

## Feedback form

# Consultation: Proposed guidance for client money or property service providers

Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with 'Consultation: Proposed guidance for client money or property service providers - [your organisation's name]' in the subject line. Thank you. **Submissions close on 1 November 2022.**

Date: 1 November 2022

Number of pages: 2

Name of submitter: Greig Epps

Company or entity: Te Kāhui Inihua o Aotearoa/The Insurance Council of New Zealand (ICNZ)

Organisation type: Industry body

Contact name (if different): Jane Brown

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Question number	Response
<b>1. Do you agree with our overall approach to provide clarification in respect of the interaction between the Financial Markets Conduct Act (FMCA) and the Insurance Intermediaries Act (IIA)?</b>	ICNZ supports the FMA's view that a non-IIA broker does not provide a client money or property service when they receive money relating to premiums, claims, or monies otherwise paid under or in relation to a contract of insurance.
<b>2. Are there any potential unintended consequences for insurance intermediaries (including sub-agents), consumers (e.g. policyholders), and/or insurance providers, in applying FMA's proposed view?</b>	<p>In relation to the section on use of premiums by insurance intermediaries, ICNZ agrees that intermediaries should not be permitted to use premiums held for insurers to fund their own businesses and related premium funding companies.</p> <p>We acknowledge the FMA's comment on page 8 of the Proposed Guidance that insurers may wish to increase their oversight of intermediaries' management and investment of premiums. However, insurers' ability to do this is very limited in practice. Indeed, some of our members do not have any ability to influence or oversee how the intermediaries that they work with manage and invest premiums unless there is an issue that presents itself via credit control processes, as an example.</p> <p>ICNZ believes that there are obvious issues with the current process for the payment of premiums by an intermediary under the IIA (which we note is intended to be carried over to the Insurance Contracts Act and which ICNZ has consistently recommended</p>

amending<sup>1</sup>). It both increases the costs of providing insurance (by deferring cash flow of premiums for risks already being underwritten by the insurer) and opens the door for the potential for the misuse of premiums paid to intermediaries. However, as the management of this process is governed by the IIA/FMA, and because the funds are likely held for the benefit of multiple insurers, our members are of the view that it is not appropriate for this issue to be addressed by individual insurers. It would make sense for the FMA to exercise this oversight, as they have a greater ability to ensure both compliance and consistency of oversight.

As a result, and for the reasons set out above, our members are of the view that this sentence should be deleted.

**Please note:** Feedback received is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act.

**Thank you for your feedback – we appreciate your time and input.**

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<sup>1</sup> For example, ICNZ's [submission](#) on the Insurance Contracts Bill recommended a reduction of the relevant period an intermediary can retain the insured's premium before it must be paid over to the insurer from 50 days to 20 days.