

<b>Your Name</b>
Privacy of natural persons
<b>Your organisation</b>
nib nz limited
<b>Which overarching duties should and should not be included in the regime? Are there other duties that should be considered?</b>
<p>nib supports the concept of a new conduct regime and the proposed overarching duties. However, the introduction of such duties needs to be well considered. Further details will be required to assess the conduct duties interaction with existing rules and sufficient prescription is needed to ensure the duties can be met by the industry and enforced by the regulator.</p> <p>As proposed, the duties are broad, high level and subjective. If the duties are to be introduced we believe they must be accompanied by prescriptive regulation that clearly sets out the requirements of each duty. This is necessary to ensure that the industry can adopt a consistent approach to compliance with the duties, the consumers of services receive a consistent service, and it is clear to the regulator whether or not there has been a breach of duty so it can be efficiently enforced.</p>
<b>Do you think the overarching duty for managing conflicts of interest should be general (as it is currently worded) or focus on conflicts of interest that arise through remuneration?</b>
<p>nib believes it is important for each duty to be clearly described with prescriptive parameters to ensure the duty is well understood, able to be complied with, and able to be enforced if necessary. This equally applies to the duty for managing conflicts of interest. We would support this duty being narrowed to focus on conflicts of interest that arise through remuneration, and more specifically in relation to the conflicts of interest faced by financial advisers and other intermediaries.</p> <p>A key conflict of interest in the insurance industry is that arising for 'commissioned advisers'. The opportunity to address this issue under the Financial Services Legislation Amendment Act and Code of Professional Conduct for Financial Advice Services has been missed. Unless this inherent conflict is clearly addressed and managed the implementation of conduct duties on the industry will struggle to be fully effective.</p> <p>Any wider potential conflict of interest by an industry participant can be addressed by the other proposed duties including the duty to act with due care, skill and diligence.</p>
<b>Is a code of practice required to provide greater certainty about what each overarching duty means in practice?</b>
<p>nib firmly believes that a code of practice or prescribed regulations are required to provide greater certainty about what is required in relation to each overarching duty. There are three key reasons for this:</p> <ul style="list-style-type: none"> <li>(i) If the duties remain as principle-based only this is likely to result in an inconsistent approach by the industry as to what is required to meet each duty. There is the potential for some industry participants to take a minimum compliance approach which can create a commercial disadvantage for those aiming to meet higher conduct and customer standards;</li> <li>(ii) A principle-based approach could lead to an inconsistent approach by industry participants, and therefore an inconsistent experience for consumers, which could impact trust and confidence in the financial services industry;</li> <li>(iii) For the introduction of these duties to be effective the regulator must be able to take efficient and clear action in relation to any potential breach of the duties. In order for the regulator to be able to efficiently bring appropriate action, the duty must be clear, and consequentially the breach must also be clear.</li> </ul>
<b>Which options for improving product design do you prefer and why?</b>
<p>nib supports the proposal to ban certain products where these can be identified as providing poor value or poor outcomes to customers.</p> <p>We would also support an increased level of clarity, as in Australia with the introduction of clear standardised definitions as well as easy to understand product tiers.</p> <p>For example from 1 April 2019, the Australian Government announced significant reforms to the private health insurance (PHI) industry that were designed to improve affordability and value,</p>

enhance the visibility of out-of-pocket expenses and make PHI easier to understand for members. Under the changes the following has occurred:

(i) Easy to understand product tiers

- Consumers are now able to choose and use their health cover with greater ease, with all hospital policies classified into easy to understand product tiers.
- There are four tiers of hospital products – Gold, Silver, Bronze and Basic – with all insurers required to include the tier in the name of any product that has been designed in line with the Product Tier and Clinical Category reform requirements.
- Products that cover services in addition to the minimum requirements of a given tier may be “Plus” products, e.g. Bronze Plus.
- Designed to improve comparability and understanding of products across private health insurers, the reform helps to eliminate features of the current system which consumers have found confusing

(ii) Standardised Clinical Definitions

- To ensure industry-wide consistency of coverage and in turn simplify PHI for consumers, the Department of Health in Australia developed standardised clinical categories.
- Consumers can now compare products more easily across health funds with each category consistent between insurers.

