank has reasonable cause to believe—
- (a) that any information or data published in a disclosure statement by a registered bank under section 81 or section 83 is false or misleading in a material particular; or
 - (b) that a registered bank has failed to publish information or data that it is required to publish in a disclosure statement under section 81 or section 83; or
 - (c) that any information or data supplied to the Bank by a registered bank under section 93 is false or misleading in a material particular; or
 - (d) that any information or data supplied by a person to a registered bank under section 93B or to the Bank under section 93C, as the case may be, is false or misleading in a material particular; or
 - (e) that a registered bank or a person, as the case may be, has failed to comply with any requirement to supply information, data, or forecasts under section 93 or section 93B or section 93C; or
 - (f) that a registered bank has failed to comply with section 95.
- (2) If this section applies, the Bank may,—
- (a) by notice in writing to the registered bank or person, require that registered bank or person to supply to the Bank, within the time specified in the notice, the information or data specified in the notice; or
 - (b) appoint, in writing, any suitably qualified person to enter and search any premises and inspect, remove, and take copies of any documents in the possession, custody, or control of any person and, if necessary, require the reproduction in usable form of any information recorded or stored in those documents.
- (3) A person commits an offence if, without lawful justification or excuse, the person hinders, obstructs, or delays, in the conduct of an inspection under this section, any person duly authorised to make that inspection.
- (4) A registered bank or person commits an offence if, without lawful justification or excuse, the registered bank or person—
- (a) fails to comply with any requirement of the Bank under subsection (2)(a); or
 - (b) supplies any information or data that is required to be supplied under subsection (2)(a) that is false or misleading in a material particular.

*取得資訊與文件之權力***第 99 條 取得資訊與文件之權力**

- (1) 本行如有合理事由相信有下列情形者，即應適用本條規定—
- (a) 註冊銀行依第 81 條或第 83 條規定於揭露聲明公布之任何資訊或資料，係嚴重不實或誤導；或
 - (b) 註冊銀行未公布依第 81 條或第 83 條規定必須於揭露聲明公布之資訊或資料；或
 - (c) 註冊銀行依第 93 條規定提供予本行之任何資訊或資料，係嚴重不實或誤導；或
 - (d) 某位人士依第 93B 條規定提供予註冊銀行，或依第 93C 條規定提供予本行之任何資訊或資料，係嚴重不實或誤導；或
 - (e) 註冊銀行或某位人士未遵守第 93 條、第 93B 條或第 93C 條提供資訊、資料或預測之規定；或
 - (f) 註冊銀行未遵守第 95 條規定。
- (2) 如適用本條規定，本行得—
- (a) 以書面通知註冊銀行或該人士，要求註冊銀行或該人士於該通知指定之時間內，提供本行該通知所指定之資訊或資料；或
 - (b) 以書面指派任何適格人士進入並搜索任何場所，並檢查、移除及複製任何人士持有、保管或控制之任何文件，且必要時，要求以可使用之格式複製記錄或儲存於該等文件之任何資訊。
- (3) 任何人士如無法律正當性或理由而阻礙、阻擾或延誤任何經合法授權得為檢查之人士進行檢查，該人士即屬犯罪。
- (4) 註冊銀行或該人士如無法律正當性或理由而有下列情形，註冊銀行或該人士即屬犯罪—
- (a) 未遵守本行依第(2)項第(a)款所為之任何要求；或
 - (b) 提供依第(2)項第(a)款規定必須提供之任何資訊或資料，係嚴重不實或誤導。

- (5) The penalty for an offence against this section is set out,—
- (a) in the case of an offence against subsection (3), in section 156AB; and
 - (b) in the case of an offence against subsection (4), in section 156AC.

100 Requirements on entering and searching premises

- (1) No person appointed pursuant to section 99 (2)(b) shall enter and search any premises, or inspect, remove, or take copies of any documents, or extracts from documents, in the possession of, or under the control of, any person, or require the reproduction in usable form of any information recorded or stored in any documents, unless—
- (a) the occupier of the premises, or the person who has possession of the documents, agrees; or
 - (b) that person obtains a warrant under section 106.
- (2) Every person authorised to enter and search any premises pursuant to a warrant obtained under section 106 shall, on first entering those premises, and, if requested, at any subsequent time, produce—
- (a) evidence of that person's authority to enter the premises; and
 - (b) evidence of that person's identity.

Investigations

101 Investigation of affairs of registered bank

Where the Bank is satisfied that it is necessary or desirable for the purpose of determining whether or not to exercise the powers conferred under section 113 or section 117 that an investigation of the affairs of any registered bank or associated person of a registered bank should be carried out, the Bank may appoint, in writing, any person to carry out an investigation of the affairs of that registered bank or associated person of that registered bank.

102 Powers of person appointed to carry out investigation

- (1) Any person appointed under section 101 may, for the purposes of carrying out an investigation of the affairs of a registered bank or associated person of a registered bank,—
- (a) by notice in writing, require that registered bank or associated person, or any officer or employee of that registered bank or associated person, or any other person, to—
 - (i) supply any information or data relating to the business, operation, and management of the registered bank or associated person:

- (5) 違反本條規定之處罰，明定於下列條文—

- (a) 如係違反第(3)項規定，明定於第 156AB 條；及
- (b) 如係違反第(4)項規定，明定於第 156AC 條。

第 100 條 進入及搜索場所之規定

- (1) 依第 99 條第(2)項第(b)款指派之人士除非依下列規定，否則不得進入並搜索任何場所，或檢查、移除或複製任何人士持有或控制之任何文件或摘要文件，或要求以可使用之格式複製記錄或儲存於該等文件之任何資訊—
- (a) 場所佔有人或文件持有人同意；或
 - (b) 該人士依第 106 條規定取得搜索令。
- (2) 依第 106 條規定取得搜索令而被授權進入並搜索任何場所之每位人士，必須於第一次進入該等場所時，且如果被要求，必須於任何後續時間出示—
- (a) 該人士得進入場所之權限證據；及
 - (b) 該人士之身分證明。

調查

第 101 條 註冊銀行事務之調查

當本行確信為了決定是否行使第 113 條或第 117 條賦與之權力，而必須或適合對任何註冊銀行或某註冊銀行之關聯人士之事項進行調查時，本行得以書面指派任何人士對該註冊銀行或該註冊銀行之關聯人士之事項進行調查。

第 102 條 受指派人士進行調查之權力

- (1) 依第 101 條指派之任何人士為了對註冊銀行或註冊銀行之關聯人士進行調查，得—
- (a) 以書面通知要求該註冊銀行或關聯人士、該註冊銀行或關聯人士之任何職員或受雇人員或任何其他人士—
 - (i) 提供有關註冊銀行或關聯人士之業務、營運與管理之任何資訊或資料；

- (ii) produce for inspection any documents of, or relating to, the business, operation, and management of that registered bank or associated person in the custody, or under the control, of that registered bank or associated person, officer, employee, or person;
- (iii) where necessary, reproduce in usable form any information recorded or stored in such documents;
- (b) take copies of any documents produced for inspection under paragraph (a);
- (c) require any officer or employee of that registered bank or associated person, or any other person, to answer any question relating to the business, operation, and management of that registered bank or associated person.
- (1A) Any questioning under subsection (1)(c) may be carried out by any person appointed under section 101, or a barrister or solicitor acting on behalf of that person, who may require the person who is subject to the questioning to take an oath or make an affirmation.
- (2) Subject to section 104, any person appointed under section 101 may, for the purposes of carrying out an investigation of the affairs of the registered bank or associated person, at any time,—
 - (a) enter and search any premises;
 - (b) inspect, remove, and take copies of any documents, or extracts from documents, relating to the business, operation, and management of that registered bank or associated person in the possession, or under the control, of any person;
 - (c) if necessary, require any person to reproduce in usable form any information recorded or stored in those documents.

103 Offences in relation to investigations

- (1) Every person commits an offence against this Act who, without lawful justification or excuse,—
 - (a) hinders, obstructs, or delays any person appointed to carry out an investigation under section 101 in carrying out that investigation; or
 - (b) refuses to answer any question put to him or her under section 102; or
 - (c) supplies any information, or provides an answer to any question, required to be supplied or provided pursuant to section 102 which is false or misleading in a material particular.

- (ii) 提出該註冊銀行或關聯人士、職員、受雇人員或任何人士保管或控制有關註冊銀行或關聯人士之業務、營運與管理之任何文件，以供檢查；
- (iii) 必要時，以可使用之格式複製記錄或儲存於該等文件之任何資訊；
- (b) 複製依第(a)款規定提供檢查之任何文件；
- (c) 要求該註冊銀行或關聯人士之任何職員或受雇人員或任何其他人士回答有關註冊銀行或關聯人士之業務、營運與管理之任何問題。
- (1A) 僅限於依第 101 條指派之任何人士或代表該人士之律師得進行第(1)項第(c)款之任何提問，並得要求受提問人宣誓或確認。
- (2) 在第 104 條之規定下，依第 101 條指派之任何人士為了對註冊銀行或關聯人士事項進行調查，得隨時—
 - (a) 進入並搜索場所；
 - (b) 檢查、移除或複製任何人士持有或控制有關該註冊銀行或關聯人士之業務、營運與管理之任何文件或文件摘要，或要求以可使用之格式複製記錄或儲存於該等文件之任何資訊；
 - (c) 必要時，要求任何人士以可使用之格式複製記錄或儲存於該等文件之任何資訊。

第 103 條 有關調查之犯罪

- (1) 任何人士如無法律正當性或理由而有下列情形，即屬違反本法規定—
 - (a) 妨礙、阻擾或延誤依第 101 條受指派進行檢查之任何人士進行檢查；或
 - (b) 拒絕回答依第 102 條對其提問之任何問題；或
 - (c) 提供或回答依第 102 條規定必須提供之任何資訊或回答之問題，係屬重大不實或誤導。

- (2) Every registered bank or associated person of the registered bank commits an offence against this Act if, without lawful justification or excuse,—
- (a) it fails to comply with any requirement of a person appointed to carry out an investigation under section 101; or
 - (b) it supplies any information or data, or provides an answer to any question, required to be supplied or provided pursuant to section 102 (1) which is false or misleading in a material particular.
- (3) The penalty for an offence against this section is set out in section 156AC.

104 Requirements to be complied with by person carrying out investigation

- (1) Any person who exercises any powers conferred by section 102 (1) shall, if requested, produce the instrument of that person's appointment under section 101.
- (2) No person who exercises any powers conferred by section 102 (2) shall enter and search any premises, or inspect, remove, and take copies of any documents or extracts from documents, or require the reproduction in usable form of any information recorded or stored in documents, unless—
- (a) the occupier of the premises, or the person who has possession of the documents, agrees; or
 - (b) that person obtains a warrant under section 106.
- (3) Every person authorised to enter and search any premises pursuant to a warrant obtained under section 106 shall, on first entering those premises and, if requested, at any subsequent time, produce—
- (a) evidence of that person's authority to enter the premises; and
 - (b) evidence of that person's identity.

Miscellaneous provisions

105 Confidentiality of information

- (1) This section applies to—
- (a) information, data, and forecasts supplied or disclosed to, or obtained by,—
 - (i) the Bank;
 - (ii) a person appointed under section 99 (2)(b), section 101, or section 119—
 - under, or for the purposes of, or in connection with the exercise of powers conferred by, this Part:
 - (b) information and data derived from or based upon information, data, and forecasts referred to in paragraph (a):

- (2) 註冊銀行或註冊銀行之關聯人士如無法律正當性或理由而有下列情形，即屬違反本法規定—
- (a) 未遵守依第 101 條受指派進行調查之人士之任何要求；或
 - (b) 提供或回答依第 102 條第(1)項規定必須提供之任何資訊、資料或回答之問題，係屬重大不實或誤導。
- (3) 違反本條規定之處罰，明定於第 156AC 條。

第 104 條 進行調查人士應遵守之規定

- (1) 任何行使第 102 條第(1)項所賦與權力之人士，應依要求出示第 101 條所定該人士之指派文書。
- (2) 行使第 102 條第(2)項所賦與權力之人士除非依下列規定，否則不得進入並搜索任何場所，或檢查、移除或複製任何文件或文件摘要，或要求以可使用之格式複製記錄或儲存於該等文件之任何資訊—
- (a) 場所佔有人或文件持有人同意；或
 - (b) 該人士依第 106 條規定取得搜索令。
- (3) 依第 106 條規定取得搜索令而授權進入並搜索任何場所之每位人士，必須於第一次進入該等場所時，且如果被要求，應於任何後續時間出示—
- (a) 該人士得進入場所之權限證據；及
 - (b) 該人士之身分證明。

附則

第 105 條 資訊之保密

- (1) 本條適用於—
- (a) 為行使本章所賦與權力之目的，而提供予下列人士，或向其揭露或由其取得資訊、資料與預測—
 - (i) 本行；
 - (ii) 依第 99 條第(2)項第(b)款、第 101 條或第 119 條指派之人士。
 - (b) 衍生自第(a)款所指之資訊、資料與預測或以之為基礎之資訊與資料；

- (c) information relating to the exercise, or possible exercise, of the powers conferred by this Part.
- (2) Information, data, and forecasts to which this section applies shall not be published or disclosed by the Bank, any officer or employee of the Bank, or a person appointed under section 99 (2)(b), section 101, or section 119, except—
 - (a) with the consent of the person to whom the information relates;
 - (b) to the extent that the information is available to the public under any Act, other than the Official Information Act 1982, or is otherwise publicly available information;
 - (c) in statistical or summary form arranged in such a manner as to prevent any information published or disclosed from being identified by any person as relating to any particular person;
 - (d) for the purposes of, or in connection with, the exercise of powers conferred by this Part;
 - (e) in connection with any proceedings for an offence against this Act;
 - (f) to any central bank, authority, or body in any other country which exercises functions corresponding to or similar to those conferred on the Bank under this Part for the purposes of the exercise by that central bank, authority, or body of those functions;
 - (g) to any person whom the Bank is satisfied has a proper interest in receiving such information.
- (3) No information, data, or forecasts shall be published or disclosed pursuant to paragraph (f) or paragraph (g) of subsection (2) unless the Bank is satisfied that satisfactory provision exists to protect the confidentiality of the information, data, or forecasts published or disclosed.
- (4) No officer or employee of the Bank and no person appointed under section 99 (2)(b), section 101, or section 119 shall use any information, data, or forecasts to which this section applies for a purpose not connected with the purpose for which such information, data, or forecasts was, or were, supplied, disclosed, or obtained.
- (5) No person to whom any information, data, or forecasts to which this section applies is or are published or disclosed pursuant to subsection (2)(d) shall publish, disclose, or use such information, data, or forecasts except—
 - (a) for the purposes of, or in connection with the exercise of powers conferred by, this Part; and
 - (b) in accordance with such conditions as may be specified by the Bank.

- (c) 與行使或可能行使本章所賦與權力相關之資訊。
- (2) 本行、本行之任何職員或受雇人員、依第 99 條第(2)項第(b)款、第 101 條或第 119 條指派之人士除非依下列規定，否則不得公布或揭露該等適用本條規定之資訊、資料與預測—
 - (a) 經資訊相關人士同意；
 - (b) 係依 1982 年政府資訊法以外之任何法律得提供予大眾之資訊或係可公開取得之資訊；
 - (c) 係以得避免任何人士可自公布或揭露之資訊中辨識出任何特定人士資訊之方式安排之統計或摘要形式；
 - (d) 係為行使本章所賦與權力之目的；
 - (e) 有關違反本法之任何刑事訴訟程序；
 - (f) 對象為在任何其他國家行使相當於或類似於本章賦與本行之職能之任何中央銀行、當局或機構，且係為了該中央銀行、當局或機構行使該等職能之目的；或
 - (g) 對象為本行確信其具有收取該資訊之適當利益之任何人士。
- (3) 本行確信存有保護該資訊或該等文件機密性之令人滿意規定，否則不得公布或揭露第(2)項第(f)款或第(g)款之資訊、資料與預測。
- (4) 本行之任何職員或受雇人員及依第 99 條第(2)項第(b)款、第 101 條或第 119 條指派之人士，不得為了與適用本條規定之資訊、資料與預測之提供、揭露或取得目的無關聯之目的，使用該資訊、資料與預測。
- (5) 依第(2)項第(d)款向其公布或揭露任何適用本條規定之資訊、資料與預測之人士，除非依下列規定，否則不得公布、揭露或使用該資訊、資料與預測—
 - (a) 為行使本章所賦與權力之目的；
 - (b) 依本行指定之條件。

- (6) No person to whom any information, data, or forecasts to which this section applies is or are published or disclosed pursuant to subsection (2)(a) or subsection (2)(g), shall publish, disclose, or use such information, data, or forecasts unless the publication, disclosure, or use is—
- (a) authorised by the Bank; or
 - (b) necessary or desirable in connection with the exercise of any function or power conferred by any enactment.
- (7) A person referred to in subsection (7A) commits an offence if the person contravenes this section.
- (7A) The persons are—
- (a) any officer or employee of the Bank; or
 - (b) a person appointed under section 99 (2)(b), section 101, or section 119.
- (7B) The penalty for an offence against this section is set out in section 156AA.
- (8) Nothing in the Official Information Act 1982 or any other Act, other than this Act, applies to information, data, and forecasts to which this section applies whether or not such information, data, and forecasts has or have been published or disclosed to any person pursuant to this section.

106 Procedure for obtaining warrants

- (1) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who is satisfied, on application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing—
- (aaa) that any information or data published in a disclosure statement by a registered bank under section 81 or section 83 is false or misleading in a material particular; or
 - (aa) that a registered bank has failed to publish information that it is required to publish in a disclosure statement under section 81 or section 83; or
 - (a) that any information or data supplied to the Bank by a registered bank pursuant to section 93 is false or misleading in a material particular; or
 - (b) that a registered bank has failed to comply with any requirement to supply information, data, or forecasts pursuant to section 93; or
 - (ba) that any information or data supplied by a person to a registered bank under section 93B or to the Bank under section 93C, as the case may be, is false or misleading in a material particular; or

- (6) 依第(2)項第(a)款或第(2)項第(g)款向其公布或揭露任何適用本條規定之資訊、資料與預測之人士，除非依下列規定，否則不得公布、揭露或使用該資訊、資料與預測—
- (a) 經本行授權；或
 - (b) 為行使任何立法賦與之任何職能或權力所必要或適合者。
- (7) 第(7A)項所指之人士如違反本條之規定，即屬犯罪。
- (7A) 人士係指—
- (a) 本行之任何職員或受雇人員；或
 - (b) 依第 99 條第(2)項第(b)款、第 101 條或第 119 條指派之人士。
- (7B) 違反本條規定之處罰，明定於第 156AA 條。
- (8) 適用本條規定之資訊、資料與預測，除本法外，不適用 1982 年政府資訊法或任何其他法律之規定，無論該資訊、資料與預測是否已依本條之規定向任何人士公布或揭露。

第 106 條 取得搜索令之程序

- (1) (依 2012 年搜索與監控法第 3 條所定義之) 簽發人員就依該法第 4 章第 3 節規定方式所提出之申請，有合理事由確信有下列情況者，得依第 107 條簽發搜索令予依第 99 條第(2)項第(b)款指派之人士—
- (aaa) 註冊銀行依第 81 條或第 83 條於揭露聲明公布之任何資訊或資料，係屬重大不實或誤導；或
 - (aa) 註冊銀行未公布其依第 81 條或第 83 條規定必須於揭露聲明公布之資訊；或
 - (a) 註冊銀行依第 93 條規定提供予本行之任何資訊或資料，係屬重大不實或誤導；
 - (b) 註冊銀行未遵守第 93 條提供資訊、資料或預測之要求；
 - (ba) 某位人士依第 93B 條提供予註冊銀行，或依第 93C 條提供予本行之任何資訊或資料，係屬重大不實或誤導；或

- (bb) that a person has failed to comply with any requirement to supply information, data, or forecasts to a registered bank under section 93B, or to the Bank under section 93C as the case may be; or
- (c) that a registered bank has failed to comply with section 95—may issue a warrant, in terms of section 107, to a person appointed pursuant to section 99 (2)(b).
- (2) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who is satisfied, on an application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing that it is necessary for the purpose of determining whether to exercise the powers conferred under section 113 or section 117 that an investigation of the affairs of a registered bank should be carried out, may issue a warrant, in terms of section 107, to a person appointed under section 101.
- (3) Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) applies.

107 Effect of warrant

- (1) Every warrant issued under section 106 authorises the person named in it, at any time and, if necessary, by force, to—
 - (a) enter and search the premises named in it;
 - (b) inspect, remove, and take copies of documents or extracts from documents relating to the business, operation and management of the registered bank in the possession, or under the control, of any person;
 - (c) where necessary, require any information recorded or stored in those documents to be reproduced in usable form.
- (2) The warrant shall continue in force for a period of 1 month or until the purpose for which it was granted has been satisfied, whichever is the lesser.
- (3) Every person named in the warrant shall, as soon as practicable after removing any documents or extracts from documents from any premises, supply a copy of the documents or extracts to the person from whom the documents or extracts were removed.

108 Effect of proceedings

- (1) Where any person commences any proceedings in any court in respect of the exercise of any powers conferred by section 99 or section 101 or section 102, until a final decision in relation to those proceedings is given, the powers may be, or may continue to be, exercised as if no such proceedings had been commenced, and no person shall be excused from fulfilling any obligation under those sections by reason of those proceedings.

- (bb) 某位人士未遵守第 93B 條提供予註冊銀行或第 93C 條提供予本行資訊、資料或預測之要求。
- (c) 註冊銀行未遵守第 95 條之規定。
- (2) (依 2012 年搜索與監控法第 3 條所定義之) 簽發人員就依該法第 4 章第 3 小章規定方式所提出之申請，有合理理由確信為了決定是否行使第 113 條或第 117 條對註冊銀行事項進行調查之權力之目的之需，得依第 107 條簽發搜索令予依第 101 條規定指派之人士。
- (3) 適用 2012 年搜索與監控法第 4 章之規定（第 118 條與第 119 條除外）。

第 107 條 搜索令之效力

- (1) 依第 106 條簽發之搜索令，授權其指定之人士於必要時得隨時強制—
 - (a) 進入並搜索該搜索令指定之場所；
 - (b) 檢查、移除或複製任何人士持有或控制與註冊銀行之業務、營運或管理相關之文件或文件摘件；
 - (c) 必要時，要求以可使用之格式複製記錄或儲存於該等文件之任何資訊。
- (2) 搜索令之有效期間為 1 個月或直到已達成簽發目的為止，並以兩者中較早時間為準。
- (3) 搜索令指定之人士自任何場所移除任何文件或文件摘要之後，應儘速將該等文件或摘要之備份提供予其文件或摘要被移除之人士。

第 108 條 訴訟程序之效力

- (1) 當任何人士就行使第 99 條、第 101 條或第 102 條賦予之任何權力，於法院開始任何訴訟程序時，直到該等訴訟程序作成最終裁判為止，得如同未曾開始該等訴訟程序般地，行使或繼續行使該等權力，且任何人士不得以該等訴訟程序為由，規避執行該等條文規定之任何義務。

(2) This section shall apply notwithstanding the provisions of any other Act or any rule of law.

109 Effect of final decision that exercise of powers under section 99 unlawful

In any case where it is declared in a final decision given in any proceedings in respect of the exercise of powers conferred by section 99 that the exercise of any powers conferred by that section is unlawful, to the extent to which the exercise of those powers is declared unlawful,—

- (a) the Bank shall ensure that forthwith after the decision of the court is given—
 - (i) any information and data supplied by the registered bank pursuant to subsection (2)(a) of that section is destroyed;
 - (ii) any documents or extracts from documents obtained pursuant to an inspection made under subsection (2)(b) of that section are returned to the person previously having possession of those documents or previously having them under his or her control and any copies of such documents or extracts are destroyed;
 - (iii) any information derived from or based upon any such information and data or documents or extracts is destroyed;
- (b) no information and data supplied by the registered bank pursuant to subsection (2)(a) of that section, and no documents or extracts from documents obtained pursuant to an inspection made under subsection (2)(b) of that section, shall be—
 - (i) admissible in evidence in any proceedings;
 - (ii) used in connection with the exercise of any power conferred by section 113 or section 117.

110 Effect of final decision that exercise of powers under section 101 or section 102 unlawful

In any case where it is declared in a final decision given in any proceedings in respect of the exercise of powers conferred by section 101 or section 102 that the exercise of any powers conferred by those sections is unlawful, to the extent to which the exercise of those powers is declared unlawful,—

- (a) the Bank shall ensure that forthwith after the decision of the court is given—
 - (i) any information or data obtained pursuant to section 102 (1)(a) is destroyed;

(2) 儘管有任何其他法律或任何法律規則，仍適用本條之規定。

第 109 條 最終裁判認定行使第 99 條規定權力之行為係屬不法之效果

如對於行使第 99 條賦予權力之訴訟程序作成之最終裁判，宣判行使該條所賦予權力係屬不法，在行使該等權力經宣判違法之範圍內—

- (a) 本行應確保於法院裁判作成之後—
 - (i) 註冊銀行依該條第(2)項第(a)款提供之任何資訊與資料，應予以銷毀；
 - (ii) 依該條第(2)項第(b)款所為檢查而取得之文件或文件摘要，應歸還先前持有該等文件或先前控制該等文件之人士，且該等文件或摘要之任何複製應予以銷毀；
 - (iii) 任何該資訊與資料或文件或摘要所衍生或以之為基礎之任何資訊，應予以銷毀。
- (b) 註冊銀行依該條第(2)項第(a)款提供之任何資訊與資料，及依該條第(2)項第(b)款所為檢查而取得之文件或文件摘要—
 - (i) 於任何訴訟程序不得當成證據；
 - (ii) 行使第 113 條或第 117 條賦予之任何權力時，不得使用之。

第 110 條 最終裁判認定行使第 101 條或第 102 條規定權力之行為係屬不法之效果

如對於行使第 101 條或第 102 條賦予權力之訴訟程序作成之最終裁判，宣判行使該等條文所賦予權力係屬不法，在行使該等權力經宣判違法之範圍內—

- (a) 本行應確保於法院裁判作成之後—
 - (i) 依第 102 條第(1)項第(a)款取得之任何資訊與資料，應予以銷毀；

- (ii) any documents produced for inspection pursuant to section 102 (1)(a) are returned to the person previously having possession of the documents or previously having the documents under his or her control and any copies of such documents or extracts from documents are destroyed;
- (iii) any documents or extracts from documents obtained pursuant to an inspection made under section 102 (2) are returned to the person previously having possession of those documents or previously having them under his or her control and any copies of such documents or extracts from documents are destroyed;
- (iv) any information derived from or based upon any such information, documents, or extracts is destroyed;
- (b) no information or data obtained or documents produced for inspection pursuant to section 102 (1)(a) and no documents or extracts from documents obtained pursuant to an inspection made under section 102 (2) shall be—
 - (i) admissible in evidence in any proceedings;
 - (ii) used in connection with the exercise of any power conferred by section 113 or section 117.

Reserve Bank may give directions

111 Bank may require registered bank to consult

[Repealed]

112 Bank may give advice and assistance

[Repealed]

113 Bank may give directions

- (1) The Bank may give a registered bank or an associated person of a registered bank a direction, in writing, if it has reasonable grounds to believe that—
 - (a) the registered bank or associated person is insolvent or is likely to become insolvent; or
 - (b) the registered bank or associated person is about to suspend payment or is unable to meet its obligations as and when they fall due; or
 - (c) the affairs of the registered bank or associated person are being conducted in a manner prejudicial to the soundness of the financial system; or

- (ii) 依第 102 條第(1)項第(a)款出示供檢查之任何文件，應歸還先前持有該等文件或先前控制該等文件之人士，且該等文件或文件摘要之任何複製應予以銷毀；
- (iii) 依第 102 條第(2)項所為檢查而取得之文件或文件摘要，應歸還先前持有該等文件或先前控制該等文件之人士，且該等文件或文件摘要之任何複製應予以銷毀；
- (iv) 任何該等資訊、文件或摘要所衍生或以之為基礎之任何資訊，應予以銷毀。
- (b) 依第 102 條第(1)項第(a)款取得之任何資訊與資料或出示供檢查之文件，及依第 102 條第(2)項所為檢查而取得之文件或文件摘要 —
 - (i) 於任何訴訟程序不得當成證據；
 - (ii) 行使第 113 條或第 117 條賦與之任何權力時，不得使用之。

準備銀行得給予指示

第 111 條 本行得要求註冊銀行與其諮商

[刪除]

第 112 條 本行得給予建議與協助

[刪除]

第 113 條 本行得給予指示

- (1) 本行如有合理事由確信有下列情況，本行得以書面給予註冊銀行或註冊銀行之關聯人士指示—
 - (a) 註冊銀行或關聯人士破產或可能破產；或
 - (b) 註冊銀行或關聯人士即將暫停付款或無法支付其到期債務；或
 - (c) 註冊銀行或關聯人士正在進行對金融體系健全有不利影響之事務；或

- (d) the circumstances of the registered bank or associated person are such as to be prejudicial to the soundness of the financial system; or
 - (e) the business of the registered bank has not been, or is not being, conducted in a prudent manner; or
 - (f) any of the following persons has failed to comply with any requirement imposed by or under this Act or regulations made under this Act:
 - (i) the registered bank;
 - (ii) a director of the registered bank;
 - (iii) in the case of an overseas incorporated registered bank, its New Zealand chief executive officer; or
 - (g) any of the following persons has been convicted of an offence against this Act:
 - (i) the registered bank;
 - (ii) a director of the registered bank;
 - (iii) in the case of an overseas incorporated registered bank, its New Zealand chief executive officer; or
 - (h) the registered bank has failed to comply with a condition of its registration.
- (2) The Bank must obtain the consent of the Minister before giving a direction under this section.
- (3) A direction given under this section must state the grounds on which it is given.
- (4) The Bank may, with the consent of the Minister,—
- (a) amend or modify a direction; or
 - (b) replace a direction with another direction; or
 - (c) revoke a direction.
- (5) To avoid doubt, the Bank may exercise the power conferred by subsection (1) by giving a direction to a registered bank in respect of an associated person of that registered bank, and vice versa.

113A Scope of directions

A direction given under section 113 may require a registered bank or an associated person of a registered bank to—

- (a) consult with the Bank immediately, and from time to time, about the circumstances of the registered bank or of an associated person of the registered bank and the methods of resolving any difficulties facing the registered bank or the associated person; or

- (d) 註冊銀行或關聯人士之狀況對金融體系之健全有不利影響；或
 - (e) 註冊銀行未以審慎方式進行其業務；或
 - (f) 下列人士未遵守本法或依本法訂定之法規所加諸或規定之任何要求：
 - (i) 註冊銀行；
 - (ii) 註冊銀行之董事；
 - (iii) 如係海外設立之註冊銀行，其於紐西蘭之執行長；或
 - (g) 違反本法規定之下列人士：
 - (i) 註冊銀行；
 - (ii) 註冊銀行之董事；
 - (iii) 如係海外設立之註冊銀行，其於紐西蘭之執行長；或
 - (h) 註冊銀行未遵守其註冊條件。
- (2) 本行依本條給予指示之前，應取得部長同意。
- (3) 依本條給予之指示，應敘明給予之理由。
- (4) 本行經部長同意—
- (a) 得修正或修改指示；或
 - (b) 得以另一項指示取代該指示；或
 - (c) 撤銷指示。
- (5) 為避免疑義，本行得藉由給予註冊銀行有關該註冊銀行關聯人士之指示，而行使第(1)項賦與之權力；反之亦然。

第 113A 條 指示之範圍

依第 113 條給予之指示，得要求註冊銀行或註冊銀行之關聯人士—

- (a) 立即且隨時與本行諮商有關註冊銀行或註冊銀行之關聯人士之狀況，及有關註冊銀行或關聯人士所面臨困難之解決方法；或

- (b) carry on business, or any part of its business, in accordance with the direction; or
- (c) cease to carry on its business, or any part of its business, in accordance with the direction; or
- (d) ensure that any officer or employee of the registered bank or associated person ceases to take part in the management or conduct of its business except with the permission of the Bank and so far as that permission extends; or
- (e) remove or replace any of the directors of an associated person of the registered bank; or
- (f) remove or replace its auditor or appoint an auditor approved by the Bank; or
- (g) take the action that is specified in the direction to address a breach of any condition of its registration; or
- (h) take the action that is specified in the direction to address any circumstances of financial difficulties; or
- (i) take any other action that may be specified in the direction.

113B Power to remove, replace, or appoint directors

- (1) This section applies if the Bank has reasonable grounds to believe that—
 - (a) any of the circumstances referred to in section 113 (1) exists; and
 - (b) it is necessary to remove, replace, or appoint a director of a registered bank or of an associated person of a registered bank.
- (2) If this section applies, the Bank may—
 - (a) remove or replace a director of any registered bank or of an associated person of any registered bank; or
 - (b) appoint any person as a director of any registered bank or of an associated person of any registered bank.
- (3) The Bank must—
 - (a) obtain the consent of the Minister before exercising the power conferred by subsection (2); and
 - (b) exercise that power by giving notice in writing to—
 - (i) the director or the person concerned; and
 - (ii) if applicable, the Registrar of Companies.
- (4) A notice given under subsection (3)(b)(ii) is sufficient compliance with section 159 of the Companies Act 1993 as long as the notice is accompanied by the form of consent and certificate required under section 152 of that Act.

- (b) 依指示進行業務或其業務之任何部分；或
- (c) 依指示停止進行業務或其業務之任何部分；或
- (d) 確保註冊銀行或關聯人士之任何職員或受雇人員停止參與管理或進行其業務，但經本行許可並在許可擴及之範圍內者，不在此限；或
- (e) 解任或替換註冊銀行之關聯人士之任何董事；或
- (f) 解任或替換其查核人員或指派經本行核准之查核人員；或
- (g) 採取該指示明定之行動，以處理違反其註冊條件之行為；或
- (h) 採取該指示明定之行動，以處理任何財務困難狀況；或
- (i) 採取該指示明定之任何其他行動。

第 113B 條 解任、替換或指派董事之權力

- (1) 本行如有合理事由確信有下列情形，即適用本條之規定—
 - (a) 有第 113 條第(1)項所指之任何情況；及
 - (b) 有必要解任、替換或指派任何註冊銀行或任何註冊銀行關聯人士之董事。
- (2) 如適用本條之規定，本行得—
 - (a) 解任或替換任何註冊銀行或任何註冊銀行之關聯人士之董事；或
 - (b) 指派任何人士擔任任何註冊銀行或任何註冊銀行之關聯人士之董事。
- (3) 本行應—
 - (a) 於行使第(2)項賦予之權力前，取得部長同意；及
 - (b) 藉由給予下列人士書面通知，而行使上述權力—
 - (i) 該董事或案關人士；及
 - (ii) 如有適合之公司登記處。
- (4) 依第(3)項第(b)款第(ii)目給予通知，在該通知檢附 1993 年公司法第 152 條所定同意表格與證明書之範圍內，即屬充分遵守該法第 159 條之規定。

- (5) This section has effect despite any enactment, rule of law, or the terms of the constitution of, or the instrument or contract creating, a registered bank or an associated person of a registered bank.

114 Offence to contravene directions

- (1) Every person commits an offence against this Act who, being a registered bank or associated person, without lawful justification or excuse, contravenes, or fails to comply with, a direction under section 113.
- (2) Every person commits an offence against this Act who, being an officer or employee of a registered bank or of an associated person, without lawful justification or excuse, obstructs, hinders or prevents that registered bank or associated person giving effect to any direction given under section 113.
- (3) The penalty for an offence against this section is set out in section 156AC.

115 Offence to disclose giving of direction

- (1) Subject to subsections (2) and (3), every person commits an offence against this Act who discloses that a direction has been given under section 113 or that a notice has been given under section 113B.
- (2) Nothing in subsection (1) applies to the disclosure or publication of the fact that a direction or notice has been given where the disclosure or publication is made—
 - (a) to any professional or financial adviser of the registered bank or associated person to which the direction or notice relates;
 - (b) with the written consent of the Bank, for the purposes of the sale or other disposition, or the possible sale or other disposition, of the whole or any part of the capital, or business undertaking, of the registered bank or associated person;
 - (c) by the Bank or with the written consent of the Bank,—
 - (i) to the public; or
 - (ii) to any person who has a proper interest in knowing that the direction or notice has been given.
- (3) Nothing in subsection (1) applies to the disclosure or publication of the fact that a direction has been given requiring the actions set out in section 113A(d) or section 113A(e) or section 113A(f) for the purpose of giving effect to that direction.
- (4) The penalty for an offence against this section is set out in section 156AA.

