

**Insurance Council of New Zealand**

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Financial Markets Authority

Emailed to: [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz)

To Whom It May Concern,

**Feedback: a guide to the FMA's view of conduct**

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Thank you for the opportunity to provide feedback on the Guide. We provide this brief supporting submission for the Insurance Council of New Zealand ('ICNZ').

ICNZ has 28 members who insure approximately half a trillion dollars' worth of New Zealand's assets and liabilities. Those members are general insurers – that is, not life insurers or health insurers.

We welcome the Guide. We welcome proactive thought leadership by FMA as part of the global conduct debate. We also welcome transparent approaches to the development of FMA's thinking on conduct. We submit the Guide should be updated regularly to ensure its ongoing relevance and continued transparency of the positions FMA takes on conduct over time. Timely disclosures of any changes in FMA's thinking will be important for the industry.

We note the Guide is aimed at financial service providers who are licensed by FMA under the Financial Markets Conduct Act 2013 (FMCA). Our member insurers are not FMCA licensees. They are licensed to conduct insurance business by the Reserve Bank of New Zealand under the Insurance (Prudential Supervision) Act 2010 and are registered financial service providers under the Financial Service Providers (Registration and Dispute Resolution) Act 2008. Insurers are bound by the Part 2 fair dealing provisions of the FMCA. Notwithstanding the above, we understand the Guide is intended to be a more generally-applicable statement of how FMA goes about its business of regulating market conduct of financial service providers in New Zealand. We are also mindful that some of our members may become licensed entities if and when the proposed licensing regime in the updated Financial Advisers Act comes into force.

The Guide will therefore be very useful for its stated purposes – that is, to assist understanding of the "lens" through which FMA looks at the activities of regulated entities. Some of our members are

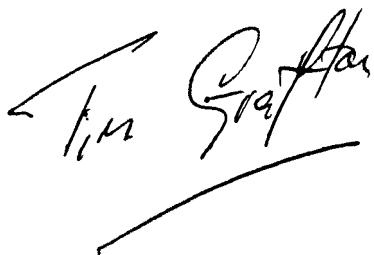
concerned about the possibility of regulatory creep, and that the Guide may become de facto law through overly rigid application. We note the Guide is not meant to be a checklist or manual, but also note the Guide's potential to develop into a checklist or manual over time. We believe this would not be a desirable outcome and would caution against myopia developing behind the lens. We encourage FMA to maintain an open mind about what good conduct can look like over time and as conduct issues arise.

We note that ICNZ requires high standards of conduct from its members through the Fair Insurance Code 2016. The Code is a rule of membership of ICNZ and is enforced through the independent external dispute resolution schemes Insurance and Financial Services Ombudsman and Financial Services Complaints Limited. Significant breaches of the Code are also addressed through ICNZ's independent Code Compliance Committee. We attach a copy of the Code for your reference, and invite you to compare the specific Code standards with FMA's Guide when considering conduct in the insurance industry. We will be doing the same.

Finally, we strongly support FMA's focus on financial service providers clearly identifying, managing and disclosing actual conflicts of interest, particularly regarding how staff are paid and incentivised. Whilst we strongly support transparency and disclosure of the existence of a conflict and the general nature of that conflict, we note that disclosure of the full details of remuneration may involve disclosure of information about commercially sensitive arrangements. This would be undesirable and needs to be approached on a careful, considered, case by case basis.

Thank you for your time. If you have any questions about our submission you can contact our legal counsel Nick Mereu on 04 495 8008 or by email [nick@icnz.org.nz](mailto:nick@icnz.org.nz).

Yours sincerely,



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