

## Part 2

### Access and participation

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## **2.1 Purpose of this Part**

The purpose of this Part is to—

- (a) specify the access criterion for participation in a clearing system and allow a person to apply for and, if the person complies with the access criterion, be granted the right to participate in the clearing system (subpart 1); and
- (b) specify the process for assignment of a participant's right to participate in a clearing system to another person (subpart 2); and
- (c) specify the process for allocation of interchange numbers and branch ranges to SBI participants and to specified persons who do not have a right to participate in SBI (subpart 3); and
- (d) specify the process for resignation of a participant from a clearing system (subpart 4).

## **2.2 Determinations by independent directors**

- (1) This rule applies when independent directors make determinations under this Part.
- (2) These determinations must be made unanimously by all 3 independent directors.
- (3) However, if an independent director is unable to participate in making a determination—
  - (a) the chair must appoint another director to participate; or
  - (b) if it is the chair who is unable to participate, the other independent directors must appoint another director to participate.
- (4) A director appointed under subclause (3) is deemed to be an independent director for the purposes of this Part to the extent necessary to allow the director to participate in making the relevant determination.

## **2.3 Independent directors and company not liable**

- (1) The independent directors make determinations under subpart 1 on the basis of information provided by an applicant to participate in a clearing system.
- (2) Neither an independent director nor the company is liable for any loss (other than loss arising as a result of fraud, wilful misconduct, or bad faith), whether the loss is direct or consequential (including loss of profits), incurred by any person arising out of or in connection with the independent directors—
  - (a) exercising any of the independent directors' rights or powers under subpart 1; or
  - (b) complying with any of the independent directors' obligations under subpart 1.

Subpart 1: Participation in a clearing system

### *Application*

## **2.4 Company must assist potential applicants**

If requested by a person, the company must, in accordance with section A(2) of chapter 1 of the access procedures, provide information to the person that the person reasonably requires to decide whether to apply to participate in a clearing system.

Compare: Payments NZ Rules 28 May 2012 rule 2.3

## **2.5 Application**

- (1) An application to participate in 1 or more clearing systems must be made to the company in the manner specified by the company in accordance with section A(6) of chapter 1 of the access procedures.
- (2) The company must—
  - (a) notify the person of the form and content of the application required; and
  - (b) if requested, provide information to the person that the person reasonably requires to make an application.

Compare: Payments NZ Rules 28 May 2012 rule 2.1

## **2.6 Information accompanying application**

Each application must be accompanied by the information that the company requires in accordance with section B of chapter 1 of the access procedures to assist the independent directors to determine the application.

Compare: Payments NZ Rules 28 May 2012 rules 2.2 and 2.19.2

## **2.7 Application fee**

An application must be accompanied by the application fee determined in accordance with rule 6.2.5.

Compare: Payments NZ Rules 28 May 2012 rule 2.2

### *Access criterion and determining an application*

## **2.8 Independent directors determine whether applicant satisfies access criterion**

- (1) As soon as practicable after the company receives an application to participate in a clearing system, the independent directors must meet to determine whether the applicant satisfies the access criterion.
- (2) The access criterion is that the applicant will not, if it becomes a participant in the clearing system,—
  - (a) adversely affect the integrity or the reputation of the clearing system; or
  - (b) introduce significant risk into the clearing system.
- (3) An applicant satisfies the access criterion by demonstrating that the applicant—
  - (a) complies with the prudential requirements specified in rule 2.9; and
  - (b) complies with the operational risk management requirements specified in rule 2.10; and
  - (c) complies with the operational requirements in respect of the clearing system to which the application relates as follows:
    - (i) for CECS, under rule 2.11 and in accordance with section C2 of chapter 2 of the access procedures;
    - (ii) for HVCS, under rule 2.12 and in accordance with section C3 of chapter 2 of the access procedures;
    - (iii) for SBI, under rule 2.13 and in accordance with section C4 of chapter 2 of the access procedures.

## **2.9 Prudential requirements**

- (1) The prudential requirements for participation in a clearing system are that the applicant meets prudential standards that minimise the risk of the effects specified in rule 2.8(2).
- (2) In determining whether the independent directors are satisfied that an applicant complies with the prudential requirements, the independent directors must have regard to the following:
  - (a) the credit-worthiness of the applicant, in accordance with section B2 of chapter 2 of the access procedures, including—
    - (i) the applicant's credit rating, if any; and
    - (ii) whether the independent directors require the applicant to enter into an access guarantee or a standby liquidity facility agreement;
  - (b) in accordance with section B3 of chapter 2 of the access procedures, whether the applicant is—
    - (i) registered as a bank under the Reserve Bank Act; or
    - (ii) licensed as a non-bank deposit-taker under the Non-bank Deposit Takers Act 2013; or
    - (iii) licensed as an insurer under the Insurance (Prudential Supervision) Act 2010;
  - (c) in accordance with section B4 of chapter 2 of the access procedures, whether the applicant is a participant in 1 or more clearing systems when it applies;
  - (d) the place of incorporation of the applicant and the corporate and ownership structure of the applicant in accordance with section B5 of chapter 2 of the access procedures;
  - (e) the size and nature of the applicant's business or proposed business, or any part of the applicant's business or proposed business in accordance with section B6 of chapter 2 of the access procedures;

- (f) the ability of the applicant to carry on its business or proposed business in a prudent manner in accordance with section B7 of chapter 2 of the access procedures:
- (g) in accordance with section B8 of chapter 2 of the access procedures—
  - (i) the standing of the applicant in the markets in which it trades; and
  - (ii) the standing of the owner, if any, of the applicant in the markets in which it trades;
- (h) the suitability for their positions of the directors and senior managers of the applicant in accordance with section B9 of chapter 2 of the access procedures:
- (i) any other matters that the independent directors consider relevant.