- (5) 儘管有任何立法、法律規則、註冊銀行或註冊銀行關聯人士之組織條款、創設文書或契約，本條仍具有效力。

第 114 條 違背指示之罪

- (1) 註冊銀行或關聯人士如無法律正當性或理由而違背，或未遵守第 113 條之指示，即屬違反本法。
- (2) 註冊銀行或關聯人士之任何職員或受雇人員如無法律正當性或理由而阻礙、阻擾或禁止註冊銀行或關聯人士實施第 113 條之任何指示，即屬違反本法。
- (3) 違反本條規定之處罰，明定於第 156AC 條。

第 115 條 洩漏指示之罪

- (1) 在第(2)項與第(3)項之規定下，任何人士揭露依第 113 條規定給予之指示或依第 113B 條給予之通知，即屬違反本法。
- (2) 依下列規定揭露或公布已給予指示或通知之事實者，該揭露或公布行為不適用第(1)項之規定—
 - (a) 對象係與該指示或通知相關之註冊銀行或關聯人士之任何專業或財務顧問；
 - (b) 經本行書面同意，係為註冊銀行或關聯人士之全部或任何部分資本、業務承諾之出售或其他處置，或可能出售或其他處置目的；
 - (c) 由本行或經本行書面同意而向下列對象所為者—
 - (i) 大眾；或
 - (ii) 有知悉已給予指示或通知之適當利益之任何人士。
- (3) 為實施該指示之目的，第 113A 條第(d)款、第 113A 條第(e)款或第 113A 條第(f)款所列行動，而必須揭露或公布已給予指示之事實者，不適用第(1)項之規定。
- (4) 違反本條規定之處罰，明定於第 156AA 條。

116 Miscellaneous provisions with respect to directions and dispositions

- (1) A direction given under section 113 is taken to have been given on delivery to the head office, registered office, principal place of business in New Zealand, or address for service of the registered bank or associated person of the registered bank.
- (2) If the Bank has reasonable grounds to believe that 1 or more of the circumstances listed in section 113 (1) exist, it may, with the consent of the Minister, by notice in writing to the parties, approve any sale or other disposition of the whole or part of the capital or business undertaking of the registered bank or associated person of the registered bank specified in the notice.
- (3) If the Bank grants an approval under subsection (2), the provisions of any enactment requiring any consent, licence, permission, or clearance or other authority do not apply as a condition of the legality or validity of the sale or other disposition.
- (4) For the purposes of this section, address for service, in relation to a registered bank, means the address for service specified in a disclosure statement published in accordance with section 81.

*Statutory management of registered banks***117 Statutory management of registered banks and associated persons**

- (1) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank,—
 - (a) declare that—
 - (i) any registered bank;
 - (ii) any associated person of a registered bank—
 is subject to statutory management; and
 - (b) appoint 1 or more persons as statutory manager or statutory managers of that registered bank or associated person for a specified period.
- (1A) If any question arises as to whether, on the date on which a statutory manager was appointed, an act was done or a transaction was entered into or effected before or after the appointment, that act or transaction must, in the absence of proof to the contrary, be treated as having been done or entered into or effected, as the case may be, after the appointment of the statutory manager.
- (2) If an Order in Council is made under subsection (1), every subsidiary of a registered bank declared to be subject to statutory management, except any subsidiary declared to be a subsidiary to which the order does not apply, is subject to statutory management and the appointment of a statutory manager for the specified period in respect of that registered bank also applies to those subsidiaries.

第 116 條 有關指示與處置之總則規定

- (1) 依第 113 條給予之指示遞送至註冊銀行或關聯人士位於紐西蘭之總部、登記辦公室、主營業所或送達地址時，視為已送達。
- (2) 本行如有合理事由相信存在 1 項以上之第 113 條第(1)項所列狀況，經部長同意後，得以書面通知當事人核准該通知指名之註冊銀行或關聯人士之全部或任何部分資本、業務承諾之出售或其他處置。
- (3) 本行如給予第(2)項之核准，任何立法要求任何同意、特許、許可或批准或其他權限之規定，不當成該出售或其他處置之合法或生效條件。
- (4) 為本條目的，就註冊銀行而言，送達地址係指依第 81 條公布之揭露聲明所指定之送達地址。

*註冊銀行之法定監管***第 117 條 註冊銀行與關聯人士之法定監管**

- (1) 總督得隨時就部長依本行建議所為之意見，以樞密院令—
 - (a) 宣布受法定監管之對象為—
 - (i) 任何註冊銀行；或
 - (ii) 註冊銀行之任何關聯人士；及
 - (b) 指派 1 名以上人士於特定期間擔任該註冊銀行或關聯人士之法定監管人。
- (1A) 於法定監管人指派日，如對於是否係指派之前或之後所為之作為，或簽訂或實施之交易產生任何問題，在缺乏反證之情況下，該行為或交易應視為係於法定監管人指派後所為，或簽訂或實施。
- (2) 如依第(1)項作成樞密院令，經宣布受法定監管拘束之註冊銀行之每家子公司，除經宣布不適用該命令之子公司外，應受法定監管所拘束，且就該註冊銀行於特定期間之法定監管人指派，亦適用於該等子公司。

- (2A) If a registered bank acquires a subsidiary after it has been declared to be subject to statutory management under subsection (1), that subsidiary is not subject to statutory management unless a further Order in Council is made declaring that subsidiary to be subject to statutory management.
- (3) Where a registered bank or an associated person of a registered bank that is declared to be subject to statutory management or a subsidiary of a registered bank that becomes subject to statutory management under subsection (2), is incorporated outside New Zealand or is an unincorporated body having its head office or principal place of business outside New Zealand, the provisions of this Part relating to statutory management shall apply to the property, rights, assets and liabilities relating to its New Zealand business.
- (4) Every Order in Council made under subsection (1) must specify the date on which, and the time at which, the Order in Council comes into force.
- (5) The date and time as specified must not be earlier than the date on which, and the time at which, the Order in Council is made.
- (6) A person appointed under subsection (1)(b) has all the rights and powers conferred, and all the duties imposed, on a person appointed under section 101 and, without limitation, the following provisions apply, with any necessary modifications, as if that person were appointed under section 101:
- (a) section 102 (which relates to powers to carry out an investigation of the affairs of a registered bank); and
 - (b) section 103 (which sets out offences in relation to investigations); and
 - (c) section 104 (which sets out the requirements that must be complied with by a person carrying out an investigation).
- (7) Subsections (1)(a) and (2) are subject to section 139J (4).

118 Grounds on which registered bank may be declared to be subject to statutory management

- (1) The Bank must not make a recommendation under section 117 unless—
- (a) it is satisfied on reasonable grounds that 1 or more of the circumstances listed in section 113 (1)(a) to (e) exist; or
 - (b) a registered bank or an associated person of a registered bank has failed to comply with a direction given under section 113.
- (2) The Bank shall, as soon as practicable after the making of an Order in Council declaring a registered bank or associated person to be subject to statutory management, give written notice to the registered bank or associated person stating the grounds on which the recommendation made by the Bank was made.

- (2A) 如註冊銀行於經宣布受第(1)項所為之法定監管拘束後取得子公司，該子公司不受法定監管拘束，但另作為樞密院令宣布該子公司受法定監管拘束者，不在此限。
- (3) 經宣布受法定監管拘束之註冊銀行或註冊銀行之關聯人士，或依第(2)項規定宣布受法定監管之註冊銀行之子公司，係於紐西蘭境外設立，或係總部或主業務所位於紐西蘭境外之非法人團體者，本章有關法定監管之規定應適用於與其紐西蘭業務相關之財產、權利、資產及負債。
- (4) 依第(1)項作成之樞密院令應指明該樞密院令之生效日期與時間。
- (5) 上述指明之日期與時間不得早於作成該樞密院令之日期與時間。
- (6) 依第(1)項第(b)款被指派之人士，應具有依第 101 條賦予或加諸於被指派人士之權力與職能，且視同該人士係依第 101 條被指派，得適用下列條文並得為任何必要修正：
- (a) 第 102 條（有關對註冊銀行事務進行調查之權力）；及
 - (b) 第 103 條（明定有關調查之罪）；及
 - (c) 第 104 條（明定進行調查之人士應遵守之規定）。
- (7) 第(1)項第(a)款與第(2)項之規定，受到第 139J 條第(4)項規定之拘束。

第 118 條 註冊銀行可能被宣布受法定監管之理由

- (1) 除非依下列規定，本行不得作成第 117 條之建議—
- (a) 有合理事由確信存在 1 項以上之第 113 條第(1)項第(a)款至第(e)款所列狀況；或
 - (b) 註冊銀行或註冊銀行之關聯人士未遵守依第 113 條給予之指示。
- (2) 宣布註冊銀行或關聯人士受法定監管拘束之樞密院令作成之後，本行應儘速以書面通知該冊銀行或關聯人士，敘明本行作成該建議之理由。

119 Advisory committee

- (1) Where an Order in Council is made under section 117 declaring a registered bank or an associated person to be subject to statutory management, the Minister may, by notice in writing to the statutory manager of that registered bank or associated person, on the recommendation of the Bank, appoint the persons specified in the recommendation as an advisory committee.
- (2) The functions of an advisory committee shall be—
 - (a) to advise the statutory manager on the conduct of the statutory management, including the exercise of the powers conferred by this Part;
 - (b) to do such other things as may be specified by the Minister, from time to time, by notice in the *Gazette*.
- (3) The members of an advisory committee shall be appointed for such period as is specified in the notice of appointment.
- (4) The Minister may, by notice in writing, on the recommendation of the Bank, extend the term of appointment of a member of an advisory committee.
- (5) The Minister may, by notice in writing, on the recommendation of the Bank, appoint a person to be an additional member of an advisory committee.
- (6) The Minister may terminate the appointment of a member of an advisory committee for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.
- (7) A member of an advisory committee may resign office by notice in writing to the Minister.
- (8) A notice under subsection (1) or subsection (5) must specify the date on which it comes into force (which date must not be earlier than the date on which the Minister signed the notice).
- (9) Every notice given under this section must be published in the *Gazette* as soon as practicable.

120 Statutory manager to comply with directions of Bank

Subject to section 142, every statutory manager of a registered bank shall comply with any directions given in writing by the Bank relating to the exercise of the powers of that statutory manager under this Part.

121 Considerations affecting exercise of powers by statutory manager

- (1) In exercising the powers conferred by this Part a statutory manager of a registered bank shall have regard to—
 - (a) the need to maintain public confidence in the operation and soundness of the financial system;
 - (b) the need to avoid significant damage to the financial system;
 - (c) to the extent not inconsistent with the considerations referred to in paragraphs (a) and (b), the need to resolve as quickly as possible the difficulties of that registered bank;

第 119 條 諮詢委員會

- (1) 依第 117 條作成宣布註冊銀行或關聯人士受法定監管拘束之樞密院令時，部長得依本行之建議，以書面通知該註冊銀行或關聯人士之法定監管人，指派該建議所指人士成立諮詢委員會。
- (2) 諮詢委員會之職能應為—
 - (a) 給予法定監管人有關進行法定監管之意見，包括行使本章賦與之權力；
 - (b) 執行部長隨時以政府公報公告指定之其他事務。
- (3) 諮詢委員會成員之任期應明定於指派通知。
- (4) 部長得依本行建議以書面通知展延諮詢委員會成員之任期。
- (5) 部長得依本行建議以書面通知指派某位人士擔任諮詢委員會之新增成員。
- (6) 部長得終止指派經證明令其確信係無能力履行該職位之職能、破產、怠忽職守或行為不當之諮詢委員會成員。
- (7) 諮詢委員會成員得書面通知部長，辭任該職位。
- (8) 第(1)項或第(5)項之通知，應明定其生效日期（該日期不得早於部長簽署該通知之日期）。
- (9) 依本條給予之通知，應儘速於政府公報公布之。

第 120 條 法定監管人應遵守本行之指示

依第 142 條規定，註冊銀行之法定監管人應遵守本行以書面給予有關依本章行使該法定監管人權力的任何指示。

第 121 條 影響法定監管人行使權力之考量

- (1) 行使本章賦與之權力時，法定監管人應考量—
 - (a) 維護大眾對金融體系營運與健全信心之必要性；
 - (b) 避免對金融體系重大危害之必要性；
 - (c) 在不牴觸第(a)款與第(b)款所提應考量事項之範圍內，必須儘快解決註冊銀行之困難；

- (d) to the extent not inconsistent with the considerations referred to in paragraphs (a), (b) and (c), preserving the position of creditors and maintaining the ranking of claims of creditors;
- (e) the advice of the Bank.
- (2) Every statutory manager shall—
 - (a) consult with the Bank, to the extent required by the Bank, as to the exercise of those powers;
 - (b) provide the reports that the Bank may require as to the state of the affairs, business, and statutory management of the registered bank to persons specified by the Bank (including, but not limited to, the Bank) in the form and with the frequency that the Bank may require;
 - (c) provide the information that an advisory committee appointed under section 119 may reasonably require as to the affairs, business, and statutory management of the registered bank.
- (3) A statutory manager may refuse to supply information to an advisory committee under subsection (2)(c) if the Bank considers that the refusal is appropriate and gives its written approval to the statutory manager accordingly.

121A Statutory manager to avoid actions likely to have detrimental effect

- (1) A statutory manager who has reasonable cause to believe that an action he or she proposes to take is an action that is likely to have a detrimental effect on financial system stability in Australia must—
 - (a) notify the Bank as soon as practicable; and
 - (b) obtain the Bank's written consent before taking that action.
- (2) The statutory manager is not required to comply with subsection (1) if the statutory manager is satisfied that it is not reasonably practicable to do so in the circumstances, having regard to urgency or other similar constraint.
- (3) Where the Bank receives a notification under subsection (1), it must provide details of the notification to every prescribed Australian financial authority it considers to be relevant in the circumstances before granting written consent to the statutory manager.
- (4) The Bank is not required to comply with subsection (3) if the Bank is satisfied that it is not reasonably practicable to do so in the circumstances, having regard to urgency or other similar constraint.
- (5) No performance of a function or duty or exercise of a power is invalid by reason only of a failure to comply with the provisions of this section.
- (6) A statutory manager may consult a prescribed Australian financial authority about whether an action the statutory manager proposes to take is likely to have a detrimental effect on financial system stability in Australia.

- (d) 在不牴觸第(a)款、第(b)款與第(c)款所應考量事項之範圍內，保留債權人地位及維護債權人之請求權順位；
- (e) 本行之意見。
- (2) 法定監管人應—
 - (a) 在本行要求範圍內，就該等權利之行使與本行諮商；
 - (b) 依本行要求之格式與頻率，向本行指定之人士（包括但不限於本行）提供本行可能要求有關註冊銀行之事務、業務與法定監管狀況之報告；
 - (c) 提供依第 119 條指派之諮詢委員會可能合理要求有關註冊銀行事務、業務與法定監管之資訊。
- (3) 本行如認為法定監管人拒絕依第(2)項第(c)款規定提供資訊予諮詢委員會係屬適當，並因此給予法定監管人書面核准，則法定監管人得拒絕給予資訊。

第 121A 條 法定監管人避免可能有不利影響之行動

- (1) 法定監管人有合理事由確信其擬採取之行動可能有不利影響澳大利亞金融體系之穩定時應—
 - (a) 儘快通知本行；及
 - (b) 於採取該行動之前，取得本行書面同意。
- (2) 法定監管人如確信在顧及緊急或其他類似約束之情況下，無法合理遵守第(1)項之規定時，法定監管人無須遵守該規定。
- (3) 本行收到第(1)項之通知時，在給予法定監管人書面同意之前，必須將該通知細節提供予其認為與該等狀況相關之每個指定澳大利亞金融主管機關。
- (4) 本行如確信在顧及緊急或其他類似約束之情況下，無法合理遵守第(3)項之規定時，本行無須遵守該規定。
- (5) 職務之履行或權利之行使，不會僅因未遵守本條之規定而無效。
- (6) 法定監管人得徵詢經指定之澳大利亞金融主管機關，有關法定監管人擬採取之行動，是否可能不利影響澳大利亞金融體系之穩定。

122 Moratorium

- (1) Where a registered bank is declared under section 117 to be subject to statutory management, no person shall—
- (a) commence or continue any action or other proceedings, including proceedings by way of counterclaim, against that registered bank;
 - (b) issue any execution, attach any debt, or otherwise enforce or seek to enforce any judgment or order obtained in respect of that registered bank;
 - (c) take any steps to put that registered bank into liquidation or voluntary administration;
 - (d) enter into possession, sell, or appoint a receiver of the property of that registered bank or property in respect of which the registered bank has an equity of redemption;
 - (e) exercise or continue any power or rights under, or in pursuance of, any mortgage, charge, debenture, instrument, or other security over the property of that registered bank;
 - (f) claim or recover, pursuant to any retention of title clause, hire purchase agreement, mortgage, lease, or security, any property in the possession of the registered bank;
 - (g) determine or forfeit any tenancy, retake or re-enter any premises, or exercise or continue any power or rights under or in pursuance of any lease, against that registered bank;
 - (h) exercise any right of set-off against that registered bank.
- (2) Notwithstanding subsection (1), an action or proceeding may be commenced or continued against a registered bank for the purpose of determining whether any right or liability exists if the leave of the statutory manager or the High Court is first obtained.
- (3) Notwithstanding subsection (1), a statutory manager may waive the application in whole or in part of that subsection (except paragraph (c)) to any creditor or class of creditors in respect of the whole or part of any claim of, or security held by, that creditor or class of creditors.
- (4) Subject to this Act, nothing in subsection (1) affects the existence of any security over the property of any registered bank or its priority over other debts.
- (5) Nothing in subsection (1)(a), (b), and (d) to (h) limits or prevents any person from taking any of the actions specified in those paragraphs in relation to an obligation incurred or a right granted under a deed, instrument, trust, or contract entered into by a registered bank after the date on which, and the time at which, that registered bank was declared to be subject to statutory management.

第 122 條 暫停

- (1) 當註冊銀行依第 117 條經宣布受法定監管拘束時，任何人士不得—
- (a) 開始或續行任何訴訟或其他法律程序，包括藉由對該註冊銀行為反訴之法律程序在內；
 - (b) 對該註冊銀行訴諸任何執行、扣押任何債務或執行所取得之任何判決或命令；
 - (c) 採取任何步驟使該註冊銀行進入清算或自願管理破產程序；
 - (d) 對該註冊銀行之財產或該註冊銀行有任何贖回權益之財產，行使管有權、出售或指派接管人；
 - (e) 依對該註冊銀行財產之任何抵押權、債務、政府債券、票據或其他有價證券，行使或續行任何權力或權利；
 - (f) 依任何產權保留條款、分期付款合約、抵押、租賃或擔保，主張或求償該註冊銀行持有之財產；
 - (g) 依任何租賃，對該註冊銀行確定或喪失任何租賃權、取回或再進入任何場所，或行使或續行任何權力或權利；
 - (h) 對該註冊銀行行使任何抵銷權。
- (2) 儘管有第(1)項之規定，如已先取得法定監管人或高等法院之核准，為決定是否存在任何權利或責任之目的，得對註冊銀行開始或續行訴訟或法律程序。
- (3) 儘管有第(1)項之規定，對於任何債權人或任何種類債權人之任何請求權或持有之擔保，法定監管人得放棄對該債權人或該類債權人適用該項之全部或部分規定（第(c)款除外）。
- (4) 在本法之規定下，第(1)項之規定不影響存在於任何註冊銀行財產之任何擔保或對其他債務之優先順位。
- (5) 第(1)項第(a)款、第(b)款及第(d)款至第(h)款之規定，並未限制或禁止任何人士得依註冊銀行經宣布受法定監管拘束之日期與時間之後簽訂之契據、文書、信託或契約所承擔之債務或所授與之權利，採取該等款項明定之任何行動。

(6) [Repealed]

(7) In the case of a netting agreement to which sections 310A to 310O of the Companies Act 1993 or sections 255 to 263 of the Insolvency Act 2006 apply,—

- (a) nothing in subsection (1)(h) applies to any right of set-off provided for in the netting agreement; and
- (b) nothing in subsection (1) limits or prevents the exercise of any of the following rights under the netting agreement:

- (i) the termination, in accordance with the netting agreement, of all or any transactions that are subject to the netting agreement by reason of the occurrence of an event specified in the netting agreement, being an event (including the appointment of a statutory manager) occurring not later than the commencement of statutory management; or
- (ii) the taking of an account, in accordance with the netting agreement, of all money due between the parties to the netting agreement in respect of transactions affected by the termination; and

- (c) nothing in subsection (1) limits or prevents the exercise of any right referred to in paragraphs (d) to (f) of that subsection in respect of any property of that registered bank to the extent that the right is exercised to enforce, or to assist in enforcing, the due performance, by that registered bank, of obligations entered into by that registered bank under a recognised multilateral netting agreement (within the meaning of section 310A of the Companies Act 1993).

(8) In the case of netting under the rules of a designated settlement system,—

- (a) nothing in subsection (1) limits or prevents the exercise of any rights relating to the calculation of a netted balance under those rules; and
- (b) nothing in subsection (1) limits or prevents the exercise of any right referred to in paragraphs (d) to (f) of that subsection in respect of any property of that registered bank if the right that is exercised—
 - (i) is provided under the rules of the designated settlement system; and
 - (ii) has been granted to secure, or to assist in securing, the due performance, by that registered bank, of obligations entered into by that registered bank under those rules.

(9) For the purpose of subsection (8), netted balance and netting have the meanings set out in section 156L.

(10) Subsection (1) is subject to section 139J (1) to (3).

(6) [刪除]

(7) 如淨額結算合約適用 1993 年公司法第 310A 條至第 310O 條或 2006 年破產法第 255 條至第 263 條之規定—

- (a) 第(1)項第(h)款之規定不適用於淨額結算合約所規定之抵銷權；及

- (b) 第(1)項之規定並未限制或禁止依淨額結算合約存在之任何下列權利：

- (i) 對於因發生淨額結算合約明定之事件，且該事件之發生係在法定監管開始之前，得依淨額結算合約終止受到該淨額結算合約拘束之所有或任何交易；或

- (ii) 得依淨額結算合約，考慮淨額結算合約當事人之間受到終止影響之交易積欠之所有金錢；及

- (c) 第(1)項之規定並未限制或禁止行使該項第(d)款至第(f)款所提及有關該註冊銀行之任何財產之任何權利，但限於該權利之行使係為迫使或協助迫使該註冊銀行適當履行該註冊銀行依所承認多邊淨額結算合約（定義與 1993 年公司法第 310A 條相同）訂立之義務。

(8) 如係依指定結算系統規則之淨額結算—

- (a) 第(1)項之規定並未限制或禁止行使該規則所定有關淨餘額計算之權利；及

- (b) 第(1)項之規定並未限制或禁止行使該項第(d)款至第(f)款所提及有關該註冊銀行任何財產之任何權利，但必須該權利之行使—

- (i) 係明定於指定結算系統規則；及

- (ii) 係為確保或協助確保該註冊銀行適當履行該註冊銀行依該規則簽訂之義務。

(9) 為第(8)項之目的，淨餘額與淨額結算之定義，明定於第 156L 條。

(10) 第(1)項之規定受到第 139J 條第(1)項至第(3)規定之拘束。

123 Statutory manager may incorporate company under Companies Act 1993 to acquire business of branch of foreign institution

- (1) Where a registered bank, which is a branch of a body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand, is declared to be subject to statutory management, the statutory manager may—
 - (a) form and register a body corporate under the Companies Act 1993 or any other Act;
 - (b) subscribe for or acquire, as trustee for that body corporate or unincorporated body, as the case may be, all or any of the shares of the body corporate;
 - (c) allot or issue all or any of the shares in that body corporate as fully or partly paid, as the case may be, up to the value, after deducting the value of any liabilities vested, of any property, rights, and assets vested in that body corporate pursuant to subsection (2).
- (2) The Governor-General may, by Order in Council, on the advice of the Minister, given in accordance with a recommendation of the Bank, declare that the whole or any part of any property, rights, assets, and liabilities of any such branch relating to the business carried on by that branch shall vest in that body corporate on a date specified in the order and the property, rights, assets, and liabilities shall vest in that body corporate on the date specified.
- (3) Nothing in subsection (2) shall reduce, extinguish, or affect any obligation or liability of a body corporate incorporated outside New Zealand or, as the case may be, an unincorporated body having its head office or principal place of business outside New Zealand.
- (4) Every body corporate formed and registered under subsection (1) shall, for the purposes of this Part, be deemed to be a registered bank subject to statutory management as if that body corporate had been declared to be subject to statutory management pursuant to section 117, and the statutory manager of it, in its capacity as a branch, shall be the statutory manager of that body corporate as if that statutory manager had been appointed pursuant to that section and the provisions of this Part shall apply accordingly.

124 Vesting of property subject to security

- (1) An order may be made under section 123 vesting any property, rights, and assets of a branch in a body corporate formed and registered pursuant to that section notwithstanding the existence, or the terms and conditions, of any security over that property, or those rights or assets, in favour of any other person.

第 123 條 法定監管人得依 1993 年公司法設立公司，以取得外國機構分公司之業務

- (1) 註冊銀行係於紐西蘭境外設立法人團體之分公司，或（視情況而定）係總部或主要營業所位於紐西蘭境外之任何非法人團體，則當該註冊銀行被宣布受到法定監管拘束時，法定監管人得—
 - (a) 依 1993 年公司法或任何其他法律設立及登記 1 家法人團體；
 - (b) 以該法人團體或非法人團體之受託人身分，認購或取得（視情況而定）該法人團體之所有或任何股份；
 - (c) 分配或發行該法人團體之所有或任何全額付清或部分付清股份（視情況而定），且不得超過扣除依第(2)項歸屬於該法人團體之任何負債之價值及歸屬於該法人團體之任何財產、權利與資產之價值。
- (2) 總督得就部長依本行建議所為之意見，以樞密院令宣布與任何該分公司所進行業務相關之任何該分公司之任何財產、權利、資產與負債之全部或任何部分，應於該命令指定之日期歸屬於該分公司，且財產、權利、資產與負債應於該指定日期歸屬於該法人團體。
- (3) 第(2)項之規定並未減少、消滅或影響於紐西蘭境外設立之法人團體，或視情況而定，總部或主要營業所位於紐西蘭境外之任何非法人團體之任何債務或負債。
- (4) 就本章目的而言，依第(1)項規定設立並登記之法人團體，應被視為受到法定監管拘束之註冊銀行，就如同已依第 117 條宣布該法人團體受到法定監管拘束；且就其分公司之地位而言，其法定監管人應為該法人團體之法定監管人，就如同已依該條指派法定監管人，並因此適用本章之規定。

第 124 條 受擔保財產之歸屬

- (1) 依第 123 條之規定，得作成將分公司之任何財產、權利與資產歸屬於依該條所設立並登記之法人團體之命令，即使該財產或該等權利或資產存在有利於任何其他人士之任何擔保條款與條件。

- (2) Any property, rights or assets which are declared to vest pursuant to an order made under that section in the body corporate, being property, rights or assets subject to a security in favour of any other person, shall continue to be subject to that security.

125 Proof of vesting

- (1) No Registrar of Deeds, or District Land Registrar, or any other person charged with the keeping of any books or registers, shall be obliged solely by reason of section 123 to change the name of any body corporate or unincorporated body referred to in that section to that of any company formed and registered pursuant to that section in those books or registers or in any document.
- (2) The presentation to any Registrar or other person of any instrument, whether or not comprising an instrument of transfer, by the company—
- executed or purporting to be executed by the company; and
 - relating to any property held before the date specified in an Order in Council made pursuant to that section by that body corporate or unincorporated body; and
 - containing a recital that the property has become vested in the company, by virtue of the provisions of that section—
- shall, in the absence of evidence to the contrary, be sufficient proof that the property is vested in the company.

126 Prohibition against removal of assets

- (1) Except with the consent of the statutory manager, no person shall transfer or remove from New Zealand any property or assets of a registered bank which is declared to be subject to statutory management.
- (2) A person commits an offence if the person contravenes subsection (1).
- (2A) The penalty for an offence against this section is set out in section 156AC.
- (3) Nothing in subsection (2) shall prevent the issue of an injunction or the making of any order to prevent any property or assets being removed from New Zealand.
- (4) Subsection (1) is subject to section 139J (1) to (3).

127 Statutory manager may suspend payment of money owing

- (1) The statutory manager of a registered bank may, despite the terms of any contract,—

- (2) 依該條文作成之命令，使歸屬於該法人團體之任何財產、權利與資產，受到有利於任何其他人士之擔保拘束時，仍應繼續受該擔保拘束。

第 125 條 歸屬之證明

- (1) 契約之登記員、地區土地登記員或任何其他負責保管任何簿冊或登記簿之任何其他人士，並無僅因第 123 條之理由而有義務於該等簿冊、登記簿或任何文件，將該條所指之任何法人團體或非法人團體名稱變更為依該條所設立及登記之任何公司名稱。
- (2) 公司向任何登記員或其他人士提出之任何下列文書，無論是否包含轉讓文書，在無任何反證之情況下，應足以證明該財產歸屬於該公司—
- 係由該公司簽署或擬簽署之文書；及
 - 係與該法人團體或非法人團體於依本條作成之樞密院令所指定之日期前持有任何財產相關之文書；及
 - 包含逐一系列因本條規定已歸屬於該公司財產之文書。

第 126 條 資產移除之禁止

- (1) 除非經法定監管人同意，任何人士不得自紐西蘭移轉或移除被宣布受法定監管拘束之註冊銀行之任何財產或資產。
- (2) 任何人士違反第(1)項規定，該人士即屬犯罪。
- (2A) 違反本條規定之處罰，明定於第 156AC 條。
- (3) 第(2)項之規定並未禁止核發禁制令，或作成禁止自紐西蘭移轉或移除任何財產或資產之命令。
- (4) 第(1)項之規定，受第 139J 條第(1)項至第(3)項規定之拘束。

第 127 條 法定監管人得暫停債款之支付

- (1) 儘管已訂有契約條款，註冊銀行之法定監管人得—

- (a) suspend in whole or in part the repayment of any deposit, or the payment of any debt, or the discharge of any obligation, to any person; and
- (b) cancel the obligation to provide funding to any person.
- (2) A suspension or cancellation by a statutory manager under subsection (1) does not constitute a breach or repudiation of any contract entered into by the registered bank with any person.
- (3) Nothing in subsection (1) shall authorise the suspension by the statutory manager of the repayment of any deposit, or the payment of any debt, or the discharge of any obligation, or the cancellation by the statutory manager of any obligation to provide funding, to any person where the obligation to repay the deposit, or to pay the debt, or the obligation, was incurred by the registered bank, or by the statutory manager, after the date upon which, and the time at which, the registered bank became subject to statutory management.
- (4) Nothing in subsection (1) authorises the suspension by the statutory manager of the payment of any amount that would be included in the calculation of a netted balance in accordance with section 310C of the Companies Act 1993 or section 257 of the Insolvency Act 2006 or section 156R, as the case may be. However, subsection (1) applies to the payment of the netted balance.
- (5) Subsection (1) is subject to section 139J (1) to (3).

128 Management of registered bank to vest in statutory manager

- (1) Subject to this Part, where a registered bank is declared to be subject to statutory management, the management of that registered bank shall, on and after the date, and at and from the time, specified in the order, vest in the statutory manager.
- (2) Where a registered bank is declared to be subject to statutory management, it shall not be lawful or competent for any director, manager, or other person to be engaged in the management or conduct of its business, or to act as an officer or as the agent, or servant, of the registered bank, except with the permission of the statutory manager and so far as that permission extends.
- (3) Subsection (2) is subject to section 139J (1) to (3).

129 Powers of statutory manager

- (1) Subject to this Part, a statutory manager shall have all such powers, rights, and authorities as may be necessary for the purposes of this Part.
- (2) Without limiting subsection (1), a statutory manager has, and may exercise,—
 - (a) all the powers, rights, and privileges that the registered bank has under any contract or otherwise:

- (a) 全部或部分暫停對任何人士償還任何存款、支付任何債務或履行任何義務；及
- (b) 取消提供資金予任何人士之義務。
- (2) 法定監管人依第(1)項所為之暫停或取消，不構成違反或拒絕履行註冊銀行與任何人士所簽訂之任何契約。
- (3) 對於註冊銀行或法定監管人於註冊銀行成為受法定監管拘束之日以後所承擔之償還任何存款、支付任何債務或履行任何義務之義務，第(1)項之規定並未授權法定監管人得暫停償還該存款、支付該債務或履行該義務。
- (4) 第(1)項之規定並未授權法定監管人得暫停支付依 1993 年公司法第 310C 條或 2006 年破產法第 257 條或第 156R 條之規定（視情況而定）予以納入計算淨餘額之任何款項。
- (5) 第(1)項之規定，受第 139J 條第(1)項至第(3)項規定之拘束。

第 128 條 註冊銀行之管理歸屬於法定監管人

- (1) 在本章之規定下，當註冊銀行被宣布受法定監管拘束時，該註冊銀行之管理自該命令指定日期起或自指定時間起，應歸屬於法定監管人。
- (2) 註冊銀行被宣布受到法定監管拘束時，除非經法定監管人許可且於該許可所及範圍內，任何董事、經理人或其他人士無法合法或沒有資格從事管理或進行其業務，或擔任該註冊銀行之職員或擔任代理人或雇員。
- (3) 第(2)項之規定，受第 139J 條第(1)項至第(3)項規定之拘束。

第 129 條 法定監管人之權力

- (1) 在本章之規定下，法定監管人應具有就本章目的所需之所有權力、權利與權限。
- (2) 在第(1)項之規定下，法定監管人具有並得行使—
 - (a) 註冊銀行依任何契約或其他情況所具有之所有權力、權利與特權；

- (b) in the case of a body corporate, all the powers of the members in general meeting and the board of directors of that body corporate;
 - (c) in the case of a partnership, all the powers exercisable by a partner or partners.
- (3) Without limiting subsection (1), a statutory manager has, and may exercise, all of the powers conferred on a liquidator of a company by section 269 of the Companies Act 1993 in the same manner as if the statutory manager was the liquidator of a company in liquidation under that Act, and all the provisions of that section shall apply in respect of the disclaimer of any property of the registered bank as if that property was property of a company to which that section applied.

130 Statutory manager empowered to carry on business of registered bank

Subject to this Part, a statutory manager of a registered bank may carry on all or any part of the business of the registered bank and has, and may exercise, in relation to the registered bank, all such powers, rights, and authorities as may be necessary to carry on that business.

131 Statutory manager may pay creditors and compromise claims

Subject to this Part, a statutory manager of a registered bank shall, for the purposes of carrying on the business of the registered bank, have power to—

- (a) pay, in whole or in part, any creditor or class of creditors of the registered bank;
- (b) make any compromise or arrangement with any creditor, or person claiming to be a creditor, of the registered bank;
- (c) compromise all calls, debts and claims subsisting, or supposed to subsist, between the registered bank and any other person, and all questions relating to the assets of the registered bank, and give a complete or partial discharge.

132 Sale of registered bank

- (1) Subject to this Part, the statutory manager of a registered bank may sell or otherwise dispose of the whole or any part of the business undertaking of the registered bank to such person and upon such terms and conditions as the statutory manager thinks fit.
- (2) Without limiting any other powers of the statutory manager, for the purposes of subsection (1), the statutory manager shall have power to—

- (b) 如係法人團體，該法人團體大會及董事會成員之權力；

- (c) 如係合夥，合夥人得行使之所有權力。

- (3) 在第(1)項之規定下，法定監管人具有並得行使依 1993 年公司法第 269 條賦與公司清算人之所有權力，就如同法定監管人係該法所定清算公司之清算人；且該條之所有規定應適用於註冊銀行之任何財產之棄權，就如同該財產係適用該條所定公司之財產。

第 130 條 法定監管人有權經營註冊銀行業務

在本章之規定下，註冊銀行之法定監管人得經營該註冊銀行之全部或任何部分業務，且具有並得行使與該註冊銀行相關及經營業務所需之所有權力、權利與權限。

第 131 條 法定監管人得對債權人給付及請求和解

在本章之規定下，註冊銀行之法定監管人為經營該註冊銀行業務之目的，應有權力—

- (a) 全部或部分給付該註冊銀行之任何債權人或任何種類債權人；
- (b) 與該註冊銀行之債權人或主張為債權人之任何人士作成任何和解或協議；
- (c) 得與所有存在或應該存在於該註冊銀行與任何其他人士之間之催繳、債務與請求權之和解。

第 132 條 註冊銀行之出售

- (1) 在本章之規定下，註冊銀行之法定監管人得依法定監管人認為適合之條款與條件，將註冊銀行業務經營之全部或任何部分出售或處分予法定監管人認為適合之人士。
- (2) 在未限制法定監管人之任何其他權力情況下，為第(1)項之目的，法定監管人應有權力—

- (a) form and register a body corporate under the Companies Act 1993 or any other Act;
 - (b) subscribe for or acquire all or any of the shares of that body corporate;
 - (c) transfer to that body corporate the whole or any part of the business undertaking of the registered bank;
 - (d) allot or issue all or any of the shares in that body corporate to any person, credited as fully or partly paid, as the case may be, up to the value of the business undertaking transferred to that body corporate;
 - (e) sell all or any of the shares, or the whole or any part of the business undertaking, of that body corporate to such person and upon such terms and conditions as the statutory manager thinks fit.
- (3) The statutory manager shall not sell or otherwise dispose of—
- (a) the whole or any substantial part of the business undertaking of a registered bank pursuant to subsection (1);
 - (b) any of the shares of any body corporate formed and registered pursuant to subsection (2)(a);
 - (c) the whole or any substantial part of the business undertaking of any body corporate formed and registered pursuant to subsection (2)(a),—
- unless the statutory manager has consulted with the Bank and the Bank, with the consent of the Minister, has given approval in writing to the sale or other disposition and the terms and conditions of it.

133 Consents not required under other Acts

The provisions of any enactment or agreement requiring any consent, licence, permission, clearance or other authority shall not have any application in respect of—

- (a) the sale or other disposition of the whole or any part of the business undertaking of a registered bank pursuant to section 132 (1);
 - (b) the sale or other disposition pursuant to section 132 (2)(e) of any of the shares of any body corporate formed and registered pursuant to subsection (2)(a) of that section;
 - (c) the sale or other disposition pursuant to section 132 (2)(e) of the whole or any part of the business undertaking of that body corporate—
- being a sale or disposition to which the Bank has, with the consent of the Minister, given its approval under section 132(3).