By creating similar standardised clinical definitions and product tiers in New Zealand, it would help improve the customer experience and premium affordability. These changes also would bring about more choice, certainty and simplicity to the industry.

**If a design and distribution requirement like option 3 were chosen, are there particular products for which this is more necessary than others? If so, please explain what and why**

We do not have additional comments to make on this specific question at this time.

**Which options to improve product distribution do you prefer and why?**

nib supports option 1: A duty to design remuneration and incentives in a manner that is likely to promote good customer outcomes. However, if this duty is introduced it would need to be accompanied by prescribed regulations or a code of practice to provide greater certainty about what is required to meet ‘good customer outcomes’.

We also support option 4: Impose parameters around the structure of commissions (i.e. commissions paid to intermediaries). Well-structured commissions can play a useful role in ensuring appropriate advice is provided and leads to good customer outcomes. In addition, setting parameters around the level of commissions would create a useful framework for the industry to design commission structures that provide good customer outcomes.

We support the introduction of an express limit on the percentage of upfront commissions as well as the ongoing existence of an appropriate level of trail commission for advisers who do provide an ongoing service to their clients.

nib does not support a total ban on target based remuneration and incentives (option 2) or a prohibition on all in-house remuneration and incentive structures linked to sales measures (option 3).

There are appropriate and useful incentives that can be implemented to ensure a balanced approach to remuneration and incentive structures for internal staff. We also believe that a good customer outcome should be a key focus for internal employees when a customer is purchasing a product. We have considered the recommendations from the Financial Markets Authority/Reserve Bank of New Zealand (FMA/RBNZ) Life Insurer Conduct and Culture Review, as well as the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry in Australia (Royal Commission). As such, we believe a balanced approach to an incentive framework for internal employees is appropriate.

We believe that the general principles of a balanced scorecard should be developed by each organisation and its Board with clear oversight and formal review by the Board. That framework should include:

- Flexibility to recognise productivity key performance indicators (provided they are only a reasonable proportion of the overall score);
- A conservative limit on the total sales incentive; and
- A range of criteria including quality, compliance, customer satisfaction and productivity. Each