## **2.10 Operational requirements: risk management**

The requirements for operational risk management for participation in a clearing system are that the applicant meets standards that minimise the risk of the effects specified in rule 2.8(2).

- (2) In determining whether the independent directors are satisfied that an applicant complies with the requirements for operational risk management, the independent directors must have regard to whether the following are adequate:
  - (a) in accordance with section C1(2) of chapter 2 of the access procedures, the applicant's systems, policies, procedures, and controls that identify, monitor, and manage operational risks:
  - (b) in accordance with section C1(3) of chapter 2 of the access procedures, the applicant's operational reliability objectives and the policies intended to achieve the objectives:
  - (c) in accordance with section C1(4) of chapter 2 of the access procedures, the applicant's procedures for incident management:
  - (d) in accordance with section C1(5) of chapter 2 of the access procedures, the applicant's plans to manage operational capacity:
  - (e) in accordance with section C1(6) of chapter 2 of the access procedures, the applicant's physical and information security policies:
  - (f) in accordance with section C1(7) of chapter 2 of the access procedures, the applicant's business continuity plan:
  - (g) in accordance with section C1(8) of chapter 2 of the access procedures, any arrangements relating to the provision by another party of goods or services necessary for the applicant to comply with obligations under the rules of the clearing system to which the application relates:
  - (h) any other matters that the independent directors consider relevant.

## **2.11 Operational requirements: CECS**

The operational requirements for participation in CECS are as follows:

- (a) if the applicant proposes to operate as an issuer, the applicant has a unique issuer identification number (IIN):
- (b) if the applicant does not participate in SBI, or is not also applying to participate in SBI, the applicant and an SBI participant have an agreement—
  - (i) under which the SBI participant sends files to the SBI CUG transaction delivery system for the applicant and receives files from the SBI CUG transaction delivery system for the applicant; and
  - (ii) that includes all terms and conditions necessary to give effect to Parts 2, 8, 8A to 8D, and 12 to 12D:
- (c) if the applicant proposes to use 1 or more switch companies to deliver payment instructions, the applicant has passed the testing requirements of each switch company.

## **2.12 Operational requirements: HVCS**

The operational requirements for participation in HVCS are as follows:

- (a) the applicant can settle through its own settlement account:
- (b) the applicant is a SWIFT user:
- (c) the applicant has a SWIFT BIC address linked to the applicant's settlement account:
- (d) the connection between SWIFT and the SWIFT gateway that the applicant proposes to use complies with the following requirements—

- (i) if the applicant's projected national interchange volume in HVCS is 5% or more of the total national interchange volume in HVCS, the requirements specified in section C3(4) of chapter 2 of the access procedures; or
- (ii) if the applicant's projected national interchange volume in HVCS is less than 5% of the total national interchange volume in HVCS, the requirements specified in section C3(5) of chapter 2 of the access procedures:
- (e) the applicant is a member of NZClear:
- (f) the resilience of the applicant's systems complies with the requirements specified in section C3(6) of chapter 2 of the access procedures.

### **2.13 Operational requirements: SBI (BECS or PCS)**

The operational requirements for participation in SBI are as follows:

- (a) the applicant can settle through its own settlement account:
- (b) the applicant is a SWIFT user:
- (c) the applicant has a SWIFT DN:
- (d) the applicant has a SWIFT BIC address linked to the applicant's settlement account:
- (e) the connection between SWIFT and the SWIFT gateway that the applicant proposes to use complies with the following requirements—
  - (i) if the applicant's projected national interchange volume in the clearing system to which the application relates is 5% or more of the total national interchange volume of the clearing system, the requirements specified in section C4(4) of chapter 2 of the access procedures; or
  - (ii) if the applicant's projected national interchange volume in the clearing system to which the application relates is less than 5% of the total national interchange volume of the clearing system, the requirements specified in section C4(5) of chapter 2 of the access procedures:
- (f) the applicant is a member of NZClear:
- (g) the resilience of the applicant's systems complies with the requirements specified in section C4(6) of chapter 2 of the access procedures.

### **2.14 Independent directors must notify prudential or operational issue**

In determining whether an applicant to participate in a clearing system satisfies the access criterion, the independent directors must—

- (a) notify the applicant of any respect in which the independent directors consider that the applicant—
  - (i) does not comply with the prudential requirements specified in rule 2.9; or
  - (ii) does not comply with the operational risk management requirements specified in rule 2.10; and
  - (ii) does not comply with the operational requirements in respect of the clearing system to which the application relates under rules 2.11, 2.12, or 2.13; and
- (b) give the notification as soon as practicable after becoming aware of the issue; and
- (c) give the applicant an opportunity to respond.

