

23 February 2018

Economic Development, Science and Innovation Committee
Parliament Buildings
Wellington

**SUBMISSION on
Financial Services Legislation Amendment Bill**

1. Introduction

Thank you for the opportunity to make a submission on the Financial Services Legislation Amendment Bill. This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

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We wish to appear before the committee to speak to our submission.

2. Comments on the Bill

Consumer NZ supports the intent of the Financial Services Legislation Amendment Bill (the bill) to improve standards in the industry. However, we have a number of concerns about the bill.

2.1 Commissions

Consumer NZ has previously submitted in favour of a ban on commissions. The potential for commissions to distort financial advice has led to bans on commission payments in the UK and the Netherlands. We continue to support a similar ban here. Until commissions are phased out, the risk remains that investors will receive skewed advice.

In the absence of a ban on commissions, regulations must require Financial Advisers (FAs) and Nominated Representatives (NRs) to fully disclose the payments and incentives they receive.

Regulations should also require standardised disclosure to increase transparency for consumers and help mitigate the risks of commission-based selling models. Standardised disclosure requirements are increasingly common in other jurisdictions and the absence of such requirements puts New Zealand consumers at a disadvantage.

A recent report by the Australian Securities and Investments Commission (ASIC) into mortgage brokers found the standard commission model of upfront and trail

commissions could encourage consumers to take out bigger loans, when doing so was not in their best interests.

The report recommended moving away from the standard commission model so payments were not linked to the amount a customer borrowed. This proposal is aimed at reducing the risk that brokers might attempt to inappropriately maximise their commissions by encouraging consumers to take larger loans.

The ASIC report also recommended moving away from bonus commissions, bonus payments and soft dollar benefits which increased the risk of poor consumer outcomes.

If commission payments are retained, we suggest similar rules should be introduced in New Zealand.

3.2 New public reporting regime

The ASIC report also recommended establishing a new public reporting regime to improve transparency in the mortgage broking industry. The recommendations included public reporting on:

- (a) The actual value of remuneration received by aggregators and the potential value if all criteria for remunerations were satisfied,
- (b) The average pricing of home loans that brokers obtain on behalf of consumers,
- (c) The average pricing of home loans provided by lenders according to each distribution channel,
- (d) The distribution of loans by brokers between lenders to give consumers a better indication of the range of loans that brokers within the network offer.

We support a similar reporting regime in New Zealand.

3.3 Dispute resolution

In previous submissions, we have expressed concern about the number of disputes schemes, awareness of the schemes, the variation in scheme rules and the fact schemes are not required to publish their decisions. We are disappointed to see these concerns have not yet been addressed.

We are also concerned there are no mandatory requirements for professional indemnity insurance.

In addition, we'd like to see the jurisdictional limit raised for disputes about financial services.

3.4 Qualifications/competency

We believe the minimum qualification required for financial advisers should be increased in the new code of conduct. The National Certificate in Financial Services (level 5) is a low-level qualification and in our view is insufficient to achieve the stated outcome of raising industry standards.

We acknowledge the argument that higher standards of competency may increase the cost of good quality financial advice. However, consumers will also be unwilling to pay for advice if they do not have confidence in the expertise and independence of the provider.

3.5 Liability of financial advisers

Finally, we think it would be preferable for FAs and NRs to have direct civil liability for breaches of their obligations. We consider direct civil liability would provide a strong incentive for advisers to meet their obligations to consumers and is essential to improve industry standards.

We also think the maximum fine that could be imposed by the disciplinary committee should be increased. In our view, a higher fine would act as a better deterrent.

Thank you for the opportunity to make a submission on the bill. If you require any further information, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "Sue Chetwin". The signature is written in a cursive, flowing style.

Sue Chetwin
Chief Executive