<p>of these criteria should be measured by factors like positive risk management, incident reporting, customer NPS, customer complaints, quality assessment, lapse, values and volume. The framework should be reviewed annually.</p>
<p><b>To assist us in comparing the pros and cons of various options, please provide information about remuneration and commission structures currently in use</b></p>
<p>We do not have comments to make on this specific question at this time.</p>
<p><b>What is your feedback on imposing a duty to ensure claims handling is fair, timely and transparent?</b></p>
<p>nib supports the introduction of a duty to ensure claims handling is fair, timely and transparent. However, consistent with nib's response in relation to the introduction of all duties, the introduction of such a duty must be accompanied by sufficient prescription (through regulation or a code of practice) to ensure the requirements for meeting such a duty can be consistently applied by the industry. Failure to meet the duty should be equally clear, and the regulator should be empowered to take appropriate enforcement action as necessary.</p>
<p><b>If a duty to ensure claims handling is fair, timely and transparent were to be adopted, should an attempt be made to clarify what fair, timely and transparent mean?</b></p>
<p>We do not have additional comments to make on this specific question at this time.</p>
<p><b>What is your feedback on requiring the settlement of claims within a set time?</b></p>
<p>nib supports the introduction of a requirement to settle claims within a set time with exceptions for certain circumstances. However, if set timeframes were introduced there would need to be further consideration applied to appropriate timeframes for various claims – it is not appropriate to set one time limit for all types of claims.</p> <p>We also believe that any time period set should recognise that assessment of claims can only be made once all relevant information is received. In addition, it would be useful to introduce a maximum time a claim can be considered before the customer would be able to refer the ongoing investigation/dispute to the ombudsman.</p>
<p><b>Do you agree with the option to empower and resource the FMA to monitor and enforce compliance?</b></p>
<p>nib supports the proposal to empower and resource the regulator to monitor and enforce compliance of the proposed duties.</p> <p>A proactive and visible regulator is fundamental to the proposal to introduce conduct duties on the financial services industry. To ensure the conduct regime has an impact on the service received by consumers, it is critical that all industry participants meet the new conduct duties at a consistent level, and that action is taken against participants failing to meet those requirements or breaching those requirements. Enforcement by a proactive regulator is an essential piece of any proposed conduct legislation.</p>
<p><b>What is your feedback on the option to require banks and insurers to obtain a conduct licence?</b></p>
<p>nib is a member of the Financial Services Council (FSC) and supports the FSC Code of Conduct. In alignment with this position, nib would support the introduction of a conduct licence requirement provided that the FMA and the legislation are very clear about the conduct duties required, the elements and steps required to meet those conduct duties, and a clear ability to measure whether an entity is meeting those duties.</p> <p>Any new licensing requirement should be consistent with existing licensing regimes and leverage from existing frameworks to ensure any additional licensing is introduced in a cost effective manner.</p>
<p><b>What is your feedback on the option which discusses a broad range of regulatory tools?</b></p>
<p>nib believes a critical part of the success of any introduction of conduct legislation is that there is a proactive and visible regulator. Accordingly, nib supports the FMA having a broad range of regulatory tools provided that it is clearly equipped to use these as appropriate, and that action is visible to the industry.</p>
<p><b>Do you think that the maximum pecuniary penalties available for breaches of any conduct duties should be the same as the existing FMC Act penalties?</b></p>
<p>We do not have comments to make on this specific question at this time.</p>

<b>What is your feedback on the option of executive accountability?</b>
The failure to ensure accountability was identified by the Australian Royal Commission as a key factor in the misconduct that occurred in Australia. nib agrees that introducing executive accountability will create a strong incentive for directors and senior managers to ensure and monitor compliance with the law and ensure good culture flows from the top down. However, executive accountability can only fairly be introduced if the new conduct duties are clear and prescriptive and compliance or non-compliance can be objectively measured. The proposed conduct duties, as drafted, are currently too broad, high level and subjective. If further detail, prescription and clarity are not provided then executive accountability will not be appropriate.
<b>What is your feedback on the whistleblowing option?</b>
nib supports the proposal to require whistleblowing procedures to be in place within regulated financial institutions and to require the industry to ensure these are known and well understood within their organisation.
<b>What is your feedback on the option of regular reporting on the industry?</b>
nib supports the proposal to require regular reporting on the industry to improve the transparency of the industry. Insurers already provide regular reports to the RBNZ and it would be most efficient, and ensure consistency, if the RBNZ were to regularly prepare and disclose relevant information.
<b>What is your feedback on the role of industry bodies?</b>
Industry bodies in New Zealand are effective in providing an educational and advocacy role for the insurance industry. However, in our view, there is scope for industry bodies to be more effective at monitoring or enforcing self regulation or ensuring universal and consistent behaviour by their members. We believe industry bodies do not have sufficient powers or enforcement mechanisms to require members to conform to specific behaviours and accordingly regulators should also have an enforcement role.
<b>What is your feedback on the options regarding who the conduct regime should apply to?</b>
nib believes that the new conduct obligations should apply to all banks, insurers and other financial service providers that provide similar services to insurers to ensure a consistent approach by industry participants and a consistent experience by consumers.
<b>Your email address</b>
Privacy of natural persons
<b>In what capacity are you making this submission?</b>
business
<b>Can we include your name or other personal information in any information about submissions that we may publish?</b>
no
<b>We intend to upload submissions to our website Can we include your submission on the website?</b>
yes
<b>You may ask us to keep your submission, or parts of your submission, confidential If so, you'll need to attach reasons and grounds under the Official Information Act 1982 for consideration</b>
no