- (a) 依 1993 年公司或任何其他法律設立並登記一家法人團體；
 - (b) 認購或取得該法人團體之所有或任何股份；
 - (c) 將註冊銀行業務經營之全部或任何部分移轉予該法人團體；
 - (d) 將該法人團體貸記為全額或部分付清（視情況而定），且不超過移轉予該法人團體之業務經營價值之股份之全部或任何部分，分派或發行予任何人士；
 - (e) 將該法人團體之全部或任何股份、業務經營之全部或任何部分，依法定監管人認為適合之條款與條件出售予法定監管人認為適合之人士。
- (3) 除非法定監管人已洽商本行，且本行業經部長同意以書面核准該出售或處分及其條款與條件，否則法定監管人不得—
- (a) 依第(1)項之規定出售或處分註冊銀行之業務經營之全部或任何實質部分；
 - (b) 出售或處分依第(2)項第(a)款規定所設立及登記之任何法人團體之任何股份；
 - (c) 出售或處分依第(2)項第(a)款規定所設立及登記之任何法人團體之業務經營之全部或任何實質部分。

第 133 條 其他法律未規定之同意

任何立法或合約有關要求任何同意、授權、許可、批准或其他權限之條文，不適用於本行依第 132 條第(3)項規定，並經部長同意核准之下列出售或處分—

- (a) 依第 132 條第(1)項規定出售或處分註冊銀行之業務經營之全部或任何部分；
- (b) 依第 132 條第(2)項第(e)款規定出售或處分依該條第(2)項第(a)款規定所設立及登記之任何法人團體之任何股份；
- (c) 依第 132 條第(2)項第(e)款規定出售或處分該法人團體之業務經營之全部或任何部分。

134 Sale of property or assets subject to a security

- (1) A statutory manager may—
- (a) sell or otherwise dispose of any property or assets of a registered bank pursuant to section 132 (1); or
 - (b) sell or otherwise dispose of any property or assets of a registered bank to any body corporate formed and registered pursuant to section 132 (2)(a); or
 - (c) sell or otherwise dispose of any shares, or property or assets, of a body corporate formed and registered pursuant to section 132 (2)(a)—notwithstanding the existence, or the terms and conditions, of any security over the property or those assets in favour of any other person.
- (2) If the statutory manager of a registered bank sells or otherwise disposes of any property or assets of that bank under section 132 (1), being property or assets subject to a security interest, other than a security interest of the kind described in subsection (6), the person entitled to the security interest must be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the property or assets.
- (3) Where a statutory manager of a registered bank sells or otherwise disposes of any property or assets of that registered bank to any body corporate formed and registered pursuant to section 132 (2)(a), being property or assets subject to a security in favour of any other person, the property or those assets shall continue to be subject to that security.
- (4) If a statutory manager of a registered bank sells or otherwise disposes of any shares in a body corporate formed and registered under section 132 (2)(a), any property or assets of which are subject to a security interest, other than a security interest of the kind described in subsection (6), the person entitled to the security interest must be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the shares.
- (5) If a statutory manager of a registered bank sells or otherwise disposes of any property or assets of a body corporate formed and registered under section 132 (2)(a), being property or assets subject to security interest, other than a security interest of the kind described in subsection (6), the person entitled to the security interest must be paid out of the proceeds of sale or other disposition in priority to all other claims other than the costs of the statutory manager in selling or disposing of the property or assets.

第 134 條 受擔保拘束之財產或資產之出售

- (1) 儘管下列財產或資產存在有利於任何其他人士之條款與約款或任何擔保，法定監管人得—
- (a) 依第 132 條第(1)項規定出售或處分註冊銀行之任何財產或資產；或
 - (b) 將註冊銀行之任何財產或資產出售或處分予依第 132 條第(2)項第(a)款規定所設立及登記之任何法人團體；或
 - (c) 出售或處分依第 132 條第(2)項第(a)款規定所設立及登記之任何法人團體之任何股份、財產或資產。
- (2) 如註冊銀行之法定監管人依第 132 條第(1)項規定出售或處分該銀行之任何財產或資產，且該財產或資產受第(6)項所述擔保利益種類以外之擔保利益拘束，則出售或處分之收入必須優先支付予享有擔保利益之人士，再支付予法定監管人出售或處分該財產或資產之費用以外之所有其他請求權。
- (3) 註冊銀行之法定監管人將註冊銀行之任何財產或資產出售或處分予依第 132 條第(2)項第(a)款規定所設立及登記之任何法人團體，且該財產或資產受有利於任何其他人士之擔保拘束時，該財產或資產應繼續受該擔保之拘束。
- (4) 如註冊銀行之法定監管人出售或處分依第 132 條第(2)項第(a)款規定所設立及登記之任何法人團體之任何股份、受第(6)項所述擔保利益種類以外之擔保利益拘束之任何財產或資產，則出售或處分之收入必須優先支付予享有擔保利益之人士，再支付予法定監管人出售或處分該財產或資產之費用以外之所有其他請求權。
- (5) 如註冊銀行之法定監管人出售或處分依第 132 條第(2)項第(a)款所設立及登記之任何法人團體之任何財產或資產，且該財產或資產受第(6)項所述擔保利益種類以外之擔保利益拘束，則出售或處分之收入必須優先支付予享有擔保利益之人士，再支付予法定監管人出售或處分該財產或資產之費用以外之所有其他請求權。

- (6) The kind of security interest referred to in this section is a security interest that—
- (a) is over all or any part of the bank's or body corporate's (as the case may be) accounts receivable and inventory or all or any part of either of them; and
 - (b) is not a purchase money security interest that has been perfected at the time specified in section 74 of the Personal Property Securities Act 1999; and
 - (c) is not a security interest that has been perfected under the Personal Property Securities Act 1999 at the time the registered bank was declared to be subject to statutory management and that arises from the transfer of an account receivable for which new value is provided by the transferee for the acquisition of that account receivable (whether or not the transfer of the account receivable secures payment or performance of an obligation).
- (7) In this section, **account receivable**, **inventory**, **new value**, **purchase money security interest**, **proceeds**, and **security interest** have the same meanings as in the Personal Property Securities Act 1999.

135 Proof of transactions

- (1) The presentation to any Registrar of Deeds, or District Land Registrar, or any other person charged with the keeping of any books or registers, of any instrument transferring or otherwise disposing of any property or assets of a registered bank or any shares in, or property or assets of, any company incorporated pursuant to section 132 (2)(a)—
- (a) executed or purporting to be executed by or on behalf of the registered bank or company; and
 - (b) containing a recital that the transfer or other disposition of the property or assets of the registered bank, or the shares in, or property or assets of, the company, is made pursuant to section 132—
- shall, in the absence of evidence to the contrary, be sufficient proof that the transfer or other disposition is made under the authority of that section.
- (2) The presentation to any Registrar of Deeds, or District Land Registrar, or any other person charged with the keeping of any books or registers of a certificate signed by the statutory manager that the amount secured by a charge over any property or assets of a registered bank or any company formed and registered pursuant to section 132 (2)(a) has been paid shall, in the absence of evidence to the contrary, be sufficient proof that the amount secured by the charge has been repaid.

- (6) 本條所指之擔保利益種類，係指下列擔保利益—
- (a) 針對該銀行或法人團體（視情況而定）之應收帳款與庫存之全部或任何部分，或兩者中任一之全部或任何部分；及
 - (b) 未於 1999 年動產擔保法第 74 條指定時間實行之採購款擔保利益；及
 - (c) 非註冊銀行被宣告受法定監管時已依 1999 年動產擔保法實行，且應收帳款受讓人取得應收帳款時已提供新價值之應收帳款轉讓（無論應收帳款轉讓是否取得支付款項或義務履行）所產生之擔保利益。
- (7) 本條所指之應收帳款、存貨、新價值、採購款擔保利益、收入、與擔保利益之定義，與 1999 年動產擔保法之定義相同。

第 135 條 交易之證明

- (1) 向任何契據之登記員、地區土地登記員或任何其他負責保管任何簿冊或登記簿之任何其他人士，提示任何轉讓或處分註冊銀行之任何財產或資產，或依第 132 條第(2)項第(a)款規定所成立之任何公司之任何股份、財產或資產之文書，且依下列規定者，在無反證之情況下，應足以證明係依本條之權限作成之轉讓或處分—
- (a) 由註冊銀行或公司簽署或代表其簽署；及
 - (b) 含有依第 132 條之規定轉讓或處分註冊銀行之財產或資產或該公司之股份、財產或資產之詳述。
- (2) 向任何契據之登記員、地區土地登記員或任何其他負責保管任何簿冊或登記簿之任何其他人士，提示 1 份由法定監管人簽署有關已支付註冊銀行或依第 132 條第(2)項第(a)款規定所設立及登記之任何公司之任何財產或資產上之責任所擔保之款項之證明書者，在無反證之情況下，應足以證明已償付該責任所擔保之款項。

136 Liquidation of registered banks

- (1) Subject to this Part, a statutory manager of a registered bank may, with the prior approval of the Bank,—
 - (a) in the case of a registered bank which may be put into liquidation under the Companies Act 1993, apply under that Act to put the registered bank into liquidation;
 - (b) in the case of a registered bank which is an individual, petition under the Insolvency Act 2006 to have that registered bank declared bankrupt;
 - (c) in the case of a registered bank constituted under any other Act, take such steps as are provided for in that Act for the winding up, liquidation, or dissolution of that registered bank.
- (2) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of a statutory manager of a registered bank, not being a registered bank referred to in subsection (1), order that the registered bank to which the recommendation relates shall be wound up in such manner as may be specified in the order and, in any such case, the registered bank shall be wound up in the manner specified.
- (3) A statutory manager shall not make a recommendation under subsection (2) without the prior approval of the Bank.
- (4) Nothing in this section limits or affects any other enactment which provides for the winding up, liquidation, or dissolution of any body corporate or any class of body corporate.

137 Provisions applying where liabilities included in sale

- (1) Where all or any part of any liability of a registered bank is included in the sale or other disposition of the business undertaking of that registered bank, or any part of it, pursuant to section 132—
 - (a) the registered bank shall, as from the date of such sale or other disposition, be relieved from all its obligations in respect of that liability, or part of it; and
 - (b) the person entitled to performance in respect of that liability shall be entitled to enforce performance of that liability or part of it against the person to whom the business undertaking is sold or otherwise disposed of in the same manner and to the same extent as that person was entitled to enforce performance against the registered bank; and
 - (c) the inclusion of part of a liability shall not relieve the registered bank from any obligation in respect of any part of the liability not included in the sale or other disposition.

第 136 條 註冊銀行之清算

- (1) 在本章之規定下，註冊銀行之法定監管人經本行事前核准者—
 - (a) 如係依 1993 年公司法規定可能進入清算之註冊銀行，得適用該法使註冊銀行進入清算；
 - (b) 如註冊銀行係個人，得依 2006 年破產法聲請使註冊銀行宣告破產；
 - (c) 如註冊銀行係依任何其他法律組成，得採取各該法律就註冊銀行之結束營業、清算或解散所規定之步驟。
- (2) 總督得就部長依第(1)項所指註冊銀行以外之註冊銀行法定監管人所提建議之意見，以樞密院令命令與該建議相關之註冊銀行應以該命令指定之方式結束營業；此時，該註冊銀行應依該指定方式結束營業。
- (3) 未經本行事前核准，法定監管人不得作成第(2)項之建議。
- (4) 本條並未限制或影響任何其他規範任何法人團體或任何種類法人團體結束營業、清算或解散之立法。

第 137 條 適用於被納入出售之負債之規定

- (1) 當註冊銀行之任何負債之全部或任何部分被納入依第 132 條規定出售或處分該註冊銀行之業務經營或其任何部分時—
 - (a) 該註冊銀行應自出售或處分之日起，免除有關該負債或該部分負債之全部義務；及
 - (b) 對該負債之履行享有權利之人士，應有權強迫該業務經營之出售或處分對象以相同方式且在該人士對註冊銀行之負債履行享有權利之相同範圍內，履行該負債或該部分負債；及
 - (c) 將部分負債納入，並未免除註冊銀行就被未納入出售或處分之任何部分負債所應負擔之任何義務。

- (2) Where all or any part of any liability of a body corporate formed and registered under section 123 (1), or all or any part of any liability relating to the business carried on by a branch of any body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand, is included in such a sale or other disposition, nothing in subsection (1)(a) shall relieve any body corporate incorporated outside New Zealand or, as the case may be, any unincorporated body having its head office or principal place of business outside New Zealand from any obligation in respect of that liability.

138 Power to trace property improperly disposed of

- (1) In any case where, whether before or after the passing of this Act,—
- (a) any property has been acquired by a person in circumstances which cause it to be just and equitable that that person should hold it upon trust for any registered bank that has been declared to be subject to statutory management; or
 - (b) any property has been improperly disposed of, whether or not the property has become subject to a trust,—
- the court may, if it thinks fit, make an order—
- (c) that the property be transferred or delivered to the statutory manager;
 - (d) that any person who acquired or received the property, or his or her administrator, shall pay to the statutory manager a sum not exceeding the value of that property.
- (2) For the purpose of giving effect to any such order, the court may make such further order as it thinks fit.
- (3) No order made pursuant to this section shall deprive any other person of any estate or interest in the property if the estate or interest was acquired in good faith and for valuable consideration.
- (4) Nothing in this section restricts the operation of the Companies Act 1993.

139 Application of certain provisions of Companies Act 1993

- (1) Sections 275, 292 to 301, 310G, 310I, and 312 of the Companies Act 1993 shall apply to a registered bank that is subject to statutory management under this Act in all respects, and with such modifications as may be necessary, as if—

- (2) 依第 123 條第(1)項規定所設立及登記之法人團體之任何負債之全部或任何部分，或於紐西蘭境外設立之任何法人團體之分支機構、（視情況而定）主營業所或主要營業地點位於紐西蘭境外之任何非法人團體所經營業務相關之任何負債之全部或任何部分，被納入該出售或處分時，第(1)項第(a)款之規定並未免除於紐西蘭境外設立之任何法人團體、（視情況而定）主營業所或主要營業地點位於紐西蘭境外之任何非法人團體就該負債所應負擔之任何義務。

第 138 條 追查不當處分財產之權力

- (1) 無論在本法通過之前或之後—
- (a) 當某人士在公正與衡平情況下取得任何財產，該人士應視係為被宣布受法定監管拘束之註冊銀行信託而持有該財產；或
 - (b) 當任何財產已被不當處分時，無論該財產是否已成為受該信託拘束—
- 法院認為適合時得作成下列命令—
- (c) 該財產移轉或交付予法定監管人；
 - (d) 取得或收受該財產之人士或其行政管理人，應支付法定監管人一筆不超過該財產價值之款項。
- (2) 為使該命令生效之目的，法院認為適合時得為進一步之命令。
- (3) 如係善意且有對價取得該財產之任何產權或權益，則依本條作成之命令不應剝奪任何人士對該財產之產權或權益。
- (4) 本條之規定並未限制 1993 年公司法之適用。

第 139 條 1993 年公司法特定條款之適用

- (1) 1993 年公司法第 275 條、第 292 條至第 301 條、第 310G 條、第 310I 條及第 312 條與可能之必要修正規定，在各方面應適用於受本法所定法定監管拘束之註冊銀行，就如同—

- (a) the registered bank was a company in liquidation under that Act; and
 - (b) the statutory manager of the registered bank was the liquidator of the company; and
 - (c) the date on which, and the time at which, the registered bank became subject to statutory management was the date on which, and the time at which, the liquidation commenced.
- (2) Nothing in section 263 of the Companies Act 1993 shall apply to a registered bank by virtue of the application of section 312 of that Act.
- (3) To avoid doubt, the reference in section 275 (4) of the Companies Act 1993 to clause 1(a) of Schedule 7 of the Companies Act 1993 must be read as a reference to section 148 (1) of this Act.

Interpretation relating to covered bonds

139A Interpretation

In this section and in sections 139B to 139J, unless the context otherwise requires,—

cover pool, in relation to a covered bond programme, means assets that—

- (a) are owned by the relevant covered bond SPV; and
 - (b) secure the obligations of that SPV under the covered bond programme
- cover pool monitor** means a person that meets the requirements of section 139I (1)

covered bond means a bond, note, or other debt security that has the following features:

- (a) it represents an unsecured obligation of the issuer; and
- (b) the principal and interest owing under the bond, note, or other debt security are guaranteed by a covered bond SPV; and
- (c) the obligations under that guarantee are secured by assets that are owned by that SPV

covered bond programme means any programme of covered bonds under which, on the security of a single cover pool, covered bonds may be issued

covered bond SPV has the meaning given to it by section 139B

issuer has the meaning given to it by section 139C

own includes holding a beneficial, or legal, interest or entitlement, and **owned** and **owner** have corresponding meanings

registered covered bond programme means a covered bond programme that has been registered under section 139G

SPV means a special purpose vehicle.

- (a) 該註冊銀行係該法清算之公司；及
- (b) 註冊銀行之法定監管人係該公司之清算人；及
- (c) 註冊銀行成為受到法定監管拘束之日期及時間，即為清算開始之日期及時間。

(2) 1993 年公司法第 263 條之規定，不應藉由該法第 312 條之適用而適用於註冊銀行。

(3) 為避免疑義，1993 年公司法第 275 條第(4)項所述 1993 年公司法之附表 7 第 1(a)條，應解讀為係指該法第 148 條第(1)項。

有關擔保債券之解釋

第 139A 條 解釋

除另有規定外，於本條及第 139B 條至第 139J 條之—

資產池，就擔保債券方案而言，係指下列資產—

- (a) 相關擔保債券 SPV 擁有之資產；及
- (b) 依擔保債券方案，擔保該 SPV 債務之資產。

資產池監控者係指符合第 139I 條第(1)項規定之人士。

擔保債券係指有下列特徵之債券、票據或其他債務證券：

- (a) 其代表發行人之無擔保債務；及
- (b) 依債券、票據或其他債務證券所積欠並由擔保債券 SPV 保證之本金與利息；及

(c) 所保證之債務係由該 SPV 所擁有之資產予以擔保。

擔保債券方案係指可能發行單一資產池、擔保債券之有價證券之任何擔保債券方案。

擔保債券 SPV之定義見第 139B 條。

發行人之定義見第 139C 條。

所有包括得持有受益或法律上利益或權利之資格，且**所有的**及**所有權人**具相對應之定義。

註冊擔保債券方案係指已依第 139G 條註冊之擔保債券方案。

SPV係指特殊目的機構。

139B Meaning of covered bond SPV

In sections 139A to 139J, **covered bond SPV** means, in relation to a covered bond programme, a person that—

- (a) is, or will be, the owner of an asset that has been, or will be, sold, assigned, or otherwise transferred to it by, or on behalf of, an issuer or an associated person of an issuer; and
- (b) has granted, or may grant, a security interest in that asset for the benefit of the secured creditors under the covered bond programme; and
- (c) carries on a business of acting as covered bond guarantor under the covered bond programme (including any business incidental to that purpose); and
- (d) (other than as described in paragraph (c)) does not carry on any other kind of business.

139C Meaning of issuer

(1) For the purposes of sections 139A to 139J, **issuer**—

- (a) means—
 - (i) a registered bank that issues or intends to issue covered bonds, or guarantees such covered bonds;
 - (ii) an entity, or a member of a class of entities, specified in regulations made under section 139F (3)(a) that issues or intends to issue covered bonds, or guarantees such covered bonds; and
- (b) includes a bank referred to in paragraph (a)(i) that—
 - (i) has had its registration cancelled under section 77; and
 - (ii) has a registered covered bond programme.

(2) However, if an issuer (**issuer A**) transfers all of the rights and obligations relating to a covered bond programme to another issuer (**issuer B**), issuer B is, from the time of the transfer, the issuer for the purposes of sections 139A to 139J.

(3) To avoid doubt, subsection (2) does not affect the rights or obligations of issuer A before the transfer.

*Registration of covered bond programmes***139D Register of registered covered bond programmes**

(1) The Bank must keep a public register of registered covered bond programmes.

第 139B 條 擔保債券 SPV 之定義

於第 139A 條至第 139J 條，就擔保債券方案而言，**擔保債券 SPV** 係指—

- (a) 為或即將成為由或代表發行人或發行人之關聯人士已經或即將出售、讓與或轉讓資產之所有權人；及
- (b) 為擔保債券方案之擔保債權人利益，已經或可能對該資產授予擔保利益之人士；及
- (c) 以擔保債券方案之擔保債券保證人身分經營業務之人士（包括附隨於該目的之任何業務）；及
- (d) （第(c)款所述者除外）未經營任何其他種類業務之人士。

第 139C 條 發行人之定義

(1) 就第 139A 條至第 139J 條目的而言，發行人—

- (a) 係指—
 - (i) 發行或打算發行擔保債券或保證該等擔保債券之註冊銀行；
 - (ii) 依第 139F 條第(3)項第(a)款作成之法規明定發行或打算發行擔保債券或保證該等擔保債券之實體或某類實體之成員；及
- (b) 包含第(a)款第(i)目所指之下列銀行—
 - (i) 已依第 77 條規定取消其註冊；及
 - (ii) 有 1 項註冊擔保債券方案。

(2) 然而，如發行人（**發行人 A**）將與擔保債券方案相關之所有權利與義務轉讓予另一發行人（**發行人 B**），自轉讓時起，發行人 B 係第 139A 條至第 139J 條目的所稱之發行人。

(3) 為避免疑義，第(2)項規定不影響發行人 A 於轉讓前之權利或義務。

*擔保債券方案之註冊***第 139D 條 註冊擔保債券方案之登記簿**

(1) 本行必須保有註冊擔保債券方案之公開登記簿。

(2) The Bank—

- (a) must determine the form and content of the register and may amend that form and content as it considers necessary; and
 - (b) may, based on the assets in, or that may be included in, the relevant cover pool, designate registered covered bond programmes to particular classes of registered covered bond programmes, as specified by the Bank.
- (3) The Bank must take all reasonable steps to ensure that the information contained in the public register is available to members of the public at all reasonable times.
- (4) A registered covered bond programme must remain on the register despite—
- (a) any defects in the registration process; or
 - (b) any failure by an issuer to comply with any of the requirements of section 139H.
- (5) However, despite subsection (4), the Bank may remove a registered covered bond programme from the register—
- (a) if—
 - (i) all obligations under that programme have been fulfilled; or
 - (ii) the security interest over the cover pool has been enforced; or
 - (iii) the issuer has requested the removal; and
 - (b) if, in all cases, the Bank has received evidence, acceptable to the Bank, that both the relevant bond trustee and security trustee consent to the removal.
- (6) To avoid doubt,—
- (a) registration occurs at the time and date that the Bank enters the details relating to the covered bond programme on the register;
 - (b) a defect in the registration process of a covered bond programme does not affect a person's ability to enforce his, her, or its rights in relation to that covered bond programme or any covered bond issued under that covered bond programme;
 - (c) the failure of an issuer to register a covered bond programme or to comply with any requirement under section 139H does not affect any other person's ability to enforce his, her, or its rights in relation to that covered bond programme or any covered bond issued under that covered bond programme.

(2) 本行—

- (a) 必須決定登記簿之格式與內容，並於其認為必要時，得修正該格式與內容；及
 - (b) 依據相關資產池中或可能被納入之資產，得將註冊擔保債券方案指定為本行可能明定之特定種類註冊擔保債券方案。
- (3) 本行必須採取合理步驟，以確保大眾得於所有合理時間取得公開登記簿所涵蓋之資訊。
- (4) 註冊擔保債券方案仍須留存於登記簿，即使—
- (a) 註冊流程有任何瑕疵；或
 - (b) 發行人未遵守第 139H 條之任何規定。
- (5) 然而，儘管有第(4)項之規定，本行得自登記簿移除註冊擔保債券方案—
- (a) 如有—
 - (i) 已履行該方案之所有義務；或
 - (ii) 已實行資產池上之擔保利益；或
 - (iii) 發行人要求移除；及
 - (b) 如在所有情況下，本行已收到相關債券受託人與擔保品受託人均同意移除且本行可得接受之證據。
- (6) 為避免疑義—
- (a) 本行於登記簿登錄有關擔保債券方案細節之日期與時間，為註冊之日期與時間；
 - (b) 擔保債券方案註冊流程之瑕疵，並不影響某位人士得實行其對該擔保債券方案，或對該擔保債券方案所發行之任何擔保債券權利之能力；
 - (c) 發行人未註冊擔保債券方案或未遵守第 139H 條之任何規定，並不影響任何其他人士得實行其對該擔保債券方案，或對該擔保債券方案所發行之任何擔保債券權利之能力。

139E Requirement, and application, for registration of covered bond programme

- (1) Only an issuer may apply to the Bank to register a covered bond programme.
- (2) An application must be—
 - (a) made in the manner specified by the Bank; and
 - (b) accompanied by a fee (if any), as determined by the Bank and approved by the Minister by notice in the *Gazette*.
- (3) The issuer must provide the Bank with any information that the Bank requires to enable it to determine the application.
- (4) An issuer must not issue, or permit the issue of, a covered bond other than under a registered covered bond programme.
- (5) An issuer commits an offence if, without lawful justification or excuse, the issuer—
 - (a) issues a covered bond other than under a registered covered bond programme; or
 - (b) permits the issue of a covered bond other than under a registered covered bond programme; or
 - (c) provides information for the purposes of an application that is false or misleading in any material particular.
- (6) The penalty for an offence against this section is set out in section 156AB.

139F Determination of application for registration of covered bond programme

- (1) The Bank must not register a covered bond programme unless it is satisfied that the requirements set out in subsection (2) are met.
- (2) The requirements are as follows:
 - (a) that the cover pool assets are, or will be, owned by an identified covered bond SPV that—
 - (i) is a company (within the meaning given in section 2 (1) of the Companies Act 1993); or
 - (ii) is a person or partnership specified in regulations made under subsection (3); and
 - (b) that a cover pool monitor has been appointed; and
 - (c) that a register of cover pool assets will be maintained; and
 - (d) that the covered bond programme specifies, or refers to documents that specify, procedures and internal controls that ensure—

第 139E 條 擔保債券方案之註冊規定與申請

- (1) 僅發行人得向本行申請註冊擔保債券方案。
- (2) 申請必須—
 - (a) 依本行明定之方式為之；及
 - (b) 檢附本行決定並經部長核准於政府公報公告之費用（如果有的話）。
- (3) 發行人必須將本行為決定該申請而要求之任何資訊提供予本行。
- (4) 發行人不得發行或許可發行非屬註冊擔保債券方案之擔保債券。
- (5) 發行人如無法律正當性或理由而有下列情形者，發行人即屬犯罪—
 - (a) 發行非屬註冊擔保債券方案之擔保債券；或
 - (b) 許可發行非屬註冊擔保債券方案之擔保債券；或
 - (c) 為申請目的而提供之資訊，有任何重大不實或誤導。
- (6) 違反本條規定之處罰，明定於第 156AB 條。

第 139F 條 擔保債券方案註冊申請之決定

- (1) 除非本行確信擔保債券方案符合第(2)項所列規定，否則本行不得登記該方案。
- (2) 該規定如下：
 - (a) 資產池之資產係由或將由下列已確認擔保債券 SPV 所有一
 - (i) 公司（見 1993 年公司法第 2 條第(1)項之定義）；或
 - (ii) 於依第(3)項規定作成之法規所明定之人士或合夥；及
 - (b) 已指派資產池監控者；及
 - (c) 維護資產池資產之登記簿；及
 - (d) 擔保債券方案或所提交之文件明定可確保下列事項之程序與內部控制—

- (i) the up-to-date and accurate keeping of that register; and
- (ii) that the assets in the cover pool remain consistent with any asset class designation under section 139D (2)(b); and
- (e) that the covered bond programme specifies a test, or tests, to determine, in accordance with any procedures specified in that programme, whether the value of the cover pool assets is at least equal to the principal amount outstanding on the covered bonds; and
- (f) that the covered bond programme provides for the covered bond SPV to perform, or arrange to have performed on its behalf, the requirements of section 139H (1)(a) and (b)(i)—
 - (i) in the event that any amounts become due and payable by the covered bond SPV under the covered bond programme; and
 - (ii) until the security interest over the cover pool assets has been enforced; and
- (g) that the issuer is in compliance with all other requirements imposed in relation to covered bonds by, or under,—
 - (i) section 74; or
 - (ii) regulations made under subsection (3).
- (3) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations—
 - (a) specifying entities, or classes of entities, for the purposes of section 139C (1)(a)(ii);
 - (b) specifying persons or partnerships, or classes of persons or partnerships, for the purposes of subsection (2)(a)(ii);
 - (c) prescribing additional requirements for the purposes of subsection (2)(g)(ii);
 - (d) prescribing conditions in relation to the entities, persons, or partnerships referred to in paragraphs (a) and (b).

139G Bank must approve or decline application

- (1) Having considered an application made under section 139E (2), the Bank must either approve or decline the application.
- (2) If the Bank is satisfied that an issuer meets the requirements of section 139F (2), the Bank must approve the application and register the covered bond programme.
- (3) The Bank must otherwise decline the application.

- (i) 保持該登記簿為最新且正確；及
- (ii) 資產池之資產與第 139D 條第(2)項第(b)款指定之任何資產類別一致；及
- (e) 擔保債券方案明定 1 項或數項測試，俾依照該方案指定之任何程序，認定資產池資產之價值是否至少等於擔保債券之未清償本金金額；
- (f) 擔保債券方案規定擔保債券 SPV 執行或安排代其執行第 139H 條第(1)項第(a)款與第(b)款第(i)目之規定—
 - (i) 如依擔保債券方案之規定有任何款項到期且應由擔保債券 SPV 支付；且
 - (ii) 直到已實行資產池資產上之擔保利益為止；及
- (g) 發行人遵守下列規定對擔保債券所加諸之所有其他規定—
 - (i) 第 74 條；或
 - (ii) 依第(3)項所訂定之法規。
- (3) 總督得就部長依本行建議所為之意見，以樞密院令訂定下列法規—
 - (a) 為第 139C 條第(1)項第(a)款第(ii)目之目的，具體指定實體或實體類別；
 - (b) 為第(2)項第(a)款第(ii)目之目的，具體指定人士、合夥或人士或合夥之類別；
 - (c) 為第(2)項第(g)款第(ii)目之目的，訂定額外規定；
 - (d) 訂定第(a)款與第(b)款所指實體、人士或合夥之條件。

第 139G 條 本行必須核准或駁回申請

- (1) 在考量依第 139E 條第(2)項所為之申請後，本行必須核准或駁回該申請。
- (2) 本行如確信發行人符合第 139F 條第(2)項之規定，本行必須核准該申請並登記擔保債券方案。
- (3) 否則，本行必須駁回該申請。

- (4) If the Bank approves the application, it must give its decision to the issuer—
- (a) in writing; and
 - (b) within 60 working days after receiving all of the information required by the Bank to determine the application.
- (5) If the Bank proposes to decline the application, the Bank must, within 60 working days after receiving all of the information required to determine the application,—
- (a) give the issuer notice, in writing, of that proposed decision and the reasons for it; and
 - (b) invite the issuer to provide, within 10 working days after the date of the notice, submissions or further information in response to that proposed decision; and
 - (c) take account of any submissions and further information it receives from the issuer; and
 - (d) give its final decision to the issuer—
 - (i) in writing; and
 - (ii) within 5 working days after the expiry of the time specified in paragraph (b) (whether or not the Bank receives any submissions or further information).
- (6) Nothing in this section prevents the Bank and the issuer from agreeing to modify the time limits specified in subsections (4) and (5).

139H Requirements relating to registered covered bond programmes

- (1) Every issuer must, in relation to a registered covered bond programme,—
- (a) ensure that the test or tests specified in section 139F (2)(e) are carried out at intervals of not more than 12 months and notify the Bank if the result of such test or tests is that the value of the cover pool assets is less than the principal amount outstanding on the covered bonds; and
 - (b) ensure that—
 - (i) a register of cover pool assets is maintained; and
 - (ii) it complies with the procedures and internal controls referred to in section 139F (2)(d); and
 - (c) notify the Bank—
 - (i) of every covered bond issued; and
 - (ii) of any material changes to the registered covered bond programme that would be likely to result in the registered covered bond programme failing to comply with the requirements of section 139F (2); and

- (4) 本行如核准該申請，必須依下列規定告知發行人其決定—
- (a) 以書面；及
 - (b) 於收到本行為決定該申請所要求之所有資訊後 60 個工作天內。
- (5) 本行如打算駁回該申請，本行必須於收到為決定該申請所要求之所有資訊後 60 個工作天內—
- (a) 將該擬議決定及理由以書面通知發行人；及
 - (b) 邀請發行人於該通知日後 10 個工作天內提供回應該擬議決定之意見書或進一步資訊；及
 - (c) 考慮其收到之發行人意見書或進一步資訊；及
 - (d) 依下列規定告知發行人其最終決定—
 - (i) 以書面；及
 - (ii) 於第(b)款明定之期間屆滿後 5 個工作天內（無論本行是否收到意見書或進一步資訊）。
- (6) 本條規定並未禁止本行與發行人得合意修改第(4)項與第(5)項明定之時間限制。

第 139H 條 與註冊擔保債券方案相關之規定

- (1) 每位發行人就註冊擔保債券方案必須—
- (a) 確保每隔不超過月 12 個月實施第 139F 條第(2)項第(e)款明定之測試，且如該等測試結果係資產池資產之價值少於擔保債券之未清償本金金額，並應通知本行；及
 - (b) 確保—
 - (i) 維護資產池資產之登記簿；及
 - (ii) 遵守第 139F 條第(2)項第(d)款所定之程序與內部控制；及
 - (c) 通知本行—
 - (i) 每項已發行擔保債券；及
 - (ii) 可能導致註冊擔保債券方案未遵守第 139F 條第(2)項規定之註冊擔保債券任何重大變動；及

- (iii) if the covered bond programme or the cover pool no longer complies with any asset class designation under section 139D (2)(b); and
- (d) provide the Bank with any further information it requests in relation to the covered bond programme; and
- (e) ensure that—
 - (i) the registered covered bond programme complies with the requirements of section 139F (2); and
 - (ii) the reports referred to in section 139I (1)(c)(ii) are provided to any bond trustee and security trustee appointed under the covered bond programme; and
 - (iii) the Bank is provided with a copy of—
 - (A) every report prepared by the cover pool monitor in accordance with section 139I (1)(c)(iii) and (iv); and
 - (B) if requested by the Bank, any other report prepared by the cover pool monitor in accordance with section 139I (1)(c)(ii).
- (2) However, if any amounts become due and payable by the covered bond SPV under the covered bond programme,—
 - (a) the issuer is not required to comply with subsection (1); and
 - (b) the covered bond SPV must provide the Bank with any information it requests in relation to that covered bond programme.
- (3) If an issuer fails to comply with any of the requirements of subsection (1), the Bank may, by notice in writing to the issuer, require the issuer to take such corrective action as the Bank may specify in the notice.
- (4) An issuer commits an offence if the issuer, without lawful justification or excuse, fails to comply with a notice issued under subsection (3).
- (5) The penalty for an offence against this section is set out in section 156AB.

Cover pool monitor

139I Cover pool monitor

- (1) A cover pool monitor must be—
 - (a) independent of the issuer; and
 - (b) 1 or more of the following:

- (iii) 如擔保債券方案或資產池不再符合依第 139D 條第 (2)項第(b)款指定之任何資產分類；及
- (d) 將本行要求有關擔保債券方案之任何進一步資訊提供予本行；及
- (e) 確保—
 - (i) 註冊擔保債券方案遵守第 139F 條第(2)項之規定；及
 - (ii) 將第 139I 條第(1)項第(c)款第(ii)目所指之報告提供予該擔保債券方案所指派之任何債券受託人及擔保品受託人；及
 - (iii) 提供本行下列影本—
 - (A) 資產池監控者依第 139I 條第(1)項第(c)款第(iii)目與第(iv)目製作之每份報告；及
 - (B) 本行如要求，資產池監控者依第 139I 條第(1)項第(c)款第(ii)目製作之任何其他報告。
- (2) 然而，如依擔保債券方案之規定有任何款項到期且應由擔保債券 SPV 支付，則—
 - (a) 發行人無須遵守第(1)項規定；及
 - (b) 擔保債券 SPV 必須將本行就該擔保債券方案要求之任何資訊提供予本行。
- (3) 如發行人未遵守第(1)項之任何規定，本行得以書面通知發行人，要求發行人採取本行於該通知明定之補正行動。
- (4) 發行人如無法律正當性或理由而未遵守依第(3)項所核發之通知，發行人即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 156AB 條。

資產池監控者

第 139I 條 資產池監控者

- (1) 資產池監控者必須—
 - (a) 獨立於發行人之外；及
 - (b) 具下列 1 項以上身分：

- (i) a licensed auditor under the Auditor Regulation Act 2011;
 - (ii) (if the issuer ensures that appropriate arrangements are in place to ensure that the functions of the cover pool monitor are performed by, or under the supervision of, a licensed auditor) a registered audit firm under the Auditor Regulation Act 2011;
 - (iii) a member of any other class of persons or firms that has been approved by the Bank; and
- (c) required, under its contract of appointment, to—
- (i) assess, at a given point in time, and in accordance with any agreed procedures specified in the covered bond programme,—
 - (A) the arithmetical accuracy of the tests carried out in accordance with section 139H (1)(a); and
 - (B) the issuer's compliance with the requirements of section 139H (1)(b); and
 - (ii) provide the issuer with reports on the matters required under paragraph (c)(i) at intervals of not more than 12 months; and
 - (iii) provide reports at intervals of not more than 3 months if the cover pool monitor is not satisfied—
 - (A) as to the arithmetical accuracy of the tests carried out in accordance with section 139H (1)(a); or
 - (B) that the issuer has complied with the requirements of section 139H (1)(b); and
 - (iv) if subparagraph (iii) applies, continue to provide 3-monthly reports until the cover pool monitor is satisfied that the issuer has remedied those matters; and
 - (v) report on any other matters required by regulations made under subsection (2).
- (2) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, make regulations specifying additional matters that the cover pool monitor must be required to report on, and the information to be provided with such a report, for the purposes of subsection (1)(c)(v).
- (3) For the purposes of this section, independent means independent of both the issuer and any associated person of the issuer.
- (4) However, to avoid doubt, a person's appointment as auditor does not affect his, her, or its independence.