### **2.15 Independent directors may require actions**

- (1) In determining whether an applicant to participate in a clearing system satisfies the access criterion, the independent directors may require the applicant to complete any action specified by the independent directors which may include, without limitation, any or all of the following:
  - (a) provide 1 or more access guarantees from an approved guarantor—
    - (i) the terms and conditions of which are consistent with the terms and conditions of a sample access guarantee specified in appendix 1B of the access procedures; and
    - (ii) that is valid, binding, and enforceable on the approved guarantor:
  - (b) enter into a standby liquidity facility agreement with an approved provider—
    - (i) the terms and conditions of which are consistent with the sample terms of a standby liquidity facility agreement specified in appendix 1B of the access procedures; and

- (ii) that is valid, binding, and enforceable on the approved provider:
  - (c) grant a security right to the company as security agent for the participants:
  - (d) require the applicant to provide an independent report by any person:
  - (e) require the applicant to provide any additional information that the independent directors consider necessary to enable the independent directors to determine the application.
- (2) The applicant must—
- (a) complete any action required by the independent directors as soon as practicable after a request under subclause (1); and
  - (b) pay the cost of completing the action.

Compare: Payments NZ Rules 2 September 2013 rule 2.10

## **2.16 Independent directors must seek advice**

- (1) In determining whether an applicant to participate in a clearing system satisfies the access criterion, the independent directors must—
- (a) seek advice from a qualified person; or
  - (b) get an independent report by a qualified person.
- (2) The applicant must pay the cost of the advice or the report.

## **2.17 Independent directors must approve certain applications**

The independent directors must approve an application to participate in a clearing system if the independent directors determine that the applicant satisfies the access criterion specified in rule 2.8.

Compare: Payments NZ Rules 28 May 2012 rule 2.7

## **2.18 Conditions applying to participation**

If the independent directors approve an applicant's application to participate in a clearing system, the independent directors may impose conditions that the applicant will be required to meet on and from the time that the applicant commences participation in the clearing system which may include, without limitation, a requirement to do any or all of the following:

- (a) undertake regular audits:
- (b) comply with minimum operational requirements specified by the independent directors (such as, for example, a requirement to settle SBI files hourly):
- (c) provide regular reports to the company.

Compare: Payments NZ Rules 2 September 2013 rule 2.12

## **2.19 Warranties applying to participation**

If the independent directors approve an applicant's application to participate in a clearing system, the independent directors must specify the terms of the representation and warranty the applicant gives under rule 11.1.1(d) on and from the time that the applicant commences participation in the clearing system.

## **2.20 Conditions applying to commencement of participation**

Approval of an application to participate in a clearing system is subject to the applicant doing the following before the applicant commences participation in the clearing system:

- (a) passing the following tests of the applicant's operational capacity:
  - (i) for an application for HVCS, the tests required by rule 2.26:
  - (ii) for an application for SBI, the tests required by rule 2.29:
- (b) paying the following costs:
  - (i) for an application for HVCS, the costs required by rule 2.27:
  - (ii) for an application for SBI, the costs required by rule 2.30:
- (c) completing the admission requirements specified in rule 2.31.

Compare: Payments NZ Rules 2 September 2013 rule 2.12

## **2.21 Company must notify decision**

- (1) As soon as practicable after the independent directors determine an applicant's application to participate in a clearing system, the company must notify the applicant of—

- (a) the independent directors' decision; and,
  - (b) if the independent directors approve the application—
    - (i) any conditions imposed on the applicant's right to participate under rule 2.18; and
    - (ii) the terms of the representation and warranty the applicant must give under rule 11.1.1(d); and
    - (iii) the conditions applying to the approval specified in rule 2.20; and
  - (c) if the independent directors do not approve the application, the reasons for the independent directors' decision.
- (2) If the independent directors approve the application, the company must notify all participants in the clearing system and the Reserve Bank of—
- (a) the independent directors' decision; and
  - (b) the conditions applying to the participant commencing participation in the clearing system under rule 2.20; and
  - (c) any conditions imposed on the applicant's right to participate under rule 2.18.

*Connections and tests*

**2.22** [Deleted]

**2.23** [Deleted]

**2.24** [Deleted]

**2.25 HVCS: arranging connections and tests**

- (1) If the independent directors approve an application to participate in HVCS, as soon as practicable after the applicant receives a notification from the company under rule 2.21, the applicant must—
- (a) arrange to test bilaterally with at least 1 HVCS participant in a test environment; and
  - (b) apply to the Reserve Bank to join the AVP test closed user group; and
  - (c) notify the company in writing of—
    - (i) the applicant's BIC address; and
    - (ii) for a proposed bilateral test, the name of the test partner and the date on which the applicant proposes to begin the bilateral test; and
    - (iii) for a proposed industry test, the date on which the applicant proposes to begin the industry test.
- (2) As soon as practicable after receipt of a notification under subclause (1)(c), the company must—
- (a) arrange for the applicant to test in HVCS in accordance with section B(4) of chapter 3 of the access procedures and, if required, manage the test process; and
  - (b) notify each HVCS participant of the following:
    - (i) the applicant's BIC address;
    - (ii) the date by which the participant must set up the applicant's BIC address.
- (3) Each HVCS participant must ensure that it has set up the applicant's BIC address by the date specified in the notification.
- (4) An HVCS participant who is not requested to test its system bilaterally with the applicant in a test environment in accordance with subclause (1)(a), may require the applicant to test its system bilaterally with the participant in a test environment.

