

**Submission to the Finance and Expenditure Committee
on the Financial Advisers Bill**

1. NCWNZ is an umbrella organisation representing 46 Nationally Organised Societies and National Members. It has 28 branches throughout the country attended by representatives of those societies and some 150 other societies. The Council's functions are to serve women, the family and the community at local, national and international levels through research, study, discussion and action.
2. This submission has been prepared by the Economics Standing Committee following consultation with NCWNZ members and a review of NCWNZ policy. It has also been reviewed by a member of the NCWNZ Board and the Parliamentary Watch Committee.

General Statement

3. On 13 February 2008, Minister of Finance Hon. Dr Michael Cullen disclosed that Treasury forecasts had stressed "uncertainty due to instability on the international financial markets and the effect on the wider world economy" (Wanganui Chronicle, 13-02-08). He also warned that "if anything, the uncertainty has increased rather than decreased" and that the New Zealand Superannuation Fund had "racked up unrealised losses in recent months."
4. NCWNZ has been following the signs of financial instability since making its submission 3 years ago in response to the Taskforce on *Regulation of Financial Intermediaries*. Despite the failure of a number of financial institutions, New Zealanders continue to be encouraged to become more individually financially independent, while at the same time are called upon to develop a more philanthropic society. All this in a climate of emphasis on financial education which NCWNZ supports.
5. The Financial Advisers Bill seeks to offer more protection for investors by establishing "a co-regulatory regime for financial advisers, where the Securities Commission and industry-based approved professional bodies (APBs) will work together to create and monitor standards for financial advisers." (Explanatory Note, p 1)

Specific Comments

Clause 3 – Purpose of Act

6. Subclause 3(a) – NCWNZ supports accountability by financial advisers and disclosure of conflicts of interest as basic requirements. NCWNZ has become aware of situations in which companies that advise local and central government may also advise individual clients who would be potential investors in these financial products. It is assumed that any potential conflict of interest would be divulged. The concept of public debt and utilities in private hands is a one that causes concern to some members.
7. NCWNZ will watch with interest this relatively novel model for registering and supervising a section of an industry.

Clause 25 – Financial adviser must act with integrity

Clause 26 – Financial adviser must exercise care, diligence, and skill

8. NCWNZ supports the requirement that clients should be able to expect competency, integrity, and expertise from financial advisers along with full disclosure of any conflict of interest, actual fees and any risks involved. Some members have suggested that this could create an underlying assumption that the proposed legislation deems that a democratic society may no longer invest in itself directly without the intermediation of advisers and money managers in the private financial sector.
9. Consultation with members shows a level of scepticism as to the reliability of financial advisers, however honest they may be. The public should be protected. The fact that this Bill has been drafted implies failure of earlier legislation to meet present trends, plus an intention by government to keep pursuing the "financial independence" message.

Clause 40 – Notification and publication of application

10. NCWNZ supports notification in the *Gazette* of an application by a financial adviser for approval as an APB.

Part 4 – Enforcement and remedies

11. Part 4 deals with the Commission's enforcement powers, which include disclosure orders. NCWNZ queries whether the Securities Commission and the APBs will have the staff numbers to cope with all the problems as they arise. Members are concerned that the taxpayer is once again bearing most, if not all, of the costs and administration of these investigations. This can be claimed as unjust as not all taxpayers are in the financial position where they can spare discretionary income for such investigations.
12. All investments carry risks. NCWNZ questions whether society as a whole should carry the risk and fallout of unwise investment.

Conclusion

13. NCWNZ supports the intention of the Financial Advisers Bill, given the government's policies on personal financial security. But it is felt that the source and direction of these policies need continuing public debate and disclosure.

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