



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Financial Markets (Conduct of Financial Institutions) Amendment Bill: Further Policy decisions and regulations	Date to be published	16 March 2022

List of documents that have been proactively released		
Date	Title	Author
9/2/2022	<i>Financial Markets (Conduct of Financial Institutions) Amendment Bill: Further Policy decisions and regulations</i>	<i>Office of the Minister of Commerce and Consumer Affairs</i>
9/2/2022	<i>Cabinet Economic Development Committee – Minute of Decisions [DEV-22-MIN-003]</i>	<i>Cabinet Office</i>
9/2/2022	<i>Regulatory Impact Statement: Financial Markets (Conduct of Institutions) Amendment Bill – Further policy decisions</i>	<i>MBIE</i>

Information redacted

NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.



Cabinet Economic Development Committee

Minute of Decision

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Financial Markets (Conduct of Institutions) Amendment Bill: Further Policy Decisions and Regulations

Portfolio Commerce and Consumer Affairs

On 9 February 2022, the Cabinet Economic Development Committee (DEV):

Background

- 1 **noted** that the Financial Markets (Conduct of Institutions) Amendment Bill (the Bill), which introduces a new regulatory regime regulating the conduct of financial institutions, was reported back to the House on 7 August 2020 and is awaiting the completion of its second reading;
- 2 **noted** that on 14 April 2021, DEV agreed to the release of two discussion documents on outstanding aspects of the new conduct regime, and invited the Minister of Commerce and Consumer Affairs to report back on the outcome of the consultation and with proposed policy changes [DEV-21-MIN-0063];

Supplementary order paper

- 3 **agreed** that the scope of the Bill's provisions relating to intermediaries should be limited to intermediaries involved in the sales and distribution of the financial products and services covered by the Bill;
- 4 **agreed** to remove the obligations on financial institutions to train and manage or supervise their intermediaries;
- 5 **agreed** that financial institutions must have, and implement, effective policies, processes, systems and controls regarding their distribution arrangements, including sales and distribution activities carried out by intermediaries, to ensure they comply with the fair conduct principle;
- 6 **noted** that the Lloyd's insurance market has a unique structure, and that the Bill's requirements do not apply naturally to Lloyd's market participants;
- 7 **agreed** that the conduct obligations in the new regime will apply to Lloyd's managing agents and not to underwriting members;
- 8 **agreed** that financial institutions be required to take into account the potential for consumers to be in vulnerable circumstances when developing their conduct programmes;

Regulations

- 9 **agreed** that financial institutions and intermediaries be prohibited from offering sales incentives based on volume or value targets to their employees (except senior managers and executives), agents and intermediaries;
- 10 **agreed** that the minimum conduct programme requirements for Lloyd’s managing agents be prescribed in regulations;
- 11 **agreed** to regulations exempting Lloyd’s underwriting members from the requirement to be licensed, on terms and conditions that include obligations imposed on Lloyd’s managing agents;
- 12 **agreed** that the exemption regulations can specify the consequences of breaching terms and conditions, including imposing civil liability directly on managing agents, and removing liability on underwriting members;
- 13 **authorised** the Minister of Commerce and Consumer Affairs to make decisions on the terms and conditions of the licensing exemption for Lloyd’s underwriting members and conduct programme requirements for Lloyd’s managing agents;
- 14 **agreed** to declare that insurance contracts are ‘financial products’ for the purposes of the fair dealing provisions in Part 2 of the Financial Markets Conduct Act 2013;

Legislative implications

- 15 **invited** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;
- 16 **authorised** the Minister of Commerce and Consumer Affairs to make additional policy decisions and minor or technical changes, consistent with the policy intent of the above paragraphs, on issues that arise during the drafting of the supplementary order paper and regulations.

Janine Harvey
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O’Connor
Hon Stuart Nash
Hon Kris Faafoi
Hon Willie Jackson
Hon Michael Wood
Hon Dr David Clark
Hon Dr Ayesha Verrall
Hon Meka Whaitiri
Hon Phil Twyford
Rino Tirikatene MP
Dr Deborah Russell MP

Officials present from:

Office of the Prime Minister
Officials Committee for DEV