



FINANCIAL SERVICES FEDERATION

24 November 2021

Enforcement Department  
Reserve Bank of New Zealand  
PO Box 2498  
Wellington 6140

By email to: [enforcement.consultation@rbnz.govt.nz](mailto:enforcement.consultation@rbnz.govt.nz)

Dear Sir/Madam

**Re: Enforcement Principles & Criteria Consultation**

The Financial Services Federation (“FSF”) is grateful to the Reserve Bank of New Zealand (“RBNZ”) for the opportunity to provide this submission on the Enforcement Principles and Criteria Consultation paper (“the paper”) on behalf of FSF’s members.

By way of background, the FSF is the industry body representing the responsible and ethical finance, leasing, and credit-related insurance providers of New Zealand. We have over 85 members and affiliates providing these products to more than 1.7 million New Zealand consumers and businesses. Our affiliate members include internationally recognised legal and consulting partners. A list of our members is attached as Appendix A. Data relating to the extent to which FSF members (excluding Affiliate members) contribute to New Zealand consumers, society, and business is attached as Appendix B.

Because the FSF membership includes non-bank deposit takers and credit related insurance providers who are supervised by the RBNZ, this warrants this submission on their behalf.

The FSF also acknowledges that there should be a keen interest in the RBNZ’s intended exercise of its regulatory powers, as it may influence other regulators and therefore capture many other financial institutions.

*General comment*

The FSF agrees that the currently proposed framework is quite pragmatic and expected as the RBNZ had set out with the establishment of the new enforcement department earlier this year. However, the FSF is aware that the proof of its efficiency will be once it is applied and in practice.

Engagement with the sector will be important, as with any novel framework for enforcement, ensuring there is clarity for entities and their compliance, and the RBNZ is not

causing undue regulatory overlap. The FSF cautions the RBNZ to ensure the ‘twin peaks’ model remains unblurred and each regulator’s scope of enforcement remains distinct.

Generally, the FSF finds that the RBNZ’s commitment to ensuring that its enforcement role will be conducted with clarity and consistency is welcomed. As stated previously, clarity and consistency will be proven once the framework is in practice.

This submission will now comment on each subject in a more general matter, rather than answering the questions posed in the consultation paper directly.

### *The enforcement principles*

The FSF believes that there is nothing unusual or unique about the three proposed principles, which are broadly consistent with the approaches that other New Zealand financial markets regulators espouse. However, other regulators are more specific about their regulatory priorities.

While the RBNZ says that its principles are intended to be high-level, it offers only one indication of a priority area, this being AML/CFT regulation. The FMA, by comparison, is much more specific and recently issued a revised set of priorities in response to the effects of the COVID-19 pandemic, including supporting investors to make good decisions, responding to scams, monitoring treatment of customers in vulnerable circumstances, and responding swiftly to market disruptions and significant events.

The FSF thinks it would benefit financial markets for the RBNZ to be more specific about its particular areas of focus so that regulated entities may respond more effectively.

### *The enforcement criteria*

The FSF views the RBNZ’s four criteria, and the factors underpinning each, as largely consistent with the approach taken by the FMA and other regulators.

Where they appear to differ is in the RBNZ’s acknowledgement that it must consider the effect that enforcement action may have upon trust and confidence in the financial system, generally. The RBNZ will need to be cautious of taking action that may trigger a collapse in public confidence in a systemically important financial institution or in the financial markets generally. This is not a factor that the FMA or the Commerce Commission are normally expected to take into account when regulating conduct, and therefore the FSF hopes the RBNZ remains distinct and focussed on their role for confidence in the financial markets generally.

The inherent conflict between enforcing conduct rules and preserving confidence in the financial system is one of the key reasons for the separation of conduct and prudential regulation under the ‘twin peak’ model, and the FSF submit that this should be preserved and considered cautiously when the RBNZ finalises their approach for these enforcement principles and criteria.

While the FSF views the emphasis on public trust and confidence as important and consistent with the financial stability goals of the RBNZ, it will raise issues because of the inherent conflict referred to above and potential conflicts between the RBNZ's response in particular cases and the responses of other financial services regulators, particularly if a rise in class actions notwithstanding the completion of regulator action is on the horizon.

Although the FSF has concerns regarding the particular areas of focus for the RBNZ, and the inherent conflict with the 'twin peaks' model of enforcement, the FSF is optimistic that such an enforcement framework will bring further benefits in the public confidence of the financial markets system once such concerns are worked through.

Once again, the FSF is very thankful for the opportunity to comment on this paper and eagerly awaits the RBNZ's conclusion on this matter.

Please do not hesitate to reach out should you wish to speak further on this matter.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a vertical stroke, appearing to be the name 'Diana Yeritsyan'.

