

# Submission template

## Treatment of intermediaries under the new regime for the conduct of financial institutions

### Your name and organisation

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### Option 1: Amend definition of intermediary to focus on sales and distribution

Do you have any comments on Option 1: 'Amend definition of intermediary to focus on sales and distribution'?

1 As the Underwriting Agencies association, we generally agree with the thrust & purpose of the review. However, it appears that UA's (MGA's in other jurisdictions) may not have been considered within the scope of the insurance market segment. UA's in NZ represent circa 10% (\$700m) of Gross Written Premium.

2 Do you think the scope of the proposed definition of an intermediary is comprehensive enough to capture the variety of sales and distribution methods and to avoid gaps and risks of arbitrage?

Yes, from a NZUAC reference point because UA's work with full Delegated Authority to the lead Underwriter

### Option 2: Refine scope of who is covered as an agent

3 Do you have any comments on Option 2?

We don't see UA's being regarded as "agent" – given the Delegated Authority arrangement

4 Do you think Option 2 would adequately exclude advisory services (e.g. lawyers, accountants) and other service providers to the financial institution who are not involved, directly or indirectly, in providing any part of the financial institution's relevant service or associated products to consumers?

yes

5 Do you think any explicit exclusions are needed for particular occupations or activities? If so, which ones, and why?

*Underwriting Agencies because of their Delegated Authority. The principles of Insurance Law Reform Act is the basis with which the lead Underwriter (using its delegated authority) is required to control their intermediaries. The Act already addresses payment protocols, meaning, payment made is effectively guaranteed by the lead Underwriter. Issues of performance and complaint are similarly already positioned, protecting the Consumer through the same rule relating to payment. Consumers are protected, UA's adopt the Fair Insurance Code and the lead Underwriters include this in the review of a wide range of audit references. UA's are not the Financial Institution; the lead Underwriter is. Whether the Consumer encounters an issue of performance of any type, their remedies are; via the UA, Broker, Lead Underwriter and the Insurance Ombudsman.*

### Objectives

6

Do you have any comments on the objectives regarding the treatment of intermediaries?

*[Insert response here]*

#### Option 3: Minimal changes to intermediaries obligations (remove 446M(1)(b) only)

7

Do you have any comments on Option 3: 'Minimal changes to intermediaries obligations'?

*[Insert response here]*

8

If Option 3 were pursued, do you think any other obligations in section 446M(1)(bb), (bc), (bd) or (bf) would need clarifying or amending? Why/why not?

By virtue of the Delegated Authority UA's have a clear & compelling compliance regime already

#### Option 4: More significant changes to intermediaries obligations

9

Do you have any comments on Option 4: 'More significant changes to intermediaries obligations'?

*[Insert response here]*

10

What do you think the level of responsibility should be for financial institutions' oversight of intermediaries? For example, "*managing or supervising* the intermediary to ensure they support the financial institutions compliance with the fair conduct principle", or "*monitoring* whether the intermediary is supporting the financial institution's compliance with the fair conduct principle", or something else?

See 5 above, Underwriters operate within a very structured regulatory & compliance regime already – as delegated authority of that regime & a robust audit program the system of operating and monitoring UA's is very robust already.

11

What standard do you think financial institutions should have to oversee their intermediaries to?

*[Insert response here]*

#### Option 5: Distinguish between FSLAA and non-FSLAA intermediaries

12

Do you have any comments on Option 5: 'Distinguish between FSLAA and non-FSLAA intermediaries'?

*[Insert response here]*

13

How far do you think financial institutions' oversight of FSLAA intermediaries under Option 5 should extend? For example, should it cover the general conduct of the intermediaries, or more narrowly on product performance and related consumer outcomes (or something else)?

*[Insert response here]*

#### Obligations in relation to employees and agents

14

Do you have any comments on the proposals regarding obligations in relation to employees and agents?

*[Insert response here]*

15

Do you think there should be a distinction drawn between employees and agents? Why/why not?

*[Insert response here]*

16

Do you think any amendments should be made to the obligations in section 446M(1) that would apply to employees and agents?

*[Insert response here]*

17

Do you have any other comments or viable proposals?

Given NZUAC perception that UA's and their Delegated Authority may not have been within the remit of the group responsible for the review in question, we offer the opportunity to engage directly with MBIE for further clarity. We recently made contact with FMA.

We largely agree with the objectives of the review overall

#### Other comments