**2.26 HVCS: tests**

- (1) As soon as practicable after arrangements for HVCS tests under rule 2.25 are complete—
- (a) the company must—
    - (i) require the applicant to comply with requirements for HVCS tests specified in sections B(6), (8), and (9) of chapter 3 of the access procedures; and
    - (ii) manage the HVCS test process if required; and

- (b) each HVCS participant must comply with requirements for HVCS tests specified in sections B(6), (8), and (9) of chapter 3 of the access procedures.
- (2) If the applicant's system has not passed all HVCS tests at the expiry of 1 year from the date on which the company sent the notification required by rule 2.25(2)(b), the independent directors' approval of the applicant's application to participate lapses unless the independent directors extend the period to which the approval applies.

**2.27 HVCS: test costs**

As soon as practicable after the HVCS tests required by rule 2.26 commence, the applicant must pay the test costs and expenses reasonably incurred by the following whether or not the applicant's system passes the tests:

- (a) the company;
- (b) a bilateral test partner selected in accordance with rule 2.25(1)(a).

**2.28 SBI: arranging connections and tests**

- (1) If the independent directors approve an application to participate in SBI, as soon as practicable after the applicant receives a notification from the company under rule 2.21, the applicant must—
  - (a) apply to the company in writing—
    - (i) for allocation of an interchange number and allocation of a branch range under subpart 3; and
    - (ii) to join the SBI test closed user group; and
  - (b) notify the company in writing of—
    - (i) the date on which the applicant proposes to begin SBI bilateral tests; and
    - (ii) the date on which the applicant proposes to begin SBI industry tests with other SBI participants.
- (2) As soon as practicable after receipt of an application and a notification in subclause (1), the company must—
  - (a) allocate an interchange number and a branch range to the applicant in accordance with subpart 3, and notify the applicant of the allocation; and
  - (b) arrange to admit the applicant to the SBI test closed user group; and
  - (c) arrange for the applicant to test in SBI in accordance with section C2(4) of chapter 3 of the access procedures; and
  - (d) notify each SBI participant of the following:
    - (i) the interchange number and branch range allocated to the applicant under subpart 3;
    - (ii) the applicant's BIC address and DN address;
    - (iii) the date by which the participant's system must recognise the applicant's interchange number, branch range, BIC address, and DN address.
- (3) Each SBI participant must ensure that its system recognises the applicant's interchange number, branch range, BIC address, and DN by the date specified in the notification in subclause (2)(d)(iii).

**2.29 SBI: tests**

- (1) As soon as practicable after arrangements for SBI tests for an applicant under rule 2.28 are complete,—
  - (a) the company must—
    - (i) require the applicant to comply with requirements for SBI tests specified by the company; and
    - (ii) manage the test process in accordance with the requirements for SBI tests specified by the company; and
  - (b) each SBI participant must comply with requirements for SBI tests determined by the company.
- (2) If the applicant has not passed all SBI tests at the expiry of 1 year from the date on which the company sent the notification required by rule 2.28(2)(d), the independent directors' approval

of the applicant's right to test lapses unless the independent directors extend the period to which the approval applies.

### **2.30 SBI: test and connection costs**

As soon as practicable after the SBI tests required by rule 2.29 commence, the applicant must pay the costs of the following whether or not the applicant's system passes the tests—

- (a) the test costs and expenses reasonably incurred by the following in respect of bilateral tests and industry tests:
  - (a) the company;
  - (b) an SBI participant who is a bilateral test partner; and
- (b) the test costs and expenses reasonably incurred by each SBI participants who is not a bilateral test partner in respect of industry tests if both of the following apply:
  - (i) the date specified in the notification given under rule 2.28(2)(d)(iii) by which the participant's system must recognise the applicant's interchange number, branch range, BIC address and DN address is before the expiry of 6 months after the date on which the company sent the notification;
  - (ii) the participant begins industry tests with the applicant before the expiry of 6 months after the date on which the company sent the notification;
- (c) the systems costs reasonably incurred by each SBI participant in respect of changing the participant's systems to recognise the applicant's interchange number, branch range, BIC address, and DN address if both of the following apply:
  - (i) the date specified in the notification given under rule 2.28(2)(d)(iii) by which the participant's system must recognise the applicant's interchange number, branch range, BIC address and DN address is before the expiry of 6 months after the date on which the company sent the notification;
  - (ii) the participant completes the system changes before the expiry of 6 months after the date on which the company sent the notification.

