AIA House,
74 Taharoto Road,
Takapuna,
Auckland 0622
-
Private Bag 92499,
Victoria Street West,
Auckland 1142

Phone (Int.) +64 9 487 9963
Freephone 0800 500 108
-
enquireNZ@aia.com
aia.co.nz

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Financial Markets
Small Business, Commerce and Consumer Policy
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

By email: financialmarkets@mbie.govt.nz

CONSULTATION - FIT FOR PURPOSE FINANCIAL SERVICES CONDUCT REGULATION

This submission is made on behalf of AIA New Zealand Limited and its related entities (together **AIA NZ**) in response to the Fit for Purpose Financial Services Conduct Regulation discussion document (the **discussion document**).

About AIA NZ

AIA NZ is a member of the AIA Group, which comprises the largest independent publicly listed pan-Asian life insurance group. It has a presence in 18 markets in Asia-Pacific and is listed on the Main Board of The Stock Exchange of Hong Kong. It is a market leader in the Asia-Pacific region (excluding Japan) based on life insurance premiums and holds leading positions across the majority of its markets.

Established in New Zealand in 1981, AIA NZ is New Zealand's largest life insurer and has been in business in New Zealand for over 40 years. AIA NZ's vision is to champion New Zealand to be the healthiest and best protected nation in the world.

AIA NZ offers a range of life and health insurance products that meet the needs of over 800,000 New Zealanders. AIA NZ is committed to an operating philosophy of Doing the Right Thing, in the Right Way, with the Right People.

AIA NZ is also a prominent member of the Financial Services Council (**FSC**).

About this submission

AIA NZ supports the underlying purpose of the proposed legislative changes to streamline and improve provisions of the Financial Markets (Conduct of Institutions) Amendment Act 2022 (the **CoFI Act**) and options to amend the regulatory framework and powers of the Financial Markets Authority (**FMA**) in the Financial Markets Conduct Act 2013 (**FMC Act**) and the Financial Markets Authority Act 2011 (**FMA Act**).

We note that the consultation period includes a public holiday that effectively shortens the public submission window for industry submitters to 21 working days. We have participated in several consultations over the past few years relating to the CoFI Act and financial services conduct regulation; however, the proposed changes to the FMA Act and FMC Act as set out in the discussion document have not been consulted on for some years, are far reaching and necessitate a longer time frame to elicit considered responses as part of meaningful consultation. Given the importance of these proposed changes to the financial services sector of New Zealand and consumers, along with the Consumer Credit Review and Effective Financial Dispute Resolution consultations and other important consultations at the same time, we are disappointed in the short time frame in which to respond.

Work has been well underway for more than a year to embed the Financial Markets (Conduct of Institutions) (**CoFI**) regime in preparation for licensing. Given that the proposed changes would not be in effect until 2026 any changes at this time appears symbolic and will have minimal impact. Changes to ongoing requirements would create more meaningful relief, whilst newcomers to the insurance industry could still benefit from streamlining the process without impacting existing entities.

Key submission points

Our submission on the discussion document is **attached**. Our key points are summarised below:

- It is key that the financial services conduct review (**conduct review)** remains targeted but we are disappointed that an initiative aimed at reducing the regulatory burden includes suggestions to increase it. We support changes via legislation rather than guidance to ensure that the regulatory framework and regulatory powers are properly derived from law.

- We support changing the CoFI Act by removing and amending, as appropriate, some of the minimum requirements for an FCP. Although the proposed changes are unlikely to reduce the compliance burden on Financial Institutions (**FIs**), it aligns with the principles based nature of the CoFI Act, addresses duplication and improves clarity of legislative intent.

    - We do not support adding express minimum requirements for FCPs relating to fees and charges, and complaints processes because they are already within the broad scope of the Fair Conduct (**FC**) principle and would not reduce compliance costs for FIs, does not add additional value or clarity, and adds unnecessary prescription.

    - We support the FC principle as it ensures fair customer outcomes are at the heart of how FIs operate. We suggest that the current list of matters in section 446C appropriately and sufficiently defines the FC Principle and that this should be made exhaustive.