Diana Yeritsyan  
Legal and Policy Manager



FINANCIAL SERVICES FEDERATION

Appendix A

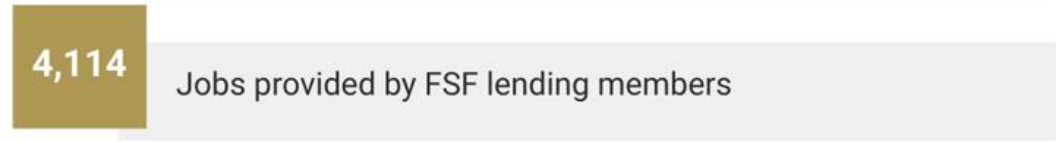
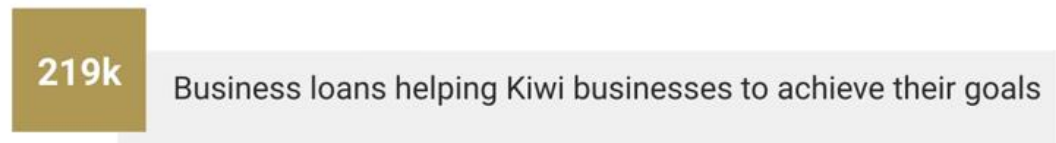
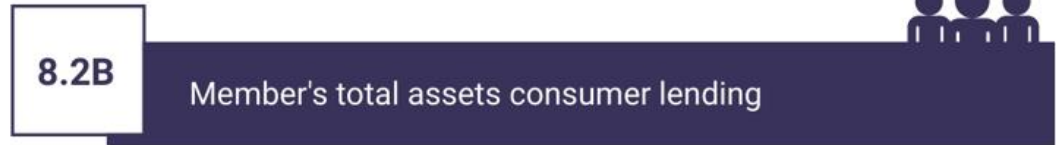
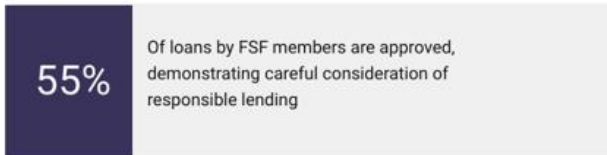
FSF Membership List as at November 2021

Non-Bank Deposit Takers, Insurance Premium Funders,	Vehicle Lenders	Finance Companies/ Diversified Lenders	Finance Companies/ Diversified Lenders, Leasing Providers	Credit Reporting, Debt Collection Agencies, Insurance Providers	Affiliate Members
<p>XCEDA (B)</p> <p>Finance Direct Limited ➤ Lending Crowd</p> <p>Gold Band Finance ➤ Loan Co</p> <p>Mutual Credit Finance</p> <p><u>Credit Unions/Building Societies</u></p> <p>First Credit Union</p> <p>Nelson Building Society</p> <p>Police and Families Credit Union</p> <p><del>Westforce Credit Union</del></p> <p><u>Insurance Premium Funders</u></p> <p>Elantis Premium Funding NZ Ltd</p> <p>Financial Synergy Limited</p> <p>Hunter Premium Funding</p> <p><del>IQumulate Premium Funding</del></p> <p>Rothbury Instalment Services</p>	<p>AA Finance Limited</p> <p>Auto Finance Direct Limited</p> <p>BMW Financial Services ➤ Mini ➤ <del>Alphera</del> Financial Services</p> <p>Community Financial Services</p> <p>European Financial Services</p> <p>Go Car Finance Ltd</p> <p>Honda Financial Services</p> <p>Kubota New Zealand Ltd</p> <p>Mercedes-Benz Financial</p> <p>Motor Trade Finance</p> <p>Nissan Financial Services NZ Ltd ➤ Mitsubishi Motors Financial Services ➤ Skyline Car Finance</p> <p>Onyx Finance Limited</p> <p>Toyota Finance NZ</p> <p>Yamaha Motor Finance</p>	<p>Avanti Finance ➤ Branded Financial</p> <p>Basalt Group</p> <p><del>Basecorp</del> Finance Ltd</p> <p>Blackbird Finance</p> <p>Caterpillar Financial Services NZ Ltd</p> <p>Centracorp Finance 2000</p> <p>Finance Now ➤ The Warehouse Financial Services ➤ Southsure Assurance</p> <p>Humm Group</p> <p>Future Finance</p> <p>Geneva Finance</p> <p>Harmoney</p> <p>Instant Finance ➤ Fair City ➤ My Finance</p> <p>John Deere Financial</p> <p>Latitude Financial</p> <p>Lifestyle Loans NZ Ltd</p> <p>Metro Finance</p> <p>NZ Finance Ltd</p>	<p>Pepper NZ Limited</p> <p>Personal Loan Corporation</p> <p>Pioneer Finance</p> <p>Prospa NZ Ltd</p> <p>Smith's City Finance Ltd</p> <p>Speirs Finance Group ➤ Speirs Finance ➤ Speirs Corporate &amp; Leasing ➤ <del>Yoogo</del> Fleet</p> <p>Thorn Group Financial Services Ltd</p> <p>Turners Automotive Group ➤ Autosure ➤ East Coast Credit ➤ Oxford Finance</p> <p>UDC Finance Limited</p> <p><u>Leasing Providers</u></p> <p>Custom Fleet</p> <p>Fleet Partners NZ Ltd</p> <p>ORIX New Zealand</p> <p>SG Fleet</p>	<p>Baycorp (NZ) ➤ Credit Corp</p> <p>Centrix</p> <p>Collection House</p> <p><del>Debtworks</del> (NZ) Limited</p> <p>Equifax (<del>prey</del> Veda)</p> <p>Illion (<del>prey</del> Dun &amp; Bradstreet (NZ) Limited</p> <p>Intercoll</p> <p>Quadrant Group (NZ) Limited</p> <p><u>Credit-related Insurance Providers</u></p> <p>Protecta Insurance</p> <p>Provident Insurance Corporation Ltd</p>	<p>Buddle Findlay</p> <p>Chapman Tripp</p> <p><del>Credisense</del> Ltd</p> <p>Credit Sense Pty Ltd</p> <p>Experian</p> <p>EY</p> <p>FinTech NZ</p> <p>Finzsoft</p> <p>Green Mount Advisory</p> <p>Happy Prime Consultancy Limited</p> <p>HPD Software Ltd</p> <p>KPMG</p> <p>LexisNexis</p> <p>PWC</p> <p>Simpson Western</p> <p>Verifier Australia</p> <p>Total 83 members</p>



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The Financial Services Federation (FSF) is the non-profit industry association for responsible and ethical finance, leasing and credit-related insurance providers operating in Aotearoa New Zealand.



Data collected and aggregated by KPMG in FSF's annual member data survey as at February 2021. Values in NZ\$.