

15<sup>th</sup> September 2015

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By email: [stocktake@rbnz.govt.nz](mailto:stocktake@rbnz.govt.nz)

## Regulatory Stocktake of the Prudential Requirements Applying to Registered Banks – assessing suitability of bank directors

Dear Mr Tomlinson

Thank you for the opportunity to provide comment on the [Consultation Document: Regulatory Stocktake of the Prudential Requirements Applying to Registered Banks](#).

Our submission relates specifically to the Reserve Bank's (the Bank) ongoing process for assessing the suitability of bank directors. We believe that the Institute of Director's (IoD) annual confirmation of good character for Chartered Members offers an opportunity for the Bank to help ensure ongoing suitability of bank directors after they have been appointed.

Maintaining sound and efficient financial systems, and avoiding damage from bank failures, is vital to the wellbeing and prosperity of New Zealand. Effective governance in banks underpins this.

The IoD promotes excellence in governance in order to create and add value to enterprises. Directors have a critical role in business and society as agents of best practice governance.

We would welcome the opportunity to discuss IoD's role in raising professional standards for directors and IoD Chartered Membership, with the Bank to help resolve issues relating to assurance about the ongoing suitability of bank directors.

### About the Institute of Directors

The IoD is a non-partisan voluntary membership organisation committed to raising governance standards in New Zealand. We represent a diverse membership of about 7,000 members drawn from NZX-listed corporations, unlisted companies, private companies, small to medium enterprises, public sector organisations, not-for-profits and charities.

The IoD promotes excellence in corporate governance, facilitates directors' professional development, and seeks to enhance the standard and effectiveness of directors through information and education on their legal, moral, financial and general responsibilities.

All members of the IoD are bound by the IoD's [Code of Practice](#). The Code assists and promotes directors to carry out their duties and responsibilities in accordance with the highest standards of professional and ethical behaviour. All members (except Associate Members) must undertake continuing professional development (CPD).

## IoD Chartered Membership – raising professional standards

In 2014 the IoD launched a [Chartered Membership Pathway](#) to raise professional standards for directors in New Zealand and to enable the recognition of Chartered Members and Chartered Fellows<sup>1</sup> who reach those standards.

The Chartered designation offers stakeholders an assurance that the Member has met professional standards of knowledge and skill in alignment with the IoD's [Director Competency Framework](#).

New Chartered Members are now required to pass the Chartered Member assessment, which is comprised of a computer-based 75 minute examination and a comprehensive and detailed written assignment.

In addition Chartered Members must make an annual commitment to uphold the principles of the [Charter](#). They must also attest that they are of good character and a fit and proper person through an annual [confirmation of good character](#). Chartered members attest that they:

- a) have not been convicted of any crime in New Zealand or elsewhere;
- b) have not been found by a court of competent jurisdiction, whether in New Zealand or elsewhere, to have acted inconsistently with any of their duties as a director or any of their fiduciary duties in any other capacity;
- c) have not been found by a court of competent jurisdiction, whether in New Zealand or elsewhere, to have acted (or failed to act) in a manner constituting serious wrongdoing or to have aided, abetted, counselled, or procured any other person to do so;
- d) have not brought the Institute into disrepute or acted in a manner materially inconsistent with the Charter;
- e) have not previously been denied membership of any professional body;
- f) are not the subject of any current disciplinary action in respect of any profession or occupation or before any court martial or armed services disciplinary officer, or been the subject of any such action which has resulted in them being found to have failed to act in accordance with any applicable relevant standard;
- g) have not at any time, whether in New Zealand or elsewhere:
  - i. been prohibited from being a director of any entity or being concerned or taking part in the management of any entity, or
  - ii. been party to or the subject of any enforceable undertaking or other arrangement with any regulatory body under which they may not be a director of any entity or concerned or take part in the management of any entity.
- h) accordingly are a fit and proper person to be a Chartered Member of the Institute.

Where a member is unable to confirm to any of these requirements they must make a disclosure to the Registrar of the IoD, who then refers the disclosure to the IoD's Professional Committee to determine whether the member's chartered status should be removed or membership terminated.

## Bank directors – ongoing suitability processes

In assessing the suitability of directors of banks the Reserve Bank (the Bank) reviews the nominated individual's curriculum vitae, criminal record information and assessments from other supervisors and regulators.

The assessment checks whether there is any information to suggest that the nominated individual is not suitable for the position. The Bank notes that its assessment provides a negative assurance rather than a positive assurance of suitability. The Bank also emphasises, and we agree, that primary responsibility for

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<sup>1</sup> Chartered Members and Chartered Fellows are referred to collectively as Chartered Members.

ensuring that directors have the necessary skills, experience and integrity to carry out their tasks lies with shareholders.

The Bank has identified a problem due to the lack of any requirement to ensure ongoing suitability of directors after they have been appointed and has asked for feedback about the problem and options to help resolve the issue.

We agree with the Bank (our response to Q33) that there should be an ongoing assessment of directors' suitability.

The Bank has proposed a requirement for directors to attest in disclosure statements (e.g. in full or half year disclosure statements) that they have effective systems and processes in place for ensuring the ongoing suitability of directors, and that those systems and processes are being correctly applied.

Recognising and disclosing that a director is a Chartered Member of the IoD can help resolve the issue of assessing ongoing suitability of directors as Chartered members annually attest to being of good character and achieving professional standards including completing CPD. As with any process or regime there are no full-proof guarantees but the IoD believes that the Chartered Member designation offers stakeholders an assurance that the director has met professional standards of knowledge and skill to carry out their duties.

We therefore encourage the Bank to recognise the designation of Chartered Membership by bank directors in their disclosures as an effective process for attesting to their ongoing suitability as a bank director.

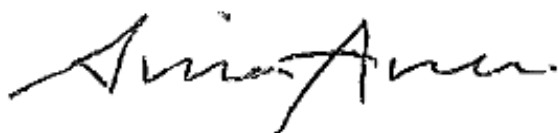
## Conclusion

Thank you for the opportunity to comment on the Bank's proposals to refine suitability assessment processes for bank directors.

We would welcome the opportunity to meet with the Bank to discuss Chartered Membership of the IoD and how this designation aligns with the Bank's role in assessing ongoing suitability of bank directors.

We would also welcome the opportunity to discussing more broadly the Bank's approach to assessing director suitability of directors, and the skills and experience of boards as a whole, and how the IoD could work with the Bank on these assessments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon Arcus', written in a cursive style.

Simon Arcus  
**Chief Executive**