- We strongly support the move to a single licence covering all market services under the FMC Act; however, to maximise the reduction of the compliance burden, a single licence must flow through to consolidated regulatory requirements, including regulatory returns, regulator notifications and licence conditions set for each market service by the FMA.

- The proposed changes to the FMC Act and FMA Act would significantly impact the financial services industry. We propose first completing and embedding the regulatory reform of the CoFI Act and, if a need is identified, it then could be followed by an assessment of whether the FMA's powers should be expanded.

    - We support the notion that the FMA should be enabled to rely on an assessment of another relevant regulator, provided it results in streamlined processes and reduction of duplication of regulators' compliance requirements.

    - We do not support adding change in control approval requirements to the FMC Act. This requirement would add to a dual regulated FI's regulatory compliance burden to apply to two regulators for the same thing and will likely cause unnecessary delays.

    - We oppose the FMA having a power to conduct on-site inspections without notice because it is not fit for purpose and out of touch with modern technological and business operating environments.

    - We think the power to commission expert reports is misaligned with the government's objectives for the conduct review. This power would result in further compliance costs and would be overly burdensome without a clear justification for its requirement.

AIA NZ also contributed to and supports the submission from the FSC.

We would be pleased to discuss any questions you have on this submission, and we would welcome the opportunity to collaborate or consult further with the Ministry of Business, Innovation and Employment (**MBIE**) as it considers the next steps.

Yours faithfully

Privacy of natural persons

AIA New Zealand Limited

Submission on discussion document: *Fit for purpose financial services conduct regulation*

Your name and organisation

Name	Privacy of natural persons
Organisation (if applicable)	AIA New Zealand Limited
Contact details	Privacy of natural persons

[Double click on check boxes, then select 'checked' if you wish to select any of the following.]

☒ The Privacy Act 2020 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

☐ MBIE intends to upload submissions received to MBIE's website at www.mbie.govt.nz. If you do not want your submission to be placed on our website, please check the box and type an explanation below.

I do not want my submission placed on MBIE's website because… [Insert text]

Please check if your submission contains confidential information:

☐ I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because… [Insert

Responses to discussion document questions

	Introduction
1	*Do you agree the proposed criteria are appropriate, given the objectives? Are there other criteria which should be considered?*
	We agree that the proposed criteria for informing the government's approach when considering the options set out in the discussion document is appropriate. To ensure the conduct review meets the stated objectives and intention of the government to simplify the regulatory landscape and remove undue compliance costs, we propose an additional criterion that would promote innovation, financial literacy and increased access to financial services in the New Zealand market.
	1: Options for CoFI Act reform **A. Options for amending minimum requirements for fair conduct programmes** *Option A1: Remove/amend some minimum requirements for fair conduct programmes*
2	*Do you support removing or amending some of the minimum requirements for fair conduct programmes? What are the advantages and disadvantages of this option?*
	AIA NZ supports removing and amending, as appropriate, some of the minimum requirements for an FCP where it addresses duplication and improves clarity of legislative intent. We note that these amendments are symbolic for those who already have to comply with the CoFI Act because all FIs would already have developed their FCP to meet or exceed the existing requirements. In addition, FIs currently have their risk management programmes overseen by the Reserve Bank of New Zealand (**RBNZ**) and we expect that these programmes manage conduct risk and ensure their compliance with legislation. In addition, the proposed removal or amendment of some of the minimum requirements aligns with the principles based nature of the CoFI Act and would allow FIs more flexibility in demonstrating how they ensure the fair treatment of customers. Removing minimum requirements could be viewed as disadvantageous because it makes obligations less certain. This uncertainty could undermine the objectives of the targeted conduct review if it leads to additional or further guidance being issued by the FMA.
3	*Which requirements should be removed or amended, if any? Please explain what changes you would like to be made.*
	AIA NZ supports the following changes to the minimum requirements in section 446J(1): a. We support removing paragraph (a), because it extends the FCP beyond the consumer harm it aims to address by requiring the FCP to address how the institution meets all its legal obligations in other legislation. The CoFI Act is part of consumer protection legislation and paragraph (a) is an unjustified duplication of legislation that FIs already have to comply with. In addition, the standard licence conditions relating to outsourcing and operational resilience as well as the disclosure obligations to customers overlap with insurers' prudential obligations under the Insurance (Prudential Supervision) Act 2010 (**IPSA**). b. We agree that removing paragraphs (c)(i) to (iii) (identifying, monitoring and managing conduct risks) could provide more flexibility for FIs that are subject to more than one regulatory regime. However, we also observe that the discussion document notes an expectation that FCPs should cover these requirements in any event with the consequence that removing the stated paragraphs are unlikely to reduce the compliance burden on FIs and possibly reintroducing them through FMA guidance. We support changes via