#### *Admission process*

### **2.31 Admission requirements**

Before an applicant commences participation in a clearing system the applicant must do the following:

- (a) pay the company the access fee prescribed under rule 6.2.6;
- (b) execute the participant accession deed in the form set out in appendix 1G to the access procedures and return it to the company;
- (c) if the application relates to SBI, join the SBI production closed user group;
- (d) if the application relates to HVCS, join the AVP production closed user group;
- (e) take any other action required to comply with any conditions under which the independent directors approved the applicant's application to participate in the clearing system.

Compare: Payments NZ Rules 28 May 2012 rule 2.16

### **2.32 Commencement time**

- (1) The company must determine, in consultation with the applicant and every participant in the clearing system, the time from which the applicant will commence participating in the clearing system.
- (2) The commencement time must—
  - (a) unless the company otherwise agrees, be more than 15 business days after the date on which the applicant completed the admission requirements in rule 2.34; and
  - (b) be determined taking into account the time period that each participant in the clearing system requires to change its system to connect with the applicant's system.

Compare: Payments NZ Rules 28 May 2012 rule 2.14

### **2.33 Independent directors must admit new participant**

- (1) The independent directors must admit an applicant as a participant in a clearing system with effect from the commencement time determined in accordance with rule 2.32 if the independent directors have confirmation from the clearing system management committee that the applicant has—
  - (a) passed the applicable tests specified in rule 2.26 or 2.29; and
  - (b) paid the applicable testing or connection costs and expenses.
- (2) As soon as practicable after the independent directors admit the applicant, the company must notify the following of the independent directors' decision and of the time from which the new participant will commence participating in the clearing system determined in accordance with rule 2.32
  - (a) the applicant;
  - (b) each participant in the clearing system;
  - (c) the Reserve Bank;
  - (d) for an application for CECS, EFTPOS New Zealand Limited and Paymark Limited;
  - (e) for an application for HVCS, the AVP CUG service administrator.
- (3) A new participant must commence participating in the clearing system on and from the commencement time.

Compare: Payments NZ Rules 28 May 2012 rule 2.

## Subpart 2: Assignment of a right to participate in a clearing system

### **2.34 Assignment of a right to participate**

- (1) A participant in a clearing system may, with the approval of the independent directors, assign to another person—
  - (a) the participant's right to participate in the clearing system; and
  - (b) the participant's obligations in respect to participation in the clearing system; and
  - (c) the participant's powers in respect to participation in the clearing system.
- (2) This subpart applies to an assignment in which—
  - (a) the person obtains significant influence over the participant; or
  - (b) the participant resigns and transfers its rights, obligations, and powers in a clearing system under the rules to the person.
- (3) For the purposes of subclause (2)(a), the term significant influence—
  - (a) if the participant is a registered bank, means—
    - (i) the ability to directly or indirectly appoint 25% or more of the board of directors (or other persons exercising powers of management, however described) of the registered bank; or
    - (ii) a direct or indirect qualifying interest in 10% or more of the voting securities issued or allotted by the registered bank; or
  - (b) if the participant is not a registered bank, means—
    - (i) a person has the right to directly or indirectly appoint 25% or more of the participant's board of directors (or other persons exercising management powers); or
    - (ii) in relation to any voting securities issued or allotted by the participant, a person has, directly or indirectly, any of the following:
      - (A) the legal or the beneficial ownership of 10% or more of the voting securities;
      - (B) the power to exercise, or control the exercise of, 10% or more of the voting rights attached to the voting securities;
      - (C) the power to acquire or dispose of 10% or more of the voting securities;
      - (D) the power to control the acquisition or the disposition of 10% or more of the voting securities by another person;
      - (E) any of the rights or powers referred to in subparagraphs (A) to (D) under, or because of, a trust, an agreement, an arrangement or an understanding relating to the voting securities.

### **2.35 Application to company**

The person to whom it is proposed that the right to participate in a clearing system be assigned must apply to the company for approval of the assignment.

### **2.36 Independent directors determine assignment**

- (1) As soon as practicable after the company receives an application under rule 2.35, the independent directors must determine whether to approve the assignment.
- (2) To enable the independent directors to make a determination under subclause (1), the independent directors may—
  - (a) require the applicant to provide an independent report by any person or any additional information that the independent directors consider necessary to enable the independent directors to determine the application; or
  - (b) require the applicant to provide any additional information that the independent directors consider necessary.
- (3) In making a determination, the independent directors must have regard to whether the applicant complies with the access criterion in rule 2.8.

