

# National Australia Bank and Bank of New Zealand Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

- Clause 1 states the purpose of the Act, namely to provide for the transfer of the Australian Banking business of the Bank of New Zealand (BNZ) to the National Australia Bank (NAB).
- Clause 2 provides for the commencement of the Act.
- Clause 3 defines various terms contained in the Act.
- Clause 4 provides that the Act binds the Crown.
- Clause 5 provides that the Act applies both within and outside Victoria but does not apply to the banking business of the BNZ outside Australia.

### PART 2—VESTING OF UNDERTAKING OF BNZ IN NATIONAL

- Clause 6 provides for the vesting of the undertaking of the BNZ in the NAB.
- Clause 7 provides that all contracts and other instruments entered into by or made with the BNZ shall on the commencement of this Act be binding on the NAB as if the NAB had entered into them or made them.
- Clause 8 describes in more detail the effects of the transfer of the BNZ to the NAB. For example:
- (a) the NAB is to be installed in the BNZ's place in terms of the relationship between the BNZ and its customers and depositors.
  - (b) securities previously held by the BNZ for the payment of the debts and liabilities of its customers will be available to the NAB as security for the payment of those debts and liabilities.
  - (c) the NAB will be entitled to have access to and use information held by the BNZ relating to its customers.
- Clause 9 gives effect to the vesting of the undertaking of the BNZ in the NAB in terms of legal proceedings involving the BNZ.

- Clause 10 allows the amendment of court documents in circumstances where the NAB is erroneously made a party.
- Clause 11 gives effect to the vesting of the undertaking of the BNZ in the NAB in terms of its application to the law of evidence.
- Clause 12 gives effect to the vesting of the undertaking of the BNZ in the NAB in terms of the interpretation of any Act, written law or document.
- Clause 13 provides for BNZ employees to be engaged exclusively in the services of and subject to the direction of the NAB.

### **PART 3—GENERAL**

- Clause 14 provides that the NAB must pay an equivalent amount to all taxes, duties and charges for which it would have been liable in respect of the transfers contemplated by this Act.
- Clause 15 provides that nothing effected by this Act or done by the BNZ and the NAB under this Act is to be regarded as placing them in breach of contract or confidence, in default of any law or as fulfilling a condition which allows a third party to terminate any agreement or liability.
- Clause 16 provides that after the commencement date documents served on the NAB are deemed to have been served on the BNZ and vice versa.
- Clause 17 deals with excluded assets and provides that third parties and statutory authorities need not be concerned to enquire whether a transaction to which the BNZ and the NAB is a party relates to an excluded asset, and are entitled to assume that if the BNZ and the NAB is purporting to deal with an excluded asset, it has full power and authority to do so.
- Clause 18 states that the Chief Executive Officer may certify matters in relation to Part 2.
- Clause 19 gives effect to a change in the proprietorship of land transferred under this Act.
- Clause 20 requires the Registrar of Titles or the Registrar-General to make any recordings in the Register or the records of enrolment of Crown grants that are necessary because of the operation of this Act.
- Clause 21 deems that section 286(1) of the Corporations Law to have been complied with in respect of all charges of which the NAB becomes the holder by virtue of the Act, where the Chief Executive Officer of the NAB lodges a signed certificate

with the Australian Securities Commission adverting to this Act and the vesting effected by it.

- Clause 22 applies in relation to other statutory reporting requirements and avoids the need for separate notifications to be made or forms to be lodged in respect of each individual asset transfer effected by the Act.
- Clause 23 provides that certificates under the Act are conclusive evidence of the matters certified.
- Clause 24 provides that except to the extent that an exemption is directly contemplated by or is a necessary consequence of this Act, the Act does not exempt the NAB or the BNZ from all other laws relating to companies carrying on the business of banking.