	legislation rather than guidance and oppose changing legislation if that will instead result in more guidance. c. Paragraphs (e) to (h) relating to setting requirements in respect of employees and agents are too detailed and prescriptive. We strongly favour deletion of all paragraphs as suggested; however, if the government favours consolidating these provisions instead of deletion we suggest retaining paragraph (e) for employees and agents and removing paragraphs (f) to (h). d. We agree that paragraph (k) is unnecessary and could be deleted because section 446G(1) adequately provides for reviewing the effectiveness of the FCP.
4	*What would be the impact of removing or amending particular requirements (for example, on compliance costs for businesses)?*
	In our view the proposed changes could alleviate some of the compliance burden on FIs. However, FIs must have confidence that any changes to the minimum requirements of FCPs are a committed response to reducing unnecessary compliance costs, improving the flexibility of the requirements and enabling them to be tailored to account for the size and nature of different businesses. If an expectation remains that FCPs must comply with the minimum requirements as if it was not deleted or amended it would not meet the objective of the conduct review or reduce compliance costs. For example, as mentioned in our response to 3.b above, the compliance burden on FIs is unlikely to be reduced where the regulator nevertheless *"expect(s) that in most circumstances equivalent requirements will still be needed in fair conduct programmes.[1]"*
5	*Do you have any other comments on the minimum requirements for fair conduct programmes?*
	We think the communications obligation (section 446J(1)(j)) is overly broad. This could result in inconsistent compliance with this obligation across the financial services sector if the key expectations of the mode and scope of customer communication are not clearly defined. As a result and despite its best intentions, the CoFI Act's objective to ensure good customer outcomes through clear and consistent communication would not be achieved.
Option A2: Potential additions to minimum requirements for fair conduct programmes	
6	*What are the advantages and disadvantages of adding an express minimum requirement for fair conduct programmes relating to fees and charges?*
	AIA NZ does not support adding an express minimum requirement for FCPs relating to fees and charges because this does not add additional value or clarity, would reduce flexibility in the regime and adds unnecessary prescription. Fees and charges are already within the broad scope of the FC principle and FI's will already be expected to consider consumers' interests, and act ethically, transparently and in good faith when setting fees and charges (section 446C(2)(a) and (b)). In addition, FIs currently are developing their FCPs to meet or exceed the current minimum requirements and therefore are designed to meet all legislative requirements and legal obligations owed to consumers under section 446J(1)(a).
7	*What are the advantages and disadvantages of adding an express minimum requirement for fair conduct programmes relating to complaints processes?*

[1] Page 11, par. 30.b of the Fit for purpose financial services conduct regulation discussion document.

