

2017/18 highlights

Conduct and Culture Review of financial services

The Australian Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was established in December 2017 in response to widespread misconduct within financial services in Australia.

In April, the Reserve Bank of New Zealand (RBNZ) and the FMA met with 16 CEOs of New Zealand banks. We sought assurance that the issues identified in Australia were not occurring here.

While in our monitoring work to date we have not seen evidence of widespread, systemic issues like those in Australia, we are not being complacent. We have therefore initiated a Conduct and Culture Review in New Zealand.

The review encompasses conduct and culture themes that were already part of our conduct work programme, but it will be a more intensive review of areas such as governance, risk management, customer-focused

implementation and remediation practices.

Our starting point was to write to 10 New Zealand banks with major retail operations, seeking detailed information about their conduct and culture. We also wrote to 16 major life insurance companies.

The initial responses from banks and insurance companies are being reviewed by a joint FMA and RBNZ working group.

The responses are generally extensive and relevant to our request. Some indicate a proactive and mature approach to conduct risk, while other banks and insurance firms have not yet fully embedded conduct risk, governance or oversight into their operations.

As of 30 June 2018 we have commenced the more intensive phase of our work by carrying out on-site reviews and requesting specific information to test and verify our initial assessment. We will report on our findings and next steps in early November.

KiwiSaver consumer work

This year, for the first time, all KiwiSaver providers were required to tell each member exactly how much they have paid in fees in a dollar amount.

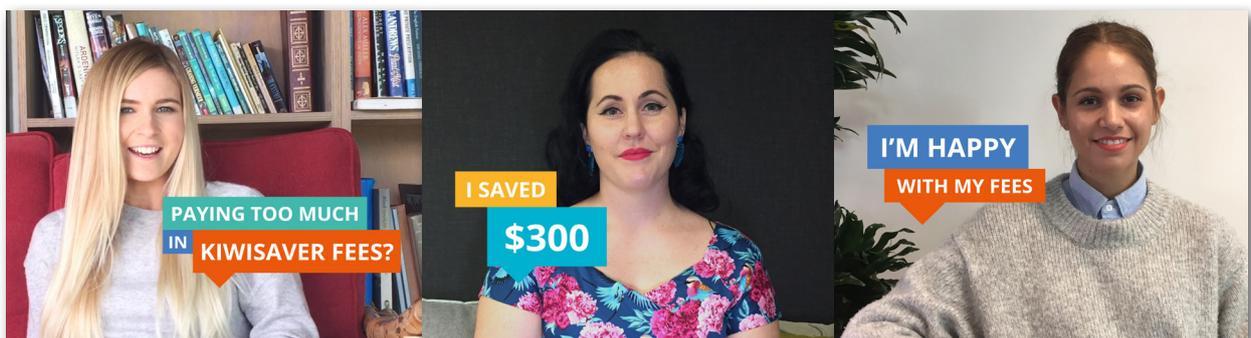
We ran a consumer-focused campaign calling on KiwiSaver members to check their annual statements earlier this year. The campaign targeted women aged 18 to 30, as our research indicated this was the group least likely to pay attention to their KiwiSaver but with the most to gain from doing so.

We used videos on social media of women talking to women, as research also suggests women are more likely

to be influenced to take action through their peers.

We partnered with social media influencers to encourage KiwiSaver members to use the new [KiwiSaver Health Checker](#) tool on our website in the hope they would take a few simple steps that could make a big difference in the long term. The campaign also pointed people to our [KiwiSaver Tracker](#), an interactive report that compares fund returns and fee data.

We reached more than 230,000 young women through Facebook and Instagram, and around 7000 people visited the Health Checker.



Preparing for the new financial advice regime

The Financial Services Legislation Amendment Bill proposes major changes to the current financial advice regime.

While the bill was being considered by Parliament this year, we worked on the development of our transitional and full licensing process, and our approach to monitoring.