### **2.37 Conditions of approval**

- (1) If the independent directors approve the assignment of a right to participate in a clearing system, the independent directors may require the applicant to comply with the following conditions before the assignment is completed:
  - (a) payment of the application fee to the company prescribed under rule 6.2.5
  - (b) passing the following system tests to the extent determined by the independent directors:
    - (i) for an application for BECS or PCS, the tests specified by rule 2.29;
    - (ii) for an application for HVCS, the tests specified by rule 2.26;
  - (c) completing any of the admission requirements specified in rule 2.31 to the extent determined by the independent directors;
  - (d) admission of the applicant as a new participant in the clearing system in accordance with rules 2.32 and 2.33 at the time determined by the independent directors;
  - (e) any other condition specified by the independent directors at the time of the approval.
- (2) If the independent directors require an applicant to pass any tests under subclause 1(b),—
  - (a) the independent directors must require the applicant to pay the following test and connectivity costs:
    - (i) for an application for BECS or PCS, the costs specified by rule 2.30;
    - (ii) for an application for HVCS, the costs specified by rule 2.27;
  - (b) the independent directors may require the company and participants in the clearing system to comply with the following to the extent determined by the independent directors:
    - (i) for an application for assignment of a right to participate in BECS or PCS, the requirements specified by rule 2.28;
    - (ii) for an application for assignment of a right to participate in HVCS, the requirements specified by rule 2.25.

### **2.38 Company must notify independent directors' decision**

As soon as practicable after the independent directors determine whether to approve an assignment, the company must notify—

- (a) the applicant of—
  - (i) the independent directors' decision; and
  - (ii) if the independent directors do not approve the assignment, the reasons for the independent directors' decision; and
- (b) each participant in the clearing system and the Reserve Bank of the independent directors' decision.

### **2.39 Applicant must apply for interchange number and branch ranges**

- (1) If the independent directors approve an assignment of an SBI participant's right to participate in BECS or PCS to a person, as soon as practicable after receipt of a notification under rule 2.38, the person must apply to the company under subpart 3 for re-allocation to the person of the interchange number and any branch ranges allocated to the SBI participant.
- (2) The application must be accompanied by written consent from the SBI participant to re-allocation of the interchange number and any branch ranges to the person.

### **2.40 No participation if assignment not approved**

- (1) If the independent directors do not approve an assignment under rule 2.36, an applicant is not entitled to participate in a clearing system.
- (2) If the company decides that the applicant is participating in the clearing system, the company may give the following instructions:
  - (a) if the applicant participates in BECS or PCS,—
    - (i) instruct SBI participants to reject payment instructions involving the applicant; and
    - (ii) instruct SBI participants to stop creating transactions and files in relation to payment instructions involving the applicant; and
    - (iii) instruct SBI participants to freeze settlement and freeze interchange of all files with the applicant, but to continue settlement and interchange with each other:
  - (b) if the applicant participates in HVCS, instruct HVCS participants to stop HVCS payments to the applicant.
- (3) Each participant must comply with every instruction given under subclause (2).  
Compare: Payments NZ Rules 2010, rule 12.2.4(b)(i)(B)

#### Subpart 3: Interchange numbers and branch ranges

### **2.41 Company allocates numbers and ranges**

- (1) The company is responsible under this subpart for allocating—
  - (a) unique 2 digit interchange numbers; and
  - (b) ranges of unique 4 digit branch numbers.
- (2) The company must not re-allocate to a person an interchange number or a branch range allocated to an SBI participant unless the SBI participant first gives written consent to the re-allocation.  
Compare: Payments NZ Rules 28 May 2012 rule 4.2.2 and 4.2.1

#### *Interchange numbers*

### **2.42 Criteria for allocating an interchange number**

- (1) The company may only allocate an interchange number to a person who complies with 1 of the criteria in subclause (2).  
The criteria for allocating an interchange number to a person are—
  - (a) that the independent directors have given conditional approval of the person's application to participate in BECS or PCS under rule 2.17; or
  - (b) that the independent directors have approved the person's application for an assignment of a right to participate in BECS or PCS under subpart 2; or
  - (c) that the person has or proposes to have an agency arrangement with an SBI participant and the SBI participant providing the agency arrangement consents to the company allocating an interchange number to the person; or
  - (d) in relation to any person to whom paragraphs (a) to (c) do not apply, that the independent directors are satisfied that the person has a genuine business need for an interchange number.  
Compare: Payments NZ Rules 28 May 2012 rule 4.2.2 and 4.2.4

### **2.43 Application for an interchange number**

An application for an interchange number must be submitted to the company in writing in accordance with section B of chapter 5 of the access procedures.

### **2.44 Allocation of an interchange number**

As soon as practicable after receipt of an application for an interchange number, the company must do the following:

- (a) for an application from a person to whom the independent directors have given conditional approval of the person's application to participate in BECS or PCS under rule 2.17,—
  - (i) record the name of the person and the interchange number on the register of interchange numbers; and
  - (ii) notify the person and each SBI participant of the allocation in accordance with rule 2.28:
- (b) for an application from a person in relation to whom the independent directors have approved an assignment of a right to participate in BECS or in PCS from an SBI participant under subpart 2,—
  - (i) re-allocate to the person the interchange number allocated to the SBI participant on the register of interchange numbers; and
  - (ii) notify the person and each SBI participant of the re-allocation:
- (c) for an application for an interchange number from any other person, refer the application to the independent directors for consideration.