	As with fees and charges, complaints processes are already within the broad scope of the FC Principle and an express minimum requirement in the FCP would not reduce compliance costs for FIs. AIA NZ opposes adding minimum requirements relating to complaints processes because it would not meet the objective for the conduct review to avoid duplication of other requirements in financial markets legislation. For example, section 48 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 requires every financial service provider to be a member of an approved dispute resolution scheme in respect of a financial service provided to a retail client. Dispute resolution schemes require FIs to have internal complaints processes and adding this to the FCP minimum requirements would be duplication of an existing requirement.
8	*Do you consider that financial institutions already need to cover fees and charging arrangements and/or complaints processes in their fair conduct programmes under the current requirements?*
	AIA NZ considers that FIs already need to cover fees and charges as well as complaints processes in their FCPs. Further to our response to 6 and 7 above, the FCP is designed to ensure that a FI treats customers fairly and pay due regard to customers' interests, which would incorporate having in place effective complaints handling and processes. Fees and charges already are within the broad scope of the FC Principle. Proper consideration of consumers' interests implies setting fees and charges in an ethical, transparent manner.
Option A3: Remove all minimum requirements for fair conduct programmes	
9	*Do you support removing all of the minimum requirements for fair conduct programmes from the legislation? What are the advantages and disadvantages of this option?*
	We think that removing all minimum requirements for FCPs could open FIs to a regime of unsettled rules, potential for differences in interpretation between the FMA and a FI, as well as create a risk of 'interpretation by hindsight' through regulator guidance notes. This could have the unintended consequence of reinstating minimum requirements and / or adding requirements through regulator guidance. Unlike the robust process required to amend legislation, regulator issued guidance notes do not ordinarily go through multiple rounds of consultation or have the same rigor applied.
Option A4: Retain minimum requirements for fair conduct programmes without change	
10	*Do you support retaining the existing list of minimum requirements for fair conduct programmes without any changes? What are the advantages and disadvantages of this option?*
	We do not support retaining the current listed minimum requirements for the reasons explained in our responses above.
Proposal: proceed with Option A1 (remove/amend some minimum requirements)	
11	*Do you support the proposal to remove and amend some of the minimum requirements for fair conduct programmes and not to proceed with the other options? Why/why not?*
	AIA NZ supports the proposal to remove and amend some of the minimum requirements for FCPs and to not proceed with the other options for the reasons stated in our responses above.

	B. Options for amending fair conduct principle *Option B1: Keep the fair conduct principle open-ended* *Option B2: Make the fair conduct principle definition exhaustive* *Proposal: retain status quo (Option B1)*
12	*Do you support the proposal to maintain the status quo in the definition of the fair conduct principle? What are the advantages and disadvantages of this option?*
	We support the FC Principle as it ensures fair customer outcomes are at the heart of how FIs operate. Designing an FCP requires critically reviewing, challenging, monitoring, and uplifting operational frameworks that lead to fair outcomes for customers. However, we do not support option B1. An open-ended definition could lead to scope creep and increases regulatory risk that there is a different interpretation between a FI and the FMA of what it means to treat customers fairly. Although the FMA could provide clarification in such instances through guidance, it does not provide the same level of ongoing certainty for FIs that legislation provides. We suggest that the current list of matters in section 446C appropriately and sufficiently defines the FC Principle and that this should be made exhaustive. If any changes are required to the definition, it could be consulted upon. We think that the existing list is broad enough and principles based such that FI's have the required flexibility in the regime and also sets the appropriate boundaries of what is and is not within the FC Principle.
13	*Are there any additional clarifications that could be made to the definition of the fair conduct principle, or matters that you consider should be included or removed? Why or why not?*
	AIA NZ does not believe any changes are required to the FC Principle.
14	*Do you have any other suggestions or comments in relation to the fair conduct principle?*
	AIA NZ prefers an exhaustive list as opposed to the existing inclusive or open-ended list in the review document.
15	*Do you have any comments in relation to other areas of the CoFI Act that have not been covered in this section?*
	AIA NZ thinks that the conduct review should include assessing whether the current settings which make certain sections within the CoFI Act "civil liability" provisions under section 449 of the FMC Act is appropriate. In our view, New Zealand has gone further than other jurisdictions in this respect by enabling the FMA as well as other third parties to bring civil claims against FIs for potential breaches relating to their FCPs. Like the Contracts of Insurance Bill, we propose that civil liability consequences be replaced by targeted consequences for particular FMC Act breaches, including breaches relating to FCPs.
	2. Options for regulatory framework and powers **C. Consolidating financial market conduct licences** *Option C1: Amend the FMC Act to require the FMA to issue a single licence covering different classes of market service*