- (i) 2011 年查核人員法規定之有照查核人員；
 - (ii) (如發行人保證，為確保係由有照查核人員或在其監督下執行資產池監控者職能之適當安全已就緒) 2011 年查核人員法規定之註冊查核公司；
 - (iii) 本行已核准之任何其他種類人士或公司之成員；及
- (c) 依其指派契約，必須—
- (i) 於特定時間，並依擔保債券方案明定之任何合意程序評估—
 - (A) 依第 139H 條第(1)項第(a)款所實施測試之算術正確性；及
 - (B) 發行人遵守第 139H 條第(1)項第(b)款之規定；及
 - (ii) 至少每 12 個月提供 1 次發行人第(c)款第(i)目所定事項之報告；及
 - (iii) 如資產池監控者無法確信下列事項，至少每 3 個月應提供下列報告—
 - (A) 有關依第 139H 條第(1)項第(a)款所實施測試之算術正確性；或
 - (B) 發行人已遵守第 139H 條第(1)項第(b)款之規定；及
 - (iv) 如適用第(iii)目規定，繼續提供 3 個月報告，直到資產池監控者確信發行人已補正該等事項；及
 - (v) 報告第(2)項所定法規要求之任何其他事項。
- (2) 總督得就部長依本行建議所為之意見，以樞密院令訂定法規，明定為第(1)項第(c)款第(v)目之目的，必須要求資產池監控者報告之額外事項，及該報告所應提供之資訊。
- (3) 就本條目的而言，獨立係指獨立於發行人及發行人之任何關聯人士之外。
- (4) 然而，為避免疑義，某人士被指派擔任查核人員，並不影響其獨立性。

*Statutory management, etc, of issuer***139J Limitation on application of statutory management, etc, provisions to covered bond SPV**

- (1) Subsections (2) and (3) apply in relation to the following provisions:
- (a) sections 122 (1), 126 (1), 127 (1), and 128 (2) of this Act;
 - (b) section 248 of the Companies Act 1993;
 - (c) sections 42 (1), 43 (1), 44 (1), and 45 (2) of the Corporations (Investigation and Management) Act 1989.
- (2) Nothing in a provision referred to in subsection (1)—
- (a) prevents the transfer of the legal title to assets in a cover pool from an issuer to a covered bond SPV;
 - (b) prevents the transfer, under a contract, of any documentation or data relating to assets in a cover pool from the issuer to a covered bond SPV or a person acting on behalf of that SPV;
 - (c) prevents a covered bond SPV, or a person acting on behalf of that SPV, from exercising a power of attorney granted by the issuer in relation to assets in a cover pool;
 - (d) affects the issuer's obligation to pay moneys collected on behalf of, and held on trust for, a covered bond SPV, to that SPV;
 - (e) prevents the enforcement of any of the above rights by, or on behalf of, a covered bond SPV.
- (3) However, subsection (2) applies only if—
- (a) the covered bond SPV is the owner of the assets in the cover pool; and
 - (b) the covered bond programme is registered under section 139G.
- (4) A covered bond SPV is not—
- (a) an associated person for the purposes of section 117 (1)(a) of this Act, section 38 (1)(a) of the Corporations (Investigation and Management) Act 1989, or section 170 (1)(b) of the Insurance (Prudential Supervision) Act 2010; or
 - (b) a subsidiary for the purposes of section 117 (2) of this Act, section 38 (2) of the Corporations (Investigation and Management) Act 1989, or section 170 (2) of the Insurance (Prudential Supervision) Act 2010; or
 - (c) a related company for the purposes of section 271 of the Companies Act 1993.

*發行人之法定監管等***第 139J 條 法定監管等條文適用於擔保債券 SPV 之限制**

- (1) 下列條文適用第(2)項及第(3)項之規定：
- (a) 本法第 122 條第(1)項、第 126 條第(1)項、第 127 條第(1)項及第 128 條第(2)項；
 - (b) 1993 年公司法第 248 條；
 - (c) 1989 年公司（調查與管理）法第 42 條第(1)項、第 43 條第(1)項、第 44 條第(1)項及第 45 條第(2)項。
- (2) 第(1)項提及之條文並未—
- (a) 禁止將資產池資產之法律上產權，自發行人移轉予擔保債券 SPV；
 - (b) 禁止依契約，將與資產池資產相關之任何文件或資訊，自發行人移轉予擔保債券 SPV 或代表該 SPV 作為之人士；
 - (c) 禁止擔保債券 SPV 或代表該 SPV 作為之人士，行使發行人就資產池資產所授與之授權書；
 - (d) 影響發行人應將代表擔保債券 SPV 收取並受其委託持有之金錢，支付予該 SPV 之義務；
 - (e) 禁止由或代表擔保債券 SPV 實施任何上述權利。
- (3) 然而，得適用第(2)項之規定者，僅限於—
- (a) 擔保債券 SPV 係資產池資產之所有權人；及
 - (b) 擔保債券方案係依第 139G 條規定予以註冊。
- (4) 擔保債券 SPV 並非—
- (a) 就本法第 117 條第(1)項第(a)款、1989 年公司（調查與管理）法第 38 條第(1)項第(a)款或 2010 年保險（審慎監理）法第 170 條第(1)項第(b)款目的而言之關聯人士；或
 - (b) 就本法第 117 條第(2)項、1989 年公司（調查與管理）法第 38 條第(2)項或 2010 年保險（審慎監理）法第 170 條第(2)項目的而言之子公司；或
 - (c) 就 1993 年公司法第 271 條目的而言之關聯公司。

*Miscellaneous provisions***140 Application of this Part to joint statutory managers, associated persons, and subsidiaries**

- (1) Where an Order in Council is made under section 117 appointing 2 or more persons as statutory managers of a registered bank, the order shall state whether the powers conferred by this Part shall be exercised by those persons acting together or may be exercised individually.
- (2) For the purposes of this Part, unless the context otherwise requires,—
 - (a) references to a statutory manager shall, where 2 or more persons are appointed as statutory managers include references to those statutory managers;
 - (b) where an associated person of a registered bank is declared to be subject to statutory management, or a subsidiary of a registered bank becomes subject to statutory management under section 117 (2), references in sections 119 to 139 and in sections 141 to 156 to a registered bank shall be read as references to that associated person or subsidiary, as the case may be.

141 Termination of appointment of statutory manager

- (1) The Minister may, by notice in writing to the statutory manager of a registered bank that is given in accordance with the recommendation of the Bank, terminate the appointment of that statutory manager for inability to perform the functions of the office or for bankruptcy or if the Minister is of the opinion that the statutory manager has failed to perform the statutory manager's duties satisfactorily.
- (2) A statutory manager of a registered bank may resign office by notice in writing to the Minister.
- (3) Where the appointment of a statutory manager is terminated under subsection (1) or a statutory manager resigns office, or dies, the Minister may, by notice published in the *Gazette*, appoint a person to replace that statutory manager for a specified period.
- (3A) Where a notice is published in the *Gazette* under subsection (3) appointing 2 or more persons as statutory managers, the notice shall state whether the powers conferred by this Part shall be exercised by those persons acting together or may be exercised individually.
- (4) A statutory manager continues in office until his or her successor is appointed despite—
 - (a) his or her resignation; or
 - (b) his or her period of appointment having expired.

*附則***第 140 條 本章之規定適用於共同法定監管人、關聯人士與子公司**

- (1) 當依第 117 條作成之樞密院令指派 2 名以上人士擔任某家註冊銀行之法定監管人時，該令應敘明該等人士是否應共同或得各自行使本章賦與之權力。
- (2) 除上下文另有規定外，就本章目的而言—
 - (a) 當指派 2 名以上人士擔任法定監管人時，所稱之法定監管人應包括該等法定監管人；
 - (b) 當註冊銀行之關聯人士被宣布受到法定監管拘束，或註冊銀行之子公司成為受到第 117 條第(2)項法定監管拘束時，第 119 條至第 139 條及第 141 條至第 156 條提及之註冊銀行，應解讀為該關聯人士或子公司（視情況而定）。

第 141 條 法定監管人指派之終止

- (1) 因法定監管人無能力執行該職位職務、破產，或部長如認為該法定監管人未令人滿意地執行法定監管人之職責等，部長得依本行之建議以書面通知註冊銀行之法定監管人，終止該法定監管人之指派。
- (2) 註冊銀行之法定監管人得以書面通知部長辭職。
- (3) 當依第(1)項終止法定監管人之指派或法定監管人辭職或死亡時，部長得於政府公報發布通知指派於特定期間取代該法定監管人之人士。
- (3A) 依第(3)項於政府公報發布之通知指派 2 名以上人士擔任法定監管人時，該通知應敘明該等人士是否應共同或得各自行使本章賦與之權力。
- (4) 法定監管人仍應繼續任職至指派其繼任者為止，即使—
 - (a) 其辭職；或
 - (b) 其指派期間已屆期。

- (5) A registered bank continues to be subject to statutory management under section 117 even though its statutory manager—
- (a) has had his or her appointment terminated, or
 - (b) has resigned from office; or
 - (c) has died, or
 - (d) has ceased to hold office because of the expiry of his or her period of appointment.
- (6) The Bank must publish a notice given by the Minister under this section in the *Gazette* as soon as practicable.

142 Statutory manager may apply to High Court for directions

- (1) A statutory manager of a registered bank may apply to the High Court for directions concerning the business or property of the registered bank or the management or administration of that business or property, or the exercise of any powers under this Part.
- (2) On any application under subsection (1) the High Court may give directions concerning the business or property of the registered bank, or the management or administration of that business or property, or the exercise of any powers under this Part and every person shall be bound by any such directions.

143 Prior winding up, liquidation, or receivership to cease

- (1) Where a registered bank, or any subsidiary or associated person of a registered bank, becomes subject to statutory management, and that registered bank, subsidiary, or associated person is already being wound up or is already in liquidation, receivership, or voluntary administration,—
- (a) the winding up, liquidation, receivership, or voluntary administration of that registered bank, subsidiary, or associated person must, for so long as it continues to be subject to statutory management, cease; and
 - (b) the person appointed as liquidator, receiver, or administrator must be discharged.
- (2) Where the statutory management of any registered bank, subsidiary, or associated person referred to in subsection (1) is terminated by, or as the result of the making of, an Order in Council under section 144 (1), the liquidation or receivership or voluntary administration of that registered bank, subsidiary, or associated person shall, unless the Order in Council terminating the statutory management otherwise provides, and subject to such terms and conditions as the order may specify, revive as if it had not ceased by reason of this section.

- (5) 註冊銀行仍應繼續受第 117 條法定監管之拘束，即使其法定監管人—
- (a) 指派已終止；或
 - (b) 已辭職；或
 - (c) 已死亡；或
 - (d) 因其指派期間屆期，已停止任職。
- (6) 本行必須儘快於政府公報公布部長依本條規定給予之通知。

第 142 條 法定監管人得向高等法院聲請指令

- (1) 註冊銀行法定監管人得向高等法院聲請給予有關註冊銀行業務或財產，或該業務或財產管理或治理，或行使本章權力之指令。
- (2) 對於第(1)項規定之聲請，高等法院得給予有關註冊銀行業務或財產，或該業務或財產管理或治理，或行使本章權力之指令，且任何人應受該等指令之拘束。

第 143 條 停止先前之結束營業、清算、或接管

- (1) 註冊銀行、註冊銀行之任何子公司或關聯人士受到法定監管拘束，且該註冊銀行、子公司或關聯人士已結束營業、已清算、接管或自願破產管理時—
- (a) 只要該註冊銀行、子公司或關聯人士繼續受到法定監管拘束，其結束營業、清算、接管或自願破產管理必須停止；及
 - (b) 受指派擔任清算人、接管人或破產管理人之人士必須予以解職。
- (2) 依第 144 條第(1)項作成之樞密院令終止第(1)項提及之任何註冊銀行、子公司或關聯人士法定監管時，除終止法定監管之樞密院令另有規定外，在受到該命令明定之條款與條件拘束下，該註冊銀行、子公司或關聯人士之清算、接管或自願破產管理，應如同未曾依本條理由予以終止般地重新開始。

- (3) Where any liquidation, receivership, or voluntary administration revives under subsection (2), the person specified in the order as such must be the liquidator, receiver, or administrator of that registered bank, subsidiary, or associated person for the time being.

143A Continuation of statutory management

- (1) This section applies to a registered bank, an associated person of a registered bank, or a subsidiary of a registered bank, that has been removed from the New Zealand register under section 317 of the Companies Act 1993 while subject to statutory management under this Act.
- (2) If a person to whom this section applies is restored to the New Zealand register under section 328 of the Companies Act 1993, the person continues to be subject to statutory management from the date that person is so restored.

144 Termination of statutory management

- (1) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank, declare that—
- any registered bank;
 - any associated person of a registered bank;
 - any subsidiary of a registered bank,—
- subject to statutory management, shall cease to be subject to statutory management.
- (2) Any registered bank, or associated person of a registered bank, or subsidiary of a registered bank shall cease to be subject to statutory management if that registered bank, or associated person, or subsidiary, as the case may be, is put into liquidation on the application of the statutory manager.
- (3) Any person who is affected by the making of an Order in Council under section 117 may, at any time, request the Bank to make a recommendation under subsection (1).
- (4) Where an Order in Council is made under subsection (1) or, a registered bank, associated person, or subsidiary is put into liquidation—
- that person shall cease to be subject to statutory management at the specified time; and
 - the appointment of any statutory manager appointed in respect of that person shall terminate at the specified time; and
 - the appointment of any person as a member of an advisory committee under section 119 in relation to the statutory management of that person shall terminate at the specified time.

- (3) 依第(2)項重新開始清算、接管或自願破產管理時，該命令指定之人士必須擔任該註冊銀行、子公司或關聯人士之清算人、接管人或破產管理人。

第 143A 條 法定監管之繼續

- (1) 本條適用於當受到本法之法定監管拘束時，其已依 1993 年公司法第 317 條自紐西蘭登記簿予以移除之註冊銀行、註冊銀行之子公司或關聯人士。
- (2) 如適用本條規定之人士依 1993 年公司法第 328 條回復註冊於紐西蘭登記簿，該人士自回復之日起繼續受法定監管之拘束。

第 144 條 法定監管之終止

- (1) 總督得就部長依本行建議所為之意見，以樞密院令宣布下列受法定監管拘束者停止受法定監管之拘束—
- 任何註冊銀行；
 - 註冊銀行之任何關聯人士；
 - 註冊銀行之子公司。
- (2) 如任何註冊銀行、註冊銀行之關聯人士或註冊銀行之子公司依法定監管人之聲請進入清算，該註冊銀行、關聯人士或子公司應停止受法定監管拘束。
- (3) 受到依第 117 條作成之樞密院令影響之任何人士，得隨時要求本行作成第(1)項之建議。
- (4) 依第(1)項作成樞密院令，或註冊銀行、關聯人士或子公司進入清算時—
- 該人士應於指定時間停止受法定監管拘束；及
 - 就該人士所指派之任何法定監管人，應於指定時間終止該項指派；及
 - 就該人士之法定監管人所指派擔任第 119 條諮詢委員會成員之任何人士，應於指定時間終止該項指派。

- (5) For the purposes of subsection (4) specified time means,—
- (a) in any case where an Order in Council is made pursuant to subsection (1), the date and time specified in the order;
 - (b) in any case where a liquidator is appointed, the date and time of the liquidator's appointment.
- (6) Where an Order in Council is made under subsection (1) declaring that a registered bank shall cease to be subject to statutory management,—
- (a) every subsidiary of that registered bank, except any subsidiary specified in the order, shall cease to be subject to statutory management on the same date as that specified as the date upon which, and at the same time as that specified as the time at which, the registered bank ceases to be subject to statutory management;
 - (b) the appointment of any person appointed as a statutory manager of every such subsidiary shall terminate on the date and at the time referred to in paragraph (a);
 - (c) the appointment of any person appointed as a member of an advisory committee under section 119 in relation to the statutory management of that subsidiary shall terminate on the date and at the time referred to in paragraph (a).

145 Obligations incurred by statutory manager

- (1) Any obligations incurred by a statutory manager of a registered bank in the course of his or her duties as statutory manager are incurred by that statutory manager on behalf of the registered bank, and the statutory manager does not incur personal liability for those obligations.
- (2) In the winding up or liquidation of a registered bank or an associated person of a registered bank or a subsidiary of a registered bank, all amounts required to satisfy obligations incurred by the statutory manager on behalf of the registered bank, associated person, or subsidiary must be paid in priority to all other debts.

146 Indemnity

[Repealed]

147 Registered bank not entitled to be informed about exercise of powers

Except as otherwise provided in this Part, no registered bank, associated person, or subsidiary, and no director, officer, or employee of a registered bank, associated person, or subsidiary, has a right to be consulted or informed as to the exercise, or possible exercise, of any powers conferred by this Part or to make representations to any person as to the exercise, or possible exercise, of those powers.

- (5) 就第(4)項目的而言，特定時間—

- (a) 就依第(1)項規定作成樞密院令之情況，係指該令指定之日期與時間；
 - (b) 就指派清算人之情況，係指清算人之指派日期與時間。
- (6) 依第(1)項作成之樞密院令宣布註冊銀行應停止受法定監管拘束時—
- (a) 該註冊銀行之每家子公司，除該命令具體指定之任何子公司外，應於該註冊銀行停止受法定監管拘束之同一指定日期與時間，停止受法定監管之拘束；
 - (b) 被指派擔任每家該子公司之法定監管人之任何人士，應於第(a)款所提之日期與時間終止該項指派；
 - (c) 就該子公司之法定監管人所指派擔任第 119 條諮詢委員會成員之任何人士，應於第(a)款所指之日期與時間終止該項指派。

第 145 條 法定監管人承擔之義務

- (1) 註冊銀行法定監管人於其擔任法定監管人職責過程中所承擔之任何義務，應由該法定監管人代表註冊銀行承擔之，且法定監管人不就該等義務負任何個人責任。
- (2) 註冊銀行、註冊銀行之關聯人士或註冊銀行之子公司結束營業或清算時，為滿足該法定監管人代表註冊銀行、關聯人士或子公司承擔義務所需之所有金錢，必須優先於所有其他負債支付之。

第 146 條 損害賠償

[刪除]

第 147 條 註冊銀行無權被告知權力行使情形

除本章另有規定外，任何註冊銀行、關聯人士或子公司，或註冊銀行、關聯人士或子公司之任何董事、職員或受雇人員，無權受諮詢或被告知有關本章所賦與權力之行使或可能行使情形，亦無權與任何人士交涉有關該等權力之行使或可能行使。

148 Expenses of statutory management

- (1) All costs, charges, and expenses properly incurred by a statutory manager or a member of an advisory committee in the exercise of the manager's or the member's functions and powers under this Part (including such remuneration as may be approved by the Bank) shall be payable out of the property of the registered bank or associated person of the registered bank or a subsidiary of the registered bank in respect of which the statutory manager or member is appointed in priority to all other claims.
- (2) The statutory manager may, with the approval of the Bank, apportion the costs, charges, and expenses referred to in subsection (1) between the registered bank and any associated person or subsidiary of the registered bank that is also subject to statutory management in the amounts that the statutory manager considers just and equitable.
- (3) This section prevails over section 145.

149 Advances to statutory manager and members of advisory committee

- (1) With the consent of the Minister, there may be advanced out of a Crown Bank Account, without further appropriation than this section, to a statutory manager of a registered bank or a member of an advisory committee, such amounts as the Minister may approve in respect of costs, charges, and expenses (including remuneration) due to, or incurred by, that person.
- (2) All money so advanced to that person shall be refunded to the Crown out of money payable to that person, and the Crown shall have all the rights of the person to whom the advance was made to receive and recover that money. Money refunded to the Crown shall be credited upon receipt to a Crown Bank Account.

150 Duty to deliver books and property to statutory manager

- (1) Every person having possession, custody, or control of any books, or records, or documents, or other property belonging to any registered bank subject to statutory management, shall forthwith after it becomes subject to statutory management, deliver or give possession of those books, records, documents, or other property to the statutory manager.
- (2) If any person fails for 7 days to comply with the requirements of subsection (1), that person commits an offence against this Act.
- (3) If any person fails to comply with subsection (1), the statutory manager may, at any time, certify the failure to the court (whether or not an offence has been committed under subsection (2)), and the court may inquire into the matter and, after hearing any witnesses who may be produced against, or by, or on behalf of the alleged offender, and after hearing any statement which may be offered in defence, may punish the offender as if the offender had been guilty of contempt of court.

第 148 條 法定監管之支出

- (1) 法定監管人或諮詢委員會成員依本章規定執行該管監管人或成員之職能時適當承受之所有費用、收費及支出（包括本行核准之報酬），應以註冊銀行、註冊銀行之關聯人士或註冊銀行之子公司之財產支付之，且在此方面，指定該法定監管人或成員優先於所有其他請求權。
- (2) 法定監管人經本行核准得將第(1)項提及之費用、收費與支出，依法定監管人認為公正且公平金額分配予註冊銀行及亦受法定監管拘束之該註冊銀行之任何關聯人士或子公司。
- (3) 本條優先於第 145 條適用之。

第 149 條 墊付款項予法定監管人與諮詢委員會成員

- (1) 經部長同意，在除了本條規定之外並無進一步撥款之情況下，得就諸如部長可能核准應支付予該人士或該人士承擔之費用、收費與支出（包括報酬）之款項，自皇家銀行帳戶墊付予註冊銀行之法定監管人或諮詢委員會成員。
- (2) 墊付予該人士之所有金錢，必須以應支付予該人士之金錢歸還予君主，且君主應有權向墊付對象收取並收回該金錢。皇家銀行帳戶收到退還君主之金錢時，應予以貸記。

第 150 條 遞交簿冊與財產予法定監管人之職責

- (1) 持有、保管或控制屬於受法定監管拘束之註冊銀行之任何帳簿、紀錄、文件或其他財產之每位人士，應於註冊銀行受法定監管拘束後立即將該等帳簿、紀錄或文件或其他財產交付予法定監管人、或使該管理人持有之。
- (2) 任何人士如未於 7 天內遵守第(1)項之規定，該人士即屬違反本法規定。
- (3) 任何人士如未遵守第(1)項之規定，法定監管人得隨時向法院證明該未遵守情事（無論是否已觸犯第(2)項之罪），且法院得調查該事項，並在聽審不利於或代表被指控犯罪者之任何證人之後，以及在聽審可能提出之抗辯陳述之後，得如同該違法者已觸犯藐視法庭罪般地處罰該違法者。

- (4) It shall not be a defence to any proceedings under this section that the person in possession or control of any property is, or was, a trustee of the property for the registered bank, or entitled to a lien or other charge over the property, or was a receiver or manager of the property.
- (5) The penalty for an offence against this section is set out in section 156AC.

151 Offence to destroy, alter, or conceal records

- (1) Every person commits an offence against this Act who—
- with intent to defeat the purposes of this Part, destroys, alters, or conceals any book, document, or record of, or relating to, a registered bank that is subject to statutory management or sends or attempts to send out of New Zealand any such book, document, or record; or
 - fails or refuses to answer, to the best of that person's knowledge and ability, any question which that person may be asked by the statutory manager in relation to any such book, or document, or record, or any property, or wilfully gives a false or misleading answer to that question.
- (1A) The penalty for an offence against this section is set out in section 156AC.
- (2) If, in any prosecution for an offence alleged to have been committed against this section, it is proved that the person charged with the offence has destroyed, altered, or concealed any book, document, or record, or has sent, or attempted to send, out of New Zealand, any such book, document, or record, the onus of proving that in so doing that person had not acted in contravention of this section shall lie on that person.

152 Regulations relating to powers of Bank and statutory manager

- (1) The Governor-General may, from time to time, by Order in Council, make regulations under section 173 conferring on the Bank, or a statutory manager of a registered bank, ancillary or additional powers necessary or desirable for the purposes of this Part.
- (2) The regulations shall be laid before the House of Representatives within 12 sitting days after the date on which they are made if the House of Representatives is then in session, and, if not, shall be laid before the House of Representatives within 12 days after the commencement of the next ensuing session.
- (3) *[Repealed]*
- (4) *[Repealed]*

- (4) 持有或控制任何財產之人士為或曾為註冊銀行財產之受託人，或對該財產主張留置權或其他責任，或曾為該財產之接管人或管理人，不應作為本條任何法律程序之抗辯。
- (5) 違反本條規定之處罰，明定於第 156AC 條。

第 151 條 銷毀、更改或藏匿紀錄之罪

- (1) 違反本條規定之人士係指—
- 意圖阻撓本章之目的，銷毀、更改或藏匿受法定監管拘束之註冊銀行相關之任何簿冊、文件或紀錄，或寄送或試圖寄送任何該簿冊、文件或紀錄至紐西蘭境外者；或
 - 對於法定監管人就任何該簿冊、文件、紀錄或任何財產提出之任何問題，未或拒絕就該人士所知答覆，或就該問題故意給予不實或誤導答案者。
- (1A) 違反本條規定之處罰，明定於第 156AC 條。
- (2) 如在指控已違反本條規定之任何起訴案，證明受指控犯罪之人士已銷毀、更改或藏匿任何相關簿冊、文件或紀錄，或已寄送或試圖寄送任何該簿冊、文件或紀錄至紐西蘭境外，行為人應就其作為未抵觸本章規定負舉證責任。

第 152 條 有關本行與法定監管人權力之法規

- (1) 總督得隨時以樞密院令訂定第 173 條之法規，賦與本行或註冊銀行之法定監管人為本章目的所需或合乎需求之附屬或額外權力。
- (2) 該法規訂定當時如為眾議院開議期間，該法規應於訂定日後 12 個議會開會日內提交眾議院；當時如非開議期間，該法規應於下屆會期開始後 12 日內提交眾議院。
- (3) *[刪除]*
- (4) *[刪除]*

152A Regulations are confirmable instruments

- (1) This section applies to regulations made under both of sections 152 and 173, but only if the regulations confer on the Bank, or a statutory manager of a registered bank, ancillary or additional powers necessary or desirable for the purposes of Part 5.
- (2) The explanatory note of the regulations must indicate that—
 - (a) they are a confirmable instrument under section 47B of the Legislation Act 2012; and
 - (b) they are revoked at a time stated in the note, unless earlier confirmed by an Act of Parliament; and
 - (c) the stated time is the applicable deadline under section 47C (1)(a) or (b) of that Act.

153 Application of other Acts

- (1) Subject to subsection (2), all the provisions of the Companies Act 1993 and all rules and regulations under that Act shall, so far as they are applicable, and with the necessary modifications, apply to a registered bank that is a company within the meaning of section 2 of that Act and that is subject to statutory management.
- (2) *[Repealed]*
- (3) *[Repealed]*
- (4) Nothing in sections 120, 207P to 209B, and 214 of the Companies Act 1993 shall apply to a registered bank that is subject to statutory management.
- (5) Nothing in the Receiverships Act 1993 shall apply to a company that is subject to statutory management.
- (6) Subject to subsection (7), all the provisions of the Building Societies Act 1965 and all rules and regulations under that Act shall, so far as they are applicable, and with the necessary modifications, apply to a registered bank that is a building society within the meaning of section 2 of that Act and that is subject to statutory management.
- (7) Nothing in sections 76 and 91 to 106 of the Building Societies Act 1965 shall apply to a building society that is subject to statutory management.
- (8) The Governor-General may, from time to time, by Order in Council, on the advice of the Minister given in accordance with the recommendation of the Bank, declare that the provisions of any Act under which any other registered bank that is subject to statutory management is incorporated, constituted, or registered corresponding with the provisions referred to in subsections (4), (7), and (9) shall not apply to that registered bank.

第 152A 條 法規係可確定文書

- (1) 本條適用於依第 152 條與第 173 條訂定之法規，但僅限於該等法規賦與本行或註冊銀行之法定監管人為第 5 章目的所需或合乎需求之附屬或額外權力。
- (2) 法規之解釋性註記必須指明—
 - (a) 該法規係 2012 年法制法第 47B 條之可確定文書；及
 - (b) 該法規於該註記所述時間予以廢止，但國會法律提前予以確定者，不在此限；及
 - (c) 所述時間係指該法第 47C 條第(1)項第(a)款或第(b)款之相關截止時間。

第 153 條 其他法律之適用

- (1) 在第(2)項之規定下，1993 年公司法之所有條文及依該法訂定之所有規則與法規，在可適用範圍內並為必要修正者，適用於係屬該法第 2 條所定義之公司且受法定監管拘束之註冊銀行。
- (2) *[刪除]*
- (3) *[刪除]*
- (4) 1993 年公司法第 120 條、第 207P 條至第 209B 條及第 214 條之規定，不應適用於受法定監管拘束之註冊銀行。
- (5) 1993 年破產接管法之條文不應適用於受法定監管拘束之公司。
- (6) 在第(7)項之規定下，1965 年建築協會法之所有條文及依該法訂定之所有規則與法規，在可適用範圍內並為必要修正者，適用於係屬該法第 2 條所定義建築協會且受法定監管拘束之註冊銀行。
- (7) 1965 年建築協會法第 76 條及第 91 條至第 106 條之規定，不應適用於受法定監管之建築協會。
- (8) 總督得隨時就部長依本行建議所為之意見，以樞密院令宣布任何其他受法定監管之註冊銀行據以設立、組織或註冊之任何法律之條文，與第(4)項、第(7)項與第(9)項提及之條文相當者，不應適用於該註冊銀行。

- (9) To avoid doubt, the Bank or any other person is not a director (within the meaning of section 126 of the Companies Act 1993) of any registered bank or an associated person of the registered bank by reason only of the Bank or that other person exercising the powers conferred by this Part.

154 Appointment of auditors

- (1) The statutory manager of a registered bank must appoint 1 or more persons (whether as individuals or as the members from time to time of any firm or firms) to be the auditor of that registered bank.
- (1A) The person or persons appointed to be the auditor under subsection (1) must be—
- licensed auditors (within the meaning of section 6 (1) of the Auditor Regulation Act 2011); and
 - approved by the Bank.
- (2) Every such appointment shall be for a term not exceeding 2 years, but any person appointed as auditor shall continue in office until a successor comes into office.
- (3) Any person appointed as auditor shall be eligible for reappointment.
- (4) Any auditor may be removed from office at any time by the Minister, by notice in writing to the auditor, for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.
- (5) The auditor shall be paid such fees as are fixed by the statutory manager with the approval of the Bank.
- (6) Every auditor shall have a right of access at all times to the books and papers of the registered bank, and shall be entitled to require from its officers and employees such information and explanations as the auditor thinks necessary for the performance of the auditor's duties.
- (7) Any person holding office as auditor of a registered bank at the time that it is declared to be subject to statutory management shall cease to hold that office but may be appointed under this section as auditor of the registered bank.
- (8) A notice given under subsection (4) must be published in the *Gazette* as soon as practicable.

155 Annual accounts

- (1) Within 3 months after the end of each financial year or such later date as may be approved by the Bank, the statutory manager of a registered bank shall prepare the following statements showing the financial position of the registered bank and its subsidiaries at the end of that year and the results of their trading for that year:

- (9) 為避免疑義，不得僅因本行或任何其他人士行使本章賦與之權力，而使本行或該其他人士成為任何註冊銀行之董事（見 1993 年公司法第 126 條定義），或該註冊銀行之關聯人士。

第 154 條 查核人員之指派

- (1) 註冊銀行之法定監管人必須指派 1 名以上人士（無論係自然人或任何行號之成員）擔任該註冊銀行之查核人員。
- (1A) 依第(1)項規定指派之人士必須—
- 係持照查核人員（依 2011 年查核人員規範法第 6 條第(1)項規定之定義）；及
 - 經本行核准。
- (2) 每次指派之期間不得超過 2 年，但查核人員應繼續任職至選出繼任人為止。
- (3) 經指派擔任查核人員之人士，應有續任之資格。
- (4) 部長得隨時將經證明且部長確信無能力執行查核人員職能、破產、怠忽職能、不當行為之查核人員，以書面通知予以免職。
- (5) 應依法定監管人訂定且經本行核准之服務費，支付予查核人員。
- (6) 每位查核人員應有權隨時接觸註冊銀行之簿冊與紙本，並應有權向其職員與受雇人員要求為履行查核人員職能所需之資訊與解釋。
- (7) 在註冊銀行被宣布受法定監管時擔任其查核人員之任何人士，應停止擔任該職能，但得依本條之規定被指派為該註冊銀行之查核人員。
- (8) 依第(4)項規定給予之通知，應儘快公布於政府公報。

第 155 條 年度報表

- (1) 每 1 會計年度結束後 3 個月內或本行核准之較晚期日，註冊銀行之法定監管人應編製得顯示該年度結束時該註冊銀行及其子公司財務狀況及該年度交易結果之下列報表：

- (a) a statement of financial position and statement of financial performance of the registered bank; and
 - (b) a consolidated statement of assets and liabilities and consolidated statement of trading of the registered bank and its subsidiaries.
- (2) The statement of financial position, and the consolidated statement of assets and liabilities, shall each be signed by the statutory manager.
- (3) The accounts specified in subsection (1) shall be audited and reported on by the auditor.

156 Annual report by statutory manager

- (1) The statutory manager of a registered bank shall, after the end of each financial year, prepare a report on the conduct of the management and the affairs of the registered bank and its subsidiaries.
- (2) The report, together with the accounts and the auditor's report on them, shall be submitted to the Minister and the Bank within 7 days after the completion of the auditor's report.
- (3) The report, accounts, and the auditor's report on them shall within 14 days after submission to the Minister be filed—
- (a) in the case of a registered bank which is a company, with the Registrar of Companies;
 - (b) in the case of a registered bank which is a building society, with the Registrar of Building Societies;
 - (c) in the case of any other body corporate, with the person exercising functions corresponding with those of the Registrar of Companies or the Registrar of Building Societies.

Penalties for offences against this Part

156AA Penalty for miscellaneous offences

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$50,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$500,000.
- (2) The provisions are—
- (a) section 77A (which relates to failing to comply with the requirement for consent to be sought from the Bank in the event of a significant change of ownership);
 - (b) section 94 (which relates to failing to comply with a requirement from the Bank that information, data, or forecasts be audited);

- (a) 該註冊銀行之財務狀況報表及財務績效報表；及
 - (b) 該註冊銀行及其子公司之資產負債合併報表及交易合併報表。
- (2) 財務狀況報表及資產負債合併報表，均應經法定監管人簽署。
- (3) 第(1)項明定之報表應經稽核人員簽證並提出報告。

第 156 條 法定監管人所為之年度報告

- (1) 註冊銀行之法定監管人應於每 1 會計年度結束後，製作 1 份有關管理行為以及註冊銀行及其子公司事項之報告。
- (2) 上述報告併同報表及查核人員對報表之報告，應於查核人員完成報告後 7 天內提交予部長及本行。
- (3) 上述報告、報表及查核人員對報表之報告提交部長後之 14 天內—
- (a) 如註冊銀行係一家公司，應歸檔於公司登記處；
 - (b) 如註冊銀行係一家建築協會，應歸檔於建築協會登記處；
 - (c) 如係任何其他法人團體，應歸檔於所行使權力係與公司登記處或建築協會登記處之權力相當之人士。

違反本章之犯罪處罰

第 156AA 條 各種犯罪之處罰

- (1) 觸犯第(2)項所列任何條文之罪者—
- (a) 如係自然人，應處不超過 3 個月有期徒刑，或科不超過 50,000 紐元罰金；
 - (b) 如係法人團體，應科不超過 500,000 紐元罰金。
- (2) 該等犯罪係指—
- (a) 第 77A 條（有關未遵守如所有權有重大變動，向本行尋求同意之規定）；
 - (b) 第 94 條（有關未遵守本行要求使資訊、資料或預測受查核之規定）；

- (c) section 98B (2)(a) (which relates to failing to comply with the requirements notified by the Bank in relation to a home country supervisor);
- (d) section 98B (2)(b) (which relates to supplying any information or data to a home country supervisor that is false or misleading in a material particular);
- (e) section 105 (which relates to the misuse of confidential information);
- (f) section 115 (which relates to the unauthorised disclosure of the fact that a direction has been given).

