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

Your name and organisation

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Contact details	Privacy of natural persons

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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?*
	Consumer protection and good conduct needs to be front of mind while considering CoFI.
	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?*
	No, DBAS do not support any reduction. *DBAS recommends the inclusion of non-bank lenders, Buy Now Pay Later providers, Telco's that sell cellphones and other devices on credit, TV Shop and debt collectors into the CoFI minimum requirements. This would promote enhanced consumer protection and good conduct in the wider finance industry.*
3	*Which requirements should be removed or amended, if any? Please explain what changes you would like to be made.*
	None.
4	*What would be the impact of removing or amending particular requirements (for example, on compliance costs for businesses)?*
	We understand many institutions are already working within the requirements, so there would be no compliance costs for them. Others have known this was coming and should have a system in mind. *Initial compliance costs can be expected, but ongoing costs will not be a burden.* *If RBNZ and FMA identified areas where there could be potential conduct issues and risks to consumers, then in our view, any associated costs to comply are fully justified.* *The savings made in reducing compliance costs on industry unfairly outweigh the costs that will be borne by consumers when lenders behave unfairly.*
5	*Do you have any other comments on the minimum requirements for fair conduct programmes?*
	All consumers need to have the security of knowing all organisations and services they interact with, have at least minimum requirements for fair conduct.
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?*
	Transparency is the key for all, so there are no surprises. *The Fair-Trading Act requires that all fees and charges be reasonable. Requiring transparency in how fees and charges are calculated by institutions will give consumers assurance that those fees and charges are fair.* *This will also be an opportunity to promote competition between organisations which is good for consumers.*
7	*What are the advantages and disadvantages of adding an express minimum requirement for fair conduct programmes relating to complaints processes?*
	Accountability is a good incentive to treat consumers fairly in the first place. *Prescribing a way that complaints are recorded and resolved will protect consumers.*
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?*
	We think so, because the fair conduct principle requires institutions to treat consumers fairly and that should already cover fees, charges, and complaints processes. However, we also think this needs more transparency and clarity.
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?*
	No, we do not support this. *The removal of any part of consumer protection is concerning to DBAS and presents a slippery slope in our view.* *The potential disadvantage caused to consumers is detrimental to this approach.*
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?*
	Yes, DBAS supports this, with the addition of non-bank lenders, Buy Now Pay Later providers, TV shop models, Telco's who supply goods on credit and debt collectors.
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?*

	We do not support this proposal. All consumers need to have the security of knowing all organisations and services they interact with, have at least minimum requirements for fair conduct.
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?*
	Yes, DBAS supports this proposal. It is a broad and high standard of conduct that applies in a wide range of circumstances.
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?*
	No. DBAS does not believe that the concept of fairness will change over time. I.e. the concept of treating all people equally and reasonably.
14	*Do you have any other suggestions or comments in relation to the fair conduct principle?*
	No
15	*Do you have any comments in relation to other areas of the CoFI Act that have not been covered in this section?*
	Please see our response to Q10. *CoFI should mean the end of 'junk' insurance being sold to consumers particularly when consumers take out car loans. 'Junk' insurance includes Motor Vehicle Breakdown Insurance, Payment Protection Insurance, Death Cover and Guaranteed Asset Protection Insurance. 'Junk' insurance offers extremely poor value to consumers. The cost of these insurances is added to the cost of borrowing without the consumer understanding what they are purchasing.*
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?*

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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.*
	Yes. There is a chance that poor behaviour by institutions could slip through and not be detected during the consolidation.
18	*Are there any other matters that should be considered around market services conduct licensing?*
	Conduct licensing should be extended to cover all non-bank lenders, Buy Now Pay Later providers, and the debt collection industry.
	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.*
	Yes. *For example, the FMA should be able to rely on a RBNZ assessment of an institutions IT systems.*
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.*
	Yes.
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?*
	N/A
	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.*
	DBAS supports providing the FMA with more enforcement tools. *Supervisory and monitoring tools will allow the FMA to reduce harm to consumers by acting proactively to situations where harm is detected rather than retrospectively when the damage is done.*

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?*
	The FMC Act should be extended to cover all non-bank lenders, Buy Now Pay Later providers, TV shop models, Telco's who supply goods on credit and debt collectors.
24	*Do you have any other feedback on the change in control requirements option?*
	N/A
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.*
	Yes. *Site visits without notice give the FMA a true understanding of an institution's operations.* *Site visits without notice would give the FMA the ability to act quickly when harm or potential harm to consumers has been detected.* *This would be a straightforward way to ensure that institutions have a real place of business in New Zealand and are not pretending that they have staff.*
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?*
	On-site inspections without notice should be extended to cover all non-bank lenders, Buy Now Pay Later providers, TV shop models, Telco's who supply goods on credit and debt collectors.
27	*What safeguards should be in place for on-site inspections without notice?*
28	*Do you have any other feedback on the on-site inspection option?*
	No.
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.*
	Yes. *Voluntarily self-reporting is not enough. If the FMA feels it needs to gather information from an institution, then there is already a high likely hood that consumers are being harmed. This information should be gathered independently by an expert.* *Experts who are familiar with IT systems and cybersecurity can gather the information that they need to make impartial recommendations.* *An expert report may be an opportunity for an institution to remedy issues rather than just an opportunity for the FMA to conduct enforcement action.*

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?*
	No. An expert report power should be extended to cover all non-bank lenders, Buy Now Pay Later providers, TV shop models, Telco's who supply goods on credit and debt collectors.
31	*What safeguards should there be for an expert report power?*
	An on-site inspection without notice should occur first.
32	*Is it appropriate that the firm concerned bear the cost of the expert report? Why / why not?*
	Yes. *The cost of an expert report may well be cheaper for an institution than the cost of fixing widespread systemic issues that result later from the issues.*
33	*Do you have any other comments on the expert report power option?*
	No.
	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?*
	As mentioned earlier, the CoFI Act should be extended to cover all non-bank lenders, Buy Now Pay Later providers, TV shop models, Telco's who supply goods on credit and debt collectors.
	4: Implementation
35	*Do you have any comments on implementation of these reforms?*
	Handover of CCCFA enforcement must occur smoothly between Com Com and FMA. Investigations and court actions etc to be transitioned as they are completed. A hand over will be messy, and things may get lost therefore a staged transition process is preferred. Com Com's Sector updates for advocates such as Financial Mentors have been especially useful to DBAS. These need to continue under FMA.

Other comments