Submission template

### Treatment of intermediaries under the new regime for the conduct of financial institutions

### Instructions

This is the template for those wanting to submit their response to the *Treatment of intermediaries under the new regime for the conduct of financial institutions* discussion document.

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the discussion document by 5pm on Friday 18 June 2021. Please make your submission as follows:

1. Fill out your name, organisation and contact details in the table, “Your name and organisation”.
2. Fill out your responses to the discussion document questions in the table, “Responses to discussion document questions”. Your submission may respond to any or all of the questions in the discussion document. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. If you would like to make any other comments that are not covered by any of the questions, please provide these in the “Other comments” section.
4. When sending your submission, please:
	1. Delete this first page of instructions.
	2. If your submission contains any confidential information:
		1. Please state this in the cover page or in the e-mail accompanying your submission, and set out clearly which parts you consider should be withheld and the grounds under the Official Information Act 1982 that you believe apply. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act.
		2. Indicate this on the front of your submission (eg the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).

Note that submissions are subject to the Official Information Act and may, therefore, be released in part or full. The Privacy Act 2020 also applies.

1. Send your submission as a Microsoft Word document to financialconduct@mbie.govt.nz.

Please direct any questions that you have in relation to the submissions process to financialconduct@mbie.govt.nz.

Submission template

### Treatment of intermediaries under the new regime for the conduct of financial institutions

### Your name and organisation

|  |  |
| --- | --- |
| **Name** |  |
| **Email** |  |
| **Organisation/Iwi** |  |

[Double click on check boxes, then select ‘checked’ if you wish to select any of the following.]

[ ]  The Privacy Act 2020 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

[ ]  MBIE intends to upload submissions received to MBIE’s website at [www.mbie.govt.nz](http://www.mbie.govt.nz). If you do not want your submission to be placed on our website, please check the box and type an explanation below.

I do not want my submission placed on MBIE’s website because… [Insert text]

### Please check if your submission contains confidential information:

[ ]  I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because… [Insert text]

|  |
| --- |
| Option 1: Amend definition of intermediary to focus on sales and distribution |
|  | Do you have any comments on Option 1: ‘Amend definition of intermediary to focus on sales and distribution’? |
| *[Insert response here]* |
|  | Do you think the scope of the proposed definition of an intermediary is comprehensive enough to capture the variety of sales and distribution methods and to avoid gaps and risks of arbitrage? |
| *[Insert response here]* |
| Option 2: Refine scope of who is covered as an agent  |
|  | Do you have any comments on Option 2?  |
| *[Insert response here]* |
|  | Do you think Option 2 would adequately exclude advisory services (e.g. lawyers, accountants) and other service providers to the financial institution who are not involved, directly or indirectly, in providing any part of the financial institution’s relevant service or associated products to consumers? |
| *[Insert response here]* |
|  | Do you think any explicit exclusions are needed for particular occupations or activities? If so, which ones, and why? |
| *[Insert response here]* |
| Objectives  |
|  | Do you have any comments on the objectives regarding the treatment of intermediaries? |
| *[Insert response here]* |
| Option 3: Minimal changes to intermediaries obligations (remove 446M(1)(b) only) |
|  | Do you have any comments on Option 3: ‘Minimal changes to intermediaries obligations’? |
| *[Insert response here]* |
|  | If Option 3 were pursued, do you think any other obligations in section 446M(1)(bb), (bc), (bd) or (bf) would need clarifying or amending? Why/why not? |
| *[Insert response here]* |
| Option 4: More significant changes to intermediaries obligations |
|  | Do you have any comments on Option 4: ‘More significant changes to intermediaries obligations’?  |
| *[Insert response here]* |
|  | What do you think the level of responsibility should be for financial institutions’ oversight of intermediaries? For example, “*managing or supervising* the intermediary to ensure they support the financial institutions compliance with the fair conduct principle”, or “*monitoring* whether the intermediary is supporting the financial institution’s compliance with the fair conduct principle”, or something else? |
| *[Insert response here]* |
|  | What standard do you think financial institutions should have to oversee their intermediaries to?  |
| *[Insert response here]* |
| Option 5: Distinguish between FSLAA and non-FSLAA intermediaries |
|  | Do you have any comments on Option 5: ‘Distinguish between FSLAA and non-FSLAA intermediaries’? |
| *[Insert response here]* |
|  | How far do you think financial institutions’ oversight of FSLAA intermediaries under Option 5 should extend? For example, should it cover the general conduct of the intermediaries, or more narrowly on product performance and related consumer outcomes (or something else)? |
| *[Insert response here]* |
| Obligations in relation to employees and agents |
|  | Do you have any comments on the proposals regarding obligations in relation to employees and agents? |
| *[Insert response here]* |
|  | Do you think there should be a distinction drawn between employees and agents? Why/why not? |
| *[Insert response here]* |
|  | Do you think any amendments should be made to the obligations in section 446M(1) that would apply to employees and agents? |
| *[Insert response here]* |
|  | Do you have any other comments or viable proposals? |
| *[Insert response here]* |
| Other comments |
| *[Insert response here]* |