

Submission

to the

Financial Markets Authority

on the

Consultation Paper: DIMS – temporary exemption from reporting on percentage- based charges and alternative reporting method

19 August 2015

Submission by the New Zealand Bankers' Association to the Financial Markets Authority on the Consultation Paper: DIMS – temporary exemption from reporting on percentage-based charges and alternative reporting method

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 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 is grateful for the opportunity to submit to the Financial Markets Authority (**FMA**) on the Consultation Paper: DIMS – temporary exemption from reporting on percentage-based charges and alternative reporting method (**the Consultation Paper**) in relation to the Financial Markets Conduct Act 2013 and the Financial Markets Conduct Regulations 2014 (**the FMC Act regime**).
4. The process around the development of the FMC Act regime 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 provides responses to the questions posed in the Consultation Paper.

6. If you would like to discuss any aspect of the submission further, please contact:

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Executive summary

7. NZBA supports the proposed exemption, but has a number of recommendations about its conditions.
8. Discretionary Investment Management Service (**DIMS**) licensees should not be required to provide an investor with a statement of the percentage-based charges paid for their individual investment upon request. This proposed requirement is onerous, which is why the exemption has been proposed. Instead, a table that also shows the dollar value (in addition to percentage) of percentage based charges on a hypothetical investor portfolio could also be included in the alternate ongoing report to assist the investor to understand the charges and get an estimate of the charges on their portfolio mix.
9. The proposed prescribed explanation of the alternative reporting method should be simplified.

Question 1: Do you support the exemption and conditions?

10. NZBA supports the proposed exemption. However, we have a number of suggestions about its proposed conditions, which are set out in our responses to the questions below.

Question 2: Do you have any comments on the exemption proposal?

11. The Consultation Paper proposes three requirements on DIMS licensees under the alternative method of reporting:
1. Reporting fund charges by associated funds at the fund level in the alternate ongoing report.
 2. Advising investors in the alternate ongoing report that they can request the DIMS licensee calculate and provide individual statements of investor charges upon request.
 3. Including statements about the way a DIMS licensee reports on fund charges under the exemption to help investors understand the usefulness and limitations of the information they are receiving in the alternate ongoing report.
12. NZBA understands that its members will be making their own individual submissions regarding the first proposed requirement in the Consultation Paper.

13. NZBA's submissions regarding the second and third requirements in the Consultation Paper are provided below.

Question 3: Do you foresee any problems for DIMS licensees in complying with the alternative method?

14. Under the proposed alternative reporting method a DIMS licensee must provide an investor with a statement of the percentage-based charges paid for their individual investment in an associated fund for the relevant reporting period or disclosure year on request, within 20 working days of receipt of the request.
15. NZBA submits that this requirement is problematic because, as noted in the Consultation Paper, many DIMS licensees do not currently have systems in place to allow them to calculate percentage-based charges at an individual investor level, which is why the exemption has been proposed. If a large number of investors request individual statements at one time (for example, following investor receipt of quarterly or annual DIMS reports) the resourcing burden on DIMS licensees to manually calculate individual statements would be very onerous. Furthermore, as these statements will need to be calculated manually, there is a risk of error.
16. In such a situation it is unlikely that the individual statements could be calculated and generated within 20 working days as proposed.
17. Alternatives to this requirement are developed further in our responses to questions 4 and 5 below.

Question 4: If there are problems in complying with the alternative method, please suggest how these could be dealt with.

18. NZBA submits that the requirement that DIMS licensees provide individual statements of investor charges upon request be removed from the proposed alternative reporting method. The fund-level reporting should be sufficient during the period of the exemption, together with the suggestions made in our response to question 5 below.
19. If FMA does not accept this submission, NZBA submits that a longer timeframe for the provision of individual investor statements be adopted. For example, if a DIMS licensee receives individual investor statement requests from 5% or more of its customers, the 20 working day period should be extended to up to 60 days.

Question 5: Do you have any suggested alternative ways of reporting to investors on percentage-based charges? If so, please provide a detailed description.

20. Yes. While the exemption is in force, NZBA submits that the second requirement of the alternative method be replaced with a requirement that a DIMS licensee include

additional columns in the percentage-based charges table which set out what each charge might equate to at a dollar level for a hypothetical portfolio.

21. These additional columns would provide a reasonable estimate for investors to understand the dollar value of fees charged and would be much easier for DIMS licensees to calculate than the individual statements currently proposed.
22. An example of the suggested approach is illustrated below:

Fund	Associated fund charges (per annum basis)	Target asset allocation to associated fund (as a % of portfolio)	Target asset allocation to associated fund (as a \$ charge)	Associated fund charges (\$)
X	0.X%	X%	\$X	\$X
X	0.X%	X%	\$X	\$X
X	0.X%	X%	\$X	\$X
X	0.X%	X%	\$X	\$X
X	0.X%	X%	\$X	\$X

23. Another more agreeable alternative to the manual calculation and provision of individual statements of investor charges proposed in the Consultation Paper could be for DIMS licensees to provide upon investor request a dollar-value approximation of the individual investor's proportionate interest in the relevant associated fund at a point in time.

Question 6: Do you think the alternative method and required statements gives sufficient information to investors in a form they can understand? If not, please suggest alternatives.

24. NZBA submits that the information should be presented in plain English.
25. NZBA submits that the proposed explanation to be provided to investors in paragraph 16 of the Consultation Paper is overly complex and likely to result in investor confusion.
26. NZBA submits that the explanation of the alternative reporting method should be limited to the following the key points:
 - Percentage-based charges reporting at an investor level is a requirement under the FMC Act regime.
 - The DIMS licensee holds an exemption from this requirement until 30 September 2016.
 - In the meantime, the investor can access information about the associated fund charges at the fund level, however the 'actual' fees incurred by individual investors may differ depending on individual investments.

- If the investor has any concerns or questions they should discuss these with the DIMS licensee.

27. NZBA suggests the following wording for these points:

We are required to report associated fund charges that are calculated as a percentage of your investment in the associated fund. Our systems are currently unable to calculate associated fund charges as a percentage of your investment in the fund, so we have been granted an exemption from reporting this until 30 September 2016.

This report gives you information on the fees charged by our associated funds to help you to understand charges on associated funds, however the 'actual' fees incurred by you may differ depending on your individual investments. Please contact us if you have any questions or concerns.