16	*Do you support the FMA being required by legislation to issue a single conduct licence covering one or more market services? What are the advantages and disadvantages of this approach?*
	AIA NZ strongly supports the move to a single licence covering all market services under the FMC Act. The current licensing process for CoFI is duplicative of other FMC Act licenses and other regulatory regimes (for example, the fit and proper requirements duplicate the financial advice provider *(***FAP**) licence process and the RBNZ process) and accordingly increases the compliance burden. A single conduct licence should eliminate overlapping common licence conditions, including outsourcing (a prudential requirement, standard condition under multiple FMA administered licenses such as FAP, managed investment scheme, and CoFI standard condition), regulatory returns, and business continuity and technology systems. It could also address the conflicting notification requirement for a material critical system issue under the CoFI Act that is different to the notification requirement under the FAP standard condition.
17	*Could consolidating existing licences into a single conduct licence give rise to any unintended consequences or costs for existing licensed firms? If so, please explain with examples where relevant.*
	To maximise the reduction of the compliance burden, the single licence must flow through to consolidated regulatory requirements, including regulatory returns, regulator notifications and licence conditions set for each market service by the FMA. In order to reduce the compliance burden of multiple regulatory returns for each market participant section of a single licence, we favour guard rails through appropriate wording in regulations. An example of legislative guard rails that could reduce the regulatory burden is prescribing a single regulatory return containing only material and streamlined questions thus removing duplicated questions in the market services sections of regulatory returns.
18	*Are there any other matters that should be considered around market services conduct licensing?*
	AIA NZ still has doubts about a conduct regulator imposing standard conditions relating to business continuity and operational resilience for FIs. Business continuity and operational resilience standard conditions for FIs are already established prudential requirements and there is not a clear connection to conduct requirements that are focused on the policies, processes, systems, and controls for ensuring customers are treated fairly. We accept that for financial service providers who are not FIs or prudentially regulated that business continuity and operational resilience standard conditions may be appropriate.
	D. Enabling reliance on another regulator's assessment *Option D1: Amend legislation to enable the FMA and RBNZ to rely on an assessment by the other regulator where appropriate*
19	*Should the FMC Act be amended to enable the FMA to rely on the RBNZ's assessment for appropriate matters? Please provide examples of any specific areas where you think this could be useful.*
	AIA NZ supports the notion that the FMA should be able to rely on an assessment by the RBNZ or another relevant regulator, provided it results in streamlined processes and reduction of duplication of regulators' compliance requirements. However, we are concerned that the language of 'enablement' does not place an obligation on the FMA and therefore may not achieve the objectives of this conduct review. Requiring the FMA to rely on assessments by

	other regulators in appropriate circumstances may be a better way to achieve the intended outcomes. For example, recent constructive collaboration between the FMA and the RBNZ resulted in a single cyber resilience reporting template to report incidents. It does assist in certainty and clarity by completing one template for both regulators; however, without regulation to allow reliance on one another's assessment, it would not eliminate double handling and the compliance burden associated with it as illustrated below: A dual regulated FI would send separately the same cyber resilience template to the FMA and the RBNZ. Each regulator is likely to send their own correspondence and questions with requests for more information to the FI which would require separate responses to each regulator. It does not alleviate the compliance burden of double handling by the FI. Another example relates to fit and proper assessments for which the CoFI Act sets detailed licensing requirements. All FIs applying for a CoFI licence are also licensed by the RBNZ. This means the FI already has been subjected to fit and proper assessments by the RBNZ. Duplicating this fit and proper assessment under the CoFI Act is an unnecessary additional burden on the FI without due consideration of existing similar processes set by other regulation. We propose that the regulation requires the dual regulators to determine in the first instance who would act as the lead regulator in order to avoid unintended consequences in both these scenarios. The lead regulator could then act as the sole contact with the FI for purposes of the said reporting.
20	*Should there be equivalent provisions enabling the RBNZ to rely on the FMA's assessment for appropriate matters? Please provide examples of any specific areas where you think this could be useful.*
	We favour similar provisions for the RBNZ to rely on the FMA's assessment for appropriate matters and support the suggestion that MBIE raised during their recent webinar to review the RBNZ legislation as part of the final IPSA review.
21	*Are there any other improvements that could be made to the way the FMA and the RBNZ work together to reduce compliance costs and regulatory burden?*
	Please refer to our response (including examples) to 19. above.
	E. Ensuring the FMA has effective tools
	Option E1. Introduce change in control approval requirements
22	*Should change in control approval requirements be introduced into the FMC Act? Please explain your answer, including why the current approach does or does not work.*
	AIA NZ does not support adding change in control approval requirements to the FMC Act. If an FI is prudentially regulated, the FMA should accept the RBNZ's assessment for the reasons noted under 19. above. We think that it would add to a dual regulated FI's regulatory compliance burden to apply to two regulators for the same thing. We question the need for this power and ask that the FMA provide examples of where, under the existing regime, this power would have resulted in a different outcome. In almost all cases regulation 191 of the Financial Markets Conduct Regulations 2014 would capture a change in control, and all licensed entities already have a standard licensing condition (in some form or another) that requires them to notify the FMA about any material changes. Therefore, the FMA will be aware of all changes in control and be able to take appropriate action should concerns arise. We also note that it is common practice for licensed entities to engage with the FMA prior to a change in control.

