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Submission by: Financial Services Council

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Consultation Paper – Class exemption review

Introduction

The Financial Services Council - (FSC) is the industry association for the companies that issue and manage life insurance, superannuation and managed funds in New Zealand. FSC members are responsible for approximately \$67 billion funds under management. FSC members are also the leading providers of KiwiSaver funds and include the default providers.

A list of members is attached.

Submission

The Financial Services Council of NZ (FSC) makes the following submission on the Consultation Paper: Request for Feedback – Class exemption review (10 April 2012).

FSC members support retention of the following exemption notices:

1. Financial Reporting Act (Overseas Companies)
4. Securities Act (Advertisements Containing Investment Advice)
28. Securities Act (Overseas Companies)
29. Securities Act (Overseas Employee Share Purchase Schemes)
34. Securities Act (Renewals and Variations)
37. Securities Act (Short Form Prospectus)
41. Securities Act (Unit Trust Certificates)

Information in support of these notices follows below. Please contact us if further supporting material is needed. Some FSC members are making supporting submissions through the Bankers' Association and on their own behalf on notices that are of particular interest to them and their responses are not included in this submission.

We request to be involved in any consultation on changes proposed to the wording of any of these exemption notices.

We agree with the FMA's view that there is no longer any need for the following notices:

- 12. Securities Act (Certificates for Securities Transferred Electronically)
- 26. Securities Act (Life Insurance Companies)
- 39. Securities Act (Superannuation Schemes – Summary of Financial Statements)

Exemption notices

1. Financial Reporting Act (Overseas Companies)

28. Securities Act (Overseas Companies)

29. Securities Act (Overseas Employee Share Purchase Schemes)

While these exemption notices have limited application to some FSC members who are overseas companies, we support their renewal for the reasons stated in the Consultation Paper.

4. Securities Act (Advertisements Containing Investment Advice)

As the Financial Advisers Act, particularly the Code of Professional Conduct for Financial Advisers, has significantly improved the minimum required level of professionalism for investment advice, there can be greater confidence in the information provided and covered by this exemption notice. There are also additional remedies under the Financial Advisers Act and Financial Service Providers (Registration and Dispute Resolution) Act if the information provided is deficient.

The Ministry of Economic Development estimated that there are around 4,700 financial advisers who are either QFE Advisers advising on Category 1 products or Authorised Financial Advisers associated with a QFE. These advisers would be likely to be covered by this exemption. Depending on the individual client advice circumstances and the form of the advice, the exemption may apply to multiple instances of financial advice given to the client.

34. Securities Act (Renewals and Variations)

This exemption potentially affects all securities when terms and conditions are changed. The reasons for retaining the exemption are covered in the Consultation Paper and we agree with them. However, we are interested in consultation on any changes to the exemption notice that affect the interpretation of changes that are already provided for in schemes' governing documents – e.g. change in manager.

37. Securities Act (Short Form Prospectus)

We support the renewal of this notice for the reasons given in the Consultation Paper.

41. Securities Act (Unit Trust Certificates)

Without this exemption, continuous issue unit trusts would have to send a certificate on every issue of units to a unit holder (this could be weekly or monthly). This would incur significant compliance costs. All continuous issue unit trusts use this exemption notice.

List of FSC Members

FSC Members

Accident Compensation Corporation

AIA NZ

AMP Financial Services/ AXA New Zealand

ANZ Bank

Asteron Life Ltd

BNZ Investments and Insurance

CIGNA Life Insurance NZ Ltd

Fidelity Life Assurance Co Ltd

FNZ

Gen Re LifeHealth

Hannover Life Re of Australasia Ltd

Kiwibank Ltd

Mercer

Munich Reinsurance Co of Australasia Ltd

Pinnacle Life

Public Trust

RGA Reinsurance Co. of Australia Ltd

Sovereign Ltd

Swiss Re Life & Health Australia Ltd

TOWER New Zealand

Westpac Bank

Associate Members

Bell Gully

BNP Paribas

Bravura Solutions

Burrowes & Co

Chapman Tripp

Davies Financial & Actuarial Ltd

Deloitte

DLA Phillips Fox

Ernst & Young

InvestmentLink (New Zealand) Ltd

KPMG

Kensington Swan

Melville Jessup Weaver

Minter Ellison Rudd Watts

Morningstar Research Ltd

PricewaterhouseCoopers

Russell McVeagh

Simpson Grierson