156AB Penalty for offences relating to supply of information, etc

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$1,000,000.
- (2) The provisions are—
 - (a) section 74 (which relates to failing to comply with a condition of registration);
 - (b) section 89B (which relates to failing to make the most recent disclosure statement publicly available);
 - (c) section 93 (which relates to a registered bank failing to comply with provisions concerning the supply of information for the purposes of prudential supervision and to supplying information that is false or misleading in a material particular);
 - (d) section 93B (which relates to a person failing, after being required by a registered bank to do so, to supply the registered bank with information, data, or forecasts relating to that person in order to enable the registered bank to comply with a notice under section 93);
 - (e) section 93C (which relates to a person failing to comply with provisions concerning the supply of information for the purposes of prudential supervision and to supplying information that is false or misleading in a material particular);
 - (f) section 99 (3) (which relates to hindering, obstructing, or delaying the conduct of an inspection);
 - (g) section 139E (5)(a) (which relates to issuing a covered bond other than under a registered covered bond programme);
 - (h) section 139E (5)(b) (which relates to permitting the issue of a covered bond other than under a registered covered bond programme);
 - (i) section 139E (5)(c) (which relates to providing false or misleading information to the Bank in relation to an application to register a covered bond programme);

- (c) 第 98B 條第(2)項第(a)款（有關未遵守本行針對母國監理機關所為通知之規定）；
- (d) 第 98B 條第(2)項第(b)款（有關供應母國監理機關嚴重不實或誤導資訊或資料之規定）；
- (e) 第 105 條（有關機密資訊之濫用）；
- (f) 第 115 條（有關未經授權揭露已給予指令之事實）。

第 156AB 條 與資訊提供相關犯罪之處罰

- (1) 觸犯第(2)項所列任何條文之罪者—
 - (a) 如係自然人，應處不超過 12 個月有期徒刑，或科不超過 100,000 紐元罰金；
 - (b) 如係法人團體，應科不超過 1,000,000 紐元罰金。
- (2) 該等犯罪係指—
 - (a) 第 74 條（有關未遵守註冊之條件）；
 - (b) 第 89B 條（有關未公開提供最近揭露聲明）；
 - (c) 第 93 條（有關註冊銀行未遵守為審慎監理目的提供資訊及提供嚴重不實或誤導資訊之規定）；
 - (d) 第 93B 條（有關註冊銀行為遵守第 93 條之通知而向某人士提出要求後，該人士仍未供應註冊銀行有關該人士之資訊、資料或預測）；
 - (e) 第 93C 條（有關某位人士未遵守為審慎監理目的提供資訊及提供嚴重不實或誤導資訊之規定）；
 - (f) 第 99 條第(3)項（有關阻礙、阻擾或延誤檢查之進行）；
 - (g) 第 139E 條第(5)項第(a)款（有關核發註冊擔保債券方案以外之擔保債券）；
 - (h) 第 139E 條第(5)項第(b)款（有關許可核發註冊擔保債券方案以外之擔保債券）
 - (i) 第 139E 條第(5)項第(c)款（有關就註冊擔保債券方案之申請，提供本行不實或誤導資訊）；

- (j) section 139H (4) (which relates to failing to comply with a notice issued by the Bank in relation to the requirements relating to a registered covered bond programme).

156AC Penalty for offences relating to registration of banks, disclosure statements, prudential supervision of registered banks, etc

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 18 months or to a fine not exceeding \$200,000;
 - (b) in the case of a body corporate, to a fine not exceeding \$2,000,000.
- (2) The provisions are—
- (a) section 70 (which relates to providing false or misleading information for the purposes of an application for registration);
 - (b) section 72 (which relates to falsely holding out to be a registered bank);
 - (c) section 80 (which relates to failing to obtain or maintain a current credit rating);
 - (d) section 81AC (which relates to failing to supply information or data to a registered bank to enable the registered bank to comply with an Order in Council made under section 81);
 - (e) section 89 (which relates to failing to publish information that is required to be published in a disclosure statement);
 - (f) section 89A (which relates to publishing a disclosure statement that includes information that is false or misleading);
 - (g) section 89C (1)(a) (which relates to failing to publish a disclosure statement that does not contain false or misleading information after being required to do so under section 83);
 - (h) section 89C (1)(b) (which relates to failing to publish a disclosure statement that contains information that was previously omitted after being required to do so under section 83);
 - (i) section 89C (1)(c) (which relates to failing to take the corrective action specified by the Bank in a notice given under section 83 after being required to do so under that section);
 - (j) section 95 (which relates to failing to supply a report required by the Bank);
 - (k) section 95A (which relates to failing to forward a report prepared under section 95 as required by the Bank);

- (j) 第 139H 條第(4)項（有關未遵守本行就註冊擔保債券方案規定所核發之通知）。

第 156AC 條 有關銀行註冊、揭露聲明、註冊銀行審慎監理之犯罪處罰

- (1) 觸犯第(2)項所列任何條文之罪者—
- (a) 如係自然人，應處不超過 18 個月有期徒刑，或科不超過 200,000 紐元罰金；
 - (b) 如係法人團體，應科不超過 2,000,000 紐元罰金。
- (2) 該等犯罪係指—
- (a) 第 70 條（有關為註冊申請目的，提供不實或誤導資訊）；
 - (b) 第 72 條（有關不實自稱註冊銀行）；
 - (c) 第 80 條（有關未取得或維持當前信用評等）；
 - (d) 第 81AC 條（有關未提供註冊銀行得使該註冊銀行遵守依第 81 條作成命令所需之資訊或資料）；
 - (e) 第 89 條（有關未公布應於揭露聲明公布之資訊）；
 - (f) 第 89A 條（有關於公布包含不實或誤導資訊之揭露聲明）；
 - (g) 第 89C 條第(1)項第(a)款（有關依第 83 條之規定被要求公布未含不實或誤導資訊之揭露聲明後，仍未公布該聲明）；
 - (h) 第 89C 條第(1)項第(b)款（有關依第 83 條之規定被要求公布含有先前遺漏資訊之揭露聲明後，仍未公布該聲明）；
 - (i) 第 89C 條第(1)項第(c)款（有關依第 83 條之規定被要求採取本行依該條之規定所給予通知明定之補正行為後，仍未採取該行為）；
 - (j) 第 95 條（有關未提供本行要求之報告）；
 - (k) 第 95A 條（有關未依本行要求轉交依第 95 條製作之報告）；

- (l) section 99 (4) (which relates to failing to comply with a requirement from the Bank to supply information for the purposes of an inspection and to supplying information that is false or misleading in a material particular);
- (m) section 103 (1) (which relates to hindering, obstructing, or delaying an investigation, etc);
- (n) section 103 (2) (which relates to failing to comply with a requirement of a person appointed to carry out an investigation, etc)
- (o) section 114 (1) (which relates to failing to comply with a direction):
- (p) section 114 (2) (which relates to obstructing or hindering, etc, a registered bank from giving effect to a direction):
- (q) section 126 (which relates to transferring or removing from New Zealand any property or assets of a registered bank that is subject to statutory management):
- (r) section 150 (which relates to failing to deliver books, records, etc, to a statutory manager):
- (s) section 151 (1)(a) (which relates to destroying, altering, etc, any book, document, or record relating to a registered bank that is subject to statutory management):
- (t) section 151 (1)(b) (which relates to failing or refusing to answer a statutory manager's question about any book, document, etc, relating to a registered bank that is subject to statutory management, and giving a false answer to that question).

Part 5A

Retention of documents by banks

156A Retention of documents by banks

- (1) For the purposes of this section, bank means—
 - (a) a registered bank;
 - (b) the Reserve Bank of New Zealand;
 - (c) any other person carrying on in New Zealand the business of banking.
- (2) Subject to this section, every bank—
 - (a) shall retain, until the expiration of the period specified in subsection (3)(a), every cheque or bank draft that is drawn on that bank and that is presented to it for payment; and may thereafter destroy it:

- (l) 第 99 條第(4)項（有關未遵守為檢查目的提供資訊之本行要求，及提供嚴重不實或誤導資訊）；
- (m) 第 103 條第(1)項（有關阻礙、阻擾或延誤調查等）；
- (n) 第 103 條第(2)項（有關未遵守受指派進行調查人士之要求）；
- (o) 第 114 條第(1)項（有關未遵守指示）；
- (p) 第 114 條第(2)項（有關阻擾或阻礙註冊銀行實施指示）；
- (q) 第 126 條（有關自紐西蘭移轉或移除受法定監管拘束之註冊銀行之任何財產或資產）；
- (r) 第 150 條（有關未交付簿冊、紀錄等予法定監管人）；
- (s) 第 151 條第(1)項第(a)款（有關銷毀、更改有關受法定監管拘束之註冊銀行之任何簿冊、文件或紀錄）；
- (t) 第 151 條第(1)項第(b)款（有關未或拒絕回答法定監管人有關受法定監管拘束之註冊銀行之任何簿冊、文件等之問題，及就該問題給予不實答案）。

第 5A 章 銀行文件之留存

第 156A 條 銀行文件之留存

- (1)就本章目的而言，銀行係指—
 - (a) 註冊銀行；
 - (b) 紐西蘭準備銀行；
 - (c) 於紐西蘭從事銀行業務之任何其他人士。
- (2)依本條規定，每家銀行—
 - (a) 應留存該銀行簽發及向該銀行提示付款之每張支票或銀行匯票，直到第(3)項第(a)款指定之期間為止，且其後得銷毀之；

- (b) shall retain, until the expiration of the period specified in subsection (3)(a), every bill of exchange or promissory note that is made payable at that bank and that is presented to it for payment; and may thereafter destroy it;
- (c) shall retain, until the expiration of the period specified in subsection (3)(b), every voucher used in connection with account transactions at a bank or branch of a bank (including every deposit or withdrawal slip); and may thereafter destroy it.
- (3) For the purposes of subsection (2),—
 - (a) the period applicable in respect of a document to which paragraph (a) or paragraph (b) of that subsection applies shall be,—
 - (i) in the case of a document payable on demand, the period of 7 years beginning with the date of the document; and
 - (ii) in the case of any other document, the period of 7 years beginning with the due date of the document; and
 - (b) the period applicable in respect of a voucher to which paragraph (c) of that subsection applies, shall be the period of 7 years beginning with the date of the transaction to which the voucher relates.
- (4) It is sufficient compliance with the duty to retain imposed by subsection (2) if—
 - (a) a copy of the document has been made by the bank on microfilm, microfiche, tape, disc, electronic or photographic storage media, or other means; and
 - (b) the copy is able to be reproduced therefrom in a form that can be produced in evidence under the Evidence Act 2006; and
 - (c) the copy is retained by the bank for the same period as the document is required to be retained pursuant to that subsection.
- (5) It is sufficient compliance with the duty to retain imposed by subsection (2), in the case of a cheque that has been presented for payment in accordance with section 7D (1)(b)(iii) of the Cheques Act 1960, if—
 - (a) the paying bank arranges, in accordance with the rules of an inter-bank clearing system (within the meaning of section 7A of that Act), for the retention, on behalf of the paying bank, of the cheque or a copy of it in accordance with subsection (4); and
 - (b) the paying bank is entitled to obtain possession of the cheque or the copy; and
 - (c) the cheque or copy is retained on behalf of the paying bank for the period specified in subsection (3)(a).

- (b) 應留存由該銀行支付及向該銀行提示付款之每張匯票或本票，直到第(3)項第(a)款指定之期間為止，且其後得銷毀之；
- (c) 應留存在銀行或其分行帳戶交易所使用之每張憑單（包括每張存款或提款單），直到第(3)項第(b)款指定之期間為止，且其後得銷毀之。
- (3) 就第(2)項目的而言—
 - (a) 有關該項第(a)款或第(b)款文件適用之相關期間—
 - (i) 如係見票即付文件，應為自該文件之日期起算 7 年期間；及
 - (ii) 如係任何其他文件，應為自該文件到期日起算 7 年期間；及
 - (b) 有關該項第(c)款憑證適用之相關期間，應為自與該憑證相關之交易日期起算 7 年期間。
- (4) 如有下列情形，即屬充分遵守第(2)項之留存責任—
 - (a) 銀行已於微縮膠卷、微縮膠片、影帶、磁碟片、電子或照片儲存媒體或以其他方式製作該文件之影本；及
 - (b) 該影本所複製之格式，可當成 2006 年證據法之證據提示；及
 - (c) 銀行留存該影本之期間，應與依該項所定之文件留存期間相同。
- (5) 當支票已依 1960 年支票法第 7D 條第(1)項第(b)款第(iii)目之規定提示付款，如有下列情形，即屬充分遵守第(2)項之留存責任—
 - (a) 付款行依銀行間結算系統規則（依該法第 7A 條規定之定義）代表付款行安排留存該支票，或依第(4)項規定留存該支票之影本；及
 - (b) 付款行有權占有該支票或影本；及
 - (c) 依第(3)項第(a)款明定之期間，代表付款行留存該支票或影本。

- (6) No document shall be destroyed pursuant to this section at any time after a demand for the delivery of the document has been made to the bank by the person entitled to it.
- (7) A copy of a document made pursuant to this section is admissible in evidence in legal proceedings to the same extent as the document of which it is a copy would have been admissible.
- (8) This section applies to cheques, drafts, bills, and promissory notes received by a bank and vouchers in the possession of a bank either before or after the coming into operation of this section.

Part 5B

Oversight of payment systems

General

156B Exercise of powers under this Part

The powers conferred on the Bank by this Part must be exercised for the purpose of promoting the maintenance of a sound and efficient financial system.

Supply of information relating to payment systems

156C Requirement to supply information relating to payment system

- (1) The Bank may, by notice in writing to any person referred to in subsection (2), require that person to supply any information or data relating to a payment system.
- (2) A notice may be given to—
 - (a) an operator of a payment system; or
 - (b) any person who is wholly or partly responsible for the operation of a payment system; or
 - (c) a participant in a payment system.
- (3) A notice may specify—
 - (a) the periods for which, and the form in which, the information or data must be supplied; and
 - (b) the time by which, and the place in New Zealand at which, the information or data must be supplied.
- (4) The Bank may, by a subsequent notice, vary, revoke, or amend a notice.

156D Offence to fail to supply information

- (1) A person commits an offence if the person, without lawful justification or excuse,—

- (6) 支票權利人向銀行提出交付該文件之要求後，不得依本條之規定銷毀該文件。
- (7) 依本條作成之文件影本，在該影本之文件為可採信證據之相同範圍內，得為法律程序之可採信證據。
- (8) 本條適用於本條施行之前或之後銀行收受之支票、匯票、票據與本票及銀行持有之憑證。

第 5B 章 支付系統之監督

總則

第 156B 條 本章所定權力之行使

為促進健全效率金融系統之維護目的，應行使本章賦與本行之權力。

與支付系統相關資訊之提供

第 156C 條 提供有關支付系統資訊之規定

- (1) 本行得以書面通知第(2)項所指之人士，要求該人士提供與支付系統相關之任何資訊或資料。
- (2) 該通知得給予—
 - (a) 支付系統之營運者；或
 - (b) 完全或部分負責支付系統營運之任何人士；或
 - (c) 支付系統之參加者。
- (3) 該通知得明定—
 - (a) 應提供資訊或資料之期間及格式；及
 - (b) 應提供資訊或資料之時間及在紐西蘭之地點。
- (4) 本行得以後續通知更改、撤銷或修正該通知。

第 156D 條 未提供資訊之犯罪

- (1) 任何人士無法律正當性或理由而有下列情形者，該人士即屬犯罪—

- (a) fails to supply information or data in accordance with section 156C or fails to comply with any requirement of the Bank under that section; or
 - (b) supplies information or data in accordance with section 156C that is false or misleading in a material particular.
- (2) The penalty for an offence against this section is set out in section 156J.

156E Requirement that information be audited

- (1) The Bank may, by notice in writing to any person referred to in section 156C (2), require that person to obtain an audit of any information or data supplied in accordance with section 156C if the Bank has reasonable grounds to believe that the information or data is inadequate or inaccurate.
- (2) Every audit must be conducted by a suitably qualified independent person who is approved by the Bank.

156F Offence not to comply with requirement for audit

- (1) A person commits an offence if the person fails, without lawful justification or excuse, to comply with a requirement under section 156E (1) for that person to obtain an audit.
- (2) The penalty for an offence against this section is set out in section 156J.

156G Disclosure of information

- (1) The Bank may publish or disclose any information or data supplied in accordance with section 156C only if—
 - (a) the information or data is available to the public under any Act or is otherwise publicly available information; or
 - (b) the information or data is in a statistical or summary form; or
 - (c) the publication or disclosure of the information or data is for the purposes of, or in connection with, the exercise of powers conferred by this Act; or
 - (d) the publication or disclosure of the information or data is to any central bank, authority, or body in any other country that exercises functions that correspond with, or are similar to, those conferred on the Bank under this Act, and the Bank is satisfied that the information or data will be used by that central bank, authority, or body for the purpose of exercising those functions; or
 - (e) the publication or disclosure of the information or data is to any person who the Bank is satisfied has a proper interest in receiving the information; or

- (a) 未依第 156C 條規定提供資訊或資料，或未遵守本行依該條文所為之任何要求；或
 - (b) 依第 156C 條提供之資訊或資料，係嚴重不實或誤導。
- (2) 違反本條規定之處罰，明定於第 156J 條。

第 156E 條 資訊受查核之規定

- (1) 本行得以書面通知第 156C 條第(2)項所指之任何人士，本行如有合理事由相信依第 156C 條提供之任何資訊或資料不足或不正確，得要求該人士取得該資訊或資料之查核。
- (2) 每次查核應由本行核准之合格獨立人士進行。

第 156F 條 未遵守查核規定之犯罪

- (1) 任何人士無法律正當性或理由而未遵守第 156E 條第(1)項有關該人士取得查核之規定者，該人士即屬犯罪。
- (2) 違反本條規定之處罰，明定於第 156J 條。

第 156G 條 資訊之揭露

- (1) 本行得公布或揭露依第 156C 條所提供之資訊或資料，惟僅限於—
 - (a) 該資訊或資料依任何法律規定得提供予大眾，或係可公開提供之資訊；或
 - (b) 係統計或摘要形式之資訊或資料；或
 - (c) 該資訊或資料之公布或揭露，係為行使本法所賦與權力之目的；或
 - (d) 該資訊或資料係公布或揭露予任何其他國家之中央銀行、主管機關或團體行使相當於或類似於本法賦與本行之職能，且本行確信該中央銀行、主管機關或團體將為行使該等職能而使用該資訊或資料；或
 - (e) 該資訊或資料係公布或揭露予本行確信有收取該資訊或資料之正當利益之任何人士；或

- (f) the publication or disclosure of the information or data is with the consent of the person to whom the information relates or of the person to whom the information is confidential.
- (2) The Bank must not publish or disclose information or data under subsection (1)(d) or (e) unless the Bank is satisfied that satisfactory provision exists to protect the confidentiality of that information or data.
- (3) An officer or employee of the Bank must not publish or disclose any information or data supplied in accordance with section 156C except for the purposes of, or in connection with, the exercise of powers conferred by this Act.
- (4) An officer or employee of the Bank commits an offence if the officer or employee contravenes this section.
- (5) The penalty for an offence against this section is set out in section 156J.

156H Limits on further disclosure of information

- (1) A person to whom any information or data is published or disclosed must not publish, disclose, or use that information or data unless the publication, disclosure, or use is,—
 - (a) in the case of a publication or disclosure under section 156G (1)(c),—
 - (i) for the purposes of, or in connection with, the exercise of powers conferred by this Act; and
 - (ii) in accordance with any conditions that may be imposed by the Bank;
 - (b) in the case of a publication or disclosure under section 156G (1)(e),—
 - (i) authorised by the Bank and in accordance with any conditions that the Bank may have imposed; or
 - (ii) necessary or desirable for the exercise of any function or power conferred by any enactment;
 - (c) in the case of a publication or disclosure under section 156G (1)(f), in accordance with the terms and conditions of the consent referred to in that paragraph.
- (2) A person commits an offence if the person contravenes this section.
- (3) The penalty for an offence against this section is set out in section 156J.

156I Application of other enactments to information published or disclosed under section 156G

Nothing in any Act, other than this Act or the Official Information Act 1982, requires the Bank or any person to whom information or data has been published or disclosed under section 156G to make that information or data available to any other person.

- (f) 該資訊或資料之公布或揭露係經與該資訊相關之人士同意、或經該資訊對其而言係屬機密之人士同意。
- (2) 除非本行確信存有令人滿意得保護該資訊或資料之條文，否則本行不得依第(1)項第(d)款或第(e)款之規定公布或揭露該資訊或資料。
- (3) 除係為行使本法所賦與權力之目的外，本行之職員或受雇人員不得公布或揭露依第 156C 條所提供之任何資訊或資料。
- (4) 本行之職員或受雇人員如違反本條規定，該職員或受雇人員即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 156J 條。

第 156H 條 資訊進一步揭露之限制

- (1) 任何資訊或資料之公布或揭露對象，不得公布、揭露或使用該資訊或資料，但下列情形，不在此限—
 - (a) 如為第 156G 條第(1)項第(c)款之公布或揭露，係—
 - (i) 為行使本法所賦與權力之目的；且
 - (ii) 依據本行可能規定之任何條件；
 - (b) 如為第 156G 條第(1)項第(e)款之公布或揭露，係—
 - (i) 經本行授權且依據本行可能規定之任何條件；或
 - (ii) 為行使任何立法賦與之任何職能或權力目的之需；
 - (c) 如為第 156G 條第(1)項第(f)款之公布或揭露，係依據該款所指之同意條款與條件。
- (2) 任何人如違反本條規定，該人士即屬犯罪。
- (3) 違反本條規定之處罰，明定於第 156J 條。

第 156I 條 依第 156 G 條公布或揭露之資訊，適用其他立法本法或 1982 年政府資訊法以外之任何法律，並未要求本行或已依第 156G 條公布或揭露資訊或資料之任何人士將該資訊或資料提供予任何其他人士。

*Penalties for offences against this Part***156J Penalties for offences**

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$50,000; and
 - (b) in the case of a body corporate, to a fine not exceeding \$500,000.
- (2) The provisions are—
 - (a) section 156D (which relates to failing to supply information relating to a payment system);
 - (b) section 156F (which relates to failing to comply with a requirement for an audit);
 - (c) section 156G (which relates to disclosure of information supplied in accordance with section 156C);
 - (d) section 156H (which relates to further disclosure of information).

Part 5C**Designated settlement systems***General***156K Exercise of powers under this Part**

- (1) The powers conferred on the Minister and the Bank by this Part must be exercised for the purposes of—
 - (a) promoting the maintenance of a sound and efficient financial system; and
 - (b) avoiding significant damage to the financial system that could result from the failure of a participant in a settlement system.
- (2) The powers conferred on the Minister responsible for the Financial Markets Conduct Act 2013 and the FMA by this Part must be exercised for the purposes of—
 - (a) promoting the integrity and effectiveness of settlement systems and related markets in New Zealand; and
 - (b) enhancing the confidence of investors and other market participants in settlement systems and related markets in New Zealand.
- (3) The Governor-General must exercise the powers conferred on him or her by this Part for the purposes set out in subsections (1) and (2).

156L Limit on FMA's powers in relation to Bank

For the purposes of this Part, the FMA may exercise its powers under subpart 1 of Part 3 of the Financial Markets Authority Act 2011 in relation to the Bank only if, and to the extent that, the Bank is—

*違反本章之犯罪處罰***第 156J 條 犯罪之處罰**

- (1) 觸犯第(2)項所列任何條文之罪者—
 - (a) 如係自然人，應處不超過 3 個月有期徒刑，或科不超過 50,000 紐元罰金；
 - (b) 如係法人團體，應科不超過 500,000 紐元罰金。
- (2) 該等犯罪係指—
 - (a) 第 156D 條（有關未提供有關支付系統之資訊）；
 - (b) 第 156F 條（有關未遵守查核之規定）；
 - (c) 第 156G 條（有關揭露依第 156C 條所提供之資訊）；
 - (d) 第 156H 條（有關進一步揭露資訊）。

第 5C 章 指定清算系統*總則***第 156K 條 本章權力之行使**

- (1) 為下列目的，應行使本章賦與部長及本行之權力—
 - (a) 促進健全效率金融體系之維護；及
 - (b) 避免可能導致清算系統參加人倒閉之金融體系重大危害。
- (2) 為下列目的，應行使本章賦與 2013 年金融市場行為法主管部長及 FMA 之權力—
 - (a) 促進紐西蘭清算系統及相關市場之完整與效能；及
 - (b) 提升紐西蘭清算系統及相關市場投資人與其他市場參加人之信心。
- (3) 總督為第(1)項與第(2)項所列目的，應行使本章賦與之權力。

第 156L 條 FMA 對本行權力之限制

就本章之目的而言，僅限於本行下列身分範圍內，FMA 方得對本行行使 2011 年金融市場主管機關法第 3 章之第 1 節所定之權力—

- (a) a participant in a settlement system; or
- (b) an operator of a settlement system.

*Designation**[Repealed]***156M Definitions for this Part**

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

contact person, in relation to a settlement system, means the person specified under section 156N (2)(d)

designated settlement system means a settlement system that is declared to be a designated settlement system under section 156N

joint regulators means—

- (a) the Bank; and
- (b) the FMA

Minister responsible for the Financial Markets Conduct Act 2013 means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Financial Markets Conduct Act 2013

netted balance means any amount calculated in accordance with the netting provisions of the rules of a designated settlement system as the net debit payable by, or on behalf of, a participant in the designated settlement system to, or on behalf of, another participant in that system for all or any claims or obligations to which those rules apply

netting means the conversion into 1 net claim or obligation, or the set-off, of different claims or obligations between participants in a settlement system that results from the issue and receipt of settlement instructions involving 2 or more participants in the settlement system or that is otherwise provided for under the rules of the settlement system,—

- (a) whether on a bilateral or multilateral basis; and
- (b) whether or not through the interposition of an operator of the settlement system (whether by novation or otherwise); and
- (c) whether or not the obligations or claims constitute mutual credits, mutual debts, or other mutual dealings; and
- (d) whether or not the obligations or claims are denominated in New Zealand currency

property means personal property

pure payment system means a designated settlement system that is a payment system that is declared to be a pure payment system in accordance with section 156N (3)(d)

- (a) 清算系統之參加人；或
- (b) 清算系統之營運者。

*指定**[刪除]***第 156M 條 本章之定義**

- (1) 除非上下文另有規定外，本章之一

聯絡人，就清算系統而言，係指第 156N 條第(2)項第(d)款明定之人士。

指定清算系統係指依第 156N 條宣布為指定清算系統之清算系統。

共同監管機關係指—

- (a) 本行；及
- (b) FMA。

負責 2013 年金融市場行為法之部長係指以任何令狀授權或首相授權負責主管 2013 年金融市場行為法之部長。

淨餘額係指依指定清算系統規則之淨額結算條文，就適用該規則之任何請求權或債務，計算由或代表指定清算系統參加人應支付予該系統另一位參加人之淨負債金額。

淨額結算係指因核發及收取涉及清算系統 2 位以上參加人之清算指令，或依清算系統規則其他規定，而轉換為 1 個淨請求權或債務，或抵銷清算系統參加人之間不同請求權或債務—

- (a) 無論係依雙邊或多邊基礎；及
- (b) 不論是否透過清算系統營運者介入（無論係透過創新或其他方式）；及
- (c) 無論債務或請求權是否構成相互記入貸方、相互負債或其他相互交易；及
- (d) 無論債務或請求權是否以紐西蘭幣別計價。

財產係指動產。

純支付系統係指一個指定清算系統，其係依第 156N 條第(3)項第(d)款規定被宣布為純支付系統之支付系統。

rules,—

- (a) in relation to a settlement system, means the rules of the settlement system (whether made under bylaws, agreements, procedures, contracts, or other documents) that are evidenced in writing and that provide, among other things, for—
 - (i) the basis on which settlement instructions are given or received; and
 - (ii) the basis on which settlement obligations are determined and calculated (either on a gross basis or using netting); and
 - (iii) the basis on which settlements are effected (either on a gross basis or using netting); and
 - (iv) any action to be taken if a participant in the settlement system is unable, or likely to become unable, to meet the participant's obligations to any or all of the following:
 - (A) an operator of the settlement system;
 - (B) another participant in the settlement system;
 - (C) any other party to those rules; and
- (b) in relation to a designated settlement system, means the rules of that settlement system that are contained in documents specified in the designation under section 156N; and includes any amendments to those rules that have—
 - (i) been notified, not been disallowed, and come into effect in accordance with the processes and the time frames set out in sections 156ZB and 156ZC; or
 - (ii) been made pursuant to a variation of a designation under section 156ZD

settlement means—

- (a) the making of a payment or the transfer of the title to, or an interest in, property—
 - (i) that is done in accordance with, or to give effect to, a settlement instruction; and
 - (ii) that is on a gross basis or that uses netting; and
 - (iii) whether by way of book entry on the accounts of a central bank or an operator of a settlement system or otherwise; or
- (b) any other act that discharges an obligation to make a payment or transfer the title to, or an interest in, property in accordance with the rules of a settlement system

settlement instruction means an instruction by a participant in, or to an operator of, a settlement system—

- (a) that is made in accordance with the rules of that settlement system; and

規則—

- (a) 就清算系統而言，係指以書面證明且規範下列事項之清算系統規則（無論係以章程、合約、程序、契約或其他文書作成）—
 - (i) 給予或收取清算指令之基礎；及
 - (ii) 決定及計算清算債務之基礎（依總額基礎或使用淨額清算）；及
 - (iii) 清算完成之基礎（依總額基礎或使用淨額清算）；及
 - (iv) 如清算系統參加人無法或可能無法滿足對下列任何或全部人士之債務，將採取之任何行動：
 - (A) 清算系統營運者；
 - (B) 清算系統之其他參加人；
 - (C) 該規則之任何其他當事人；及
- (b) 就指定清算系統而言，係指於第 156N 條指定中明定予以納入文件之該清算系統規則；且包括該規則之下列任何修正規定—
 - (i) 已公告、未被駁回，且依第 156ZB 條與第 156ZC 條規定之流程與時間架構生效者；或
 - (ii) 依第 156ZD 條之指定更改而作成修正。

清算係指—

- (a) 依下列規定支付或移轉財產上權利或利益—
 - (i) 係依清算指令完成或生效；及
 - (ii) 係依總額基礎或使用淨額清算；及
 - (iii) 無論係帳面登錄於中央銀行或清算系統營運者之帳戶或其他方式；或
- (b) 依清算系統規則履行支付或移轉財產上產權或利益義務之任何其他行動。

清算指令係指清算系統之參加人或營運者所為之下列指令—

- (a) 係依該清算系統規則作成；及

(b) that results, or is intended to result, in 1 or more settlements being effected

settlement system—

(a) means a system or arrangement for effecting settlements or processing settlement instructions in accordance with rules; and

(b) includes a payment system

specified operator means the operator of a settlement system specified in an Order in Council in accordance with section 156N (2)(c).

(2) In this Part, a participant **becomes subject to an insolvency event** on the date on which, and (if specified) the time at which,—

(a) in the case of a company or other body corporate,—

(i) a liquidator is appointed in respect of a liquidation under Part 16 of the Companies Act 1993 or under any other Act; or

(ii) an administrator is appointed in respect of a voluntary administration under Part 15A of the Companies Act 1993; or

(iii) a liquidator is appointed in respect of a liquidation of an overseas company under section 342 of the Companies Act 1993; or

(iv) a statutory manager is appointed in respect of a statutory management under Part 3 of the Corporations (Investigation and Management) Act 1989; or

(v) a statutory manager is appointed in respect of a statutory management under Part 5 of this Act; or

(vi) a person is appointed in respect of, or another event occurs that indicates the start of, a process in New Zealand or in any other country in which the company or other body corporate was incorporated, created, or established that is similar to those set out in subparagraphs (i) to (v); and

(b) in the case of an individual,—

(i) a person is adjudicated bankrupt under the Insolvency Act 2006 or is given, or determined to have, a similar status (whether in New Zealand or in another country); or

(ii) a person is admitted to the no asset procedure in subpart 4 of Part 5 of the Insolvency Act 2006 or becomes subject to a similar procedure (whether in New Zealand or in another country).

(b) 於 1 項以上清算完成之結果或預期結果。

清算系統—

(a) 係指依規則完成清算或處理清算指令之系統或安排；及

(b) 包括支付系統在內。

指定營運者係指依第 156N 條第(2)項第(c)款之規定，以樞密院令指定之清算系統營運者。

(2)於本章所稱**成為受破產事件對象**，係指參加人於下列日期與時間（如經具體指定）—

(a) 如為公司或其他法人團體—

(i) 就 1993 年公司法第 16 章或任何其他法律之清算，指派清算人時；或

(ii) 就 1993 年公司法第 15A 章之自願破產管理，指派破產管理人時；或

(iii) 就 1993 年公司法第 342 條之海外公司清算，指派清算人時；或

(iv) 就 1989 年公司（調查與管理）法第 3 章之法定監管，指派法定監管人時；或

(v) 就本法第 5 章之法定監管，指派法定監管人時；或

(vi) 對於在紐西蘭，或在公司或其他法人團體設立、創立或建立之任何其他國家開始類似第(i)目至第(v)目規定之流程，而指派某位人士或發生其他事件時；及

(b) 如為個人—

(i) 依 2006 年破產法宣告該人士破產，或給予或認定有類似狀態時（無論係在紐西蘭或其他國家）；或

(ii) 進入 2006 年破產法第 5 章第 4 節無資產程序，或受類似程序拘束之人士時（無論係在紐西蘭或其他國家）。

*Designation***156N Designation of settlement system**

- (1) The Governor-General may, by Order in Council, on the advice of both the Minister and the Minister responsible for the Financial Markets Conduct Act 2013 given in accordance with a joint recommendation of the joint regulators, declare any settlement system to be a designated settlement system.
- (2) The order must specify—
 - (a) the settlement system that is the subject of the designation; and
 - (b) the documents that evidence the rules of that settlement system; and
 - (c) which operator of the settlement system is the specified operator; and
 - (d) the name or title of the person to whom notices relating to that settlement system must be given (the **contact person**).
- (3) The order may also specify all or any of the following:
 - (a) conditions to which the designation is subject;
 - (b) that a particular operator is a participant in the settlement system that is the subject of the designation;
 - (c) that the operator specified in accordance with subsection (2)(c) is an operator to whom section 103A of the Personal Property Securities Act 1999 applies;
 - (d) that the settlement system that is the subject of the designation is a pure payment system.
- (4) Both of the joint regulators must, as soon as practicable after a settlement system has been declared to be a designated settlement system, post on their respective Internet sites the contact details and the name or title of the contact person of that designated settlement system.
- (5) However, the FMA does not have to comply with subsection (4) if a settlement system is specified to be a pure payment system in accordance with subsection (3)(d).
- (6) To avoid doubt,—
 - (a) rules are neither legislative instruments nor disallowable instruments for the purposes of the Legislation Act 2012 (and do not have to be presented to the House of Representatives under section 41 of that Act); and
 - (b) a breach of a condition to which the designation of a settlement system is subject does not affect the application of section 156Q, 156R, 156T, or 156X of this Act or section 103A of the Personal Property Securities Act 1999.

*指定***第 156N 條 清算系統之指定**

- (1) 總督得依部長及 2013 年金融市場行為法主管部長根據共同主管機關共同建議所給予之意見，以樞密院令宣布將清算系統指定為指定清算系統。
- (2) 該命令應明定—
 - (a) 受指定拘束之清算系統；及
 - (b) 證明該清算系統規則之文件；及
 - (c) 清算系統之營運者，係經具體指定之營運者；及
 - (d) 必須給予與該清算系統相關通知之人士名稱或職稱（**聯絡人**）。
- (3) 該命令亦得明定以下任一或全部規定：
 - (a) 適用該項指定之條件；
 - (b) 特定營運者係該受指定拘束之清算系統之參加人；
 - (c) 依第(2)項第(c)款具體指定之營運者，係適用 1999 年動產擔保法第 103A 條規定之營運者；
 - (d) 適用該指定之清算系統，係純支付系統。
- (4) 宣布某清算系統為指定清算系統之後，共同主管機關均應儘速於各自網站張貼該指定清算系統之聯絡詳細資料及聯絡人姓名或職稱。
- (5) 但如某清算系統依第(3)項第(d)款規定被具體指定為純支付系統，則 FMA 無須遵守第(4)項之規定。
- (6) 為避免疑義—
 - (a) 規則並非法律文書，亦非 2012 年法制法之可否決文書（且無須依該法第 41 條規定提交眾議院）；及
 - (b) 違反拘束該清算系統之指定條件者，並不影響本法第 156Q 條、第 156R 條、第 156T 條或第 156X 條，或 1999 年動產擔保法第 103A 條之適用。

*Effect of designation**[Repealed]***156O Joint regulators' recommendations subject to procedure in sections 156Y to 156ZA**

The procedure set out in sections 156Y to 156ZA must be followed by the joint regulators when they make a recommendation under section 156N (1).

*Effect of designation***156P Application of this Part to pure payment systems**

- (1) If a designated settlement system is specified to be a pure payment system in accordance with section 156N (3)(d), then this Part applies to that designated settlement system as follows:
 - (a) all references to a settlement must be read as if they were references to a settlement as defined in subsection (4); and
 - (b) for the purposes of sections 156K, 156M, and 156ZB to 156ZQ, the Bank is the sole regulator of that settlement system; and
 - (c) all references to the joint regulators in sections 156K, 156M, and 156ZB to 156ZQ must be read as if they were references to the Bank; and
 - (d) anything in sections 156K, 156M, and 156ZB to 156ZQ that may or must be done by both of the joint regulators may or must be done by the Bank alone; and
 - (e) except as set out in subsection (2), in performing its functions and duties and exercising its powers under sections 156K, 156M, and 156ZB to 156ZQ, the Bank does not have to consult with, advise, or give notice to, the FMA; and
 - (f) section 156L does not apply; and
 - (g) the advice of the Minister responsible for the Financial Markets Conduct Act 2013 is not required under section 156ZD or 156ZE; and
 - (h) this Part must be interpreted with all necessary modifications in order to give effect to this section.
- (2) However, if the Bank intends to recommend, in accordance with section 156ZD (applied as set out in subsection (1)), that a designated settlement system's designation is varied so that it is no longer specified to be a pure payment system, the Bank must consult with the FMA before making that recommendation.
- (3) This section ceases to apply to a designated settlement system if, in accordance with section 156ZD (applied as set out in subsection (1)), that settlement system's designation is varied so that it is no longer specified to be a pure payment system.

