

Reprint
as at 1 April 2015



Deposit Takers (Payment Facility Providers) Exemption Amendment Notice 2010

(SR 2010/437)

Deposit Takers (Payment Facility Providers) Exemption Amendment Notice 2010: expired, on 1 April 2015, pursuant to clause 3 of the Deposit Takers (Payment Facility Providers) Exemption Notice 2009 (SR 2009/307).

Pursuant to section 157G of the Reserve Bank of New Zealand Act 1989, the Reserve Bank of New Zealand gives the following notice (to which is appended a statement of reasons of the Bank).

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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 notice is administered by the Reserve Bank of New Zealand.

Notice

1 Title

This notice is the Deposit Takers (Payment Facility Providers) Exemption Amendment Notice 2010.

2 Commencement

This notice comes into force on 1 December 2010.

3 Principal notice amended

This notice amends the Deposit Takers (Payment Facility Providers) Exemption Notice 2009.

4 New clauses 5 to 12 substituted

Clauses 5 to 7 are revoked and the following clauses substituted:

5 Exemption from requirement to have credit rating

A payment facility provider is exempted from section 157I of the Act.

6 Exemption from governance requirements

A payment facility provider is exempted from section 157L of the Act.

7 Exemption from risk management programme requirements

A payment facility provider is exempted from section 157M of the Act.

8 Exemption from capital ratio requirements

- (1) A payment facility provider is exempted from sections 157T and 157U of the Act.
- (2) The trustee in respect of the debt securities of a payment facility provider is exempted from section 157T of the Act in respect of those securities.

9 Exemption from related party exposures requirements

- (1) A payment facility provider is exempted from sections 157X and 157Y of the Act.
- (2) The trustee in respect of the debt securities of a payment facility provider is exempted from section 157X of the Act in respect of those securities.

10 Exemption from liquidity requirements

- (1) A payment facility provider is exempted from sections 157ZA and 157ZB of the Act.
- (2) The trustee in respect of the debt securities of a payment facility provider is exempted from section 157ZA of the Act in respect of those securities.

11 Generic conditions of exemptions in clauses 5 to 10

- (1) The exemptions in clauses 5 to 10 are subject to the following conditions:
 - (a) the payment facility provider must not provide any financial services in New Zealand other than the specified securities; and
 - (b) the payment facility provider must not pay interest, or any consideration in the nature of interest, to security holders in respect of the specified securities; and
 - (c) the payment facility provider must not disclose, in any registered prospectus, investment statement, or advertisement relating to an offer of its specified securities, an assessment of its creditworthiness that is in substance a credit rating (whether called a rating, grading, scoring, ranking, or by any other name) issued by an agency that is not approved by the Bank under section 157J of the Act.
- (2) The exemptions in clauses 5 to 10 are subject to a further condition that the payment facility provider must not allot any debt security on or after 1 February 2011 unless the subscriber has, before subscription, received written notification that—
 - (a) states that the payment facility provider is exempted, until 1 September 2014, from—
 - (i) the requirement in section 157I of the Act to have a credit rating; and
 - (ii) the governance requirements in section 157L of the Act; and
 - (iii) the risk management programme requirements in section 157M of the Act; and
 - (iv) the capital ratio requirements in sections 157T and 157U of the Act; and
 - (v) the related party exposures requirements in sections 157X and 157Y of the Act; and
 - (vi) the liquidity requirements in sections 157ZA and 157ZB of the Act; and
 - (b) accurately and clearly describes all risks associated with subscriptions for the specified securities.

12 Individual conditions of exemptions in clauses 5 to 10

- (1) This clause applies to the following payment facility providers:
 - (a) Interpayment Services Limited;
 - (b) Travelex Card Services Limited.
- (2) The exemptions in clauses 5 to 10 are subject to the further conditions that the payment facility provider—

- (a) must maintain a trust account with a bank that is supervised and regulated by the Financial Services Authority (UK) (or any successor regulatory body); and
- (b) must hold the net amount in that trust account on trust for security holders.
- (3) In this clause, **net amount** means, in relation to specified securities issued by the payment facility provider and a particular day, an amount equal to the reported net balance of all specified securities outstanding on the previous day.

5 Schedule amended

The Schedule is amended by adding the following item:

<p>Travelex Card Services Limited, a company incorporated in England</p>	<p>Call debt securities (as defined in regulation 46(1) of the Securities Regulations 2009) in the form of pre-paid instruments issued by the company in New Zealand in favour of security holders</p>
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Dated at Wellington this 18th day of November 2010.

Grant Spencer,
Deputy Governor.

Statement of reasons

This notice, which comes into force on 1 December 2010, amends the Deposit Takers (Payment Facility Providers) Exemption Notice 2009 (the **principal notice**). The effect of the amendments is to—

- grant further exemptions to payment facility providers from certain sections of the Reserve Bank of New Zealand Act 1989 (the **Act**), namely sections 157L (governance requirements), 157T and 157U (capital ratio requirements), 157X and 157Y (related party exposures requirements), and 157ZA and 157ZB (liquidity requirements). The principal notice already exempts payment facility providers from sections 157I (requirement to have a credit rating) and 157M (risk management programme requirements) of the Act; and
- extend the application of the principal notice to Travelex Card Services Limited.

The Reserve Bank of New Zealand (the **Bank**), after taking into account the principles set out in section 157F of the Act and satisfying itself as to the matters set out in section 157G(2) of the Act, considers it appropriate to grant the exemptions because—

- the Bank does not consider that there are material benefits or additional protections that customers would gain by payment facility providers complying with the credit rating, governance, risk management, capital ratio, related party exposures, or liquidity requirements:
- the additional direct and indirect costs of complying with these obligations are unduly onerous and burdensome in the circumstances. The relevant circumstances are that these products are not offered as investments to customers, and the other financial service activities of the payment facility provider are restricted if it is to benefit from the exemption. Therefore, compliance with the credit rating, risk management, governance, capital ratio, related party exposures, and liquidity requirements would provide little additional benefit to that already in place through the specific conditions applying to the payment facility providers:
- the generic conditions are narrowly drafted to ensure that the extent of the exemptions is not broader than necessary to address the matters that gave rise to them, and therefore the exemptions are consistent with the maintenance of a sound and efficient financial system.

The exemption is extended to Travelex Card Services Limited as it is a payment facility provider and meets the conditions set out in *new clause 11(1)* of the principal notice (as substituted by *clause 4* of this notice).

Reprints notes

1 *General*

This is a reprint of the Deposit Takers (Payment Facility Providers) Exemption Amendment Notice 2010 that incorporates all the amendments to that notice 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*

Deposit Takers (Payment Facility Providers) Exemption Notice 2009 (SR 2009/307): clause 3