### *Branch ranges*

### **2.45 Application for a branch range**

- (1) The company may only allocate a branch range to a person—
  - (a) with an interchange number; and
  - (b) who complies with 1 of the criteria in subclause (2).
- (2) The criteria for allocating a branch range to a person with an interchange number are—
  - (a) that the independent directors have given conditional approval of the person's application to participate in BECS or PCS under rule 2.17; or
  - (b) that the independent directors have approved the person's application for an assignment of a right to participate in BECS or PCS under subpart 2; or
  - (c) that the person has or proposes to have an agency arrangement with an SBI participant and the SBI participant providing the agency arrangement consents to the company allocating an interchange number to the person; or
  - (d) that the person is an SBI participant.
- (3) An application for a branch range must be submitted to the company in writing in accordance with section C of chapter 5 of the access procedures.

Compare: Payments NZ Rules 28 May 2012 rule 4.4

### **2.46 Allocation of a branch range**

As soon as practicable after receipt of an application for a branch range, the company must do the following:

- (a) for an application from a person to whom the independent directors have given conditional approval of the person's application to participate in BECS or PCS,—
  - (i) record the name of the person and the branch range on the register of branch ranges; and
  - (ii) notify the person and each SBI participant of the allocation in accordance with rule 2.28:
- (b) for an application from a person in relation to whom the independent directors have approved an assignment of a right to participate in BECS or in PCS from an SBI participant under subpart 2,—

- (i) re-allocate to the person the branch range allocated to the SBI participant on the register of branch ranges; and
- (ii) notify the person and each SBI participant of the re-allocation:
- (c) for an application from an existing SBI participant,—
  - (i) record the name of the SBI participant and the branch range on the register of branch ranges; and
  - (ii) notify the participant and each SBI participant of the branch range allocated.

Compare: Payments NZ Rules 28 May 2012 rule 4.4

## **2.47 Use of a branch range by an SBI participant**

If the company allocates a branch range to an SBI participant and the participant proposes to use a branch number in the branch range to participate in BECS or PCS or to change details of the branch number, in accordance with section C of chapter 5 of the access procedures,—

- (a) the participant must notify the company in writing, of details of the branch number or changes to the details of the branch number; and
- (b) as soon as practicable after receipt of the notification in paragraph (a), the company must—
  - (i) record on the branch register the details of the branch number or changes to the details; and
  - (ii) notify all SBI participants of the details of the branch number or changes to the details of the branch number including the date from which the participant proposes to use the branch number (if any date is notified).

### *Independent directors determine allocation*

## **2.48 Allocation to agency financial institution**

- (1) If the independent directors receive an application for allocation of an interchange number or a branch range to a financial institution who has or who proposes to have an agency arrangement with an SBI participant, the independent directors may require the SBI participant to ensure that the financial institution complies with any of the following conditions that the independent directors decide to impose:
  - (a) passing the system tests specified by rule 2.29 to the extent determined by the independent directors;
  - (b) any other condition specified by the independent directors at the time of allocation.
- (2) If the independent directors require an applicant to pass any system tests under subclause (1)(a), the following apply:
  - (a) the independent directors must require the applicant to pay the test costs and the connectivity costs specified by rule 2.30;
  - (b) the independent directors may require the company and participants in the clearing system to comply with the requirements specified by rule 2.28 to the extent determined by the independent directors.
- (3) If the independent directors approve an application to allocate an interchange number or a branch range to a financial institution, for each file containing a transaction that specifies the financial institution's interchange number or its branch number, the SBI participant with whom the financial institution has an agency arrangement—
  - (a) is responsible as principal for settlement and interchange of the file under Part 8; and
  - (b) must be the sender or the receiver of the file.
- (4) As soon as practicable after the independent directors determine the application for an interchange number or a branch range, the company must notify the applicant of—
  - (a) the independent directors' decision; and
  - (b) if the independent directors do not approve an application to allocate an interchange number or a branch range, the reasons for the independent directors' decision.

## **2.49 Allocation to a person with business need**

- (1) If the independent directors receive an application for allocation of an interchange number from a person with a genuine business need for an interchange number, the independent directors must determine whether to allocate an interchange number to the person.
- (2) In determining whether to allocate an interchange number, the independent directors may—
  - (a) require the applicant to provide an independent report by any person; or
  - (b) require the applicant to provide any additional information that the independent directors consider necessary.
- (3) If the independent directors approve an application for an interchange number from an SBI participant with a genuine business need, the independent directors may, at the time of allocation, require the SBI participant to pass the system tests specified by rule 2.29 to the extent determined by the independent directors.
- (4) If the independent directors require an SBI participant to pass any system tests under subclause (3), the following apply:
  - (a) the independent directors must require the applicant to pay the test costs and the connectivity costs specified by rule 2.30;
  - (b) the independent directors may require the company and participants in the clearing system to comply with the requirements specified by rule 2.28 to the extent determined by the independent directors.
- (5) If the independent directors approve an application for an interchange number from any person with a genuine business need, the independent directors may, at the time of allocation, require the person to comply with any condition that the independent directors decide to impose.
- (6) As soon as practicable after the independent directors determine an application for an interchange number, the company must notify the applicant of—
  - (a) the independent directors' decision; and
  - (b) if the independent directors do not approve an application to allocate an interchange number, the reasons for the independent directors' decision.

