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Financial Markets Authority  
New Zealand  
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**Submission: Proposed exemption to enable dual-language product disclosure statements**

This submission is from the Financial Services Council of New Zealand Incorporated (FSC).

The FSC represents New Zealand's financial services industry having 33 members at 30 April 2018. Companies represented in the FSC include the major insurers in life, disability, income, and trauma insurance, and some fund managers and KiwiSaver providers plus law firms, audit firms, and other providers to the financial services sector.

Our submission has been developed through consultation, and represents the views of our members and our industry. We acknowledge the time and input of all our members in contributing to this submission.

The FSC's guiding vision is to be the voice of New Zealand's financial services industry and we strongly support initiatives that are designed to deliver:

1. Strong and sustainable consumer outcomes;
2. Sustainability of the financial services sector; and
3. Increasing professionalism and trust of the industry.

***Position on the Exemption***

In line with the FSC's aim of delivering strong consumer outcomes, we support the proposed exemption. This support is on the basis that some consumers would benefit by having a product disclosure statement (PDS) available in their first language. To mitigate the risk of differences between language-versions, we also support the requirement of certification by a translator with the appropriate level of qualification/experience to translate technical documents and/or the issuer.

***Specific areas of feedback and suggestions for optimising the Exemption***

We note that although the consultation is initially focussed on enabling PDSs in Te Reo Māori, it also considers extending the submission to other languages. We agree that the exemption should apply to other languages and we recommend that any language should be allowed, provided its translation from English meets certification requirements. Further, the word limitations of the current regime should apply to the English version only; if it requires more words to translate into any alternate language that should be an explicitly permitted exception.

We question the requirement for an English version to accompany the second language version (i.e. the dual language requirement). This does not appear to be for the benefit of consumers because the point of providing a PDS in their first language is to enable them better to understand its content. An alternate solution would be to require a prominent statement on any non-English PDS (in both English and the alternate language) that an English language PDS is available and where it may be sourced. Another reason

not to require the dual English version is that, in some cases, undue costs to the provider could be required (e.g. where the PDS is commercially printed).

Headings in English, as proposed, should not be required: *“The FMC Regulations require the PDS to contain specific headings and precise statements. The exact wording is provided in English and can be found in the relevant schedules to the FMC Regulations. Our view is that the issuer would still be required to provide the prescribed headings and statements in English”* (p. 5). Such a requirement would not be in the interests of consumers receiving a PDS in another language. It is incongruous to provide the bulk of the PDS in a language other than English but to have prescribed wording appear for headings in English. For the target consumers, who may not read English at all, that is counter to the policy intent of providing consumers information in a form that they can understand.

It is questionable whether providers are prevented currently from providing a non-English PDS under the current regime (provided the prescribed words from the FMC Regulations appear in English in the required places). There appears to be no requirement in the FMC Act or FMC Regulations for any particular language to be used. Further, English is not an official language of New Zealand by law, only by convention. Consequently, we consider it is opportune to clarify that English is the required language for all PDSs, by default.

Any Exemption to allow Te Reo and/or multiple languages should include a statement that there is never an obligation for a provider to make a PDS available in any language other than English. We would be concerned, for example, if another language could be demanded by a minority group, placing an unnecessary compliance cost on the provider.

Finally, there may be an opportunity to extend associated consumer-facing documents where providers opt to use the Exemption. For example, if a provider provides a Mandarin Chinese PDS it would be reasonable to expect that member-facing documents such as Fund Updates and Annual Reports be made available in all the languages that the PDS is provided in. Otherwise the non-English language speaking consumer would be sold the product in their first language but would not be similarly served in the ongoing information in relation to their investment.

I can be contacted on 021 0233 5414 or [richard.klipin@fsc.org.nz](mailto:richard.klipin@fsc.org.nz) to discuss any element of our submission.

Yours sincerely

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