*指定之效力**[刪除]***第 156O 條 適用第 156Y 條至第 156ZA 條規定之共同監管機關之建議**

共同監管機關作成第 156N 條第(1)項之建議時，應遵守第 156Y 條至第 156ZA 條規定之程序。

*指定之效力***第 156P 條 本章對於純支付系統之適用**

- (1) 如指定清算系統依第 156N 條第(3)項第(d)款之規定被具體指定為純支付系統，則本章之規定適用於該指定清算系統如下：
 - (a) 所稱清算應解讀為如同第(4)項定義之清算；及
 - (b) 為第 156K 條、第 156M 條及第 156ZB 條至第 156ZQ 條之目的，本行係該清算系統之唯一監管機關；及
 - (c) 第 156K 條、第 156M 條及第 156ZB 條至第 156ZQ 條所指共同監管機關，應解讀為如同提及本行；及
 - (d) 於第 156K 條、第 156M 條及第 156ZB 條至第 156ZQ 條得或應由共同監管機關作為之任何事項，得或應由本行單獨為之；及
 - (e) 除第(2)項明定者外，執行及行使第 156K 條、第 156M 條及第 156ZB 條至第 156ZQ 條之職能與職責及權力時，本行無須洽商、建議或通知 FMA；及
 - (f) 第 156L 條之規定不適用；及
 - (g) 第 156ZD 條或第 156ZE 條未要求 2013 年金融市場行為法主管部長之意見；及
 - (h) 本章應與所有必要修正規定併同解釋之，俾實施本條之規定。
- (2) 然而，本行如有意依第 156ZD 條之規定（按照第(1)項之規定適用之）給予建議，則本行於作成該建議之前，應洽商 FMA。
- (3) 如依第 156ZD 條之規定（按照第(1)項之規定適用之）變更指定清算系統之指定，使該系統不再被具體指定為純支付系統，則本條停止適用於該指定清算系統。

- (4) For the purposes of subsection (1)(a), settlement means—
- (a) the making of a payment—
 - (i) that is done in accordance with, or to give effect to, a settlement instruction; and
 - (ii) that is on a gross basis or that uses netting; and
 - (iii) whether by way of book entry on the accounts of a central bank or an operator of a settlement system or otherwise; or
 - (b) any other act that discharges an obligation to make a payment in accordance with the rules of a settlement system.

156Q Rules of designated settlement system are valid and enforceable

- (1) The rules of a designated settlement system are valid and enforceable despite any enactment or rule of law to the contrary.
- (2) However, subsection (1) applies only to the extent that the rules provide for—
 - (a) the basis on which settlement instructions are given or received; and
 - (b) the basis on which settlement obligations are determined and calculated (either on a gross basis or using netting); and
 - (c) the basis on which settlements are effected (either on a gross basis or using netting); and
 - (d) any action to be taken if a participant in the designated settlement system is unable, or likely to become unable, to meet the participant's obligations to any or all of the following:
 - (i) the specified operator of the designated settlement system;
 - (ii) another participant in the designated settlement system;
 - (iii) any other party to those rules.

156R Settlements must not be reversed, etc

- (1) A settlement that is effected in accordance with the rules of a designated settlement system must not, whether in whole or in part, be reversed, repaid, recovered, or set aside despite any enactment or rule of law to the contrary.
- (2) Subsection (1) extends to any application made to a New Zealand court by a foreign court, foreign representative, or foreign creditor to reverse, repay, recover, or set aside a settlement (whether in whole or in part) that relates to an insolvency (in any form, whether personal or corporate) that is within the jurisdiction of the relevant foreign court, foreign representative, or foreign creditor.

- (4) 為第(1)項第(a)款之目的，清算係指—

- (a) 下列支付—
 - (i) 係依據或實施清算指令所作成；及
 - (ii) 係依總額基礎或使用淨額結算所作成；及
 - (iii) 無論係藉由登錄於中央銀行或清算系統銀行或其他之帳戶；或
- (b) 依清算系統規則，履行付款債務之任何其他行為。

第 156Q 條 指定清算系統之規則係屬有效且可執行的

- (1) 儘管任何立法或法律規則有相反規定，指定清算系統之規則係屬有效且可執行的。
- (2) 但僅在該規則規範下列事項之範圍內，方得適用第(1)項之規定—
 - (a) 給予或收取清算指令之基礎；及
 - (b) 決定及計算清算債務之基礎（依總額基礎或使用淨額清算）；及
 - (c) 完成清算之基礎（依總額基礎或使用淨額清算）；及
 - (d) 指定清算系統參加人無法或可能無法滿足該參加人對下列人士之債務時，可能採取之任何行動：
 - (i) 指定清算系統之具體指定營運者；
 - (ii) 指定清算系統之其他參加人；
 - (iii) 該規則之任何其他當事人。

第 156R 條 清算不得撤銷等

- (1) 儘管任何立法或法律規則有相反規定，不得撤銷、清償、收回或取消依指定清算系統規則所完成清算之全部或一部。
- (2) 第(1)項規定擴及適用於外國法院、外國代表人或外國債權人向紐西蘭法院聲請撤銷、清償、收回或取消與在相關外國法院、外國代表人或外國債權人之管轄區域內之破產（以任何形式，無論係個人或法人）相關之清算（無論全部或一部）。

(3) In this section,—

foreign court means a judicial or other authority competent to control or supervise a foreign proceeding

foreign proceeding means a collective judicial or administrative proceeding in a foreign jurisdiction, including an interim proceeding, under a law relating to insolvency (in any form, whether personal or corporate), in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation or liquidation

foreign representative means a person or body, including one appointed on an interim basis, authorised in a foreign proceeding to administer the reorganisation or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding.

156S Limits on application of section 156R (1)

- (1) Section 156R (1) does not apply to a settlement that is effected in accordance with the rules of a designated settlement system if—
- (a) a participant in the designated settlement system in respect of whom the settlement is effected becomes subject to an insolvency event (the insolvent participant); and
 - (b) the settlement is effected after the insolvent participant becomes subject to an insolvency event.
- (2) Despite subsection (1), section 156R (1) applies to the settlement if—
- (a) the settlement is effected within 24 hours after the insolvent participant becomes subject to an insolvency event; or
 - (b) the settlement instruction that gives rise to the settlement is duly authorised on behalf of the insolvent participant after the insolvent participant becomes subject to an insolvency event.
- (3) For the purposes of subsection (2), **authorised on behalf of the insolvent participant** means authorised (either individually or as part of a broader authorisation) by—
- (a) a liquidator appointed under Part 16 of the Companies Act 1993 or under any other Act; or
 - (b) an administrator appointed in accordance with subpart 2 of Part 15A of the Companies Act 1993; or
 - (c) a statutory manager appointed in accordance with section 38 of the Corporations (Investigation and Management) Act 1989; or

(3) 於本條之一

外國法院係指有能力控制或監督外國法律程序之司法或其他機關。

外國法律程序係指在外國管轄區域之共同司法或行政程序，包括有關破產（以任何形式，無論係個人或法人）法律之臨時程序，於該程序中，為重整或清算目的，債務人之資產與事務受到外國法院控制或監督。

外國代表人係指人士或團體，包括臨時任命，經授權得於外國法律程序管理債務人資產或事務之重整或清算，或擔任外國法律程序之代表人。

第 156S 條 第 156R 條第(1)項規定之適用限制

- (1) 如有下列情形者，第 156R 條第(1)項之規定不適用於依指定清算系統規則完成之清算—
- (a) 已完成清算之指定清算系統參加人，成為受破產事件拘束（即**破產參加人**）；及
 - (b) 清算係在破產參加人成為受破產事件拘束之後完成。
- (2) 儘管有第(1)項之規定，如有下列情形者，第 156R 條第(1)項之規定適用於該清算—
- (a) 清算係在破產參加人成為受破產事件拘束之後 24 小時內完成；或
 - (b) 在破產參加人成為受破產事件拘束之後，引發該清算之清算指令係代表該破產參加人合法授權所為。
- (3) 為第(2)項之目的，**代表該破產參加人之授權**係指由下列人士之授權（無論係個別授權或係較廣泛授權之一部分）—
- (a) 依 1993 年公司法第 16 章或依任何其他法律，指派之清算人；或
 - (b) 依 1993 年公司法第 15A 章第 2 節，指派之破產管理人；或
 - (c) 依 1989 年公司（調查與管理）法第 38 條，指派之法定監管人；或

- (d) a statutory manager appointed in accordance with section 117 of this Act; or
- (e) a person who performs a role similar to those set out in paragraphs (a) to (d) in respect of a process in New Zealand or in any other country in which the insolvent participant was incorporated, created, or established that is similar to those set out in section 156M (2)(a)(i) to (v); or
- (f) a person who is authorised to do so under any enactment or rule of law of New Zealand or of any other country in which the insolvent participant was incorporated, created, or established; or
- (g) the Assignee nominated under section 59 of the Insolvency Act 2006 to be the Assignee of a bankrupt's property or any person who performs a similar role in respect of a process (whether in New Zealand or in another country) that is, or is similar to, bankruptcy.

156T Netting is valid and enforceable

If the rules of a designated settlement system provide for netting, any netting in accordance with those rules is valid and enforceable despite any enactment or rule of law to the contrary.

156U Interrelationship between netting and Companies Act 1993 and Insolvency Act 2006

- (1) The following provisions do not apply to any netting in accordance with the rules of a designated settlement system:
 - (a) sections 310 to 310O of the Companies Act 1993;
 - (b) sections 254 to 262 of the Insolvency Act 2006.
- (2) However, a netted balance is to be treated as—
 - (a) an amount to which section 310 (1) of the Companies Act 1993 applies if a company that is in liquidation and another party (both of whom are participants in a designated settlement system) also have mutual credits, mutual debts, or other mutual dealings between them that are not netted in accordance with the rules of the designated settlement system; and
 - (b) an amount to which section 254 (1) of the Insolvency Act 2006 applies if the bankrupt (as defined in section 3 of that Act) and another party (both of whom are participants in a designated settlement system) also have mutual credits, mutual debts, or other mutual dealings between them that are not netted in accordance with the rules of the designated settlement system.

- (d) 依本法第 117 條，指派之法定監管人；或
- (e) 在紐西蘭，或在破產參加人設立、創立或建立之任何其他國家之類似於第 156M 條第(2)項第(a)款第(i)目至第(v)目所定程序之類似過程，扮演類似於第(a)項至第(d)項所列角色之人士；或
- (f) 依紐西蘭或破產參加人設立、創立或建立之任何其他國家之任何立法或法律規則授權得如此作為之任何人士；或
- (g) 依 2006 年破產法第 59 條，被提名擔任破產財團受讓人之受讓人，或就破產或類似程序扮演類似角色（無論係在紐西蘭或其他國家）之任何人士。

第 156T 條 淨額結算係屬有效且可執行的

如指定清算系統之規則規範淨額結算，儘管任何立法或法律規則有相反規定，依該規則所為之任何淨額結算係屬有效且可執行的。

第 156U 條 淨額結算與 1993 年公司法及 2006 年破產法間之內部關係

- (1) 下列條文不適用於依指定清算系統規則所為之任何淨額結算：
 - (a) 1993 年公司法第 310 條至第 310O 條；
 - (b) 2006 年破產法第 254 條至第 262 條。
- (2) 然而，淨額結算餘額應被視為—
 - (a) 如清算公司與他方當事人（雙方均為指定清算系統參加人）之間亦有未依指定清算系統規則淨額結算之相互債權、相互債務或其他相互交易，該餘額將被視為適用 1993 年公司法第 310 條第(1)項規定之金額；及
 - (b) 如破產人（定義見 2006 年破產法第 3 條）與他方當事人（雙方均為指定清算系統參加人）之間亦有未依指定清算系統規則淨額結算之相互債權、相互債務或其他相互交易，該餘額將被視為適用該法第 254 條第(1)項規定之金額。

*Procedure for making designation**[Repealed]***156V Underlying transactions, settlements, and limits on effect of sections 156Q, 156R, and 156T**

- (1) Nothing in section 156Q, 156R, or 156T prevents—
- (a) the operation of any enactment or rule of law in relation to an underlying transaction (including, without limitation, sections 56, 292, 297, and 298 of the Companies Act 1993 and section 194 of the Insolvency Act 2006); or
 - (b) any party from taking action against another party that has acted fraudulently or dishonestly so long as the remedy sought or obtained in respect of that action does not affect the application of section 156Q, 156R, or 156T.
- (2) If a person brings an action under any enactment or rule of law in relation to an underlying transaction (including, without limitation, sections 56, 292, 297, and 298 of the Companies Act 1993 and section 194 of the Insolvency Act 2006), that person may produce evidence of a settlement before the court for the purpose of proving that—
- (a) a participant received value by means of that settlement; and
 - (b) the value received was an element of the underlying transaction.
- (3) Nothing in section 292(4A) of the Companies Act 1993 or section 196 of the Insolvency Act 2006 applies to—
- (a) an underlying transaction; or
 - (b) a settlement that was effected in accordance with the rules of a designated settlement system.
- (4) In this section, underlying transaction—
- (a) means a transaction that gave rise to—
 - (i) a settlement; or
 - (ii) a settlement obligation; but
 - (b) does not include—
 - (i) a settlement instruction; or
 - (ii) a settlement that was effected in accordance with the rules of a designated settlement system; or
 - (iii) any novation of the obligations of a participant in a designated settlement system that was completed in accordance with the rules of that designated settlement system.

*作成指定之程序**[刪除]***第 156V 條 基礎交易、清算及第 156Q 條、第 156R 條與第 156T 條效果之限制**

- (1) 第 156Q 條、第 156R 條或第 156T 條之規定，並無—
- (a) 阻礙任何立法或法律規則（包括但不限於 1993 年公司法第 56 條、第 292 條、第 297 條與第 298 條、及 2006 年破產法第 194 條）就基礎交易之運作；或
 - (b) 禁止任何當事人對於他方當事人之詐欺或不實作為提起訴訟，但就該行為尋求或取得之救濟不得影響第 156Q 條、第 156R 條或第 156T 條之適用。
- (2) 如某位人士依任何立法或法律規則（包括但不限於 1993 年公司法第 56 條、第 292 條、第 297 條與第 298 條、及 2006 年破產法第 194 條）就基礎交易提起訴訟，該人士得為證明下列情事之目的，向法院提示清算證據—
- (a) 參加人藉由該清算所取得之價值；及
 - (b) 所取得價值係基礎交易之要素。
- (3) 1993 年公司法第 292 條第(4A)項或 2006 年破產法第 196 條不適用於—
- (a) 基礎交易；或
 - (b) 依指定清算系統規則完成之清算。
- (4) 於本條所稱基礎交易—
- (a) 係指產生下列情事之交易—
 - (i) 清算；或
 - (ii) 清算義務；但
 - (b) 不包括—
 - (i) 清算指令；或
 - (ii) 依指定清算系統規則完成之清算；或
 - (iii) 指定清算系統參加人之債務依據該指定清算系統規則完成更替者。

156W Interrelationship with other enactments

- (1) The following enactments prevail over sections 156Q, 156R, and 156T:
 - (a) sections 122 (8) and 127 (4) of this Act;
 - (b) sections 42 (8) and 44 (4) of the Corporations (Investigation and Management) Act 1989.
- (2) This Part prevails over the Insolvency (Cross-border) Act 2006.

156X Transfer of property in accordance with rules is effective

- (1) Subsection (2) applies if property is transferred in accordance with the rules of a designated settlement system.
- (2) If this subsection applies, no person may refuse to take an action on the ground that the transfer was not effective.
- (3) Nothing in this section—
 - (a) affects any right a person has to refuse to take an action on any other ground; or
 - (b) derogates from section 45G (3) of the Reserve Bank of New Zealand Act 1964 (as continued in force by section 84 of the Public Finance Act 1989).
- (4) Section 45I of the Reserve Bank of New Zealand Act 1964 (as continued in force by section 84 of the Public Finance Act 1989) must be read subject to this section.
- (5) Except as provided in this section, this section has effect despite anything to the contrary in any enactment, rule of law, constitution, deed, or agreement.

*Procedure for making designation***156Y Application for designation**

- (1) A person who wishes to have a settlement system declared to be a designated settlement system may apply to either of the joint regulators.
- (2) A joint regulator must, as soon as practicable, advise the other joint regulator if it receives an application.
- (3) An application must—
 - (a) be accompanied by a copy of the rules of the settlement system; and
 - (b) be accompanied by any information required by either or both of the joint regulators; and
 - (c) set out the contact details and the name or title of the person who is proposed to act as the contact person of the settlement system; and

第 156W 條 與其他立法之相互關係

- (1) 下列立法優先於第 156Q 條、第 156R 條或第 156T 條之規定：
 - (a) 本法第 122 條第(8)項及第 127 條第(4)項；
 - (b) 1989 年公司（調查與管理）法第 42 條第(8)項與第 44 條第(4)項。
- (2) 本章之規定優先於 2006 年（跨境）破產法。

第 156X 條 依規則移轉財產之有效性

- (1) 如依指定清算系統規則移轉財產，適用第(2)項之規定。
- (2) 如適用本項之規定，任何人不得以該移轉無效為由而拒絕採取行動。
- (3) 本條之規定，並無—
 - (a) 影響任何人士得以任何其他理由拒絕採取行動之權利；或
 - (b) 偏離 1964 年紐西蘭準備銀行法第 45G 條第(3)項之規定（以 1989 年公共財政法第 84 條繼續有效）。
- (4) 1964 年紐西蘭準備銀行法第 45I 條之規定（以 1989 年公共財政法第 84 條繼續有效），必須解讀為受本條之拘束。
- (5) 除本條另有規定外，儘管任何立法、法律規則、章程、契據或合約有相反規定，本條仍具有效力。

*作成指定之程序***第 156Y 條 指定之申請**

- (1) 希望清算系統被宣布為指定清算系統之人士，得向任一共同監管機關申請。
- (2) 任一共同監管機關如收到申請，應儘速告知另一共同監管機關。
- (3) 該申請應—
 - (a) 檢附 1 份清算系統規則；及
 - (b) 檢附任一或全部共同監管機關要求之任何資訊；及
 - (c) 明列聯絡詳細資料及擬擔任清算系統聯絡人之姓名或職稱；及

- (d) be accompanied by the application fee (if any) that is jointly determined by the joint regulators and approved by both the Minister and the Minister responsible for the Financial Markets Conduct Act 2013 by notice in the *Gazette*.
- (4) The joint regulators may, together, produce guidelines relating to the application procedure.

156Z Consideration of application

- (1) Both of the joint regulators must consider any application made in accordance with section 156Y.
- (2) In considering an application, each of the joint regulators may have regard to any or all of the following matters:
 - (a) the purpose and scope of the settlement system;
 - (b) the rules of the settlement system;
 - (c) any laws or regulatory requirements relating to the operation of the settlement system and the extent to which the settlement system complies with those laws or regulatory requirements;
 - (d) relevant international standards concerning clearing and settlement systems, to the extent that they are relevant in the circumstances;
 - (e) the capability and capacity of the operators of the settlement system;
 - (f) the financial resources of the settlement system;
 - (g) the importance of the settlement system to the financial system;
 - (h) the impact on creditors of participants in the settlement system of specifying that an operator of the settlement system is an operator to whom section 103A of the Personal Property Securities Act 1999 applies;
 - (i) any other matters that the regulator considers appropriate.
- (3) In considering an application, each of the joint regulators must consider whether the settlement system should be specified to be a pure payment system.
- (4) In considering an application, each of the joint regulators may have regard, or refer, to, and may rely upon, any relevant information, work, or matter held, or produced, by the other joint regulator.

156ZA Decision on application

- (1) After considering an application, the joint regulators must, together, either—
 - (a) make a joint recommendation to both the Minister and the Minister responsible for the Financial Markets Conduct Act 2013 that the settlement system to which the application relates be declared to be a designated settlement system under section 156N; or

- (d) 檢附共同監管機關共同決定並經部長及 2013 年金融市場行為法主管部長於政府公報公告核准之申請費（如有的話）。

- (4) 共同監管機關得共同提出有關申請程序之指導原則。

第 156Z 條 申請之考量事項

- (1) 共同監管機關均應考量依第 156Y 條提出之任何申請案。
- (2) 考量申請案時，共同監管機關可能考量下列任何或全部事項：
 - (a) 清算系統之目的與範圍；
 - (b) 清算系統規則；
 - (c) 有關清算系統營運之任何法律或監管規定，以及清算系統遵守該等法律或監管規定之範圍；
 - (d) 有關結算與清算系統之相關國際標準，但限於情況相關者；
 - (e) 清算系統營運者之能力與營運規模；
 - (f) 清算系統之財務來源；
 - (g) 清算系統對金融體系之重要性；
 - (h) 具體指定清算系統之營運者為適用 1999 年動產擔保法第 103A 條之營運者，對該清算系統參加人之債權人之影響；
 - (i) 監管機關認為適當之任何其他事項。
- (3) 考量申請案時，共同監管機關均應考量該清算系統是否應被具體指定為純支付系統。
- (4) 考量申請案時，共同監管機關得考量、參考並得信賴另一共同監管機關持有或提示之任何相關資訊、工作或事項。

第 156ZA 條 對申請之決定

- (1) 考量申請案後，共同監管機關應共同—
 - (a) 向部長及 2013 年金融市場行為法主管部長，作成依第 156N 條之規定將與該申請案相關之清算系統予以宣布為指定清算系統之共同建議；或

- (b) refuse to make that recommendation.
- (2) If subsection (1)(b) applies, the joint regulators must together give notice in writing to the applicant stating—
 - (a) that the joint regulators refuse to make a recommendation that the settlement system to which the application relates be declared to be a designated settlement system under section 156N; and
 - (b) the reasons for the joint regulators' refusal.

Amendments to rules

156ZB Joint regulators must be notified of proposed amendments to rules

- (1) The specified operator of a designated settlement system must, as soon as practicable, notify either of the joint regulators of any amendment that is proposed to be made to the rules of that designated settlement system.
- (2) A joint regulator must, as soon as practicable, advise the other joint regulator if it receives notice of a proposed amendment to the rules of a designated settlement system.

156ZC Proposed amendments to rules may be disallowed

- (1) The joint regulators may disallow any amendment that is proposed to be made to the rules of a designated settlement system by giving notice to that effect to the contact person of that designated settlement system on or before the day that is 20 working days after the date on which either of the joint regulators first received notice of the proposed amendment under section 156ZB (1).
- (2) If the joint regulators disallow a proposed amendment in accordance with subsection (1),—
 - (a) the proposed amendment does not come into effect; and
 - (b) the rules of the designated settlement system continue to apply as they did before the amendment was proposed.
- (3) If the joint regulators do not disallow a proposed amendment in accordance with subsection (1), the proposed amendment comes into effect on—
 - (a) the earlier of—
 - (i) the day after the date on which the contact person of the designated settlement system receives notice from the joint regulators that they have decided not to disallow the proposed amendment; or
 - (ii) the day that is 21 working days after the date on which either of the joint regulators first received notice of the proposed amendment under section 156ZB (1); or
 - (b) any later date that is specified as part of the proposed amendment.

- (b) 拒絕作成該建議。

- (2) 如適用第(1)項第(b)款之規定，共同監管機關應以書面通知申請人，敘明—

- (a) 共同監管機關拒絕作成依第 156N 條之規定將與申請案相關之清算系統予以宣布為指定清算系統之建議；及
- (b) 共同監管機關之拒絕理由。

規則之修正

第 156ZB 條 擬予修正之規則應通知共同監管機關

- (1) 指定清算系統之具體指定營運人應儘速將該指定清算系統規則之建議修正，通知任一共同監管機關。
- (2) 任一共同監管機關如收到指定清算系統規則之建議修正通知，應儘速告知另一共同監管機關。

第 156ZC 條 得駁回擬予修正之規則

- (1) 共同監管機關得駁回指定清算系統規則之建議修正，並於任一共同監管機關最先收到第 156ZB 條第(1)項之指定清算系統規則建議修正通知之後 20 個工作日當天或之前，將該駁回大意以書面通知該指定清算系統之聯絡人。
- (2) 如共同監管機關依第(1)項之規定駁回建議修正—
 - (a) 該建議修正不生效力；及
 - (b) 指定清算系統規則繼續依建議修正前之規定適用之。
- (3) 如共同監管機關未依第(1)項之規定駁回建議修正，該建議修正於下列日期生效—
 - (a) 下列兩者中之較早者—
 - (i) 指定清算系統聯絡人收到共同監管機關通知其已決定不予駁回建議修正日之翌日；或
 - (ii) 任一共同監管機關最先收到第 156ZB 條第(1)項之建議修正通知日後 21 個工作日之當日；或
 - (b) 當成建議修正之一部分所具體指定任何較晚之日期。

*Variation and revocation of designation***156ZD Variation of designation**

The Governor-General may, by Order in Council, on the advice of both the Minister and the Minister responsible for the Financial Markets Conduct Act 2013 given in accordance with a joint recommendation of the joint regulators, vary any designation made under section 156N—

- (a) by amending any of the matters referred to in section 156N (2)(b) to (d) and (3)(b) to (d); or
- (b) by making the designation subject to a requirement that an amendment be made to the documents that evidence the rules of the settlement system that is the subject of the designation; or
- (c) by revoking or amending any condition to which the designation is subject; or
- (d) by making the designation subject to a new condition.

156ZE Revocation of designation

The Governor-General may, by Order in Council, on the advice of both the Minister and the Minister responsible for the Financial Markets Conduct Act 2013 given in accordance with a joint recommendation of the joint regulators, revoke any designation made under section 156N.

156ZF Settlement and netting not affected by variation or revocation of designation

The variation or revocation of a designation made under section 156N does not affect the application of sections 156Q, 156R, and 156T to settlements that were effected, and netting that took place, before the variation or revocation.

156ZG Application for variation or revocation of designation

- (1) A person who wishes to have the designation made under section 156N for a designated settlement system varied or revoked may apply to either of the joint regulators.
- (2) A joint regulator must, as soon as practicable, advise the other joint regulator if it receives an application.
- (3) An application must be accompanied by the application fee (if any) that is jointly determined by the joint regulators and approved by both the Minister and the Minister responsible for the Financial Markets Conduct Act 2013 by notice in the *Gazette*.

*指定之變更與撤銷***第 156ZD 條 指定之變更**

總督得依部長及 2013 年金融市場行為法主管部長根據共同主管機關共同建議所給予之意見，以樞密院令以下列方式變更依第 156N 條作成之任何指定—

- (a) 修正第 156N 條第(2)項第(b)款至第(d)款及第(3)項第(b)款至第(d)款所定之任何事項；或
- (b) 藉由作成指定之方式，但該項指定係受到必須修正得證明該指定主體之清算系統規則之文件之規定所拘束；或
- (c) 撤銷或修正適用該項指定之任何條件；或
- (d) 使該項指定適用新條件。

第 156ZE 條 指定之撤銷

總督得依部長及 2013 年金融市場行為法主管部長根據共同主管機關共同建議所給予之意見，以樞密院令撤銷依第 156N 條作成之任何指定。

第 156ZF 條 清算與淨額結算並未受到指定變更或撤銷之影響
變更或撤銷依第 156N 條作成之任何指定，並未影響第 156Q 條、第 156R 條或第 156T 條之規定適用於在該變更或撤銷之前已完成之清算及已發生之淨額結算。

第 156ZG 條 指定變更或撤銷之申請

- (1) 希望變更或撤銷依第 156N 條之規定就指定清算系統作成之指定之人士，得向任一共同監管機關申請。
- (2) 任一共同監管機關如收到申請，應儘速告知另一共同監管機關。
- (3) 該申請應檢附共同監管機關共同決定，並經部長及 2013 年金融市場行為法主管部長於政府公報公告核准之申請費（如有的話）。

156ZH Either joint regulator may independently begin review of designation

- (1) Either of the joint regulators may, independently of the other joint regulator and without having received an application under section 156ZG, begin a review to determine whether to recommend a variation or revocation of a designation made under section 156N.
- (2) A joint regulator must, as soon as practicable, advise the other joint regulator if it begins a review to determine whether to recommend a variation or revocation of a designation made under section 156N.
- (3) No fee can be charged if a joint regulator begins a review under subsection (1).

156ZI Matters joint regulators may have regard to in recommending variation or revocation of designation

- (1) In determining whether to make a recommendation that any designation made under section 156N be varied or revoked, each of the joint regulators may have regard to any or all of the following matters:
 - (a) the purpose and scope of the designated settlement system;
 - (b) the rules of the designated settlement system;
 - (c) any laws or regulatory requirements relating to the operation of the designated settlement system and the extent to which the designated settlement system complies with those laws or regulatory requirements;
 - (d) relevant international standards concerning clearing and settlement systems, to the extent that they are relevant in the circumstances;
 - (e) the capability and capacity of the operators of the settlement system;
 - (f) the financial resources of the settlement system;
 - (g) the importance of the designated settlement system to the financial system;
 - (h) the impact on creditors of participants in the settlement system of specifying, or no longer specifying, that an operator of the settlement system is an operator to whom section 103A of the Personal Property Securities Act 1999 applies;
 - (i) any failure to comply with any condition to which the designation is subject;
 - (j) any failure to comply with the requirements of this Act;
 - (k) any other matters that the joint regulator considers appropriate.
- (2) In determining whether to make a recommendation that any designation made under section 156N be varied or revoked, each of the joint regulators may have regard, or refer, to, and may rely upon, any relevant information, work, or matter held, or produced, by the other joint regulator.

第 156ZH 條 任一共同監管機關得單獨開始檢視指定

- (1) 任一共同監管機關得獨立於另一共同監管機關之外，且在未收到第 156ZG 條申請之情況下，開始檢視以決定是否建議變更或撤銷依第 156N 條作成之指定。
- (2) 任一共同監管機關如開始檢視以決定是否建議變更或撤銷依第 156N 條作成之指定，應儘速告知另一共同監管機關。
- (3) 如共同監管機關開始第(1)項之檢視，不得收取費用。

第 156ZI 條 共同監管機關建議變更或撤銷指定時得考慮之事項

- (1) 決定是否建議變更或撤銷依第 156N 條作成之指定時，共同監管機關得考量下列任何或全部事項：
 - (a) 清算系統之目的與範圍；
 - (b) 清算系統規則；
 - (c) 有關清算系統營運之任何法律或監管規定，以及清算系統遵守該等法律或監管規定之範圍；
 - (d) 有關結算與清算系統之相關國際標準，但限於情況相關者；
 - (e) 清算系統營運者之能力與才能；
 - (f) 清算系統之財務來源；
 - (g) 清算系統對金融體系之重要性；
 - (h) 具體指定清算系統之營運者為適用 1999 年動產擔保法第 103A 條之營運者，對該清算系統參加人之債權人之影響；
 - (i) 未遵守拘束該項指定之任何條件；
 - (j) 未遵守本法之規定；
 - (k) 監管機關認為適當之任何其他事項。
- (2) 決定是否建議變更或撤銷依第 156N 條作成之任何指定時，共同監管機關得考量、參考並得信賴另一共同監管機關持有或提示之任何相關資訊、工作或事項。

156ZJ Procedure for variation or revocation of designation

- (1) Before making a recommendation that any designation made under section 156N be varied or revoked, the joint regulators must together—
 - (a) give the contact person notice of—
 - (i) the reasons for proposing to vary or revoke the designation; and
 - (ii) the fact that the contact person may make submissions to the joint regulators in relation to the proposed variation or revocation; and
 - (b) give the contact person an opportunity to make those submissions within a time period that the joint regulators consider reasonable in the circumstances; and
 - (c) consider any submissions made by the contact person during that time period.
- (2) The notice referred to in subsection (1)(a) may be given either in writing or orally depending on the circumstances of the particular case.

*Obligations to give notice and supply information***156ZK Contact person must be notified of insolvency event**

- (1) This section applies if—
 - (a) a participant in a designated settlement system (participant A) becomes subject to an insolvency event;
 - (b) any other participant whose settlements are effected by participant A in accordance with the rules of that designated settlement system becomes subject to an insolvency event.
- (2) If this section applies, participant A must, as soon as practicable after becoming aware of the insolvency event, notify that fact to the contact person of that designated settlement system.
- (3) It is sufficient compliance with the requirement to notify the contact person under subsection (2) if—
 - (a) participant A takes all reasonable steps to comply with that requirement; or
 - (b) the contact person was already aware of the insolvency event by the time participant A had to notify the contact person under that subsection.

156ZL Supply of information relating to designated settlement system

- (1) The joint regulators may, by notice in writing, require any or all of the following persons to supply the joint regulators with any information relating to any designated settlement system:
 - (a) the specified operator of the designated settlement system;

第 156ZJ 條變更或撤銷指定之程序

- (1) 建議變更或撤銷依第 156N 條作成之任何指定之前，共同監管機關應共同—
 - (a) 給予聯絡人下列通知—
 - (i) 提議變更或撤銷指定之理由；及
 - (ii) 聯絡人得就該提議變更或撤銷，向共同監管機關提交意見書之事實；及
 - (b) 給予聯絡人於共同監管機關認為情況合理之期間內，向共同監管機關提交意見書之機會；及
 - (c) 考量聯絡人於該期間內提交之任何意見書。
- (2) 得視個案情況，以書面或口頭給予第(1)項第(a)款所定之通知。

*給予通知及提供資訊之義務***第 156ZK 條 破產事件應通知聯絡人**

- (1) 如有下列情形，適用本條之規定—
 - (a) 指定清算系統參加人（參加人 A）成為受到破產事件之拘束；
 - (b) 參加人 A 依指定清算系統規則所完成清算之任何其他當事人成為受到破產事件之拘束。
- (2) 如適用本條之規定，參加人應於知悉破產事件後儘速將該事實通知該指定清算系統之聯絡人。
- (3) 如有下列情形，即屬充分遵守第(2)項通知聯絡人之規定—
 - (a) 參加人 A 採取遵守該規定之所有合理步驟；或
 - (b) 在參加人依該項規定必須通知聯絡人之前，聯絡人已知悉破產事件。

第 156ZL 條 有關指定清算系統資訊之提供

- (1) 共同監管機關得以書面通知要求任何或所有下列人士向共同監管機關提供有關指定清算系統之任何資訊：
 - (a) 指定清算系統之具體指定營運者；

- (b) a participant in the designated settlement system;
- (c) the contact person of the designated settlement system.
- (2) The joint regulators may exercise the power conferred by subsection (1) only if the joint regulators consider that the information is reasonably required to enable them to perform their functions and duties, or exercise their powers, under this Part.
- (3) A notice under subsection (1) may specify—
 - (a) the periods for which, and the form in which, the information must be supplied; and
 - (b) the manner in which the information must be verified.
- (4) A person commits an offence if the person, without lawful justification or excuse, fails to supply information in accordance with this section.
- (5) The penalty for an offence against this section is set out in section 156ZQ.

Disclosure of information

156ZM Disclosure of information between joint regulators

- (1) No obligation as to secrecy or other restriction upon the disclosure of information, whether imposed by an enactment or otherwise, prevents the disclosure of information between either of the following persons:
 - (a) the Bank; and
 - (b) the FMA.
- (2) Subsection (1) only applies to information—
 - (a) obtained for the purposes of the administration of this Part, whether under sections 156Z (4), 156ZI (2), or 156ZL or otherwise; and
 - (b) that is disclosed by the Bank or the FMA in order to enable them to perform their functions and duties, or exercise their powers, under this Part.

156ZN Disclosure of information to third parties

- (1) The joint regulators may publish or disclose any information or data supplied in accordance with section 156Y (3)(b) or 156ZL only if—
 - (a) the information or data is available to the public under any Act or is otherwise publicly available information; or
 - (b) the information or data is in a statistical or summary form; or
 - (c) the publication or disclosure of the information or data is for the purposes of, or in connection with, the exercise of powers conferred by this Act; or

- (b) 指定清算系統之參加人；
- (c) 指定清算系統之聯絡人。
- (2) 僅限於共同監管機關認為係依本章規定履行其職能與職責，或行使其權力合法必要之資訊，共同監管機關方得行使第(1)項賦與之權力。
- (3) 第(1)項通知得明定—
 - (a) 應提供資訊之期間與格式；及
 - (b) 應證實資訊之方式。
- (4) 任何人士無法律正當性或理由而未依本條規定提供資訊，該人士即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 156ZQ 條。

資訊揭露

第 156ZM 條 共同監管機關間之資訊揭露

- (1) 無論係以立法或其他方式，對資訊揭露課以保密義務或其他相關限制，不應禁止下列人士之間之資訊揭露：
 - (a) 本行；及
 - (b) FMA。
- (2) 第(1)項之規定僅適用於下列資訊—
 - (a) 無論係依第 156Z 條第(4)項、第 156ZI 條第(2)項、第 156ZL 條或其他條文，為本章管理目的取得之資訊；及
 - (b) 為使本行或 FMA 依本章規定履行其職能與職責，或行使其權力，而由本行或 FMA 揭露之資訊。

第 156ZN 條 向第三人揭露資訊

- (1) 僅限於下列情形，共同監管機關方得公布或揭露依第 156Y 條第(3)項第(b)款或第 156ZL 條所提供之任何資訊或資料—
 - (a) 依任何法律使大眾可取得或係公開可取得之資訊或資料；或
 - (b) 統計或摘要格式之資訊或資料；或
 - (c) 為或就行使本章所賦與權力之目的而公布或揭露之資訊或資料；或

- (d) the publication or disclosure of the information or data is to any central bank, authority, or body in any other country that performs functions and duties that correspond with, or are similar to, those conferred on the joint regulators under this Part, and the joint regulators are satisfied that the information or data will be used by that central bank, authority, or body for the purpose of performing those functions or duties; or
 - (e) the publication or disclosure of the information or data is to any person who the joint regulators are satisfied has a proper interest in receiving the information; or
 - (f) the publication or disclosure of the information or data is with the consent of the person to whom the information relates or of the person to whom the information is confidential.
- (2) The joint regulators must not publish or disclose information or data under subsection (1)(d) or (e) unless the joint regulators are satisfied that satisfactory provision exists to protect the confidentiality of that information or data.
- (3) An officer or employee of either of the joint regulators must not publish or disclose any information or data supplied in accordance with section 156Y (3)(b) or 156ZL except for the purposes of, or in connection with, the exercise of powers conferred by this Act.
- (4) An officer or employee of either of the joint regulators commits an offence if the officer or employee contravenes this section.
- (5) The penalty for an offence against this section is set out in section 156ZQ.

