

**FINANCIAL MARKETS CONDUCT BILL
SUBMISSION ON EXPOSURE DRAFT
THE NEW ZEALAND ANGLICAN CHURCH PENSION BOARD**

Clause Number	Clause heading	Submission
Part 3	Disclosure offers and financial products	
40	Meaning of material information in this Part	<p>The Board supports option A in section 40(a). “Information that a reasonable person would expect, if it were publicly disclosed, to have a material effect on the demand for the financial products on offer.”</p> <p>The problem with the other option is how do you define persons who commonly invest in financial products? This definition is not restricted to persons who commonly invest in the products on offer. Even if a person does invest in a range of other products they still might not know much about the particular product offer.</p>
Part 4	Governance of financial products	
113	Additional initial and ongoing registration requirements for superannuation schemes	<p>Section 113(1)(c) should be amended to give the Financial Markets Authority the ability to grant an exemption to the New Zealand membership criteria for employer based superannuation schemes (restricted schemes).</p> <p>Due to historic events, the Anglican Church in New Zealand also includes the Polynesia region. The Anglican Church runs and contributes to a superannuation scheme for its clergy. The clergy resident in Polynesia (Fiji, Samoa and Tonga) are required to join the New Zealand scheme under the trust deed of the scheme. The Church also runs a superannuation scheme that missionaries can join. They are New Zealand citizens but not normally resident in New Zealand.</p> <p>If an employer can show the FMA that there is a valid reason why it offers restricted scheme membership to persons who do not meet the criteria in s113 (2) then the FMA should be authorised to provide an exemption to that restricted scheme.</p>
135	Requirement to have supervisor or other independent person as custodian	<p>Section 135(2) should be deleted.</p> <p>To require a restricted scheme to have an external custodian is an extra and unnecessary cost imposed on restricted schemes and puts such schemes in a worse position than non restricted schemes (who are not required to have an external custodian – the supervisor can do this role).</p>

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		As a restricted scheme receives greater oversight from the FMA in its supervisory role of restricted schemes, the FMA can monitor the scheme property holdings without the need for the extra cost of an external custodian.
153	Additional restrictions on transactions of restricted scheme	<p>Section 153 should be deleted.</p> <p>Section 153 imposes conditions that put restricted schemes in a worse position than other schemes. Furthermore, the way the Bill is worded, restricted schemes cannot invoke the general exclusions in sections 151 and 152, such as arm's length terms and transactions in other registered schemes.</p> <p>The same related party test should apply to all schemes.</p> <p><u>Related party definition</u></p> <p>The Pension Board also has an issue on how the related party definition could apply in its situation. The Board is the corporate trustee of a number of superannuation schemes and charitable trusts for the Anglican Church. For ease of administration and to fit in with the Portfolio Investment Entity (PIE) regime, the Board created an Investment Trust in order to manage the investments of the various trusts within a pooled fund. The Board is also the Trustee of the Investment Trust. The Investment Trust is a wholesale scheme, not offered to the public. In fact the only "investors" in the Investment Trust are the funds managed by the Board. However, as the Board is the trustee of the overall Investment Trust and of the component schemes making up the Investment trust then there is a related party relationship as we understand the wording in the Bill. We believe this intermediation situation was not intended to be covered by the legislation. The Investment Trust is merely a mechanism to manage the Board investments in the most efficient way. However, the restricted schemes investing in the Investment Trust cannot invoke section 152 as there is no supervisor, only the FMA.</p> <p><u>Investment restriction</u></p> <p>The imposition of a maximum on restricted scheme property in investments related to or managed by a related party is impossibly limiting for the Board (see below).</p> <p>Such a restriction is not imposed on other types of</p>

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		<p>schemes. Restricted schemes should not be burdened by this additional provision.</p> <p>It would be particularly problematic to the Board with the restricted schemes holding up to 100% of their property in the Investment Trust (a related party as detailed above). The Board would have to dismantle the Investment Trust and find an alternative intermediary method, at great cost to the Church, which would be an unnecessary and unwarranted outcome.</p> <p><u>Lending restriction</u></p> <p>The restriction on lending money or providing financial assistance to a scheme participant is unnecessary. Why is this a problem? The Pension Board through its Investment Trust lends mortgage money to scheme participants. This is a commercial investment transaction, yet could be considered to be lending money from scheme property. If a deed allows reserve funds to be used for financial assistance then that should be allowed. The Anglican Church Pension Fund has such a provision.</p>

THE NEW ZEALAND ANGLICAN CHURCH PENSION BOARD

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