INVESTMENT SAVINGS & INSURANCE ASSOCIATION OF NZ INC

Submission

to

Ministry of Economic Development

on the

Revised Option

for

Proposed Levy to Fund the Financial Markets Authority

2 December 2011

Investment Savings and Insurance Association of NZ Inc.

1.0 Introduction

1.1 Investment Savings and Insurance Association ("ISI") appreciates the opportunity to comment on MED's revised option for a proposed levy to fund the Financial Markets Authority ("FMA").

1.2 While our submission is made on behalf of ISI members, we have also endeavoured to take an overall view of the impact of the proposals on the wider financial services industry, and the country as a whole.

1.3 We commend MED for the revised proposal which is a significant improvement on those put forward in the June discussion document. However, we do not consider that a robust case has been made for allocating the funding costs of the FMA across the financial services sector and consequently our recommendations remain essentially the same.

2.0 Recommendations

- We maintain our earlier view that the majority of FMA funding should come from general taxation rather than from a levy on third parties – FMA is a public good and should be funded accordingly. The cost of doing business is inevitably passed on to the customer base and therefore will be borne by the general population whether it is collected via financial institutions, a levy on all companies or by general taxation.
- Alternatively, the levy should be applied as widely as possible across the business community on the basis that all companies benefit from a sound financial sector.
- In the event that the currently proposed structure is retained, we have made recommendations in section 4 for its improvement.

3.0 General Comments -Public Policy Basis for FMA Levy

3.1 ISI believes the revised proposal is a significant improvement on the discussion document proposals previously put forward in June and we support the move to a single levy rather than the separate FMA and FAA levies previously proposed.

3.2 We still maintain, however, that, while the creation of the FMA is likely to improve public confidence in the financial services industry, the benefit to the industry is far outweighed by the significant public good element.

3.3 We agree with the view in paragraphs 9-10 that the benefits of the FMA flow through to consumers of financial products, being companies and also retail consumers. Wherever the levy is applied, it will eventually be passed on to the ultimate consumers but the more targeted the application the more potential there will be for distortion of the market.

3.4 That was the reason for our earlier recommendation for the FMA funding to be recovered at the lowest and broadest level possible, either from general taxation or from a slightly higher levy on all companies. We reiterate that recommendation and we believe this position is supported by other sectors of the financial services industry.

4.0 Specific Comments on the Revised Proposal

4.1 In the event that our recommendations above are not accepted, we make the following comments in respect of the revised proposal.

4.2 There is still some uncertainty about the definitions used in the proposal and the application in practice to financial services participants. These comments are made on the understanding that a financial services participant will pay one levy for each of the relevant functions it performs, irrespective of its legal structure. We also note that GWP is not a measure commonly used for life insurance business where statistics are usually reported on the basis of annual premium income in force.

4.3 MED's stated intention is to apply the levy in proportion to the benefit that financial market participants are likely to gain from the activities of the FMA. The proposal allocates financial sector participants to categories based on functions and applies a higher levy per $1 of assets/GWP based on an assessment of different levels of vulnerability applying to different functions.

4.4 On the basis that the levy will be passed on to the ultimate consumers, its allocation in proportion to the level of GWP/assets, with a cap, is a reasonable proxy for the number of consumers but does not necessarily match any benefit that might flow from the activities of the FMA.

4.5 While the general approach is not rejected, we do query some of the assessments. For example, currently there is a $10,000 maximum levy for NBDTs whether they fit under Category 1 or Category 3. The assessment criteria outlined in paragraph 5 is likely to be better met by placing the NBDTs with assets in excess of $1 billion in Category 3 with a levy of $35,000.

4.6 Similarly, the Category 5 tier for "all other FSPs" could be separated into separate tiers. There is a good case for requiring FSPs such as credit finance companies to pay a higher rate than the $300pa currently applying under Category 5.

4.7 We do not agree with the comments that insurers are more vulnerable to events that affect confidence in financial markets. Insurers are required to be licensed by the RBNZ, and meet strict solvency, financial reporting and statutory fund requirements, as well as have a financial strength rating. Accordingly, insurance companies are less likely to benefit than other sectors of the financial services industry from any impact that the activities of the FMA are likely to have on public opinion.

4.8 Purchase decisions for insurance cover are likely to be more affected by pricing than market conduct or security concerns that affect investment decisions. Accordingly, imposing a levy that will be passed down into premiums will potentially have a detrimental impact on levels of insurance.

4.9 Qualifying Financial Entities ("QFEs") are not specifically mentioned but we understand from discussion with officials that financial institutions in categories 1, 2 and 3 that have set up a QFE will not be subject to an additional levy for that QFE. However, QFEs set up by other bodies will be included under Category 5.

If that understanding is not correct we would appreciate clarification.

4.10 While $300pa is an improvement on the levy previously proposed for Authorised Financial Advisers and advisers that are registered but not authorised, it is still an additional compliance requirement and an increase in the cost of doing business.

List of ISI Members

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