

Version  
as at 1 July 2022



**Reserve Bank of New Zealand (Designated Settlement  
System—NZClear) Order 2012**  
(SR 2012/258)

Jerry Mateparae, Governor-General

**Order in Council**

At Wellington this 3rd day of September 2012

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 Financial Markets Authority, makes the following order.

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**Note**

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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

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designated settlement system**

## Order

### 1 Title

This order is the Reserve Bank of New Zealand (Designated Settlement System—NZClear) Order 2012.

### 2 Commencement

This order comes into force on the 28th day after the date of its notification in the *Gazette*.

### 3 Interpretation

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

**NZClear contact person** has the meaning given to it in clause 7

**NZClear settlement system** means the securities settlement system owned by, and operated and managed by or on behalf of, the Reserve Bank of New Zealand, and includes—

- (a) the central securities depository operated by NZCSD Limited; and
- (b) the performance of the custodian trustee role by NZCSD Limited; and
- (c) a system for the transfer of legal title to securities, including by electronic means

**NZCSD Limited** means New Zealand Central Securities Depository Limited.

(2) Any term that is defined in the Banking (Prudential Supervision) Act 1989 and used, but not defined, in this order has the same meaning as in that Act.

Clause 3(2): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

### 4 NZClear settlement system declared to be designated settlement system

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

**5 Document that evidences rules of settlement system**

The document that evidences the rules of the NZClear settlement system is the NZClear System Rules.

**6 Specified operator of settlement system**

The Reserve Bank of New Zealand is the specified operator of the NZClear settlement system.

**7 Contact person for settlement system**

Notices relating to the NZClear settlement system must be given to the Chief Financial Officer of the Reserve Bank of New Zealand (the **NZClear contact person**).

**8 Conditions to which designation is subject**

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

**9 Operator is participant in settlement system**

The Reserve Bank of New Zealand is—

- (a) the operator of the NZClear settlement system; and
- (b) a participant in the NZClear settlement system.

## Schedule

### Conditions of designation of NZClear settlement system as designated settlement system

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#### 1 Conditions of designation

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

- (a) that the NZClear 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 specified operator maintains a record of all operational incidents and instances of non-compliance with the rules of the NZClear settlement system by participants; and
- (c) that the record maintained under paragraph (b) is reviewed regularly by the senior management with responsibility for the operation of the NZClear settlement system to ensure that appropriate action has been taken in response to all operational incidents and instances of non-compliance; and
- (d) that the record maintained under paragraph (b) is considered as part of any operational audit carried out in respect of the NZClear settlement system; and
- (e) that the NZClear 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 risk management framework or with a law or regulatory requirement (whether of New Zealand, another country, or any jurisdiction of another country) relating to the operation of the NZClear settlement system; or
  - (ii) an event that materially increases risk to the NZClear settlement system; or
  - (iii) an outage or a material incident; and
- (f) that the NZClear contact person notifies the joint regulators a reasonable time before there is a change—
  - (i) to the risk management framework; or
  - (ii) of operator; or
  - (iii) of the NZClear settlement system's contact person; or
  - (iv) to any delegation or assignment by the specified operator of any of its material powers, discretions, rights, and obligations, other

- than as advised to the joint regulators before the day on which this order comes into force; or
- (v) of any of the senior management with responsibility for the operation of the NZClear settlement system; and
  - (g) that the NZClear contact person notifies the joint regulators a reasonable time before a new delegation or assignment of any of the specified operator's material powers, discretions, rights, and obligations is made; and
  - (h) that the NZClear contact person notifies the joint regulators a reasonable time before exercising the waiver power currently contained in rule 21.2.1(b) of the NZClear System Rules, if the waiver relates to any matters set out in section 156Q(2) of the Banking (Prudential Supervision) Act 1989; and
  - (i) that, at the intervals and for the reporting periods required by the joint regulators, the specified operator—
    - (i) publishes an audit report on the NZClear 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 relating to the reporting period on—
      - (A) the financial statements for the NZClear settlement system; and
      - (B) the risk management of the NZClear settlement system and the extent to which risks have been managed in accordance with the risk management framework; and
      - (C) the operational performance of the NZClear settlement system; and
      - (D) the governance of the NZClear settlement system; and
      - (E) any changes that have been made to the risk management framework and the reason for those changes.

Schedule clause 1(h): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

## 2 Definitions used in this schedule

In this schedule,—

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

- (a) compromise the integrity of the NZClear settlement system; or
- (b) undermine confidence in the NZClear settlement system

**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 NZClear settlement system and the specified operator 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 standard that replaces that document

**risk management framework** means any policy or procedure of the specified operator that concerns the management of its risks in relation to the NZClear settlement system.

Michael Webster,  
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 6 September 2012.

## Notes

### **1** *General*

This is a consolidation of the Reserve Bank of New Zealand (Designated Settlement System—NZClear) Order 2012 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(2)