

Submission

to the

Office of the Privacy Commissioner

on the

Protection of vulnerable persons issues paper

28 April 2011

Submission by the New Zealand Bankers' Association to the Office of the Privacy Commissioner on the protection of vulnerable persons issues paper

About NZBA

1. Established in 1891, the New Zealand Bankers' Association is a non-profit unincorporated association funded by member banks. In conjunction with its members, NZBA develops and promotes the banking industry viewpoint in policy discussions and in the media. NZBA also facilitates good practices in the banking industry.
2. NZBA works with its members on a consensus basis to provide a range of services including:
 - Collective submissions on public policy and regulation which affect banks in relation to, for example, taxation, consumer credit, privacy, terrorism and money laundering
 - Development of the self-regulatory Code of Banking Practice
 - Communication on non-competitive industry issues.
3. Membership of NZBA is open to any bank registered under the Reserve Bank of New Zealand Act 1989. Currently 12 registered banks are members of the NZBA. Our members are:
 - ANZ National Bank Limited
 - ASB Bank Limited
 - Bank of New Zealand
 - Bank of Tokyo-Mitsubishi, UFJ
 - Citibank, N.A.
 - Hongkong and Shanghai Banking Corporation Limited
 - JPMorgan Chase Bank, N.A.
 - Kiwibank Limited
 - Rabobank New Zealand Limited
 - Southland Building Society
 - TSB Bank Limited
 - Westpac New Zealand Limited.

Issues

4. In principle, member banks support the protection of vulnerable people, including those unable to manage their own financial affairs. However, NZBA is uncertain as to the costs and benefits of the proposal in the issues paper and foresees practical difficulties if a decision is hurried. Therefore, NZBA submits that further work be done on the issue and that this be done separate from the current batch of amendments to the Code.

The benefits of the proposal

5. NZBA presumes that the intended benefit of the proposal is that lenders will be able to make more informed decisions about whether to provide credit to potentially vulnerable individuals by allowing lenders to see whether the individual is legally unable to manage his or her own financial affairs. This would provide benefits to lenders, who would be able to make more prudent lending decisions, and to vulnerable borrowers, who would be less likely to take on debts that are not in their best interests.
6. In practice, however, problems of the kind outlined in the issues paper are only encountered infrequently by member banks, which have systems in place to mitigate such risks. These systems appear to work well and member banks experience relatively few complaints.
7. Therefore, NZBA does not perceive a large problem that needs addressing. As such, member banks do not at this time expect the benefits of the proposal to be significant.

Costs of the proposal

8. Costs to member banks of implementing the proposal are likely to include changes to computer and training systems. Without further development of the proposal it is not clear how substantial these costs might be, but it would take time for banks to roll out the necessary systems adjustments. For example, software changes would be needed and staff would require training on the new Code requirements and on the software changes.
9. Costs will be influenced by matters such as the expected volume of listings that banks would need to make on the status of vulnerable persons.
10. There is also a risk that changes to the Code could lead to unintended consequences and unnecessary costs. In order to avoid this, any changes would need to be carefully considered and drafted and should not be hurried. For example, it will be necessary to work through how the proposal would work for persons who are legally and mentally capable, but who have appointed an enduring power of attorney as a precautionary measure.

Proposed way forward

11. As noted above, NZBA is in favour of protecting vulnerable persons in principle. However, member banks are of the view that any proposal to address this concern requires careful development in order to ensure that the costs of the solution do not

outweigh the benefits, particularly given that member banks are not aware of a significant problem to be solved at this time.

12. In NZBA's view, this issue should be worked on separately from the current batch of amendments to the Credit Reporting Privacy Code. This would enable a full consideration of the size of the problem and development of policy options if a significant problem is identified. This would ensure that any policy proposals avoid unintended consequences and correctly balance costs and benefits.
13. NZBA would be happy to discuss the issue along with any other matters relating to credit reporting, with the OPC and other interested parties.

Yours sincerely,

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