We are working with the Ministry of Business, Innovation and Employment (MBIE) to understand the final policy settings. We have also been presenting information about the upcoming reforms at a nationwide series of forums with financial advisers. These sessions have given us insights into the concerns and issues the industry has ahead of transition and full implementation.

Improving the quality of corporate disclosure

The quality of corporate governance and disclosure in New Zealand companies, including financial disclosures, is always a priority for us. It directly affects investor confidence and market integrity. Several high-profile issues within listed companies over the past year have cast a spotlight on this area.

We have investigated instances of inadequate financial statement disclosure, compliance with reporting standards and poor governance practices as part of our oversight of disclosure standards across listed issuers. We also talked about harms caused by market participants not adhering to financial reporting or disclosure standards in our [2017 Conduct Outcomes Report](#).

Where we have seen failings we have engaged directly with companies to help ensure the market is informed and problems are rectified.

To encourage a focus on high standards of corporate governance, we updated our [Principles of Corporate Governance](#) handbook, which encourages companies to adopt principles, practices and processes to enable transparency and disclosure.

We complemented our annual [Audit Quality Monitoring Report](#) with guidance on how directors can contribute to a high-quality audit process.

We also released publications focused on improving specific pieces of disclosure, including:

- [Improving financial statements](#), which reviewed the extent of improvements in the presentation of NZX50 financial statements since our original report in 2014, and set out suggestions to further develop financial statements as a clear and effective reporting and communication tool (see below).
- [Disclosing non-GAAP financial information](#), which set out our expectations on the use of financial information outside of financial statements that is not prepared and presented in accordance with generally accepted accounting practice.

Two steps to effective financial statements



Reviewing our regulatory perimeter

Our 'regulatory perimeter' is activity that is either not authorised or licensed by us, or that we do not otherwise regulate. In some cases it is illegal or deliberately intended to operate outside of regulatory parameters. All of these types of activities may pose a threat to investors and the integrity of our capital markets.

The Financial Service Providers Register is a key perimeter focus. Firms and individuals on the FSPR are registered to provide financial services in New Zealand, but are not necessarily licensed or regulated by us. Firms may register under false pretences, hiring a local director who has little involvement in the company and using registration to give the impression they are regulated and have legitimate business operations in New Zealand. This is a perimeter issue because we do not regulate the activities of these firms and in many cases their activities are conducted offshore. However, we can take action where we consider

they are misrepresenting their registration, which this year included two cases where we filed criminal charges against companies and their directors.

We investigated other potential wrongdoing by non-licensed individuals or firms. This included contributing to investigations into two Ponzi scheme cases that were both successfully prosecuted by the Serious Fraud Office and resulted in prison sentences for those convicted. This year we have also seen an increase in complaints regarding cryptocurrency services and providers, mainly relating to scams or issues with returning funds.

Scams frequently appear on the perimeter. In October 2017 we filed 47 charges against Steven Robertson, related to PTT Limited and associated entities. The charges related to theft and obtaining by deception. The case is before the courts at the date of publication.

Investigations into conflicted conduct in insurance sales

Conflicted conduct in the insurance industry occurs when insurers incentivise advisers to prioritise policy sales over the best interests of their clients.

The FMA's review of insurance replacement business and conflicted conduct found over half the advisers we reviewed were either unaware of, or in breach of, their obligation to exercise care, diligence and skill when providing financial advice.

Our review of conflicted remuneration in the life and health insurance industry showed that nine life and health insurance companies spent \$34 million on non-financial incentives (soft commissions) for advisers. This raised concerns that insurers are setting financial advisers up to fail in meeting their care, diligence and skill obligations.

Our report on QFE insurance providers' replacement business practices looked at how Qualifying Financial Entities mitigate risks through operational policies and procedures when selling replacement insurance policies. Generally, we found that advisers do not sufficiently acknowledge that replacement business creates conflict risks that need to be managed carefully.

Our reports are clear that both advisers and insurers must take responsibility for conflicted conduct that results from sales incentives.

The reports received extensive media coverage, increasing public awareness of these potential harms, and prompting some firms to review their practices and commit to change.

