

Submission

to the

Financial Markets Authority

on the

Consultation Paper: Fund update template and guidance for calculating risk indicators

15 January 2015

Submission by the New Zealand Bankers' Association to the Financial Markets Authority on the Consultation Paper: Fund update template and guidance for calculating risk indicators

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 which contribute to a strong and stable banking system that benefits New Zealanders and the New Zealand economy.
2. The following fourteen registered banks in New Zealand are members of NZBA:
 - ANZ Bank New Zealand Limited
 - ASB Bank 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 is grateful for the opportunity to submit on the Consultation Paper: Fund update template and guidance for calculating risk indicators (the Consultation Paper) in relation to the Financial Markets Conduct Act 2013 (the Act) and the Financial Markets Conduct Regulations 2014 (the Regulations).
4. The process around the development of the Act and the Regulations has been a good example of policy development that has actively involved the industry. NZBA commends the ongoing commitment to meaningful consultation and engagement and appreciates the invitation to participate in this targeted consultation.
5. The following submission makes some brief comments on the Consultation Paper.
6. If you would like to discuss any aspect of the submission further, please contact:

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PDS and Risk Indicator movement

As previously raised with the Ministry of Business, Innovation and Employment, NZBA would like the guidance in relation to calculating fund indicators (the Guidance) to clarify when a movement in a risk indicator is 'material' and would require an update to the Product Disclosure Statement.

For example, the risk indicator could move by two places in one quarter due to unexpected volatility but then move back one or two places the following quarter. Without a materiality threshold this could result in the manager having to update the PDS twice over a period of two quarters. In our view the Guidance needs to address this situation in sufficient detail to ensure that the approach that should be used is clear and unambiguous.

NZBA submits that a possible solution would be for the Guidance to be to specify a materiality threshold (e.g. more than one or two movements per quarter) at which point the PDS must be updated. This approach would provide a 'soft' safe harbour from the requirement to reprint the PDS immediately to incorporate a small movement in a risk indicator. The Fund Update will always contain the most current risk indicator in any event.

Format of Risk Indicator

Further, we note that the Regulations describe what a risk indicator could look like, but do not include a visual depiction of the risk indicator.

The Fund Update template includes a rectangular format at page 10 which NZBA supports. NZBA suggests that in order to avoid investor confusion, it is important that, for each fund, the risk indicator in the fund update is the same as the risk indicator included in the PDS. We note that the original sample template PDS released by FMA included a circular risk indicator, and that there may be confusion in the market as to which is the preferred form. Any steps FMA can take to clarify whether the same visual format should be used in both documents, and what that format should be, are welcome.