

Module	BANK AND NON-BANK DEPOSIT TAKERS
Jurisdictions	NEW ZEALAND
Legal Expert	TANIA GOATLEY Partner at Bell Gully https://www.bellgully.com/our-people/tania-goatley/ https://www.linkedin.com/in/tania-goatley-0310119a/

Module Scope

Is the organisation a registered New Zealand bank or a licensed non-bank deposit taker (NBDT), or does it intend to obtain a licence or registration in the future?

Does the bank or the NBDT meet the conditions of its licence or registration?

Does the bank or the NBDT reserve an appropriate company name and comply with any applicable restrictions?

Does the bank or the NBDT comply with its governance-related obligations?

Does the bank or the NBDT maintain a credit rating from an approved credit ratings agency unless an exemption applies?

Does the bank or the NBDT comply with liquidity and capital adequacy legislative requirements?

Does the bank make and audit the relevant disclosures and lodge financial and climate statements?

Does the bank or the NBDT deal fairly with its customers?

Does the bank that is under statutory management comply with all applicable obligations?

Does the NBDT cooperate with regulatory authorities such as the Reserve Bank of New Zealand?

Does the bank or the NBDT comply with its record-keeping obligations?

Does the bank or the NBDT register as a financial service provider and comply with all obligations applicable to financial service provider?

Does the bank comply with all its legislated obligations in relation to cheques?

Does the bank or the NBDT comply with the Initial Pricing Standard if it is a participant in a designated network in the retail payment system?

Does the bank or the NBDT know of the steps that need to be taken in order to the comply with the conduct of financial institutions regime in the future?

Does the bank or the NBDT that is a climate-reporting entity ensure that its climate statements comply with the requirements of the climate-related disclosure framework?

Module Application

The NEW ZEALAND BANK AND NON-BANK DEPOSIT TAKERS module is intended to assist banks in obtaining registration and NBDTs in becoming licensed. For existing registered banks and licensed NBDTs, the module recommends systems and procedures that will enable such banks and NBDTs to meet all of their obligations efficiently.

The Reserve Bank of New Zealand (RBNZ), the Overseas Investment Office, the Companies Office, the Registrar of Financial Services Providers, the Financial Markets Authority, the Banking Ombudsman and the Commerce Commission have a role to play in regulating banks and NBDTs. In addition, the module covers exemptions to the obligations, if applicable, and how they may or may not apply in particular circumstances.

The NEW ZEALAND BANK AND NON-BANK DEPOSIT TAKERS module covers the various regulatory instruments that must be followed in order to ensure compliance with legislated obligations:

- › Acts
- › Regulations
- › Orders
- › Standards
- › Banking prudential requirements
- › Capital and credit risk requirements
- › Codes
- › The NEW ZEALAND BANK AND NON-BANK DEPOSIT TAKERS module also covers the obligations that banks and NBDTs have in specific areas such as:
 - › Bank registration
 - › NBDT licensing
 - › Company names
 - › Governance of registered banks
 - › Governance of licensed NBDTs
 - › Credit ratings
 - › Liquidity and capital adequacy of registered banks
 - › Liquidity and capital adequacy of NBDTs
 - › Disclosures and audits
 - › Fair dealing with customers
 - › Statutory management of registered banks
 - › NBDT monitoring and enforcement

- › Record keeping
- › FSP registration and dispute resolution
- › Cheques and registered banks
- › Retail payments and the initial pricing standard
- › Conduct of financial institutions
- › Climate-reporting entities

The module guides New Zealand and overseas banks on how to apply for registration, the requirement to comply with standard and other registration conditions, the requirement to obtain consent from the Reserve Bank of New Zealand in certain cases of changes of ownership, and the circumstances in which a bank registration may be ended. The module also informs New Zealand and overseas NBDTs about the steps involved in obtaining licencing which entails among other things, the requirement to submit suitability notices, the requirement to comply with licence conditions, the requirement to obtain a consent from the RBNZ in cases of changes of NBDT ownership, and the circumstances in which an NBDT licence may be cancelled.

The module covers the requirement for banks and NBDTs to reserve a company name, the prohibition on the use of restricted words including in advertisements and relevant exceptions and exemptions.

