

**Submission**

**by**

**R W M Dowler**

**On the**

**Options Paper**

**Titled**

**“Conduct of Financial Institutions”**

**Issued by**

**The Ministry of Business, Innovation and Employment**

**[financialconduct@mbie.govt.nz](mailto:financialconduct@mbie.govt.nz)**

**May 2019**

Thank you for the opportunity provided to complete submission.

No part of this submission is required to remain confidential.

I begin by including an extract from my submission completed in February 2019 on the Discussion Paper titled “Protecting businesses and consumers from unfair commercial practices” issued by the Ministry of Business, Innovation, and Employment. The extract states:

*My submission is focused upon the topic of protecting consumers from unfair commercial practices.*

*First, I express support for improved conduct regulation across commercial enterprises, in general, to further protect consumers.*

*I also note the recently released reports from the FMA and RBNZ regarding conduct in both the banking and insurance sectors and the subsequent government announcement of Cabinet agreement to fast-track customer protection measures in the financial sector.*

*My key submission point is that the learnings from these recently released financial sector reviews are equally relevant to commercial enterprises in general and that the Ministry should consider as part of this review recommending the application of the same proposed regulatory outcomes for banks and insurers to commercial enterprises more broadly.*

With the release of this latest options paper focused on financial institutions, I simply wish to reiterate my earlier submission point that many of the issues raised (for example product complexity) are relevant to all commercial enterprises. I, therefore, repeat my earlier submission that consideration should be given to extending conduct obligations across all commercial enterprises.

Failure to do so will simply leave in place gaps in coverage similar to those now being identified within the financial services sector, whereby those not providing regulated financial advice services are not subject to the same level of conduct obligations as those that are. This latter gap is one that I not only identified in earlier submissions but one that I indicated in those earlier submissions would likely lead to entities choosing to place themselves outside of the conduct requirements relating to providing regulated financial advice services by — for example, choosing only to deal with “wholesale clients” or choosing to provide “information only” or “execution only” services. I am pleased to see that this options paper considers whether it is now appropriate to extend conduct obligations to capture a wider range of entities and services, even while I suggest it needs to be extended to all commercial enterprises.