

Submission

to the

Financial Markets Authority

on the

KiwiSaver Advice Guidance Note

16 December 2016

About NZBA

1. NZBA works on behalf of the New Zealand banking industry in conjunction with its member banks. NZBA develops and promotes policy outcomes that contribute to a strong and stable banking system that benefits New Zealanders and the New Zealand economy.
2. The following fifteen registered banks in New Zealand are members of NZBA:
 - ANZ Bank New Zealand Limited
 - ASB Bank Limited
 - Bank of China (NZ) Limited
 - Bank of New Zealand
 - Bank of Tokyo-Mitsubishi, UFJ
 - Citibank, N.A.
 - The Co-operative Bank Limited
 - Heartland Bank Limited
 - The Hongkong and Shanghai Banking Corporation Limited
 - JPMorgan Chase Bank, N.A.
 - Kiwibank Limited
 - Rabobank New Zealand Limited
 - SBS Bank
 - TSB Bank Limited
 - Westpac New Zealand Limited.

Background

3. NZBA welcomes the opportunity to provide feedback to the Financial Markets Authority (**FMA**) on the KiwiSaver Advice Guidance Note (**Guidance Note**), and commends the work that has gone into developing it.
4. If you would like to discuss any aspect of the submission further, please contact:

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Executive Summary

5. NZBA considers the Guidance Note to be a positive step that will assist with clarifying the distinction between information, class advice and personalised advice and will give our members' front line staff more confidence to have better conversations with their customers. As such, NZBA supports the new Guidance Note and the replacement of the existing 2012 Guidance Note: *Sale and Distribution of KiwiSaver*.
6. Despite our overall support for the Guidance Note, NZBA has the following suggestions on some areas that we consider would benefit from revision:

- a. The Guidance Note should retain its current level of flexibility in recognition of the fact that sales conversations can evolve differently. NZBA would not like to see further prescriptive steps or 'checklists' added.
- b. Guidance on switching should be included in the upcoming updated guidance on product replacement advice, which should be provided *after* the conclusion of the Financial Advisers Act 2008 (FAA) review, and take into account product nuances.
- c. Comments on comparison/references to the existing 2012 Guidance Note: *Sale and Distribution of KiwiSaver* should be removed.
- d. Where providers have not already changed their practices to align with the Guidance Note, they may require time to transition/imbed any changes.

Need for flexibility

7. NZBA submits that the Guidance Note should retain its current level of flexibility in recognition of the fact that sales conversations can evolve differently. NZBA would not like to see further prescriptive steps or 'checklists' added as a result of consultation, which will not necessarily further the objective of providing simple or better advice to consumers. Examples of our concerns around prescription/lack of flexibility in the Guidance Note include those noted below.

Personalised v class advice

8. The Guidance Note implies in some places (e.g. see "Example 1 of class advice" on page 10, end of paragraph 2) that KiwiSaver providers should tell *all* customers about the option of personalised advice. NZBA disagrees with this and suggests instead that providers should explain the type of advice they can provide to customers at the outset (i.e. class advice). If a customer indicates they want more than class advice or has questions that can only be answered by personalised advice, providers should then explain how they can receive personalised advice.
9. NZBA also wishes to clarify that the steps set out on page 8 of the Guidance Note will also not be treated as a 'checklist' when providers give class advice. While the FMA states "we understand that discussions can develop differently", NZBA still considers this section has the potential to unnecessarily evolve into a 'checklist'.
10. Additionally, NZBA is concerned that the words "*If, after hearing and understanding these points, the customer confirms that they are happy to proceed on a 'class basis, you can carry on...*" appears to place an expectation on providers to record this customer confirmation. NZBA submits that clarification that this is not the case would be helpful.
11. With regard to the "*Factors to help you decide*" the difference between class and personalised advice on page 13 of the Guidance Note, NZBA submits that the length of the conversation (under "*The nature of the interaction and the context*") is not a useful factor in considering whether advice is personalised advice. A class advice discussion could be quite long. As such, NZBA submits that this reference to the length of a discussion should be removed.

‘Four factors’ to be considered

12. NZBA members would like the FMA to make it clear in the text that the *four factors* referred to on page 5 of the Guidance Note are “four important decisions all KiwiSaver customers need to make” and are not intended to represent a list of risks and benefits for the consumer to consider. The risks and benefits are included in the Product Disclosure Statement and key points may be discussed during the interaction. Additionally, the *four factors* do not include some other important factors that are relevant to a customer’s understanding about KiwiSaver, such as the fact that members will be locked in to KiwiSaver until age 65. Furthermore, some of the factors listed are more relevant to consumers joining KiwiSaver than those switching or transferring, for example, those switching or transferring have already received the “be in” message.

Comparison tools

13. The Guidance Note suggests providers point to a comparison tool when talking about switching providers. Where a customer is transferring providers, NZBA agrees providers should recommend they think about the pros and cons of any transfer. NZBA however does not agree that providers should lead customers to a comparison tool in *all* circumstances, as this may not be what the customer needs or wants. Rather, providers should assist customers by directing them to a tool only if they want or need that information. Furthermore, such a tool, if suggested to *all* customers regardless of preference or relevance, may in fact cause delays in customer action/decisions (an issue we understand the FMA is seeking to address).

Product replacement and switching advice should be published after the FAA review

14. We note that the FMA have already signalled their intention to provide updated guidance on product replacement advice and encourages guidance on switching to be included in this. NZBA submits this product replacement guidance should be published *after* the conclusion of the FAA review. NZBA submits that any such guidance will need to address product nuances, for example via separate guidance for separate products or general guidance with specific schedules for specific products.

References to 2012 Guidance Note

15. NZBA submits that comments on comparison/references to the existing 2012 Guidance Note: *Sale and Distribution of KiwiSaver* should be removed (and potentially published separately) so that the new Guidance Note stands on its own and does not direct readers new to the topic to an out-of-date document.

Transition

16. NZBA submits that, where providers have not already changed their practices to align with the Guidance Note, it will take time to transition/imbed any changes if they choose to make a greater use of class advice.

17. NZBA submits that, although the Guidance Note may encourage the provision of class advice, any changes to providers' business models may not be immediate. The changes may take time to adopt for some providers, and staff training will need to be completed if a provider elects to move from an information-only model to a class advice model.