The module also covers the governance-related legislative requirements with which banks must comply in relation:

- › Maintaining a board of directors and senior management
- › Inclusion of prescribed director information in full year disclosure statements
- › Maintaining an audit committee
- › Conforming to the requirements set in the outsourcing policy maintained by the RBNZ
- › The module also covers the obligations of NBDTs in the area of governance including:
 - › The obligation to maintain a governing body that meets prescribed independence requirements
 - › The obligation to submit suitability notices to the RBNZ in certain circumstances
 - › The obligation to lodge a trust deed and to appoint a supervisor
 - › The obligation to assist the supervisor in carrying out certain functions
 - › The obligation to provide reports to the supervisor

Given the fact that depositors use credit ratings to gauge the risk of investment in a financial institution, the module also advises banks and NBDTs on their obligation to maintain a credit rating from an approved credit ratings agency.

The module covers the capital adequacy and liquidity requirements that must be met by banks such as:

- › Maintaining prescribed capital ratios the meet or exceed prescribed ratios
- › Measuring material risks in accordance with an internal adequacy assessment process
- › Not lending money to connected persons beyond prescribed limits
- › Establishing an internal framework for managing liquidity risk and meeting quantitative requirements

- › The module also covers the adequacy and liquidity requirements that must be met by the NBDTs such as:
- › Meeting or exceeding the minimum capital amount and capital adequacy ratio specified in the trust deed
- › Meeting or exceeding liquidity requirements specified in the trust deed
- › Not exceeding the prescribed level of aggregate exposure to related parties
- › Establishing and implementing an approved risk management program

The module also covers the disclosure requirements which must be met by banks and which including the publication of disclosure statements, the provision of information to RBNZ on request and the submission of annual financial statements and climate statements.

The module also covers the obligation for banks and NBDTs to treat customers fairly. This entails:

- › Not engaging in deceptive conduct of making misleading representations in the course of business
- › Not making unsubstantiated representations in the course of business
- › Compliance with the Code of Banking Practice

The module specifies the way in which banks and NBDTs must cooperate with the RBNZ. The module also explains circumstances in which a statutory management may be imposed in relation to a bank, in addition to the requirement to have an open bank resolution.

The module also covers the record-keeping obligations that are imposed on banks, NBDTs and financial markets conduct reporting entities.

The module also covers the requirement for banks and NBDTs to register as a financial service provide, in addition to pre-registration, post-registration obligations and the circumstances in which a registration may be ended.

The module also explains the bank's obligations in relation to cheques drawn on banks in New Zealand with a particular focus on:

- › Cheques which have not been endorsed or which have been irregularly endorsed
- › Cheques bearing forged or unauthorised signature
- › Collecting payment of cheques
- › Non-transferable cheques
- › Presenting certain cheques
- › Crossed cheques

The module advises banks and NBDTs that issue debit or credit cards or otherwise provide services within designated networks, to comply with the Initial Pricing Standard which regulates the retail payment system.

The module also covers the Conduct of Financial Institutions (CoFI) regime which will commence on 31 March 2025 and which requires banks and NBDTs to comply with a fair conduct principle when providing services to consumers. This means that banks and NBDTs must apply for and receive a financial institution licence before the commencement of the CoFI regime and establish a fair conduct programme at the time of applying. Banks and NBDTs will also be required to comply with conditions stated on the licence.

The module is also of relevance to financial markets conduct reporting entities which are climate-reporting entities. In this regard, the module explains the climate-related disclosure framework with which such entities must comply.

The module also covers the possible consequences to duty holders, banks and NBDTs that fail to comply with their obligations, which include:

- › Warnings
- › Compliance advice letters
- › Complaints
- › Monetary fines
- › Criminal charges
- › Imprisonment
- › Enforcement orders
- › Banning orders
- › Compensation orders
- › Enforceable undertakings
- › Injunctions
- › Cancellation of licence or registration
- › Cancellation of transactions
- › Civil liability orders
- › Reputational damage as a result of publication of breach by the RBNZ
- › Change of the organisation's name without the organisation's consent
- › Removal, appointment and replacement of directors by the RBNZ
- › Unenforceability of trust deeds
- › Statutory management

The NEW ZEALAND BANK AND NON-BANK DEPOSIT TAKERS module covers the obligations of banks and NBDTs. The module does not explore the rights of bank and NBDT customers nor the avenues of recourse for customers who have been treated unfairly or in an illegal manner by a bank or NBDT.

LexisNexis Regulatory Compliance is a legal obligations register and alerting solution that combines regulatory content with technology to empower you to take control of your compliance obligations.

About LexisNexis Regulatory Compliance

LexisNexis Regulatory Compliance® helps you forge a clear path to compliance.

With LexisNexis® content know-how at the core, our compliance registers, alerts, and information-driven solutions make compliance uncomplicated for GRC professionals across the globe.