Compare: Payments NZ Rules 28 May 2012 rules 4.3 and 4.4

### *Revocation*

## **2.50 Revocation of an interchange number or a branch range**

- (1) This rule applies to the following persons to whom the company has allocated an interchange number or a branch range:
  - (a) a person to whom the independent directors have given conditional approval to participate in BECS or PCS under rule 2.17 but the person has not completed the admission requirements in rule 2.31 before the expiry of 2 years from the date of allocation of the interchange number or the branch range;
  - (b) a person whose allocation is subject to a condition imposed by the independent directors under subparts 2 or 3 but the independent directors decide—
    - (i) for a condition requiring the person to complete an action, that the person has not completed the action before the expiry of a date specified by the independent directors, or, if the independent directors have not specified a date, before the expiry of a reasonable time after allocation; or
    - (ii) for a condition requiring the person not to take an action, that the person has breached the condition.
- (2) If this rule applies to a person, the company may do the following:
  - (a) revoke the allocation of an interchange number to the person by removing the name of the applicant from the register of interchange numbers;
  - (b) revoke the allocation of a branch range to the person by—
    - (i) removing the name of the person from the register of branch ranges allocated; and
    - (ii) removing details of branches used by the person from the register of branch numbers;
  - (c) notify the following of the revocation:
    - (i) the person to whom this rule applies:

- (ii) all SBI participants:
- (iii) the Reserve Bank.

#### *Company costs*

### **2.51 Company costs**

- (1) If the company allocates an interchange number or a branch range to a person, the person must pay the company the costs and expenses reasonably incurred by the company in allocating the interchange number or the branch range to the person.
- (2) If the company revokes the allocation of an interchange number or a branch range to a person, the person must pay the company the costs and expenses reasonably incurred by the company in revoking the allocation of the interchange number or the branch range to the person.

#### *Allocation on effective date*

### **2.52 Allocation on effective date**

Any interchange number that immediately before the commencement of this Part is allocated to a participant continues to be allocated to the participant as it had been allocated before commencement of this Part.

Compare: Payments NZ Rules 28 May 2012 rule 4.1

#### Subpart 4: Resigning from a clearing system

### **2.53 Resignation procedure**

- (1) A participant in a clearing system may resign from the clearing system—
  - (a) by notifying the chief executive in writing; and
  - (b) with effect from—
    - (i) a date that is more than 3 months after the date on which the participant sends the notification to the company; or
    - (ii) any other date that is agreed by the independent directors.
- (2) Before the resignation date in subclause (1), the resigning participant may apply to the chief executive in writing to change the resignation date to a specified date.
- (3) The chief executive must determine, in consultation with the participant and every other participant in the clearing system, whether to approve the participant's application for a changed resignation date.
- (4) The changed resignation date must be,—
  - (a) after the original resignation date specified in the notification in subclause (1); and
  - (b) unless the chief executive otherwise agrees, more than 15 business days after the date on which the participant sent the application for a changed resignation date under subclause (2).
- (5) If a participant resigns in accordance with this rule, the participant cannot revoke the notice of resignation.

Compare: Payments NZ Rules 28 May 2012 rule 5.2.2

### **2.54 Effect of resignation**

- (1) If a participant resigns from a clearing system, the participant's right to participate in the clearing system ends at the end of the ESAS day on the date on which the resignation takes effect.
- (2) If a participant resigns from a clearing system and the participant participates in another clearing system, the participant may continue to participate in the other clearing system.
- (3) Subject to any rights of set-off, counterclaim, or combination, that are available at law, at the end of the ESAS day on the date on which resignation takes effect, the participant—
  - (a) must immediately pay all money that it owes to any other participant in a clearing system from which it has resigned in relation to the participant's participation in the clearing system; and

- (b) is entitled to be paid all money owed to it by any other participant in a clearing system from which it has resigned in relation to the participant's participation in the clearing system; and
  - (c) is not entitled to repayment of all or part of any—
    - (i) access fee or periodic operating fee that it has paid to the company; or
    - (ii) other levy, charge, or fee that it has paid to the company.
- (4) If a participant resigns from a clearing system, the resignation does not affect—
- (a) any right or liability of the participant accrued or incurred in relation to the participant's participation in the clearing system before the end of the ESAS day on the date on which the resignation takes effect; or
  - (b) the rights or obligations of the participant under any clearing system document that provides that it has effect despite the resignation of the participant from a clearing system.

Compare: Payments NZ Rules 28 May 2012 rules 5.2.1, 5.3, 5.5

## **2.55 Company actions on resignation**

- (1) As soon as practicable after the company receives notification from a participant of its resignation from a clearing system or a changed resignation date, the company must notify the following of the resignation and of the date or changed date on which the resignation takes effect:
- (a) all participants;
  - (b) if the resignation relates to BECS or PCS, SWIFT:
  - (c) if the resignation relates to CECS, all switches;
  - (d) if the resignation relates to HVCS, the AVP CUG service administrator;
  - (e) the Reserve Bank.
- (2) If a participant resigns from all clearing systems that use the SBI CUG, at the end of the ESAS day on the date on which the resignation takes effect, the company must remove the participant from the SBI CUG.

Compare: Payments NZ Rules 28 May 2012 rule 5.4