MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Review of the conduct of financial institutions

How do we ensure conduct and culture in the financial sector is delivering good outcomes for all customers?

Recent reports from the Financial Markets Authority and Reserve Bank of New Zealand have highlighted failings in how conduct risk is managed in the financial sector (particularly among banks and life insurers) and a lack of focus on customer outcomes.

This increases the potential for consumer harm to occur in the long-term.

The key problems that have been identified include...

AN IMBALANCE OF POWER BETWEEN FINANCIAL INSTITUTIONS AND CONSUMERS

- Consumers are often offered standard form contracts with little ability to negotiate.
- Consumers are often unable to tell whether they have received good service or the right products for their needs.
- We have heard that some insurers underpay on claims and use questionable tactics to settle claims.

SOME PRODUCTS ARE NOT DESIGNED WITH GOOD CUSTOMER OUTCOMES IN MIND

- Some products are poor value and not fit-for-purpose, for example some insurance policies have limited value.
- Some products are commonly mis-sold to customers for whom they are unsuitable, for example payment protection insurance, funeral cover, accidental death cover and specified injury cover.

SALES ARE PRIORITISED OVER GOOD CUSTOMER OUTCOMES

- Conflicted remuneration encourages sales over good customer outcomes.
- High upfront commissions can encourage churn (when customers are sold new replacement products that aren't in their best interest).
- Banks and insurers are not taking sufficient responsibility for intermediated sales, despite incentivising intermediaries to sell their products.

THERE ARE WEAK SYSTEMS AND CONTROLS TO MANAGE CONDUCT RISK

- There is a lack of focus on developing a culture that balances shareholder interests with good customer outcomes.
- Industry work to put in place robust systems to address conduct risks has been generally slow and relatively recent.

THERE IS A LACK OF ACCOUNTABILITY TO ENSURE GOOD CONDUCT

- There is an inherent conflict of interest involved with self-regulation by industry bodies.
- No regulator has an express mandate to regulate overall bank and insurer conduct.

Other ongoing problems:

- Little post-sales follow up on customer outcomes.
- Communication breakdowns when claims take a long time or are disputed.

- We want your feedback on how we can address these problems.
- Do you think these problems are similar across banks and insurers?
- Do these problems affect both retail and wholesale customers?
- Have you seen these problems with financial service providers other than banks and insurers?

TELL US WHAT YOU THINK

mbie.govt.nz/financial-conduct

You can make a submission until 7 June 2019.

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Here are some ideas on how to address conduct and culture issues in the financial sector.

What are the pros and cons? Are there other solutions that would work better?

SHOULD WE IMPOSE LEGAL DUTIES ON BANKS AND INSURERS?

OUR INITIAL PREFERENCES ARE:

- A duty to consider and prioritise customer's interest, to the extent reasonably practicable.
- A duty to act with due care, skill and diligence.
- A duty to consider the information needs of customers and communicate in a way which is clear and timely.
- A duty to manage conflicts of interest fairly and transparently.
- A duty to ensure complaints are handled fairly, timely and transparently.
- A requirement to have the systems and controls in place that support good conduct and address poor conduct.

HOW DO WE ENSURE PRODUCTS ARE DESIGNED TO BE FIT FOR PURPOSE?

OUR INITIAL PREFERENCES ARE:

- Require manufacturers to identify the intended audience AND require distributors to have regard to the intended audience when placing the product.
- Give the regulator a power to ban or stop the sale of specific products if they lead to very poor consumer outcomes.

OTHER OPTIONS WE WANT FEEDBACK ON:

- Ban certain products that are poor value and provide poor customer outcomes.

HOW DO WE ENSURE PRODUCTS ARE SOLD TO THE RIGHT PEOPLE?

OUR INITIAL PREFERENCES ARE:

- A duty on the manufacturer to take reasonable steps to ensure the sales of its products are likely to lead to good customer outcomes.
- A duty to design remuneration and incentives in a way that is likely to promote good customer outcomes.
- Ban target-based remuneration and incentives to both in-house staff and intermediaries.

OTHER OPTIONS WE WANT FEEDBACK ON:

- Ban all in-house remuneration and incentives linked to sales measures.
- Cap upfront and/or trail commissions to intermediaries.

HOW CAN WE IMPROVE HOW INSURANCE CLAIMS ARE HANDLED?

OUR INITIAL PREFERENCES ARE:

- Impose a duty to ensure claims are handled fairly, timely and transparently.

OTHER OPTIONS WE WANT FEEDBACK ON:

- Require insurers to settle claims within a set time, with exceptions for certain circumstances.

WHAT TOOLS WOULD PROMOTE MORE EFFECTIVE COMPLIANCE?

OUR INITIAL PREFERENCES ARE:

- Empower and resource the Financial Markets Authority to monitor and enforce compliance.
- Provide for a range of regulatory tools, such as public warnings, stop orders, court injunctions.
- Strong civil pecuniary penalties to deter misconduct.
- Apply executive accountability to senior managers and directors.
- Require regular reporting about the industry, for example summary data on remediation activities, complaints and reasons for declined claims.

TELL US WHAT YOU THINK

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You can also tell us what you think about ways to improve insurance contract law at **mbie.govt.nz/insurance-contracts.**
Submissions are open until 7 June 2019.