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### **Regulations to support the new regime for the conduct of financial institutions**

Thank you for the opportunity to provide BNZ's written submissions on the regulations to support the new regime for the conduct of financial institutions.

BNZ supports the purpose of the proposed conduct regime to improve the conduct of financial institutions in respect of services and products provided to consumers, thereby reducing the risk of harm to those consumers. BNZ considers a legislative framework for conduct will be beneficial to help lift conduct standards across the financial services industry and welcomes the opportunity to submit on the proposed regulations.

To that end, BNZ supports all of MBIE's decisions that no regulations are needed to support a particular section and has only commented below on the areas where MBIE is suggesting that further regulations could be helpful or we consider that further guidance would be of benefit.

We understand that the New Zealand Bankers' Association (NZBA) has also made a more comprehensive submission separately which we have contributed to and support.

#### **1. Section 446M(1)(a) - Overlap with existing regulations**

The requirements of section 446M(1)(a)<sup>1</sup> are extensive and may go beyond what would be specifically relevant to a fair conduct programme. In our view this section seems to be requiring a compliance programme for a broad range of consumer protection legislation. We agree that no further regulations are needed to support the intention of this section and consider it would be helpful to have regulatory guidance to clarify the expectations of this section and the way it should be satisfied. For example, we would expect that internal risk management tools could be used as evidence of meeting this requirement, rather than the creation of a highly detailed programme document.

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<sup>1</sup> The fair conduct programme must be in writing and include effective policies, processes, systems, and controls for— enabling the financial institution to meet all of its legal obligations to consumers, including under this Act, the Fair Trading Act 1986, the Credit Contracts and Consumer Finance Act 2003, the Consumer Guarantees Act 1993, and the Financial Service Providers (Registration and Dispute Resolution) Act 2008;

## 2. Design and management of relevant services and products

We support the proposals regarding distribution of relevant services and associated products. The proposals appear to be in line with international best practice in this area, for example, the Design and Distribution Obligations being introduced in Australia in October.

## 3. Section 446M(1)(ad) – Remediation of issues

We have two comments regarding the proposed remediation requirements<sup>2</sup>. Firstly, institutions may not always be able to communicate with consumers about the progress of a review as currently required by “f”. For example, for relatively minor self-identified remediations, the first time a customer will be aware of the issue is when they are being remediated. There are also situations where institutions are unable to communicate with customers because they no longer have current contact information for them as the customer may have changed phone number, physical address, or email address.

Second, we think it would be helpful to provide guidance as to a de minimis threshold. For example ASIC has previously provided that in RG256: *“Where the amount of compensation to be paid to a client is below \$20 and the client cannot be compensated without significant effort on your part— for example, because the client no longer holds an account with you—you may instead make a community service payment”*. We understand ASIC is intending to remove threshold and leave it to licensees to determine what is appropriate. We think this is helpful as it acknowledges that remediation to a particular customer may not be practicable in all circumstances and there may be other ways to remediate the behaviour.

## 4. Consumer complaints handling

We support the proposed requirements for complaints handling. However, we note that complaints handling is already a highly regulated area (for example with requirements under CCCFA, Code of Banking Practice and FSLAA) and care should be taken in the drafting to ensure consistency with existing legislation and proposed legislation where possible.

## 5. Claims handling and settlement (insurance focus)

We support the proposed obligations for claims handling and settlement.

## 6. Sales Incentives

BNZ is very supportive of introducing regulations to prohibit poor sales conduct and has already removed sales and volume targets for all frontline bankers and their managers. BNZ

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<sup>2</sup> a. Review and remediation processes must be comprehensive, efficient, timely and transparent b. Review and remediation must be fair, equitable and transparent taking into account consumers’ interests and needs, and financial institutions must take all reasonable steps to remediate all affected consumers c. Once conduct that fails to comply with the fair conduct principle has been identified, financial institutions should take all reasonable steps to ensure that the misconduct ceases and that consumers are not continuing to be adversely affected d. Review and remediation processes must be adequately resourced e. Adequate records must be kept of review and remediation processes f. Financial institutions must communicate with consumers about the progress and outcome of review and remediation processes in a clear, concise, timely and effective manner. g. Financial institutions must review their remediation processes to ensure conduct risks and issues are being adequately managed.

considers that these measures have been working well to date. BNZ is concerned that a principles-based prohibition may lead to confusion and inconsistencies in the industry.

BNZ also has concerns about extending the scope of the prohibition beyond frontline staff and their immediate managers. The main reason is that this goes further than is necessary to achieve the required customer outcomes. Appropriate controls, such as anonymised staff surveys on sales pressures can operate effectively to mitigate any residual risk associated with incentives at higher levels in an organisation. Extending the prohibition to more senior management also has the potential for negative unintended consequences, including limiting the ability for banks to compete with other industries to attract the best talent at a senior management level.

## **7. Requirement to publish information about fair conduct programmes**

We support the decision to provide customers with a short document outlining the key conduct requirements, the fact that all financial services are required to have a fair conduct programme, expectations that a customer might reasonable have about the way that they can expect to be treated and valued by the organisation, and the contact details to lodge a complaint if they are concerned the organisation has not treated them fairly.

For this to be a meaningful document for customers, we think it would be helpful if financial institutions are allowed the flexibility to draft these as they see fit, provided they meet the required outcomes. We think leaving flexibility gives each financial institution the opportunity to present their own customer centric messaging on how they are going to meet the requirement.

### **Further discussion**

BNZ would welcome a meeting to discuss this further if that would be helpful.

Yours sincerely

Privacy of natural  
persons

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