

Reprint
as at 8 March 2021



**Reserve Bank of New Zealand (Designated Settlement
System—NZCDC) Order 2010**
(SR 2010/277)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 30th day of August 2010

Present:

His Excellency the Governor-General in Council

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

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

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Order

1 Title

This order is the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Order 2010.

2 Commencement

This order comes into force on the day after the date of its notification in the *Gazette*.

3 Interpretation

In this order, unless the context otherwise requires,—

NZ Clearing means New Zealand Clearing Limited, a wholly owned subsidiary of NZCDC

NZ Depository means New Zealand Depository Limited, a wholly owned subsidiary of NZCDC

NZCDC means New Zealand Clearing and Depository Corporation Limited, a wholly owned subsidiary of NZX Limited

NZCDC contact person has the meaning given to it in clause 7

NZCDC settlement system means the settlement system owned by, and operated and managed by or on behalf of, the NZX Limited Group and includes—

- (a) a system for the transfer of legal title to financial products, including by electronic means; and
- (b) the operation of the central counterparty clearing house by NZ Clearing; and
- (c) the operation of the central product depository by NZ Depository; and
- (d) the performance of the custodian trustee role by NZD Nominee; and
- (e) the performance of a governance role by NZCDC; and
- (f) the performance of an oversight role, and the provision of technology infrastructure and services, by NZX Limited; and

- (g) the provision of regulatory oversight services by NZX RegCo
- NZD Nominee** means New Zealand Depository Nominee Limited, a wholly owned subsidiary of NZ Depository
- NZX Limited Group** means NZX Limited, NZX RegCo, NZ Clearing, NZ Depository, NZD Nominee, and NZCDC
- NZX RegCo** means NZX Regulation Limited, a wholly owned subsidiary of NZX Limited.

Clause 3 **NZCDC settlement system**: replaced, on 7 July 2017, by clause 4(1) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Clause 3 **NZCDC settlement system** paragraph (g): inserted, on 8 March 2021, by clause 4(2) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Clause 3 **NZX Limited Group**: inserted, on 7 July 2017, by clause 4(2) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Clause 3 **NZX Limited Group**: amended, on 8 March 2021, by clause 4(3) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Clause 3 **NZX RegCo**: inserted, on 8 March 2021, by clause 4(1) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

4 NZCDC settlement system declared to be designated settlement system

The NZCDC settlement system is declared to be a designated settlement system.

5 Documents that evidence rules of settlement system

The documents that evidence the rules of the NZCDC settlement system are—

- (a) the New Zealand Clearing Limited Clearing and Settlement Rules:
- (b) the New Zealand Depository Limited Depository Operating Rules:
- (c) procedure 1.1 of the New Zealand Depository Limited Depository Operating Procedures (relating to the amendment of the rules):
- (d) the following provisions of the New Zealand Clearing Limited Clearing and Settlement Procedures:
 - (i) procedure 1.1 (relating to the amendment of the rules):
 - (ii) procedure 3.11.5 (relating to the margin calculation of stock loans):
 - (iii) procedure 6.2 (relating to approved products).

6 Specified operator of settlement system

NZ Clearing—

- (a) is the specified operator of the NZCDC settlement system; and
- (b) is an operator to whom section 103A of the Personal Property Securities Act 1999 applies.

7 Contact person for settlement system

Notices relating to the NZCDC settlement system must be given to NZCDC's Chief Operating Officer and Head of Risk (the **NZCDC contact person**).

8 Conditions to which designation is subject

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

9 Operators are participants in settlement system

Both NZ Clearing and NZ Depository are—

- (a) operators of the NZCDC settlement system; and
- (b) participants in the NZCDC settlement system.

Schedule**Conditions to designation of NZCDC settlement system as
designated settlement system**

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1 Conditions to designation

The designation of the NZCDC settlement system as a designated settlement system is subject to the following conditions:

- (a) that the NZCDC settlement system complies, and continues to comply, with all laws and regulatory requirements (whether of New Zealand, another country, or any jurisdiction of another country) relating to its operation; and
- (b) that the NZCDC contact person notifies the joint regulators immediately upon becoming aware that any of the following has occurred, or may occur:
 - (i) a material non-compliance with the financial resources policy, the risk management framework, or a law or regulatory requirement (whether of New Zealand, another country, or any jurisdiction of another country) relating to the NZCDC settlement system's operation; or
 - (ii) an event that materially increases risk to the NZCDC settlement system; or
 - (iii) an outage or material incident; and
- (c) that the NZCDC contact person notifies the joint regulators immediately upon becoming aware that any of the specified agreements will, or may, terminate or expire; and
- (d) that there is no change to any of the following without the prior written approval of the joint regulators:

- (i) the constitution of a system operator;
- (ii) the ownership of the shares of a system operator other than NZX Limited; and
- (e) that the NZCDC contact person notifies the joint regulators a reasonable time before there is a change—
 - (i) to the financial resources policy; or
 - (ii) to the risk management framework; or
 - (iii) *[Revoked]*
 - (iv) of the NZCDC settlement system's contact person; or
 - (v) to an existing delegation or assignment of material powers, discretions, rights, and obligations—
 - (A) of a system operator other than NZX Limited; or
 - (B) of NZX Limited or NZX RegCo, if that delegation or assignment may affect the NZCDC settlement system; or
 - (vi) to any of the specified agreements; or
 - (vii) of directors of a system operator or NZX RegCo; or
 - (viii) to the chief executive officer of NZX RegCo; or
 - (viii) of senior managers of a system operator other than NZX Limited; or
 - (ix) of senior managers of NZX Limited who have responsibilities for the provision of technology infrastructure and services to the NZCDC settlement system; or
 - (x) of senior managers of NZX Limited seconded to NZCDC, NZ Clearing, and NZ Depository; or
 - (xi) of an independent member of the Clearing Committee of the NZX Limited board; or
 - (xii) to a specified governance document, if that change relates to or may impact the NZCDC settlement system; and
- (f) that the NZCDC contact person notifies the joint regulators a reasonable time before a new delegation or assignment of a system operator's, or NZX RegCo's, material powers, discretions, rights, and obligations that may affect the NZCDC settlement system is made; and
- (g) that each of the system operators obtains and maintains appropriate insurance having regard to its legal arrangements with third parties and to its business, operations, and risks; and
- (h) that each of the system operators takes reasonable steps to ensure that all participants who apply to lend financial products through the financial products lending facility that is operated as part of the NZCDC settlement system are aware that that lending—

- (i) will be uncollateralised as between the participant and NZ Clearing; and
 - (ii) may be to NZ Clearing in circumstances where NZ Clearing is borrowing financial products to cover the obligations of another participant who failed to deliver financial products when required to do so; and
- (i) that, at the intervals and for the reporting periods required by the joint regulators, NZCDC—
- (i) publishes an audit report on the NZCDC settlement system; and
 - (ii) publishes a self-assessment carried out against the required standards; and
 - (iii) reports to the joint regulators, and, if required to do so by the joint regulators, publishes information, on—
 - (A) the consolidated financial statements of NZCDC and the financial resources of the NZCDC settlement system over the reporting period and the extent to which financial resources have been maintained in accordance with the financial resources policy; and
 - (B) the risk management of the NZCDC settlement system over the reporting period and the extent to which risks have been managed in accordance with the risk management framework; and
 - (C) the operational performance of the NZCDC settlement system over the reporting period; and
 - (D) the governance of the NZCDC settlement system over the reporting period; and
 - (E) any changes that have been made to the financial resources policy or the risk management framework over the reporting period and the reasons for those changes.

Schedule clause 1(d)(ii): replaced, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 1(e)(iii): revoked, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 1(e)(v): replaced, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 1(e)(v)(B): amended, on 8 March 2021, by clause 5(1) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 1(e)(vii): replaced, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 1(e)(vii): amended, on 8 March 2021, by clause 5(2) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 1(e)(viii): inserted, on 8 March 2021, by clause 5(3) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 1(e)(viii): inserted, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/148).

Schedule clause 1(e)(ix): replaced, on 8 March 2021, by clause 5(4) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 1(e)(x): inserted, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/148).

Schedule clause 1(e)(xi): replaced, on 8 March 2021, by clause 5(5) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 1(e)(xii): inserted, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/148).