	In addition, this requirement could have the unintended consequence of lessening competition as it may be harder for overseas entities to enter the New Zealand market during a time when New Zealand's OECD country ranking for ease of doing business is sliding.
23	*Should change in control approval requirements apply only to firms licensed to act as financial institutions, or to all firms licensed under Part 6 of the FMC Act? Why?*
	Please refer to our response to 22. above.
24	*Do you have any other feedback on the change in control requirements option?*
	Please refer to our response to 22. above.
Option E2: Introduce on-site inspection powers for the FMA	
25	*Should the FMA have the ability to conduct on-site inspections without notice? Please explain your answer, including why the current approach does or does not work.*
	We do not think the FMA should have the power to conduct on-site inspections without notice because it is not fit for purpose and out of touch with modern technological and business operating environments. We support onsite inspections on reasonable grounds, with reasonable notice, provided there are adequate controls in place, and it is consistent with the powers of other New Zealand financial markets regulators. Most FIs store data in electronic systems. In order to provide information as part of an on-site inspection the data must be retrieved electronically, and data sources often include legacy systems and various platforms. This requires time and access to the right systems, including at times complex data analysis and extraction, validation, and compilation into a readable format. The FI may not be able to provide the requested information and ensure its accuracy within the timeframe of an unannounced on-site inspection. Most FIs have adopted flexible working arrangements, and staff routinely work from home or from multiple locations. This means the FMA could find itself in a situation where its purposes are frustrated by the inability to get access to the right information or interview the right people. In our view, the FMA is more likely to obtain the information it seeks by giving reasonable notice in advance. The current process of giving reasonable notice and requesting information under section 25 of the FMA Act in our experience works well. It ensures the right data is available for inspection in a readable format, the right staff are on-site to assist with additional data access requests, and the right staff are available for interviews. It underpins the collaborative approach the FMA endorses. In addition, we query if the reasons provided in the discussion document as to why the FMA needs this power are still relevant. Specifically, we understand that the amendment to section 7 and the introduction of section 7A to the Financial Service Providers (Registration and Dispute Resolution) Act 2008 as part of the Financial Services Legislation Amendment Act 2019, should have addressed the issue of persons misusing registration[2]. In addition, section 29 of the FMA Act provides for those instances where an onsite inspection without notice may be warranted in the context of conduct regulation.
26	*Should an on-site inspection power apply only certain firms or in certain circumstances, e.g. to firms licensed under Part 6 of the FMC Act, or to all firms regulated as financial markets participants? Why?*

[2] Compare https://www.mbie.govt.nz/assets/433d0dd8f9/impact-summary-regulations-to-help-address-misuse-of-the-financial-service-providers-register.pdf

