

Submission on the draft report of the Personal Banking Services Market Study

18 April 2024

Christian Savings Limited

Finance Direct Limited

General Finance Limited

Gold Band Finance Limited

Heretaunga Building Society

Mutual Credit Finance Limited

Nelson Building Society

Unity Credit Union

Wairarapa Building Society

Xceda Finance Limited

SUBMISSION ON THE DRAFT REPORT OF THE PERSONAL BANKING SERVICES MARKET STUDY (DRAFT REPORT)

Introduction

1. This submission is made on behalf of the non-bank deposit takers listed on the cover page of this submission (**NBDTs**).
2. The NBDTs have appreciated the opportunity to engage with the team at Commerce Commission (the **Commission**) responsible for the Draft Report on various occasions and the opportunity to submit on the Draft Report.
3. Overall, the NBDTs are happy with the Draft Report and recognise the hard work which the Commission has put into preparing the Draft Report and assessing the competitiveness of the personal banking sector.
4. The NBDTs generally agree with the conclusions the Draft Report has drawn and were additionally very pleased to see that their submissions (and the points raised in previous meetings with the Commission) were clearly taken into consideration. The NBDTs have one overarching comment; they ask the Commission to please give careful consideration before making recommendations which will result in further compliance burdens. For smaller entities (including a number of the NBDTs) these recommendations may have unintended consequences if a cost-benefit analysis does not occur weighing the competitive benefits against the impact on competition of additional compliance costs. For example, mandating data access under the consumer data right, as a means of facilitating open banking, will create significant costs for NBDTs.
5. The NBDTs have identified three points to further submit on and have set these out below.

Lifting Restrictions on Use of Words "Bank", "Banker" and "Banking"

6. Presently section 64 of the Banking (Prudential Supervision) Act 1989 (**BPSA**) restricts NBDTs from calling themselves a "bank" and from advertising themselves as providing "banking" services without making clear disclosures that the entity is not a registered bank.
7. The NBDTs maintain that the inability to call themselves "banks" restricts their ability to compete. Many NBDTs provide banking services (i.e. transactional deposit accounts and lending services) to their customers but are unable to call themselves a bank. Further, when NBDTs describe themselves as providing "banking services" they are required to provide a disclaimer stating that they are not a registered bank. The NBDTs believe that if you provide banking services you should be able to call yourself a bank. The inability to do so causes customers to be confused about what services NBDTs provide. The term "bank" immediately conveys what services are provided and is the only term which can do so such that NBDTs are significantly on the backfoot when attempting to attract new customers.
8. The NBDTs understand that international experience shows that an entity that provides banking services is able to be significantly more competitive if it can call itself a bank. In Australia, any authorised deposit-taking institution is able to call themselves a bank. In Australia there are a number of authorised deposit-taking institutions (including entities who are credit unions or building

societies) who call themselves a "bank" (and would not do so unless there were legitimate competitive benefits to doing so). In New Zealand, NBDTs are not able to call themselves a bank and are not permitted to apply to the Reserve Bank of New Zealand (**RBNZ**) for authorisation to call themselves a bank (section 65(1) of BPSA). In the future, under the Deposit Takers Act 2023 (specifically at section 428), any licensed deposit taker will be able to apply to the RBNZ for authorisation to call themselves a bank. The NBDTs are concerned that the RBNZ will only grant this authorisation to the current registered banks (based off comments from the RBNZ) essentially continuing with the current approach.

9. The NBDTs believe that any entity who is a licensed deposit-taker under the Deposit Takers Act 2023 should be able to call themselves a bank, given they are providing banking services and are licensed and regulated by the RBNZ to do so. The NBDTs believe that New Zealand should follow the Australian approach such that all licensed deposit takers are automatically authorised to call themselves a bank and describe themselves as providing banking services.

Off-Balance Sheet Amounts

10. The NBDTs believe that the market share of the largest registered banks is larger than what the balance sheets of these largest registered banks would indicate. The largest registered banks engage in a range of securitisation schemes for wholesale funded lenders (i.e. a number of the largest registered banks provide wholesale funding through securitisation schemes for non-bank non-deposit taking lenders). This deposit funding does not appear on the registered banks' balance sheet however, meaning that the registered banks' deposit funding market share is higher than it appears to. The NBDTs believe that the Commission should consider these off-balance sheet amounts in the personal banking services market study.

Deposit Compensation Scheme (DCS) Levies

11. The NBDTs note your comments in the Draft Report that they should continue to make further submissions on the DCS, we can confirm that we will be making a submission on RBNZ's recently released consultation paper on the Depositor Compensation Scheme Regulations (**Consultation Paper**). We believe that the Commission, as the competition regulator, should have oversight as to how the RBNZ assesses competition in setting the levies for the DCS (and we do not believe that this creates any cross-over between the portfolios of the RBNZ and the Commission – it is simply good regulatory practice to balance these considerations) and we believe that the Commission should make a submission on the recent Consultation Paper to this effect.
12. The NBDTs have outlined below two key submissions that they intend to make on the Consultation Paper which we believe have competitive impacts.
13. The NBDTs are concerned that the DCS levy multiplier between the four risk buckets is too significant (the levy multiplier for bucket one is one times the levy amount, the levy multiplier for bucket two is two times the levy amount and so on for the four buckets). As a result, a minor increase in the composite risk score for entities who are on the boundaries of risk buckets can result in a significant increase in levy payment. This increase in compliance costs would be significant, and heavily impact that entity's ability to compete in the personal banking services market.

14. Furthermore, the NBDTs are concerned about the RBNZ's apparent intention for there to be an even distribution of deposit takers between the four risk buckets. The NBDTs are concerned that this intention will impact competition in the personal banking services market because entities (which from a risk basis) should be paying a lesser levy but are forced to pay a higher levy, and incur higher compliance costs, to satisfy the RBNZ's intention for even distribution.