Schedule clause 1(f): amended, on 8 March 2021, by clause 5(6) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 1(f): amended, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 1(g): amended, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 1(h): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Schedule clause 1(h)(ii): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Schedule clause 1(i)(iii)(A): replaced, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

2 Definitions used in this schedule

In this schedule,—

financial resources policy—

- (a) means any policy or procedure of the system operators concerning—
 - (i) the quantity of capital that they consider is required to support the operation of the NZCDC settlement system; or
 - (ii) the method for calculating the capital requirement referred to in subparagraph (i); or
 - (iii) their financial performance or financial position in relation to the NZCDC settlement system; or
 - (iv) the manner in which the capital referred to in subparagraph (i) is funded; and
- (b) includes—
 - (i) the NZCDC Capital Management Policy; and
 - (ii) the NZCDC Investment Policy; and
 - (iii) the NZCDC Treasury Policy; and
 - (iv) any bank financing agreements under which NZX Limited provides financial accommodation to NZCDC

material non-compliance, material increase of risk, and material incidents include matters that could—

- (a) compromise the integrity of the NZCDC settlement system; or
- (b) undermine confidence in the NZCDC settlement system; or
- (c) cause the financial resources of the NZCDC settlement system to be less than the minimum level set in accordance with the financial resources policy

reasonable time before means a period of time that, in the circumstances, is sufficient to allow the joint regulators to properly consider the effect of a change on the NZCDC settlement system and the system operators before the change occurs

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

risk management framework means any policy or procedure of the system operators concerning the management of their risks in relation to the NZCDC settlement system, and includes—

- (a) the NZCDC Risk Management Framework; and
- (b) the NZ Clearing Default Management Procedures; and
- (c) the NZ Clearing Margin and Collateral Management Procedure; and
- (d) the NZCDC Business Continuity Plan

specified agreements means—

- (a) the agreement between NZCDC, NZ Clearing, NZ Depository, NZX RegCo, and NZX Limited dated 10 December 2020 that relates to—
 - (i) the provision of infrastructure and services by NZX Limited to NZCDC, NZ Clearing, and NZ Depository; and
 - (ii) the provision of regulatory oversight services by NZX RegCo to NZCDC, NZ Clearing, and NZ Depository; and
 - (iii) insurance arrangements; and
- (b) an addendum between NZCDC, NZ Clearing, NZ Depository, NZX Limited, and Tata Consultancy Services Limited dated 27 May 2010 to the software licence agreement between NZX Limited and Tata Consultancy Services Limited dated 22 October 2007; and
- (c) the data licence agreement between NZX Limited, NZCDC, NZ Clearing, and NZ Depository dated 27 July 2010; and
- (d) *[Revoked]*
- (e) *[Revoked]*
- (f) any agreement that amends or replaces any of those agreements

specified governance document means any of the following:

- (a) the NZX board charter:
- (b) the New Zealand Clearing and Depository Corporation Limited board charter:
- (c) the NZX Audit and Risk Committee charter:
- (d) the NZX Clearing Committee charter:
- (e) the NZX Human Resources and Remuneration Committee charter:
- (f) the NZX Participants User Group terms of reference:
- (g) the NZX RegCo board charter:
- (h) *[Revoked]*
- (i) the NZX conflict management policy:
- (j) the NZX Credit Committee terms of reference:
- (k) the NZX delegated authority policy:
- (l) the NZCDC governance policy

system operator means—

- (a) NZCDC:
- (b) NZ Clearing:
- (c) NZ Depository:
- (d) NZD Nominee:
- (e) NZX Limited.

Schedule clause 2 **financial resources policy** paragraph (a)(iii): amended, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 2 **financial resources policy** paragraph (a)(iv): inserted, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 2 **financial resources policy** paragraph (b)(iv): replaced, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 2 **required standards**: replaced, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 2 **specified agreements** paragraph (a): replaced, on 8 March 2021, by clause 5(7) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified agreements** paragraph (d): revoked, on 8 March 2021, by clause 5(8) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified agreements** paragraph (e): revoked, on 8 March 2021, by clause 5(8) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified agreements** paragraph (f): inserted, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 2 **specified governance document**: inserted, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Schedule clause 2 **specified governance document** paragraph (c): amended, on 8 March 2021, by clause 5(9) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified governance document** paragraph (d): amended, on 8 March 2021, by clause 5(9) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified governance document** paragraph (e): amended, on 8 March 2021, by clause 5(9) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified governance document** paragraph (g): replaced, on 8 March 2021, by clause 5(10) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified governance document** paragraph (h): revoked, on 8 March 2021, by clause 5(10) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **specified governance document** paragraph (k): replaced, on 8 March 2021, by clause 5(11) of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34).

Schedule clause 2 **system operator** paragraph (e): inserted, on 7 July 2017, by clause 5 of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119).

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 2 September 2010.

Reprints notes

1 *General*

This is a reprint of the Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Order 2010 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2021 (LI 2021/34)

Reserve Bank of New Zealand (Designated Settlement System—NZCDC) Amendment Order 2017 (LI 2017/119)

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150