CENTRE FOR
Sustainable
Finance
TOITŪ TAHUA

Level 12
Jarden House
21 Queen Street
Auckland Central, Auckland 1010

Submission on the Financial Markets (Conduct of Institutions) Amendment (Duty to Provide Financial Services) Amendment Bill

The Bill is fundamentally misconceived and should not proceed in its current form.

The New Zealand Government has an ambitious economic growth agenda that aims to unlock New Zealand's potential, grow the economy and ease the cost of living for New Zealanders.

The physical and transition impacts of climate change and environmental issues on society and financial institutions are real and some are already manifesting now. Some risks—especially systemic ones like climate disruption—cannot be diversified away or mitigated through stock selection.

Institutional directors, as fiduciaries, are legally bound to act in the best interests of their members and investors, which means recognising and responding to these emerging risks.

High quality foreign direct investment will only enter New Zealand when risks are appropriately managed, priced, or offset by returns.

There is nothing more likely to dissuade foreign capital from participating in New Zealand markets than the New Zealand government requiring that capital to invest in a way consistent with the government's ideology. This Bill undermines all the government activity to attract capital to New Zealand.

Financial institutions must have the freedom to assess, price and size their exposure to all risks, including systemic risks.

The Centre for Sustainable Finance (CSF) aims to progress a financial system that is more resilient, inclusive, robust and agile through the incorporation of environmental, social and economic considerations in financial decisions. Inherent in this aim is a balancing exercise to support an orderly and just transition.

- CSF is concerned as to the risk of exclusion of individuals and businesses in this transition.
- CSF actively promotes and fosters understanding that customers, investors and members of financial institutions need both time and capital to adapt and transition.
- CSF is developing internationally credible, coherent frameworks that support transition finance and market access.

Private finance and coherent policy are both crucial to enable businesses and households to transition and adapt over time.

The premise of the Bill that environmental, social and governance considerations are not "valid…commercial" considerations is fundamentally wrong. The Bill will add significant cost to financial institutions to validate what are clearly accepted lending and investment practices for no benefit.

The government is currently considering decisions required for a national climate change adaptation framework. One of the reasons this is required is that insurers are having to factor in increasing risk of loss from the impacts of climate change, leading to increasing premiums and the potential withdrawal of insurance cover in the worst affected places.

This Bill would, at worst, prevent insurers taking into account increased risk of loss from increased intensity and frequency of extreme weather events (an environmental consideration, per clause 446JA(1)(b)(ii)), and, at best, have to defend a potential criminal charge by demonstrating that taking that potential direct environmental loss into account is a “valid and verifiable commercial reason”.

The level of overreach is apparent in the definition of consumer to include “potential consumer” – this would put insurers at risk of having to respond under this Bill for incorporating this potential loss in pricing policies for new customers.

The Financial Markets (Conduct of Institutions) Amendment (Duty to Provide Financial Services) Amendment Bill conflates prudent risk management practices with ideological bias;

a) to try to force banks to lend to businesses that pose long-term risks to our collective environment, and financial stability

b) to undermine banks’ ability to manage reputational, regulatory, and transition risks prudently

c) to put subsidiaries of Australian or other offshore owned banks or insurers in an untenable position through misalignment between risk appetite of their owners, their own credit/risk policies and ability to comply with the law

d) to force insurers to ignore risks which fall under the labels attached in the Bill

The Bill is fundamentally misconceived and should not proceed in its current form.