	Please refer to our response to 25. above.
27	*What safeguards should be in place for on-site inspections without notice?*
	It is our preference not to provide the FMA with the power of on-site inspection without notice; however, should MBIE nevertheless proceed with this power, we strongly propose that without-notice inspections should be a rare exception to the rule and should only occur where the FMA is concerned about a serious and imminent high risk of consumer harm.
28	*Do you have any other feedback on the on-site inspection option?*
	Please refer to our response to 25. above.
Option E3: Introduce an expert report power for the FMA	
29	*Should the FMA have the ability to commission expert reports? Please explain your answer, including why the current approach does or does not work.*
	AIA NZ does not believe that the power to commission expert reports aligns with the government's objectives for the conduct review. Providing this power to the FMA would add to the compliance costs of FIs and be overly burdensome without a clear justification. The FMA have suitable and appropriate information gathering powers through, amongst other things, regulatory returns in addition to their extensive information gathering powers under section 25 of the FMA Act. In our view, there is little justification for giving the FMA this power where an existing regulatory obligation serves the same purpose. For example paragraph 127 of the discussion document states expert reports "… *would help the FMA gather intelligence to support a proportionate, risk-based and outcomes-focused approach to regulation, providing information to help the FMA better target the appropriate use of its powers and regulatory resources."* The regulatory returns and section 25 powers provide the FMA with the opportunity to ask the right questions on all supervisory matters, elicit appropriate responses and ask further clarification if required. This process enables them to draw appropriate and informed conclusions and take appropriate action where required. In addition, we think that the need for expert reports by the FMA and RBNZ are fundamentally different. The RBNZ power is generally focused on technical financial or actuarial matters where the RBNZ needs the support of technical experts. We query what technical expertise the FMA requires support on for conduct matters when the stated position of the FMA is that FIs are best placed to assess what is fair for their organisation.
30	*Should an expert report power apply only to firms licensed under Part 6 of the FMC Act, or to all firms regulated as financial markets participants? Why?*
	We do not support granting the FMA a power to request expert reports.
31	*What safeguards should there be for an expert report power?*
	We ask for more detail on the practical application and purpose of this proposed power to enable us to provide considered feedback in respect of safeguards for an expert report.
32	*Is it appropriate that the firm concerned bear the cost of the expert report? Why / why not?*
	AIA NZ thinks that there has been insufficient thought given to the controls associated with the proposed power to require a review report. MBIE proposes in paragraph 125(e) "*that the firm may be required to obtain an audit or review of the report, which must be carried out by an auditor or other person approved by the FMA*". The practical implication is that the FMA would have the right to ask for a review (audit) of an expert review (audit) report. We fail to understand the purpose of double auditing.

	In addition, the FI would be expected to bear the costs of the review report itself, as well as the costs of reviewing the review report. We think it would be unreasonable to expect the FI to bear the full costs of an expert report and the additional review of the review report, especially where the report finds no basis for the alleged concerns raised by the FMA.
33	*Do you have any other comments on the expert report power option?*
	We do not support introducing a power to the FMA to require expert reports.
	3*:* Limitations and constraints on analysis
34	*Are there any other areas and options for change that we should consider that have not been addressed in this discussion document?*
	AIA NZ supports a review of the definitions of consumer and intermediary to exclude group schemes from the CoFI regime. If group schemes are included, we request further clarification, since the use of these terms varies greatly across FI's and also within the insurance industry and we are concerned that MBIE and the FMA may not be across the detail.

Other comments

The proposed changes to the FMC Act and FMA Act would significantly impact the financial services industry. In our view, the short time frame provided for this consultation inhibits considered responses and limits meaningful consultation. We propose first completing and embedding the regulatory reform of the CoFI Act and, if a need is identified, it then could be followed by an assessment of whether the FMA's powers should be expanded.

We appreciate that the review document acknowledges the overlap or duplication with other regulator obligations. It would be helpful to have guidance on how overlap will be treated, for example, this guidance could be issued by the Council of Financial Regulators.

There is notable overlap between the CoFI and FAP regimes and we favour better alignment.