

9 June 2017

Financial Markets Authority
New Zealand

By email: consultation@fma.govt.nz

Dear Sirs,

Consultation Paper: Proposed exemption from obligation to prepare scheme financial statements for bundled unit trusts

The Financial Services Council of New Zealand Incorporated (**FSC**) thanks the Financial Markets Authority (**FMA**) for this opportunity to make a submission in relation to the Consultation Paper on this proposed exemption. The Consultation Paper clearly articulates the issues confronting managers of bundled unit trusts and we are fully supportive of the proposed solution.

To more fully represent the voice of the KiwiSaver community, this submission is made jointly with Workplace Savings NZ Incorporated (WSNZ).

The FSC represents New Zealand's financial services industry having 16 member companies and 14 associate members at 31 May 2017. Companies represented in the FSC include the major insurers in life, disability, income, and trauma insurance, and some fund managers and KiwiSaver providers. Law firms, audit firms, and other providers to the financial services sector are represented among the associate members.

WSNZ represents the interests of employers who offer workplace retirement savings schemes, their trustees and their members, other retirement scheme managers (including KiwiSaver scheme providers) and supervisors, retirement savings industry service providers and professional advisers.

This submission provides our responses to the specific questions and gives voice to the recommendations of both FSC and WSNZ members.

Please contact me on 021 0233 5414 to discuss our submission.

Yours sincerely

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Table of Contents

Table of Contents2

Who we are – Financial Services Council3

Who we are – Workplace Savings NZ4

Responding to the Consultation Paper - our approach5

Our feedback6

Who we are – Financial Services Council

The Financial Services Council of New Zealand Incorporated (FSC) has 16 member companies and 14 associate members at 31 May 2017. Companies represented in the FSC include the major insurers in life, disability, income, and trauma insurance, and some fund managers and KiwiSaver providers. Law firms, audit firms, and other providers to the financial services sector are represented among the associate members.

The FSC's vision is to be the voice of New Zealand's financial services industry, with three areas of strategic intent:

1. Strong and sustainable consumer outcomes
2. Sustainability of the financial services sector
3. Increasing professionalism and trust of the industry through the FSC Code of Conduct

Our purpose is to:

- be recognised as an organisation that represents the interests of the New Zealand financial services industry, including to regulators and Government
- promote best practice and integrity in the financial services industry, including through the institution of codes of conduct, standards and the publication of guidance for industry participants
- promote the financial services industry for the economic benefit of New Zealand and to enhance the sustainability of the industry, whilst recognising the primacy of the interests of consumers
- develop and promote evidence-based policies and practices designed to assist New Zealanders to build and protect their wealth
- promote the financial services industry as a medium for investment and protection for consumers
- promote, assist and generally advance the interests of members

To deliver on our vision and purpose FSC activity centres on five strategic pillars:



POLICY AND ADVOCACY

Aim: To be the trusted voice of the financial services sector in New Zealand



INDUSTRY LEADERSHIP & INSIGHT

Aim: Bringing the industry together with knowledge and insight for the benefit of all New Zealanders



INDUSTRY BEST PRACTICE

Aim: Showcasing industry excellence in understanding, growing and protecting New Zealanders' wealth



COMMUNITY OF PROFESSIONALS

Aim: A community developing itself to better understand and serve the needs of New Zealanders



DEVELOP THE FSC

Aim: A sustainable business model delivering an effective and efficient industry body

Who we are – Workplace Savings NZ

Workplace Savings NZ (**WSNZ**) is a not-for-profit apolitical membership organisation representing the interests of employers who offer workplace retirement savings schemes, their trustees and their members, other retirement scheme managers and supervisors, retirement savings industry service providers and professional advisers. WSNZ's membership embraces all types of retirement schemes (KiwiSaver, workplace savings and superannuation schemes) and participants who are public and corporate, union-sponsored and industry-based.

The objective of WSNZ (which works closely with the Financial Services Council) is to be the *Voice of Workplace Savings* - advancing the sustainable, effective, and efficient delivery of workplace savings outcomes for all involved, including the workplace savings scheme members who remain key to the organisation. WSNZ aims to do this through:

1. Advocacy – proposing and commenting on legislative and public policy initiatives beneficial to workplace savings and participation in the workplace savings industry, making submissions, engaging with policy-makers and officials and issuing media commentary to advance those causes.
2. Education – promoting trustee, employer and member financial and regulatory education through dedicated training programmes, newsletters and special interest seminars.
3. Networking – providing trustees, employers and service providers involved in workplace superannuation with a regular forum for sharing ideas and information on industry matters.
4. Promotion – publicising the benefits of workplace savings and helping to improve public confidence and participation in workplace savings.

Responding to the Consultation Paper - our approach

This submission is the result of a consultation process across our joint member-bases and represents the views of our members and our industry.

The FSC's guiding vision is to be the voice of New Zealand's financial services industry. Given the different business models, diversity and expertise of our members, there are times when there are a range of insights and views. Where this has been the case in relation to this submission, we have adopted the FSC's standard approach to managing significant issues:

- **Principles-based:** keeping the conversation focussed on the big issues while acknowledging the detail
- **Best practice:** ensuring the recommendations and solutions are aspiring to high standards of service for clients and driving consistency within the industry
- **Market competition:** believing a free market will find the balance that works best for the consumer and the industry

We acknowledge the time and input of all our members in contributing to this submission.

Our feedback

Our members are fully supportive of this proposed exemption as it will relieve Managed Investment Scheme (MIS) of the compliance costs associated with an activity that adds little benefit to consumers.

Specific responses to the questions are:

Question Number	Response
1	Members agree this exemption will result in a reduction in compliance costs for MIS managers, both in terms of internal management time and external costs. One member estimates a tangible saving of more than \$10,000 per year in external audit fees for each bundled unit trust.
2	Our members agree the exemption will ensure there is no confusion from reporting at two levels. Given that the additional consolidated MIS financial statements add little value to investors, we do not consider that the exemption brings any risks that investors will not receive access to relevant information.
3	<p>Our members agree the criteria for determining the application of the proposed exemption are appropriate.</p> <p>In addition, we recommend the criteria should be extended to not only capture separate funds that are established as legal entities but to also cover schemes that have separate funds that are effectively ring-fenced by their trust deeds so as to have the effect of being for most purposes the equivalent to separate legal entities. For example, a trust deed that determines something similar to: ‘the assets of each Fund shall be the exclusive property of that Fund, and all Liabilities incurred in relation to a Fund shall be the exclusive Liabilities of that Fund, and the Supervisor and the Manager shall in all respects act so as to give effect to this outcome’ should qualify.</p>
4	Our members agree the proposed exemption should apply to both legacy structures transitioned to the FMC Act and new funds of a similar nature. We do not see any risks around access to relevant information.
5	<p>Our members have two specific comments:</p> <p>a. In the drafting, ensure that the words “is notional in nature” are not used in relation to the exemption for registered schemes. This means page 5 of the Consultation Paper, which outlines what the exemption would apply to, should be worded as follows:</p> <ul style="list-style-type: none"> • The assets of the registered scheme is notional in nature and the assets of the entity are held by a series of separate funds. • The governing document clearly and effectively creates the separate funds as separate legal entities. • There are no cross-liabilities between the separate funds. Where there are cross-liabilities, ongoing financial reporting at the level of the registered scheme will remain appropriate. <p>b. Financial accounts for any managed investment scheme should continue to comply with the relevant international financial reporting standards given nothing has fundamentally changed in the way these investment entities are managed or assets accounted for.</p>