The following is the submission on the above consultation paper on behalf from CUBS NZ representing the following entities:

Christian Savings Ltd
Credit Union Auckland
Fisher & Paykel Employees Credit Union
Unity Credit Union
Wairarapa Building Society
Heretaunga Building Society
Nelson Building Society

Collectively, we represent over 100,000 members with assets in excess of $2b. Being co-operative in structure and legislatively bound to always look after the best interests of our member/owners, we are uniquely placed to understand and follow responsible lending practices which looks after the interests of all parties and allows borrowers to enhance their own financial wellbeing.

CUBS NZ submission on discussion paper about financial institution licensing fees under new conduct regime

We strongly recommend the comments and suggestions contained in our submission.

# Submission on Discussion paper - Financial institution licensing fees under new conduct regime

## Your name and organisation

| | |
|---|---|
| **Name** | Rob Collins |
| **Organisation (if applicable)** | CUBS NZ |

## Responses to consultation document questions

**Objectives**

1 *Do you agree with these objectives for setting the financial institution licensing fees? Are there other objectives which should be considered in setting these fees?*

We agree with the objectives but the issue of full recovery and fairness will be determined by the extent to which the FMA believes it needs to invest time and resources to each application. It stands to reason that if the review process is extensive, then the "recovery" fee will be significant.

Note 2/9 states that the licensing process will "enable the FMA to assess whether the applicant is capable of effectively performing the service of acting as a financial institution". However, this status has already been determined and is constantly monitored through our financial services licensing authority – the Reserve Bank. There is no need for the FMA to duplicate this determination. As a partner with the Reserve Bank in the Council of Financial Regulators, the FMA has available all information regarding a financial institution applicant. Therefore, fees for this new conduct licence should be minimal at best.

The governance structure of the applicant should also be a consideration in applying the "fairness" objective. Where the financial institution is a co-operative (e.g. Credit Unions and Building Societies (CUBS)) which means that owners and consumers are the same people, there should be an administrative acknowledgement that the institution already has a statutory and monitored obligation to always act in the best interests of consumers. This should translate into a "light fingered" approach to assessment of the application with the default position being a check-list review of requested information being supplied. As governance and statutory documents are already subject to review by other statutory authorities, a licence could be granted if all requested documents are presented. This would eliminate the need to review and assess each document.

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| **Proposed fees for financial institution licensing** | |
| **2** | *Do you have any comments on our assessment of the proposed financial institution licensing fee as set out above?* |
| | We are puzzled by the size of the minimum fee given the comments in Note 2/13 that "little manual intervention by FMA staff" will be necessary for less complex applications. The capital cost of the system has already been met by the Crown (Note 2/15) and therefore, even the allocated 6.75 hours before any additional fee is charged seems a significant over-estimation. A minimum fee of a few hundred dollars would appear to be more compensatory of FMA time expended for applications from ethical and responsible institutions such as CUBS who have no history of mis-conduct and a statutory obligation of fair treatment of consumer wellbeing. |
| **Alternative options** | |
| **3** | *Do you have any comments on our analysis of these alternative options? Are there other options, or variations on the above options, that should be considered?* |
| | It is not reasonable or accurate to say that "there is no clear basis for distinguishing between types of financial institutions". It is eminently arguable that the "type of financial institution" has already clearly established the propensity for a certain type of institution to meet the objectives of the CoFI Act. Regulator reviews prior to the introduction of the Act failed to identify any mis-conduct or systemic failures with CUBS as opposed to corporate entities where such findings were determined to have been identified. An acknowledgement that historical good conduct is already demonstrated by CUBS entities could be quantified by a separate minimal fee structure for this group.<br><br>Note 2/40 is incorrect when it states that the CoFI Act "responds to conduct risks presented by the activities of financial institutions". There was no conduct risk presented by CUBS to respond to and this should be acknowledged by the licence regime. |
| **Annex 1: Assumptions** | |
| **4** | Do you have any comments on the assumptions used in this paper as outlined above? |
| | We continue to question the accuracy of the assumption that 5.75 - 6.75 hours will be required to review and assess each application from a CUBS. We would still be keen to understand how the nature, size and complexity of institutions was taken into account when determining this timeframe. |
| | **Other Comments** |
| **5** | We repeat our strong objection to the comment made in Note 2.9 of the Discussion Paper which states "The licensing application process will enable the FMA to assess whether the applicant is capable of effectively performing the service of acting as a financial institution." We believe this is an over-reach by the FMA of its responsibilities under the CoFI Act. It is not the role of the FMA under this Act or any other, the determine if a licensed financial institution is suitable or justified in holding that licence. That is the role of the statutory supervisor of our sector – the Reserve Bank. They grant and oversee the licence under the NBDT Act and the only responsibility the FMA has regarding our sector under the CoFI Act is in relation to our "fair conduct" conduct. The consequences of this over-reach, in our opinion, has been the unnecessary depth of review and assessment of the CoFI licence application involving areas that are the legitimate purview of the Reserve Bank, not the FMA. |