156ZO Limits on further disclosure of information

- (1) A person to whom any information or data is published or disclosed must not publish, disclose, or use that information or data unless the publication, disclosure, or use is,—
- (a) in the case of a publication or disclosure under section 156ZN (1)(c),—
 - (i) for the purposes of, or in connection with, the exercise of powers conferred by this Act; and
 - (ii) in accordance with any conditions that may be imposed by the joint regulators;
 - (b) in the case of a publication or disclosure under section 156ZN (1)(e),—
 - (i) authorised by the joint regulators and in accordance with any conditions that may be imposed by the joint regulators; or
 - (ii) necessary or desirable for the performance of any function or duty, or the exercise of any power, conferred by any enactment;
 - (c) in the case of a publication or disclosure under section 156ZN (1)(f), in accordance with the terms and conditions (if any) of the consent referred to in that paragraph.

- (d) 該資訊或資料係公布或揭露予任何其他國家之中央銀行、主管機關或團體行使相當於或類似於本法賦與本行之職能，且本行確信該中央銀行、主管機關或團體將為行使該等職能而使用該資訊或資料；或
 - (e) 該資訊或資料係公布或揭露予本行確信有收取該資訊或資料之正當利益之任何人士；或
 - (f) 該資訊或資料之公布或揭露係經與該資訊相關之人士同意，或經該資訊對其而言係屬機密之人士同意。
- (2) 除非共同監管機關確信存有令人滿意得保護該資訊或資料之條文，否則共同監管機關不得依第(1)項第(d)款或第(e)款之規定公布或揭露資訊或資料。
- (3) 除了為行使本法所賦與權力之目的外，共同監管機關之職員或受雇人員不得公布或揭露依第 156Y 條第(3)項第(b)款或第 156ZL 條規定所提供之任何資訊或資料。
- (4) 共同監管機關之職員或受雇人員如違反本條規定，該職員或受雇人員即屬犯罪。
- (5) 違反本條規定之處罰，明定於第 156ZQ 條。

第 156ZO 條 資訊進一步揭露之限制

- (1) 任何資訊或資料之公布或揭露對象，不得公布、揭露或使用該資訊或資料，但下列情形不在此限—
- (a) 如為第 156ZN 條第(1)項第(c)款之公布或揭露—
 - (i) 係為行使本法所賦與權力之目的；及
 - (ii) 依據共同監管機關可能規定之任何條件；
 - (b) 如為第 156ZN 條第(1)項第(e)款之公布或揭露—
 - (i) 係經共同監管機關授權且依據共同監管機關可能規定之任何條件；或
 - (ii) 係為行使任何立法賦與之任何職能或權力目的之需；
 - (c) 如為第 156ZN 條第(1)項第(f)款之公布或揭露，係依據該款提及之同意條款與條件（如有的話）。

- (2) A person commits an offence if the person contravenes this section.
 (3) The penalty for an offence against this section is set out in section 156ZQ.

156ZP Application of other enactments to information published or disclosed under section 156ZN

Nothing in any Act, other than this Act or the Official Information Act 1982, requires the joint regulators or any person to whom information or data has been published or disclosed under section 156ZN to make that information or data available to any other person.

Penalties for offences against this Part

156ZQ Penalties for offences

- (1) A person who commits an offence under any of the provisions listed in subsection (2) is liable, on conviction,—
 (a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$100,000; or
 (b) in the case of a body corporate, to a fine not exceeding \$750,000.
 (2) The provisions are—
 (a) section 156ZL (which relates to failing to supply information relating to a designated settlement system);
 (b) section 156ZN (which relates to disclosure of information supplied in accordance with section 156ZL to third parties);
 (c) section 156ZO (which relates to limits on further disclosure of information).

Part 5D

Deposit takers

[Repealed]

Preliminary provisions

[Repealed]

157A Exercise of powers under this Part

[Repealed]

157B Interpretation

[Repealed]

- (2) 任何人如違反本條規定，即屬犯罪。
 (3) 違反本條規定之處罰，明定於第 156ZQ 條。

第 156ZP 條 其他立法適用於依第 156ZN 條規定公布或揭露之資訊

本法或 1982 年政府資訊法以外之任何法律，並未要求本行或已依第 156ZN 條規定公布或揭露資訊或資料之任何人士將該資訊或資料提供予任何其他人士。

違反本章規定之處罰

第 156ZQ 條 犯罪之處罰

- (1) 觸犯第(2)項所列任何條文之罪者—
 (a) 如係自然人，應處不超過 12 個月有期徒刑，或科不超過 100,000 紐元罰金；
 (b) 如係法人團體，應科不超過 750,000 紐元罰金。
 (2) 該等犯罪係指—
 (a) 第 156ZL 條（有關未提供指定清算系統相關資訊）；
 (b) 第 156ZN 條（有關向第三人揭露依第 156ZL 條所提供之資訊）；
 (c) 第 156ZO 條（有關進一步揭露資訊之限制）。

第 5D 章 存款收受者

[刪除]

通則

[刪除]

第 157A 條 行使本章之權力

[刪除]

第 157B 條 解釋

[刪除]

157C Deposit taker defined*[Repealed]***157D Application of Part***[Repealed]***157E Bank to consult before recommending making of regulations under this Part***[Repealed]***157F Principles to be taken into account under this Part***[Repealed]***157G Exemptions from Part***[Repealed]***157H Effect of exemption***[Repealed]**Credit ratings**[Repealed]***157I Deposit taker must have current credit rating***[Repealed]***157J Bank may approve rating agencies***[Repealed]***157K Regulations relating to credit ratings***[Repealed]**Governance requirements**[Repealed]***157L Governance requirements***[Repealed]**Risk management**[Repealed]***157M Deposit taker must have and comply with risk management programme***[Repealed]***第 157C 條 存款收受者定義***[刪除]***第 157D 條 本章之適用***[刪除]***第 157E 條 本行建議訂定本章法規前之洽商***[刪除]***第 157F 條 本章考慮之原則***[刪除]***第 157G 條 豁免適用本章規定***[刪除]***第 157H 條 豁免之效果***[刪除]**信用評等**[刪除]***第 157I 條 存款收受者應有當前有效之信用評等***[刪除]***第 157J 條 本行得核准評等機構***[刪除]***第 157K 條 有關信用評等之法規***[刪除]**治理要求**[刪除]***第 157L 條 治理要求***[刪除]**風險管理**[刪除]***第 157M 條 存款收受者應遵守風險管理方案***[刪除]*

157N Risk management programme must be provided to trustee and must be amended if required by trustee

[Repealed]

157O Trustee may require deposit taker to have risk management programme audited

[Repealed]

Minimum capital requirement

[Repealed]

157P Regulations may impose requirement that trust deed sets out minimum capital that deposit taker is required to maintain

[Repealed]

157Q Deposit takers and trustees must ensure trust deed sets out minimum capital deposit taker is required to maintain

[Repealed]

157R Deposit taker must maintain not less than minimum capital prescribed

[Repealed]

Capital ratio requirement

[Repealed]

157S Regulations may impose requirement that trust deed includes capital ratio

[Repealed]

157T Deposit takers and trustees must ensure capital ratio included in trust deed

[Repealed]

157U Deposit taker must maintain capital ratio required to be included in trust deed

[Repealed]

Restrictions on related party exposures

[Repealed]

157V Regulations may impose requirement that trust deed includes maximum limit on exposures to related parties

[Repealed]

第 157N 條 風險管理方案應提供予受託人且依受託人要求予以修正

[刪除]

第 157O 條 受託人得要求存款收受者使風險管理方案受到查核

[刪除]

最低資本之規定

[刪除]

第 157P 條 法規得訂定信託契據應明定存款收受者必須維持最低資本之規定

[刪除]

第 157Q 條 存款收受者及受託者應確保信託契據必須明定存款收受者應維持之最低資本

[刪除]

第 157R 條 存款收受者應維持不低於規定之最低資本

[刪除]

資本適足率之規定

[刪除]

第 157S 條 法規得訂定信託契據應納入資本適足率

[刪除]

第 157T 條 存款收受者及受託者應確保信託契據納入資本適足率

[刪除]

第 157U 條 存款收受者應維持納入信託契據之必要資本適足率

[刪除]

利害關係人暴險之限制

[刪除]

第 157V 條 法規得訂定信託契據應納入對利害關係人暴險之最高限額

[刪除]

157W Regulations may incorporate by reference framework for calculation of maximum limit on exposures to related parties

[Repealed]

157X Deposit takers and trustees must ensure maximum limit on exposures to related parties is included in trust deed

[Repealed]

157Y Deposit taker must not exceed maximum limit on related party exposures

[Repealed]

Liquidity requirements

[Repealed]

157Z Regulations may impose requirement that liquidity requirements be included in trust deed

[Repealed]

157ZA Deposit takers and trustees must ensure liquidity requirements are included in trust deeds

[Repealed]

157ZB Deposit takers must comply with liquidity requirements in trust deeds

[Repealed]

Other matters relating to trust deeds

[Repealed]

157ZC Amendment to trust deed must be treated as if authorised to be made

[Repealed]

157ZD Trustee may execute amendment to trust deed

[Repealed]

Obligations of trustees to Bank

[Repealed]

157ZE Bank may require trustee to attest as to deposit taker's compliance with requirements

[Repealed]

第 157W 條 法規得透過參照併入利害關係人暴險最高限額之計算架構

[刪除]

第 157X 條 存款收受者及受託者應確保信託契據納入對利害關係人暴險之最高限額

[刪除]

第 157Y 條 存款收受者對利害關係人暴險不得超過最高限額

[刪除]

流動性規定

[刪除]

第 157Z 條 法規得訂定信託契據應納入流動性規定

[刪除]

第 157ZA 條 存款收受者及受託者應確保信託契據納入流動性規定

[刪除]

第 157ZB 條 存款收受者應遵守信託契據之流動性規定

[刪除]

有關信託契據之其他事項

[刪除]

第 157ZC 條 信託契據之修正應視為係經授權修正

[刪除]

第 157ZD 條 受託人得執行信託契據之修正內容

[刪除]

受託人對本行之義務

[刪除]

第 157ZE 條 本行得要求受託人作證有關存款收受者遵守規定之情形

[刪除]

157ZF Trustee must report to Bank non-compliance or likely non-compliance by deposit taker

[Repealed]

157ZG Obligation on trustees to disclose information to Bank in certain circumstances

[Repealed]

157ZH Protection of trustees

[Repealed]

Investigation and enforcement powers of Bank

[Repealed]

157ZI Bank may require report relating to deposit taker

[Repealed]

157ZJ Power to obtain information and documents

[Repealed]

157ZK Limitation on information to be provided

[Repealed]

157ZL Limitations on entering and searching place

[Repealed]

157ZM Search warrant may be issued

[Repealed]

157ZN Privileges

[Repealed]

Confidentiality of information

[Repealed]

157ZO Confidentiality of information

[Repealed]

157ZP Person who does not comply with section 157ZO commits offence

[Repealed]

第 157ZF 條 受託人應向本行報告存款收受者未遵守或可能未遵守規定之情形

[刪除]

第 157ZG 條 受託人在特定情況下揭露資訊予本行之義務

[刪除]

第 157ZH 條 受託人之保護

[刪除]

本行之調查與執行權力

[刪除]

第 157ZI 條 本行得要求有關存款收受者之報告

[刪除]

第 157ZJ 條 取得資訊與文件之權力

[刪除]

第 157ZK 條 對資訊提供之限制

[刪除]

第 157ZL 條 對進入及搜索場所之限制

[刪除]

第 157ZM 條 得核發搜索令

[刪除]

第 157ZN 條 特權

[刪除]

資訊之機密性

[刪除]

第 157ZO 條 資訊之機密性

[刪除]

第 157ZP 條 未遵守第 157ZO 條規定者，即屬犯罪

[刪除]

157ZQ Application of Official Information Act 1982, etc
[Repealed]

Offences and penalties
[Repealed]

157ZR Offences by deposit takers against this Part
[Repealed]

157ZS Other offences by deposit takers against this Part
[Repealed]

157ZT Defence for deposit takers charged with offences against this Part
[Repealed]

157ZU Power of court to discharge deposit taker
[Repealed]

157ZV Liability of directors
[Repealed]

157ZW Offences by trustees against this Part
[Repealed]

157ZX Penalties for offences
[Repealed]

Miscellaneous
[Repealed]

157ZY Matters relating to regulation-making powers under this Part
[Repealed]

157ZZ Bank must review and report on operation of this Part
[Repealed]

第 157ZQ 條 1982 年政府資訊法等之適用
 [刪除]

犯罪與處罰
 [刪除]

第 157ZR 條 存款收受者違反本章規定之罪
 [刪除]

第 157ZS 條 存款收受者違反本章規定之其他罪名
 [刪除]

第 157ZT 條 存款收受者被指控違反本章規定之抗辯
 [刪除]

第 157ZU 條 法院釋放存款收受者之權力
 [刪除]

第 157ZV 條 董事之責任
 [刪除]

第 157ZW 條 受託人違反本章規定之罪
 [刪除]

第 157ZX 條 犯罪之處罰
 [刪除]

附則
 [刪除]

第 157ZY 條 有關依本章訂定法規權力之事項
 [刪除]

第 157ZZ 條 本行應檢視並報告本章之運作情形
 [刪除]

Part 6 Financial and accountability matters

157 Financial year

The Bank's financial year ends on the day on which the Government's financial year ends.

Income and expenditure

158 Meaning of notional surplus income

[Repealed]

159 Funding agreements

- (1) The Minister and the Governor may enter into a funding agreement that specifies the amount of the Bank's income that may be paid or applied in meeting the operating expenses incurred by the Bank in each financial year in carrying out its functions and exercising its powers under—
 - (a) Part 2 (except sections 16, 32, 34, and 35);
 - (b) Parts 3 to 5;
 - (c) Part 5B;
 - (d) Part 5C;
 - (da) *[Repealed]*
 - (e) sections 163, 166, 167, and 190;
 - (ea) the Non-bank Deposit Takers Act 2013;
 - (f) if the Minister and the Governor agree, any other provision of this Act;
 - (g) any other Act.
- (2) There shall be a funding agreement applying for every financial year and each funding agreement shall apply to a period that comprises 5 consecutive financial years.
- (3) The Minister and the Governor may, from time to time, by agreement—
 - (a) vary the provisions of a funding agreement; or
 - (b) terminate a funding agreement and enter into a new funding agreement.

160 Contents of funding agreements

Every funding agreement shall be in writing and—

- (a) shall make provision for the operating expenses to be incurred by the Bank in carrying out the functions and exercising the powers set out in paragraphs (a) to (f) of subsection (1) of section 159;

第 6 章 財務與有責性事項

第 157 條 會計年度

本行之會計年度係於政府會計年度結束時結束。

收入與支出

第 158 條 國家收入盈餘之定義

[刪除]

第 159 條 經費協議

- (1) 部長與總裁得簽訂經費協議，明定得以本行收入支應本行於每 1 會計年度依下列規定履行職能及行使權力所承擔之支出款項—
 - (a) 第 2 章（第 16 條、第 32 條、第 34 條與第 35 條除外）；
 - (b) 第 3 章至第 5 章；
 - (c) 第 5B 章；
 - (d) 第 5C 章；
 - (da) *[刪除]*
 - (e) 第 163 條、第 166 條、第 167 條與第 190 條；
 - (ea) 2013 年非銀行收受存款者法；
 - (f) 如部長與總裁同意，本法之任何其他條文；
 - (g) 任何其他法律。
- (2) 應有適用於每 1 會計年度之經費協議，且每 1 經費協議應適用於由連續 5 個會計年度組成之期間。
- (3) 部長與總裁得隨時以合約—
 - (a) 變更經費協議之條款；或
 - (b) 終止經費協議並簽訂新的經費協議。

第 160 條 經費協議之內容

經費協議應以書面為之，且—

- (a) 應規定本行履行及行使 159 條第(1)項第(a)款至第(f)款所列職能與權力所承受之營運支出；

- (b) shall make provision for such items as may, in accordance with generally accepted accounting practice, properly be taken into account in determining the operating expenses applicable to those functions and powers;
- (c) may provide for the extent, if any, to which any material change in the nature or extent of the work undertaken by the Bank in respect of any of those functions or powers shall require the total level of operating expenses to be redetermined between the Governor and the Minister;
- (d) may make provision for such other matters, not being matters that are inconsistent with this section, as the Governor and the Minister may think fit.

161 Funding agreements to be ratified by House of Representatives

- (1) Within 12 sitting days after a funding agreement is entered into, or a funding agreement is varied, the Minister shall lay a copy of the agreement or the variation before the House of Representatives.
- (2) No funding agreement, and no variation of a funding agreement, shall be effective for the purposes of this Act unless it is ratified by a resolution of the House of Representatives.

162 Determination of annual dividend

- (1) The Bank must, as soon as practicable after the end of each financial year, recommend to the Minister the amount appropriately payable by the Bank to the Crown as an annual dividend in respect of the financial year.
- (2) The Bank must determine the amount it recommends to the Minister under subsection (1) in accordance with the principles set out in its statement of intent.
- (3) The Minister must determine the amount that the Bank must pay to the Crown as an annual dividend in respect of the financial year having regard to—
 - (a) the recommendation of the Bank; and
 - (b) the views of the Board of the Bank; and
 - (c) any other relevant matters.
- (4) The Bank must publish in its annual report—
 - (a) the amount it recommends to the Minister under subsection (1); and
 - (b) the determination made by the Minister under subsection (3).

- (b) 應規定在決定與該等職能與權力相關之營運支出時，依一般公認會計原則可能適當予以考量之事項；
- (c) 在本行就該等職能與權力所承擔之工作性質或範圍有任何重大變動時（如有的話），得規定總裁與部長之間應重新決定之營運支出總體水平；
- (d) 得規定總裁與部長認為適當且與本條規定無不一致之其他事項。

第 161 條 經費協議由眾議院批准

- (1) 部長應於經費協議簽訂或經費協議變更之後 12 個開議日內，將該協議或更改部分提交眾議院。
- (2) 除非經眾議院批准，否則就本法目的而言，該經費協議或經費協議之變更不生效力。

第 162 條 年度股利

- (1) 本行應於每 1 會計年度結束後儘速向部長建議，由本行適當支付予君王，當成該會計年度之年度股利金額。
- (2) 本行應依其意向聲明所列原則，決定其依第(1)項規定向部長建議之金額。
- (3) 部長決定本行就會計年度支付予君王當成年度股利之金額時，應考慮—
 - (a) 本行之建議；及
 - (b) 本行理事會之看法；及
 - (c) 任何其他相關事項。
- (4) 本行應於其年報公布—
 - (a) 其依第(1)項規定向部長建議之金額；及
 - (b) 部長依第(3)項規定作成之決定。

*Accountability documents***162AA Purpose of accountability documents**

The purpose of the 3 accountability documents required under this Part is as follows:

- (a) statement of intent: to promote the public accountability of the Bank by—
 - (i) enabling the Crown to participate in the process of setting the Bank's mediumterm intentions and undertakings; and
 - (ii) setting out for the House of Representatives those intentions and undertakings; and
 - (iii) providing a base against which the Bank's actual performance can be later assessed;
- (b) annual report: to—
 - (i) report on the activities of the Bank during the previous year; and
 - (ii) assess those activities against the intentions and undertakings set out in the latest statement of intent; and
 - (iii) ensure the accountability of the Bank for the funds available to it;
- (c) financial stability report: to—
 - (i) report on matters relating to the soundness and efficiency of the financial system and other matters associated with the Bank's statutory prudential purposes; and
 - (ii) allow assessments to be made of the effectiveness of the Bank's use of its powers to achieve its statutory prudential purposes.

162AB Assessment of regulatory impacts of policies

(1) The Bank must—

- (a) assess the expected regulatory impacts of any policy that it intends to adopt under Part 5, Parts 5B and 5C, and under the Non-bank Deposit Takers Act 2013 and the Insurance (Prudential Supervision) Act 2010; and
 - (b) assess the regulatory impacts of the policies adopted and applied under Part 5, Parts 5B and 5C, and under the Non-bank Deposit Takers Act 2013 and the Insurance (Prudential Supervision) Act 2010 at intervals appropriate to the nature of the policy being assessed; and
 - (c) give reports on the assessments to the Minister.
- (2) Subsection (1) does not apply in respect of any policy that is of a minor or technical nature.
- (3) The Bank may provide reports on the assessments of regulatory impacts to the Minister—

*有責性文件***第 162AA 條 有責性文件之目的**

本章規定 3 項有責性文件之目的如下：

- (a) 意向聲明：以下列方式促進本行之公共有責性—
 - (i) 使君王參與本行設定中期意向與任務之流程；及
 - (ii) 為眾議院說明該等意向與任務；及
 - (iii) 提供以後評估本行實際績效之基礎；
- (b) 年報：—
 - (i) 報告本行前一年度前間之活動；及
 - (ii) 根據最新意向聲明所列意向與任務，評估該等活動；及
 - (iii) 確保本行對可供其使用資金之有責性；
- (c) 金融穩定報告：—
 - (i) 報告有關金融體系健全與效率之事項，及與本行法定審慎目的相關之其他事項；及
 - (ii) 允許對本行使用其權力達成其法定審慎目的之成效作成評估。

第 162AB 條 政策之法規影響評估

(1) 本行應—

- (a) 評估其擬依第 5 章、第 5B 章與第 5C 章，及 2013 年非銀行收受存款者法與 2010 年保險（審慎監督）法採取之任何政策之預期法規影響；及
 - (b) 按適合於所評估政策性質之時間間隔，評估依第 5 章、第 5B 章與第 5C 章，及 2013 年非銀行收受存款者法與 2010 年保險（審慎監督）法所採取及適用之任何政策之法規影響；及
 - (c) 給予部長有關評估之報告。
- (2) 第(1)項之規定不適用於次要或技術性質之政策。
- (3) 本行得提供部長有關法規影響評估之報告—

- (a) as part of an accountability document or other report; or
- (b) as a stand-alone report prepared following a request by the Minister or on the Bank's own initiative.
- (4) The Bank must publish every report on the assessment of regulatory impacts on an Internet site maintained by, or on behalf of, the Bank.
- (5) However, the Bank may omit information from any report published if it is satisfied on reasonable grounds that it is proper to omit the information on the ground of commercial confidentiality relating to a financial institution.
- (6) To avoid doubt, the publication of an accountability document that includes a report on the assessments of regulatory impacts satisfies the obligation in subsection (4).

Statement of intent

162A Obligation to provide statement of intent

The Bank must, in each financial year, provide to the Minister a statement of intent for the Bank and its subsidiaries for that financial year and at least the next 2 financial years.

162B Content of statement of intent

- (1) Each statement of intent must contain the following information for the full period to which it relates:
 - (a) key background information about the Bank and its operating environment;
 - (b) the nature and scope of the Bank's functions and its principal areas of operation;
 - (c) the specific impacts, outcomes, or objectives that the Bank seeks to achieve or contribute to;
 - (d) how the Bank intends to perform its functions and conduct its operations to achieve those impacts, outcomes, or objectives;
 - (da) if a direction has been given under section 68B, how the Bank has had regard to the direction;
 - (e) the proposed strategies for managing the organisational health and capability of the Bank;
 - (f) a statement of the projected income and expenditure for the first financial year in the period to which the statement of intent relates;
 - (g) a statement of the principles in accordance with which the Bank must determine the amount it recommends to the Minister as appropriately payable by the Bank to the Crown as an annual dividend;
 - (h) the main financial and non-financial measures and standards by which the future performance of the Bank may be judged;
 - (i) the matters on which the Bank will consult or notify the Minister before making a decision, the matters on which it will report to its Minister, and the frequency of reporting;

- (a) 當成有責性文件或其他報告之一部分；或
- (b) 當成依部長要求之後或本行自發所製作之獨立報告。
- (4) 本行應於由本行維護或代表本行之網站上公布每 1 份法規影響評估報告。
- (5) 然而，本行如有合理事由確信因與金融機構相關之商業機密而宜省略資訊，則本行得於其公布之任何報告，省略該資訊。
- (6) 為避免疑義，公布包含法規影響評估報告在內之有責性文件，即滿足第(4)項之義務。

意向聲明

第 162A 條 提供意向聲明之義務

本行應於每 1 會計年度將該會計年度及至少後續 2 個會計年度之本行及其分行意向聲明提供予部長。

第 162B 條 意向聲明之內容

- (1) 意向聲明應包含其相關完整期間之下列資訊：
 - (a) 有關本行及其營運環境之關鍵背景；
 - (b) 本行職能及其主要營運領域之性質及範圍；
 - (c) 本行試圖達成或促成之特定影響、成果或目標；
 - (d) 本行打算如何履行其職能及進行其營運，以達成該等影響、成果或目標；
 - (da) 如已依第 68B 條給予指示，本行如何考量該項指示；
 - (e) 管理本行之組織健全與能力之提議策略；
 - (f) 意向聲明相關期間之第 1 個會計年度預期收入與支出聲明；
 - (g) 本行向部長建議本行應適當支付予君王當成年度股利之金額時，本行應依據之原則聲明；
 - (h) 判斷本行未來績效之主要財務與非財務措施及標準；
 - (i) 本行將於作成決定之前洽商或通知部長之事項，本行將向其部長報告之事項及報告頻率；

- (j) any other matters that are reasonably necessary to achieve an understanding of the Bank's intentions and direction.
- (2) Each statement of intent must be dated and signed by the Governor and the Deputy Chief Executive.

162C Process for providing statement of intent to Minister

- (1) To provide a statement of intent under section 162A, the Bank must—
 - (a) prepare a draft statement of intent and provide it to the Minister not later than 30 days before the start of each financial year; and
 - (b) consider the Minister's comments (if any) on the draft and provide the final statement of intent to the Minister on or before the start of the financial year.
- (2) If the Minister's comments include comment on the financial sector regulatory outcomes set out in the Bank's draft statement of intent, the Bank must, when providing its final statement of intent to the Minister, also provide a response to the Minister's comments that demonstrates how the Bank has taken those comments into account in formulating its objectives.

162D Amendments by Bank to statement of intent

- (1) The Bank must amend its statement of intent if any matters arise that significantly affect or alter the information contained in the statement that relates to section 162B (1)(b), (d), or (e).
- (2) To amend its statement of intent, the Bank must—
 - (a) provide a draft amendment to the Minister; and
 - (b) consider the Minister's comments (if any) and provide the final amendment to the Minister as soon as practicable.

162E Statement of intent stands referred to House of Representatives

A final statement of intent and any amendments to it that have been provided to the Minister stand referred, by virtue of this section, to the House of Representatives.

Annual reports

163 Annual reports and accounts

- (1) Within 3 months after the end of each financial year the Bank must deliver to the Minister—

- (j) 為達成本行意向與方向合理所需之任何其他事項。
- (2) 意向聲明應敘明日期，並由總裁與副執行長簽名。

第 162C 條 向部長提供意向聲明之程序

- (1) 依第 162A 條提供意向聲明，本行應—
 - (a) 製作意向聲明初稿，並於每 1 會計年度開始前 30 天內提供予部長；及
 - (b) 考量部長對該初稿之評論（如有的話），並於會計年度開始時或之前提供最終意向聲明予部長。
- (2) 如部長之評論包含對本行意向聲明初稿所列金融產業規範成果之評論，本行提供最終意向聲明予部長時，本行亦應回應部長評論、證明本行制定其目標時已如何將該等評論納入考慮。

第 162D 條 本行意向聲明之修正

- (1) 如發生重大影響或改變意向聲明所涵蓋與第 162B 條第(1)項第(b)款、第(d)款或第(e)款相關資訊之事項，本行應修正其意向聲明。
- (2) 修正意向聲明時，本行應—
 - (a) 提供修正初稿予部長；及
 - (b) 考慮部長之評論（如有的話），並儘速將最終修正版提供予部長。

第 162E 條 意向聲明提交眾議院

提供予部長之最終確定意向聲明及其任何修正版本，係透過本條之規定提交眾議院。

年報

第 163 條 年報與報表

- (1) 每 1 會計年度結束後 3 個月內，本行應交付下列文件予部長—

- (a) a report on the operations of the Bank and its subsidiaries during the financial year; and
 - (b) audited financial statements for the Bank for the financial year and, if the Bank has any subsidiaries, audited consolidated financial statements for the Bank and its subsidiaries for that year; and
 - (c) the auditor's report on those financial statements.
- (2) The report must contain—
- (aaa) an assessment against the intentions, measures, and standards set out in the statement of intent prepared at the beginning of the financial year; and
 - (a) information on the remuneration, compensation, and other benefits (including indemnities and insurance cover) provided or granted, during the financial year, to—
 - (i) each member of the Board or a committee of the Board (whose identity must be disclosed in the report for the purposes of this section); and
 - (ii) employees of the Bank (any of whose identity must not be disclosed in the report); and
 - (b) any other matters that the Bank is required, has undertaken, or wishes to report on in its annual report; and
 - (c) if the Board agrees, the Board's report prepared in accordance with section 53A; and
 - (d) any other information that is necessary, in conjunction with any policy statements published under section 15, to enable an informed assessment to be made of the Bank's performance in carrying out its functions during the financial year.
- (3) The documents delivered to the Minister under subsection (1) stand referred, by virtue of this section, to the House of Representatives.

163A Bank not Crown entity

The Bank is not a Crown entity for the purposes of the Crown Entities Act 2004.

164 Contents of financial statements

- (1) The financial statements shall be prepared in accordance with generally accepted accounting practice and shall include—
- (a) a statement of the Bank's financial position at its balance date;
 - (b) an operating statement reflecting the revenue and expenses of the Bank for that year by reference to the functions carried out by the Bank;

- (a) 本行及其分行於該會計年度期間之營運報告；及
- (b) 本行該會計年度之簽證財務報表；本行如有任何分行，以及本行及其分行之該年度簽證綜合財務報表；及
- (c) 審計人員對該等財務報表之報告。

(2) 該報告應包含—

- (aaa) 對於會計年度開始時製作之意向聲明所列意向、措施與標準之評估；及
 - (a) 該年度期間內，提供或給予下列人士之薪酬、報酬及其他服務（包括賠償與保險保障）—
 - (i) 理事會或理事會之委員會之每位成員（就本條目的，應於報告揭露成員之身分）；及
 - (ii) 本行之受雇人員（就本條目的，應於報告揭露受雇人員之身分）；及
 - (b) 本行被要求、已承諾或希望於其年報報告之任何其他事項；及
 - (c) 如理事會同意依第 53A 條製作之理事會報告；及
 - (d) 與依第 15 條公布之任何政策聲明相關，為了對本行於該會計年度期間履行其職能之績效作成知情評估所需之任何其他資訊。
- (3) 依第(1)項規定交付部長之文件，係透過本條之規定提交眾議院。

第 163A 條 本行非皇家機構

本行並非 2004 年皇家機構法之皇家機構。

第 164 條 財務報表之內容

- (1) 財務報表應依一般公認會計實務編製，並應包括—
- (a) 本行結算日之財務狀況報表；
 - (b) 參照本行履行之職能，反映本行於該年度收支之營運報表；

- (c) a statement of cash flows reflecting the Bank's cash flow for that year;
 - (d) a statement of the Bank's commitments as at the balance date;
 - (e) a statement of the Bank's contingent liabilities as at the balance date;
 - (f) a statement of accounting policies;
 - (g) such other statements as are necessary to fairly reflect the financial operations of the Bank for that year and its financial position at the end of that year;
 - (h) comparative actual figures for the previous financial year for paragraphs (a) to (e) and, where appropriate, paragraph (g).
- (2) The financial statements shall show separately—
- (a) any payments made by the Bank under section 21 (1); and
 - (b) any payments made by the Minister to the Bank under section 21 (2).

165 Management statements

- (1) The financial statements of the Bank shall be accompanied by a management statement signed by the Governor and the Deputy Chief Executive.
- (2) The management statement shall comprise:
- (a) a statement of the management's responsibility for the preparation of the annual financial statements and the judgments used in them;
 - (b) a statement of the management's responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting;
 - (c) a statement that, in the opinion of the management, the annual financial statements for the financial year fairly reflect the financial position and operations of the Bank.

Financial stability reports

165A Financial stability reports

- (1) The Bank must, not less than twice in every calendar year,—
- (a) deliver a financial stability report to the Minister; and
 - (b) publish the report on an Internet site maintained by, or on behalf of, the Bank.
- (2) A financial stability report must—
- (a) report on the soundness and efficiency of the financial system and other matters associated with the Bank's statutory prudential purposes; and

- (c) 反映本行該年度現金流之現金流量表；
- (d) 截至結算日，本行之承諾聲明；
- (e) 截至結算日，本行之或有負債表；
- (f) 會計原則報表；
- (g) 為公平反映本行該年度之財務操作及本行於該年度結束時之財務狀況所需之其他報表；
- (h) 前一會計年度第(a)款至第(e)款，及適當的話，包括第(g)款之實際比較數字。

(2) 財務報表應分別顯示—

- (a) 本行依第 21 條第(1)項所為之任何付款；及
- (b) 本行依第 21 條第(2)項對部長所為之任何付款。

第 165 條 管理報表

(1) 財務報表應檢附經總裁及副執行長簽署之管理報表。

(2) 管理報表應包含—

- (a) 管理階層負責年度財務報表之編製及所使用判斷之聲明；
- (b) 管理階層負責建立及維護 1 套旨在對財務報告之完整與可信度提供合理確保之內控機制聲明；
- (c) 依管理階層之意見，該會計年度之年度財務報表係公平反映本行財務狀況與營運之聲明。

金融穩定報告

第 165A 條 金融穩定報告

(1) 本行每 1 曆年至少應兩次—

- (a) 向部長遞交金融穩定報告；及
- (b) 於本行或代表其維護之網站上公布該報告。

(2) 金融穩定報告應—

- (a) 報告金融體系之健全與效率，以及與本行法定審慎目的相關之其他事項；及

- (b) contain the information necessary to allow an assessment to be made of the activities undertaken by the Bank to achieve its statutory prudential purposes under this Act and any other enactment.
- (3) The Minister must, as soon as practicable after receiving the report, present it to the House of Representatives.

Audits

166 Auditor-General to be auditor of Bank

The Bank is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

167 Performance audit

- (1) The Minister may, from time to time, appoint 1 or more persons (whether as individuals or as members from time to time of any firm or firms) to carry out an assessment of the performance by the Bank of its functions and of the exercise by the Bank of its powers under this Act.
- (2) As soon as practicable after completing an assessment the person appointed shall submit a report to the Minister setting out the results of that assessment.
- (3) The report stands referred, by virtue of this section, to the House of Representatives.
- (4) A person appointed to conduct an assessment under this section, for the purpose of conducting that assessment,—
 - (a) shall have full access to all books and documents that are the property of or that are under the control of any person relating to the Bank or its affairs;
 - (b) may require any director, officer or employee of the Bank or any other person to answer any question relating to the Bank or its affairs;
 - (c) may, by notice in writing to any person, require that person to deliver any books or documents relating to the Bank or its affairs in the possession or under the control of that person and may take copies of them or extracts from them.
- (5) Nothing in subsection (4) limits or affects section 105.
- (6) The fees of the person appointed to carry out an assessment under this section shall be paid out of the funds of the Bank.

- (b) 包含允許對本行為達成本法及任何其他立法之本行法定審慎目的所進行之活動作成評估所需之資訊。

- (3) 部長收到報告後應儘速將之提交眾議院。

審計

第 166 條 審計長為本行之審計人員

本行為 2001 年公共審計法第 4 條定義之公共實體，且依該法之規定，審計長為本行之審計人員。

第 167 條 績效審計

- (1) 部長得隨時指派 1 名以上人士（無論係個人或任何公司之成員）對本行履行或行使本法所定之本行職能或權力，進行評估。
- (2) 被指派人士完成評估後應儘速向部長提交 1 份敘明該評估結果之報告。
- (3) 該報告係透過本條之規定提交眾議院。
- (4) 被指派進行本條評估之人士，為進行該評估之目的—
 - (a) 應可完全接觸係屬任何人士之財產，或受該人士控制，但與本行或其事項相關之所有簿冊與文件；
 - (b) 得要求本行之任何理事、職員或受雇人員或任何其他人士回答有關本行或其事項之問題；
 - (c) 得以書面通知要求任何人士交付該人士持有或控制有關本行或其事項之任何簿冊或文件，並得複製及節錄該等簿冊與文件。
- (5) 第(4)項之規定並未限制或影響第 105 條之規定。
- (6) 被指派人士進行本條評估之費用，應由本行資金支付。

Part 7 Miscellaneous provisions

168 Bank to be good employer

The Bank shall operate a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) good and safe working conditions; and
- (b) an equal opportunities employment programme; and
- (c) the impartial selection of suitably qualified persons for appointment; and
- (d) opportunities for the enhancement of the abilities of individual employees.

169 Bank to exhibit sense of social responsibility

It shall be an objective of the Bank to exhibit a sense of social responsibility in exercising its powers under this Act.

170 Application of Banking Act 1982 to Bank

[Repealed]

171 Conflict with other Acts

If there is any conflict between this Act and the provisions of the Banking Act 1982, or of any other Act relating to any bank or to the business of banking, the provisions of this Act shall prevail.

172 Obligations under this Act not limited

An obligation or limitation imposed on a person by any other Act or instrument or by any trust or agreement shall not prevent or excuse that person from complying with any provision of this Act or any regulation made under it or with any direction, notice, requirement or condition given or imposed under that provision.

173 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) providing for such matters as are necessary to enable the Minister or the Bank to exercise any powers and functions conferred on the Minister or the Bank by this Act or by any regulations made for any of the purposes of this Act:

第 7 章 附則

第 168 條 本行應為好雇主

本行應操作一項包含在各方面公平適當對待受雇人員所需之一般公認條款之人事政策，包括要求下列事項之條款—

- (a) 良好安全之工作條件；及
- (b) 公平機會之聘僱計畫；及
- (c) 公正選擇適格之指派人士；及
- (d) 提升各別受雇人員能力之機會。

第 169 條 本行應展現社會責任意識

本行之目標應係在依本法行使其權力時，展現社會責任意識。

第 170 條 1982 年銀行法適用於本行

[刪除]

第 171 條 與其他法律抵觸

如本法與 1982 年銀行法，或與有關任何銀行或銀行業務之任何其他法律之條文有任何抵觸，應以本法條文為準。

第 172 條 本法所定義務不受限制

任何其他法律或文書或以任何信託或合約對某人士加諸之義務或限制，不應禁止或免除該人士遵守本法或依本法訂定之任何法規之任何條文，或依該條文加諸或給予之任何指示、通知、規定或條件。

第 173 條 法規

總督得隨時為下列所有或任何目的，以樞密院令訂定法規：

- (a) 明定使部長或本行得行使本法或為本法目的訂定之任何法規所賦與部長或本行之任何權力與職能之必要事項；

- (b) providing for the granting, refusal, and revocation of consents, permissions, and exemptions in respect of any matters to which any regulations made under this Act relate; and authorising the imposition, variation, and revocation of conditions subject to which such consents, permissions, and exemptions may be granted;
- (c) providing for the furnishing of information and the production of books or documents to the Minister or the Bank or any other person for any of the purposes of any such regulations (whether or not the effect of doing so may be to require the furnishing of information, or the production of books or documents, that will reveal the identity or affairs of any particular person); and providing for the verification of any such information; and providing that any such books or documents may be copied, and may be retained or impounded, by any person or persons to whom they are produced;
- (d) authorising the Minister or the Bank or any other person to exercise any discretionary power or authority for the purposes of any such regulations;
- (e) providing for the delegation of any of the powers or functions of the Minister (including the power of delegation) or the Bank under any such regulations;
- (f) providing for and regulating the issue, registration, transfer, control, and redemption of any financial products issued by the Bank;
- (fa) prescribing information for the purposes of section 69(2A)(c);
- (g) prescribing forms for the purposes of this Act or of any such regulations, in any case where a form is not prescribed by this Act;
- (h) providing for and regulating the giving or service of notices for the purposes of this Act or of any such regulations, and the effect of such notices;
- (i) prescribing fees to be charged by the Bank in respect of any matter under this Act;
- (j) prescribing offences against any such regulations, and prescribing fines not exceeding in respect of any such offence \$5,000 and, in the case of a continuing offence, \$200 for every day on which the offence has continued;
- (k) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

174 Consents under regulations

- (1) If a transaction is entered into or an instrument is executed without the prior consent of the Minister or the Bank required by any regulations made under this Act, the Minister or the Bank, as the case may be, may, at any time, consent to the entry into the transaction or the execution of the instrument.

- (b) 明定對於與依本法訂定之任何法規相關之任何事項給予、拒絕及撤銷同意、許可與豁免；並授權對所給予之同意、許可與豁免，加諸、變更或撤銷拘束條件；
- (c) 明定為任何該等法規之任何目的，向部長或本行提供資訊或提交簿冊或文件（無論如此做之結果是否可能須洩漏任何特定人士之身分或事項）；並明定檢驗該等資訊；以及明定任何受提交人士得複製及保留或扣押任何該等簿冊或文件；
- (d) 為任何該等法規之目的，授權部長、本行或任何其他人士行使任何裁量權力或權限；
- (e) 明定得委任任何該等法規所定之部長或本行權力或職能（包括委任權力）；
- (f) 明定及規範本行所發行金融產品之發行、註冊、移轉、控制及贖回；
- (fa) 就第 69 條第(2A)項第(c)款之目的，訂定資訊；
- (g) 如係本法未規定之格式，就本法或任何該等法規之目的，訂定格式；
- (h) 明定及規範為本法或任何該等法規之目的給予或送達通知，及該等通知之效果；
- (i) 規定本行就本法所定任何事項收取之費用；
- (j) 規定違反任何該等法規之犯罪，並就任何該犯罪，訂定不超過 5,000 紐元罰金，且如為連續犯罪，連續犯罪之每日罰金為 200 紐元；
- (k) 明定為使本法條文完全有效及為本法適當管理所考慮或必要之事項。

第 174 條 法規訂定之同意

- (1) 依本法訂定之任何法規，須經部長或本行之同意，如訂立交易或簽署文書未經部長或本行事先同意，部長或本行（視情況而定）得隨時同意訂立該交易或簽署該文書。

- (2) Subject to the terms of the consent, any transaction, or instrument, and any relationship, or interests created by it, which would be invalid or unenforceable without that consent, shall, on the giving of that consent, be valid or enforceable as if the consent had been given before the transaction was entered into or the instrument executed.
- (3) Consent may be given—
- in respect of such transactions, instruments, or persons or classes of transactions, instruments, or persons as the Minister or the Bank may determine, or in respect of any specified transaction, instrument, or person;
 - wholly or partly and either unconditionally or subject to such conditions as the Minister or the Bank thinks fit.
- (4) A consent to the entry into any transaction or the execution of any instrument shall be deemed to be a consent given under the regulations requiring consent.

175 Offences against regulations

- (1) Every person commits an offence against this Act who—
- with intent to deceive, makes any false or misleading statement or any material omission in—
 - any offer or declaration made for the purposes of any regulations under this Act; or
 - any communication with, or application to, the Minister or the Bank or any other person (whether in writing or otherwise) for the purposes of those regulations;
 - resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under any such regulations;
 - without lawful excuse, acts in contravention of, or fails to comply in any respect with, any provision of any such regulations or any direction, notice, requirement, or condition given or imposed under any such regulations.
- (2) Nothing in subsection (1) limits section 173(j).

175A Privilege against self-incrimination no excuse

A person is not excused from answering any question, supplying any information, producing any document, or providing any explanation under this Act on the ground that to do so would or might incriminate or tend to incriminate that person.

- (2) 在符合同意條款之前提下，因該同意將創造且在無該同意將為無效或無法實施之任何交易、文書與任何關係，應在給予同意時生效或可得實施，就如同係在訂定交易或簽署文書之前已給予該項同意。
- (3) 下列情況得給予同意—
- 係針對部長或本行得決定之該等交易、文書或人士，或交易、文書或人士之類型，或任何特定交易、文書或人士；
 - 係全部或部分，且係無條件，或依部長或本行認為適合之條件。
- (4) 對於訂立任何交易或簽署任何文書之同意，應視為係依規定該項同意之法規所給予之同意。

第 175 條 違反法規之犯罪

- (1) 任何人士有下列情形，即屬違反本法之規定—
- 於下列行為時，故意欺騙、作成任何不實或錯誤陳述或任何重大疏漏—
 - 係為了依本法訂定之任何法規之目的，作成之任何要約或宣布；或
 - 係為了該等法規之目的，向對部長或本行所為之任何溝通或申請；
 - 抗拒、阻擾或欺騙任何正在行使或嘗試行使任何該等法規所定任何權力或職能之人士；
 - 無法律正當理由，各方面行為抵觸或未遵守任何該等法規之條文，或依任何該等法規所給予或加諸之任何指示、通知、規定或條件。
- (2) 第(1)項之規定並未限制第 173 條第(j)款之規定。

第 175A 條 不得以引人入罪之特權為藉口

任何人士不得以可能使其入罪或入罪之虞為由，免除其依本法回答任何問題、提供任何資訊、提交任何文件或提出任何解釋之義務。

175B Admissibility of self-incriminating statements

- (1) A selfincriminating statement made orally by a person (whether or not the statement is recorded in writing) in the course of answering any question, or supplying any information, or producing any document, or providing any explanation, may be used in evidence against that person only in a prosecution for any offence where the person gives evidence inconsistent with the statement.
- (2) Despite subsection (1), any statement made in relation to—
- a refusal or failure to answer any question, supply any information, produce any document, provide any explanation, or comply with any other requirement may be used in evidence against that person in a prosecution for any offence under this Act arising from that refusal or failure;
 - the answering of any question in a way that is false or misleading in a material particular, or the supply of any information, or the production of any document, or the provision of any explanation that is false or misleading in a material particular, may be used in evidence against that person in a prosecution for any offence under this Act arising from that act.

176 Penalties for offences

Every person who commits an offence against this Act for which no penalty is provided except in this section is liable on conviction—

- in the case of an individual, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding \$10,000;
- in the case of a body corporate, to a fine not exceeding \$25,000.

177 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act,—

- in the case of an offence against section 28 or 30, ends on the date that is 3 years after the date on which the offence was committed; or
- in any other case, ends on the date that is 6 years after the date on which the offence was committed.

178 Evidence

- (1) A copy of a resolution of the Bank certified by the Governor to be correct shall, in the absence of proof to the contrary, be sufficient evidence of the resolution in any proceedings.

第 175B 條 引入入罪陳述之採信

- (1) 某人士於回答任何問題、提供任何資訊、提交任何文件或提出任何解釋之過程，口頭作成引入入罪之陳述（無論是否以書面記錄該陳述），僅得於其給予與該陳述不一致之證據之任何犯罪起訴案件，用以對抗之。
- (2) 儘管有第(1)項之規定—
- 就拒絕或未回答任何問題、提供任何資訊、提交任何文件、提出任何解釋或遵守任何其他規定而作成之任何陳述，得於因該拒絕或不作為造成本法所定之任何犯罪起訴案件，用以對抗該人士；
 - 就以嚴重不實或誤導方式回答任何問題、提供任何資訊、提交任何文件、提出任何解釋有嚴重不實或誤導情形而作成之任何陳述，得於因該作為造成本法所定之任何犯罪起訴案件，用以對抗該人士。

第 176 條 犯罪之處罰

觸犯於本法明定但於本條以外之條文未訂定罰則之犯罪之人士—

- 如係自然人，應處不超過 12 個月有期徒刑，或科不超過 10,000 紐元罰金；
- 如係法人團體，應科不超過 25,000 紐元罰金。

第 177 條 提出控訴文件之時間

儘管 2011 年刑事訴訟法第 25 條有不同規定，有關違反本法所定犯罪之時效期間—

- 如係違反第 28 條或第 30 條之罪，於犯罪日後 3 年之當日屆至；
- 於任何其他情況，於犯罪日後 6 年之當日屆至。

第 178 條 證據

- (1) 經總裁證明係真實之本行決議影本，在無反證之情況下，於任何法律程序應為該項決議之充分證據。

- (2) A certificate signed by the Governor to the effect that—
- (a) any approval or consent required under any Act has or has not been given by the Bank, or is or is not for the time being in force; or
 - (b) any document has been duly signed by, or on behalf of, the Bank or the Governor—
- shall, in the absence of proof to the contrary, be sufficient evidence of the matters stated in it in any proceedings.
- (3) Any certificate purporting to have been signed by the Governor shall, in the absence of proof to the contrary, be deemed for all purposes to have been duly signed by the Governor.

179 Protection from liability

- (1) This section applies to—
- (a) every statutory manager of a registered bank or of an associated person of a registered bank; and
 - (b) every officer or employee of the Bank; and
 - (c) every person appointed under section 66E or section 99 or section 101; and
 - (d) every director of the Bank.
- (2) No person to whom this section applies is personally liable for an act done or omitted to be done in the exercise or performance in good faith of that person's functions, duties, or powers under this Act.

179A Indemnity

- (1) The Crown indemnifies the persons listed in subsection (2) for any liability that arises from the exercise or purported exercise of, or omission to exercise, any power conferred by this Act unless it is shown that the exercise or purported exercise of, or omission to exercise, the power was in bad faith.
- (2) The persons are—
- (a) every statutory manager of a registered bank or of an associated person of a registered bank;
 - (b) every officer or employee of the Bank;
 - (c) every person appointed under section 66E or section 99 or section 101;
 - (d) every member of an advisory committee;
 - (e) the Bank;
 - (f) every director of the Bank.
- (3) Any money required for the purposes of this section must be paid out of a Crown Bank Account without further appropriation than this section.

- (2) 總裁簽署且大意如下之證明書，在無反證之情況下，於任何法律程序應為所述事項之充分證據—
- (a) 本行已經或未曾給予任何法律規定之任何核准或同意，或當時係有效或無效；或
 - (b) 任何文件已由或代表本行或總裁正式簽署。
- (3) 任何聲稱已由總裁簽署之證明書，在無反證之情況下，就所有目的而言，應視為業經總裁正式簽署。

第 179 條 免負法律責任之保障

- (1) 本條適用於—
- (a) 註冊銀行或註冊銀行關聯人士之法定監管人；及
 - (b) 本行之職員或受雇人員；及
 - (c) 依第 66E 條或第 99 條或第 101 條指派之人士；及
 - (d) 本行理事。
- (2) 適用本條規定之人士，對於以善意行使或履行本法所定該人士之職能、職責或權力時，所為或漏未作為，無須承擔個人責任。

第 179A 條 賠償

- (1) 君王賠償第(2)項所列人士因行使或聲稱行使，或漏未行使本法賦予之任何權力所導致之責任，但顯示係因惡意行使或聲稱行使，或漏未行使該權力者，不在此限。
- (2) 該等人士係指—
- (a) 註冊銀行或註冊銀行關聯人士之法定監管人；
 - (b) 本行之職員或受雇人員；
 - (c) 依第 66E 條或第 99 條或第 101 條指派之人士；
 - (d) 諮詢委員會之成員；
 - (e) 本行；
 - (f) 本行理事。
- (3) 就本條目的所需之任何金錢，在提撥未超出本條規定之情況下，應由皇家銀行帳戶支付。

- (4) The indemnity conferred by subsection (1) extends to legal costs incurred in defending a proceeding.
- (5) Within 12 sitting days of the making of any payment under this section, the Minister must present to the House of Representatives a report which contains details of the circumstances giving rise to the liability of the Crown, the amount of the payment, the person to whom the payment was made and any other relevant matters.

180 Amendment to Income Tax Act 1976

[Repealed]

181 Amendments to Securities Act 1978

(1) *[Repealed]*

(2) *[Expired]*

(3) *[Repealed]*

(4) *[Repealed]*

(5) *[Repealed]*

(6) *[Expired]*

(7) *[Repealed]*

(8) *[Repealed]*

(9) *[Repealed]*

(10) *[Repealed]*

(11) Section 48 of the Securities Amendment Act 1988 is hereby consequentially repealed.

182 Amendments to Superannuation Schemes Act 1989

Amendment(s) incorporated in the Act(s).

183 Amendments to Trustee Banks Restructuring Act 1988

[Repealed]

184 Amendment to Securities Amendment Act 1988

Amendment(s) incorporated in the Act(s).

185 Consequential amendments

The enactments listed in Schedule 1 are hereby amended in the manner indicated in that schedule.

- (4) 第(1)項給予之賠償擴及至抗辯法律程序所承受之法律費用。
- (5) 部長應於依本條支付任何款項後之 12 個開議日內，向眾議院提交一份包含造成君王責任之情況、支付金額、款項受款人及任何其他相關事項等細節之報告。

第 180 條 1976 年所得稅法之修正

[刪除]

第 181 條 1978 年證券交易法之修正

(1) [刪除]

(2) [刪除]

(3) [刪除]

(4) [刪除]

(5) [刪除]

(6) [刪除]

(7) [刪除]

(8) [刪除]

(9) [刪除]

(10) [刪除]

(11) 1988 年證券交易修正法第 48 條據此予以刪除。

第 182 條 1989 年退休金計畫法之修正

修正規定併入該法。

第 183 條 1988 年受託人銀行重組法之修正

[刪除]

第 184 條 1988 年證券交易修正法之修正

修正規定併入該法。

第 185 條 配套修正

附表 1 臚列之立法，據此以該附表指示之方式予以修正。

186 Repeals and savings

- (1) The enactments listed in Schedule 2 are hereby repealed.
- (2) The regulations and the proclamation specified in Schedule 2 are hereby revoked.
- (3) Without limiting the Interpretation Act 1999, the repeal of those enactments does not affect any document made or any thing done under any of the provisions of those enactments, and every document or thing subsisting or in force at the commencement of this Act shall continue to have effect as if it had been made or done under this Act.
- (4) *[Repealed]*

187 References to trading banks to be read as references to registered banks

Every reference in any other Act to the expression "trading bank" shall be read as a reference to a registered bank.

188 Savings

- (1) Notwithstanding the repeal, by section 186, of the Reserve Bank of New Zealand Act 1964,—
 - (a) the provisions of that Act, and in particular Part 5C of that Act, shall continue in force and apply to any person that was, immediately before the commencement of this Act, subject to statutory management under that Act, in all respects as if they had not been repealed; and
 - (b) any person empowered under that Act to exercise any power or function in respect of any such person shall continue to have, in respect of that person, the same powers and functions that he or she had before the repeal of that Act.
- (2) This section shall apply unless an Order in Council has been made in respect of that person pursuant to section 189.

189 Procedure for applying this Act to persons subject to statutory management under Reserve Bank of New Zealand Act 1964

- (1) The Governor-General may, by Order in Council, on the advice of the Minister given in accordance with a recommendation of the Bank,—
 - (a) declare that any person that is subject to statutory management under the Reserve Bank of New Zealand Act 1964 shall become subject to statutory management under this Act;
 - (b) provide in that order or in any subsequent Order in Council, such transitional provisions as are necessary for giving effect to any such declaration.

第 186 條 廢止與保留

- (1) 附表 2 臚列之立法，據此予以廢止。
- (2) 附表 2 具體指定之法規與公告，據此予以撤銷。
- (3) 在未限制 1999 年解釋法之情況下，該等立法之廢止並未影響依該等立法之任何條文所作成之任何文件或所為之任何事情；且在本法生效時存在或有效之每項文件或事情，應如同其係依本法作成或所為之繼續有效。
- (4) *[刪除]*

第 187 條 所稱貿易銀行應解讀為視同註冊銀行

任何其他法律所稱「貿易銀行」一語，應解讀為視同註冊銀行。

第 188 條 保留

- (1) 儘管依第 186 條廢止 1964 年紐西蘭準備銀行法—
 - (a) 該法之規定，尤其是該法第 5C 章，在各方面應繼續有效適用於本法生效之前依該法受到法定監管拘束之人士，就如同該等規定尚未廢止；及
 - (b) 依該法授與權力之任何人士，行使任何該人士之任何權力或職能者，應繼續具有該人士在該法廢止前已具有之相同權力與職能。
- (2) 除非已依第 189 條之規定對該人士作成樞密院令，否則應適用本條之規定。

第 189 條 依 1964 年紐西蘭準備銀行法受到法定監管拘束之人士，適用本法之程序

- (1) 總督得就部長依本行建議所為之意見，以樞密院令—
 - (a) 宣布依 1964 年紐西蘭準備銀行法受到法定監管拘束之人士，應成為依本法受到法定監管拘束；
 - (b) 於該命令或任何後續樞密院令，訂定為實施任何該宣布所需之過渡條款。

- (2) Where any such order is made, the following provisions shall apply on and after the commencement of the order:
- (a) the Reserve Bank of New Zealand Act 1964 shall cease to apply to that person; and
 - (b) any person who holds office as a statutory manager of that person under the Reserve Bank of New Zealand Act 1964 shall be deemed to have been appointed as statutory manager of that person under this Act; and
 - (c) any such statutory manager shall have in respect of that person all the powers, rights, authorities, and privileges conferred by this Act on a statutory manager; and
 - (d) any advisory committee appointed under section 38S of the Reserve Bank of New Zealand Act 1964 shall be deemed to have been appointed under this Act.

190 Transitional provisions in relation to Part 5A and Part 5C of Reserve Bank of New Zealand Act 1964

- (1) Subject to subsection (2), Part 5C of the Reserve Bank of New Zealand Act 1964 (as substituted by section 10 of the Reserve Bank of New Zealand Amendment Act 1986) shall, notwithstanding the repeal of that Act, continue in force and apply for a period of 12 months from and after the commencement of this Act to every person that was, immediately before the commencement of this Act, a specified institution within the meaning of section 38K of that Act.
- (2) Any application for registration as a registered bank, made under section 38C of the Reserve Bank of New Zealand Act 1964 (as inserted by section 10 of the Reserve Bank of New Zealand Amendment Act 1986) and not determined before the commencement of this Act shall be determined under this Act.
- (3) Nothing in subsection (1) applies to:
 - (a) a registered bank;
 - (b) a person that is exempted from the application of that subsection by the Bank by notice in the *Gazette*.

191 Transitional provisions in relation to office holders

- (1) The person holding office at the commencement of this Act as Governor of the Bank shall be deemed to have been appointed under section 40 for the balance of the term for which that person was appointed.
- (2) The person holding office at the commencement of this Act as Deputy Governor of the Bank shall be deemed to have been appointed under section 43 for the balance of the term for which that person was appointed.

- (2) 當作成任何該命令時，應於該命令生效時及之後適用下列規定：
- (a) 1964 年紐西蘭準備銀行法應停止適用於該人士；及
 - (b) 依 1964 年紐西蘭準備銀行法擔任該人士之法定監管人之人士，應視為已依本法指派其擔任該人士之法定監管人；及
 - (c) 任何該法定監管人對該人士應具有本法賦與法定監管人之所有權力、權利、權限與特權；及
 - (d) 依 1964 年紐西蘭準備銀行法第 38S 條指派之任何諮詢委員會，應視為已依本法指派。

第 190 條 有關 1964 年紐西蘭準備銀行法第 5A 章與第 5C 章之過渡條款

- (1) 依第(2)項規定，儘管 1964 年紐西蘭準備銀行法第 5C 章（被 1986 年紐西蘭準備銀行修正法第 10 條取代）已廢止，應自本法生效時起及之後繼續有效適用於本法生效前為該法第 38K 條定義之特定機構計達 12 個月。
- (2) 依 1964 年紐西蘭準備銀行法第 38C 條（依 1986 年紐西蘭準備銀行修正法第 10 條援引之）提出註冊為註冊銀行之任何申請，但於本法生效之前尚未決定者，應依本法之規定決定之。
- (3) 第(1)項之規定不適用於：
 - (a) 註冊銀行；
 - (b) 本行以政府公報公告豁免其適用該項規定之人士。

第 191 條 官員之過渡條款

- (1) 本法生效時任職本行總裁之人士，其剩餘任期應視為已依第 40 條之規定予以任命。
- (2) 本法生效時任職本行副總裁之人士，其剩餘任期應視為已依第 43 條之規定予以任命。

- (3) Any other person holding office as a director of the Bank immediately before the commencement of this Act shall vacate office on the commencement of this Act.
- (4) No director of the Bank who vacates office under subsection (3) is entitled to compensation for loss of office as a director.
- (5) Nothing in subsection (3) prevents a person who vacates office under that subsection from being appointed under section 54 as a director of the Bank.

192 Transitional provision in relation to accounts of Bank

The provisions of sections 40 to 45 and section 46 of the Reserve Bank of New Zealand Act 1964 shall, notwithstanding the repeal of that Act by section 186 (1), continue in force in relation to the financial year of the Bank ending on 31 March 1990.

- (3) 本法生效前任職本行理事之任何其他人士，應於本法生效時提出辭職。
- (4) 依第(3)項之規定提出辭職之本行理事，不得享有喪失理事職位之補償。
- (5) 第(3)項之規定並未禁止依該項提出辭職之人士，得依第 54 條之規定被任命為本行理事。

第 192 條 本行帳目之過渡條款

儘管第 186 條第(1)項廢止 1964 年紐西蘭準備銀行法，該法第 40 條至第 45 條及第 46 條之規定，就本行於 1990 年 3 月 31 日結束之會計年度，應繼續有效。

Schedule 1
Enactments amended

Corporations Investigation and Management Act 1989 (1989 No 11)
Amendment(s) incorporated in the Act(s).

Housing Corporation Act 1974 (1974 No 19)
[Repealed]

International Finance Agreements Act 1961 (1961 No 3)
Amendment(s) incorporated in the Act(s).

Overseas Investment Act 1973 (1973 No 14)
Amendment(s) incorporated in the Act(s).

Stamp and Cheque Duties Act 1971 (1971 No 51)
Amendment(s) incorporated in the Act(s).

附表 1 修正之立法

1989 年公司調查與管理法（1989 年第 11 號）
修正規定併入該法。

1974 年住房公司法（1974 年第 19 號）
[廢止]

1961 年國際融資合約法（1961 年第 3 號）
修正規定併入該法。

1973 年海外投資法（1973 年第 14 號）
修正規定併入該法。

1971 年印花與支票稅法（1971 年第 51 號）
修正規定併入該法。

Schedule 2
Enactments repealed

Decimal Currency Act 1964 (1964 No 27)*Amendment(s) incorporated in the Act(s).***Decimal Currency Amendment Act 1965 (1965 No 124)***Amendment(s) incorporated in the Act(s).***Decimal Currency Amendment Act 1967 (1967 No 3)***Amendment(s) incorporated in the Act(s).***Decimal Currency Amendment Act 1973 (1973 No 56)****International Finance Agreements Amendment Act 1976 (1976 No 25)***Amendment(s) incorporated in the Act(s).***Reserve Bank of New Zealand Act 1964 (1964 No 134)****Reserve Bank of New Zealand Amendment Act 1968 (1968 No 135)****Reserve Bank of New Zealand Amendment Act 1970 (1970 No 2)****Reserve Bank of New Zealand Amendment Act 1971 (1971 No 125)****Reserve Bank of New Zealand Amendment Act 1973 (1973 No 16)****Reserve Bank of New Zealand Amendment Act 1974 (1974 No 118)****Reserve Bank of New Zealand Amendment Act 1975 (1975 No 19)**

附表 2 廢止之立法

1964 年十進位貨幣法 (1964 年第 27 號)

修正規定併入該法。

1965 年十進位貨幣修正法 (1965 年第 124 號)

修正規定併入該法。

1967 年十進位貨幣修正法 (1967 年第 3 號)

修正規定併入該法。

1973 年十進位貨幣修正法 (1973 年第 56 號)**1976 年國際融資合約修正法 (1976 年第 25 號)**

修正規定併入該法。

1964 年紐西蘭準備銀行法 (1964 年第 134 號)**1968 年紐西蘭準備銀行修正法 (1968 年第 135 號)****1970 年紐西蘭準備銀行修正法 (1970 年第 2 號)****1971 年紐西蘭準備銀行修正法 (1971 年第 125 號)****1973 年紐西蘭準備銀行修正法 (1973 年第 16 號)****1974 年紐西蘭準備銀行修正法 (1974 年第 118 號)****1975 年紐西蘭準備銀行修正法 (1975 年第 19 號)**

Reserve Bank of New Zealand Amendment Act 1977 (1977 No 68)

1977 年紐西蘭準備銀行修正法（1977 年第 68 號）

Reserve Bank of New Zealand Amendment Act 1980 (1980 No 138)

1980 年紐西蘭準備銀行修正法（1980 年第 138 號）

Reserve Bank of New Zealand Amendment Act 1982 (1982 No 168)

1982 年紐西蘭準備銀行修正法（1982 年第 168 號）

Reserve Bank of New Zealand Amendment Act 1986 (1986 No 131)

1986 年紐西蘭準備銀行修正法（1986 年第 131 號）

Regulations revoked

廢除之法規

Exchange Control Regulations 1985

1985 年外匯管制法規

Exchange Control Regulations 1985, Amendment No 7

1985 年外匯管制法規，第 7 號修正規定

Exchange Control Regulations 1985, Amendment No 9

1985 年外匯管制法規，第 9 號修正規定

Exchange Control Regulations 1985, Amendment No 15

1985 年外匯管制法規，第 15 號修正規定

Reserve Bank of New Zealand Act (Fees) Regulations 1987

1987 年紐西蘭準備銀行法（費用）法規

Reserve Bank of New Zealand Amendment Act Commencement Order 1988

1988 年紐西蘭準備銀行修正法生效令

Reserve Bank of New Zealand Order 1988

1988 年紐西蘭準備銀行令

Proclamation revoked

廢除之公告

Decimal Currency (End of Transitional Period) Proclamation 1986

1986 年十進位貨幣（過渡期間結束）公告

Schedule 3

General provisions relating to material incorporated by reference

[Repealed]

Schedule 4

General provisions relating to search warrants issued under Part

5D

[Repealed]

附表 3 有關提及納入資料之一般條款

[刪除]

附表 4 有關依第 5D 章發布搜索令之一般條款

[刪除]

Reserve Bank of New Zealand Amendment Act 1993

Public Act 1993 No 118
Date of assent 28 September 1993
Commencement see section 1 (2)

1 Short Title and commencement

- (1) This Act may be cited as the Reserve Bank of New Zealand Amendment Act 1993, and shall be read together with and deemed part of the Reserve Bank of New Zealand Act 1989 (hereinafter referred to as "the principal Act").
- (2) This Act shall come into force on 1 July 1994.

5 Transitional provisions

Nothing in section 4 applies to or affects—

- (a) a registered bank that was subject to statutory management under the principal Act immediately before the commencement of this Act;
 - (b) any transaction entered into by a registered bank or anything done by any person before the commencement of this Act—
- and, in any such case, sections 308 (except subsection (1)(d)), 309 to 311C, and 319 to 321 of the Companies Act 1955, as in force before the commencement of this Act, shall continue to apply to the registered bank in all respects and with such modifications as may be necessary, as if—
- (c) the registered bank were a company that was being wound up under the Companies Act 1955; and
 - (d) the statutory manager of the registered bank was the liquidator of the company; and
 - (e) the date on which the registered bank became subject to statutory management was the date of the commencement of the winding up.

1993 年紐西蘭準備銀行修正法

公法 1993 年第 118 號
批准日期 1993 年 9 月 28 日
施行 詳見第 1 條第(2)項

第 1 條 簡稱與施行

- (1) 本法稱為 1993 年紐西蘭準備銀行修正法，並視同 1989 年紐西蘭準備銀行法（以下稱「主體法」）之一部分。
- (2) 本法應自 1994 年 7 月 1 日生效。

第 5 條 過渡條款

第 4 條之規定不適用且不影響—

- (a) 本法施行之前，依主體法之規定受法定監管拘束之註冊銀行；
 - (b) 本法施行之前，註冊銀行簽訂之任何交易或任何人已為之任何作為—
- 且在本法施行前生效之 1955 年公司法第 308 條（第(1)項第(d)款除外）、第 309 條至第 311C 條、第 319 條至第 321 條，以及所有該等修正規定（視情況而定）應於各方面繼續適用於註冊銀行，就如同—
- (c) 註冊銀行係依 1955 年公司法之規定結束營業之公司；及
 - (d) 註冊銀行之法定監管人係該公司之清算人；及
 - (e) 註冊銀行成為受法定監管拘束之日，為結束營業之生效日。

Reserve Bank of New Zealand Amendment Act 2003

Public Act 2003 No 46

Date of assent 20 August 2003

Commencement see section 2

1 Title

- (1) This Act is the Reserve Bank of New Zealand Amendment Act 2003.
(2) In this Act, the Reserve Bank of New Zealand Act 1989 is called "the principal Act".

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 3

Miscellaneous

Transitional provisions

50 Savings relating to authorisations or consents under Part 4 of principal Act

Any authorisations or consents relating to the use of a restricted word that were granted under section 65 of the principal Act before the commencement of this Act remain in force.

51 Temporary exemption from Part 4 of principal Act

- (1) This section applies to any person who,—
(a) immediately before the commencement of this Act, was lawfully entitled to use, or was lawfully using, a name or title that included a restricted word; and
(b) after the commencement of this Act, can no longer lawfully use that name or title.
(2) A person to whom this section applies may, despite anything in Part 4 of the principal Act, continue to use that name or title for a period of 6 months commencing on the date of commencement of this Act.

52 Existing applications

An application for registration as a registered bank under the principal Act that has been made, but not determined or withdrawn, before the date of commencement of this Act must continue to be dealt with in accordance with the principal Act and any regulations made under that Act as if this Act had not been enacted.

2003 年紐西蘭準備銀行修正法

公法 2003 年第 46 號

批准日期 2003 年 8 月 20 日

施行 詳見第 2 條

第 1 條 名稱

- (1) 本法稱為 2003 年紐西蘭準備銀行修正法。
(2) 於本法，1989 年紐西蘭準備銀行法稱為「主體法」。

第 2 條 施行

本法於收到皇家同意後次日生效。

第 3 章 總則

過渡條文

第 50 條 主體法第 4 章所定授權或同意之保留

本法施行之前，主體法第 65 條有關得使用限定用詞之授權或同意，應仍有效。

第 51 條 暫時豁免適用主體法第 4 章之規定

- (1) 本條適用於—
(a) 本法施行之前，合法有權使用或得合法使用含有限定用詞之名稱或稱號之人士；
(b) 本法施行之後，無法再合法使用該名稱或稱號之人士。
(2) 儘管有主體法第 4 章之規定，適用本條規定之人士得自本法施行日起繼續使用該名稱或稱號 6 個月。

第 52 條 既有申請案

已依主體法提出註冊為註冊銀行之申請案，但於本法施行日之前尚未決定或撤銷者，必須繼續依主體法及依該法所定法規處理之，視同本法尚未制定。

Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013

Public Act 2013 No 103

Date of assent 3 December 2013

Commencement see section 2

1 Title

This Act is the Reserve Bank of New Zealand (Covered Bonds) Amendment Act 2013.

2 Commencement

This Act comes into force on the 7th day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Reserve Bank of New Zealand Act 1989 (the **principal Act**).

Part 2

Transitional provisions and amendments to other Acts

11 Transitional provisions

- (1) The amendments made by this Act apply in relation to existing covered bond programmes and issuers on and from the date that is 9 months after this Act comes into force.
- (2) However, despite subsection (1), an issuer may, in relation to an existing covered bond programme, make an application under section 139E of the principal Act (as inserted by section 9 of this Act) at any time on or after the date on which this Act comes into force and, in that case,—
 - (a) section 139E (4) and (5)(a) and (b) of the principal Act (as inserted by section 9 of this Act) apply on and from the date on which the application is approved or declined under section 139G of the principal Act (as inserted by section 9 of this Act); and
 - (b) all other amendments made by this Act apply on and from the date of the application.

2013 年紐西蘭準備銀行（擔保債券）修正法

公法 2013 年第 103 號

批准日期 2013 年 12 月 3 日

施行 詳見第 2 條

第 1 條 名稱

本法為 2013 年紐西蘭準備銀行（擔保債券）修正法。

第 2 條 施行

本法於收到皇家同意後第 7 天生效。

第 3 條 主體法

本法係修正 1989 年紐西蘭準備銀行法（即**主體法**）。

第 2 章 過渡條文及其他法律之修正

第 11 條 過渡條文

- (1) 本法生效日後 9 個月之日起，本法所為之修正規定適用於既有擔保債券方案及發行人。
- (2) 儘管有第(1)項之規定，發行人得自本法生效日起，隨時就既有擔保債券方案依主體法第 139E 條（依本法第 9 條援引之）之規定提出申請，此時—
 - (a) 依主體法第 139G 條（依本法第 9 條援引之）核准或駁回申請之日起，適用主體法第 139E 條第(4)項及第(5)項第(a)款與第(b)款（依本法第 9 條援引之）之規定；及
 - (b) 申請之日起，適用本法所為之所有其他修正規定。

- (3) To avoid doubt, on and from the date specified in subsection (1),—
- (a) all amendments made by this Act apply in relation to existing covered bond programmes; and
 - (b) covered bonds must not be issued under an existing covered bond programme unless the programme is registered under section 139G of the principal Act (as inserted by section 9 of this Act).
- (4) In this section, existing covered bond programme means a covered bond programme that was established before this Act came into force.

- (3) 為避免疑義，第(1)項指定之日起—
- (a) 既有擔保債券方案適用本法所為之所有修正規定；及
 - (b) 除非既有擔保債券方案係依主體法第 139G 條（依本法第 9 條援引之）之規定註冊，否則不得依該方案發行擔保債券。
- (4) 於本條，既有擔保債券方案係指本法生效前已成立之擔保債券方案。

本行出版各國中央銀行法選譯明細

年度	名 稱	選 譯 國 家 (國 家 數)
64	美國聯邦準備法	美國 (含聯準法及相關法規) (1 國)
65	各國中央銀行法選譯	加拿大、英國、法國、義大利、日本、印尼、印度、約旦、韓國、泰國 (10 國)
81	各國中央銀行法選譯 (第一輯)	英國、德國、法國、瑞士、瑞典、丹麥、比利時、日本、韓國、新加坡、泰國、澳洲、紐西蘭 (13 國) (附我國央行法)
82	各國中央銀行法選譯 (第二輯)	美國 (含聯準法及相關法規)、加拿大 (2 國)
92	各國中央銀行法選譯 (九十二年版)	歐盟、德國、英國、法國、瑞士、瑞典、芬蘭、日本、韓國、新加坡、馬來西亞、澳洲、加拿大、墨西哥 (14 國) (附我國央行法、日本及韓國央行法原文)
93	各國中央銀行法選輯 (2003 年版) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (2003 Edition)	同上
98	各國中央銀行法選譯 (續編)	義大利、荷蘭、比利時、盧森堡、葡萄牙、捷克、巴西、俄羅斯、印度、菲律賓 (10 國) (附我國央行法)
98	各國中央銀行法選輯 (續編) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (Volume II)	同上

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102	各國中央銀行法選輯 (2013 年版) (上冊) 《中英對照本》 Collections of Central Bank Acts of Selected Countries (2013 Edition) (Volume 1)	美國、英國 (2 國)
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