

**Investment Savings and Insurance  
Association of NZ Inc.**

**Submission**

to the

**Ministry of Social Development  
Office for Senior Citizens**

On the

**“Home Equity Schemes”  
Discussion Paper**

31 March 2007



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## **Introduction**

The Investment Savings and Insurance Association (“ISI”) welcomes the opportunity to provide comments to the Office for Senior Citizens on the discussion document *Home Equity Conversion Schemes*.

ISI is the industry association for those companies that are the issuers and managers of life insurance, superannuation and managed funds listed at the end of this paper. While only a limited number of our members currently have a direct interest in the HEC market, we do have a general interest in the development and smooth running of the retail financial services market in New Zealand.

ISI supports the submissions made by individual ISI members and provides the following additional comments of a general nature.

## **Summary**

ISI supports:

- registration of financial services providers and financial intermediaries
- membership by all financial intermediaries of an Approved Professional Body
- full disclosure to an applicant of adviser details and the features of a financial product at the start of the contract
- establishment of a Financial Services Ombudsman Scheme to resolve consumer disputes for all retail financial products and services, including advice.

In view of the above, we recommend that the regulation of HEC schemes should be consistent with that of other financial services. We note also that HEC schemes are subject to consumer protection law such as the Fair Trading Act and the Consumer Guarantees Act.

## **A Consistent Framework**

ISI submitted comments on a number of regulatory issues in 2006, including:

- proposals for Securities Legislation Bill Regulations
- all nine of the discussion documents produced by the Review of Financial Products and Providers (“RFPP”)
- the Ministry of Economic Development discussion document on regulation of financial intermediaries.

ISI generally supported the framework for registration and regulation of the financial services industry proposed by the RFPP. We also supported proposals for the regulation

of financial intermediaries, including a requirement for membership of an Approved Professional Body.

ISI considers that the essential components of consumer protection in the financial services industry are disclosure, competent intermediaries and an effective system for resolving consumer complaints. Work is currently underway in all of these areas.

The discussion document states that this review is not taking place in isolation from the work being done by other ministries. The wider financial context is set out on page 9 of the discussion document and notes the on-going work of the Ministry of Economic Development and the Ministry of Consumer Affairs on the RFPP, the regulation of financial intermediaries and the development of a comprehensive consumer dispute resolution service.

We acknowledge that the outcomes (and timing) of these reviews are not certain but we recommend that consideration of any standards or code of practice for the providers of HECs should be coordinated with them to ensure that there is a consistent approach and no duplication of standard-setting.

## **Advice**

We consider that there should not be a requirement for applicants for a HEC loan to obtain independent legal advice before committing themselves to a contract that is a loan against the value of their home. The requirement for legal advice should be no more than that required for taking out a mortgage on the family home. However, if the contract involves sale of the home to a third party and a guaranteed right of continued occupancy, we do consider there is a need for independent legal advice. We note that there is already a requirement under the Credit Contracts and Consumer Finance Act 2003 for consumers entering those contracts to obtain independent legal advice.

We do not agree that independent financial advice should be mandatory but, where advice is given it should only be by an adviser who is a member of an Approved Professional Body.

There should be no more compulsion to obtain independent financial advice for this product than for any other financial product and no requirement to sign a waiver if no advice has been obtained. We expect that most providers of HEC loans would have processes in place to ensure that clients are given adequate advice at the time of application.

The cost to the consumer should be an important consideration in the decision to require additional layers of legal and financial advice.

The RFPP has proposed a registration and regulation regime that will provide additional protection and disclosure for consumers and will ensure that financial intermediaries are required to comply with approved standards of competence and business ethics. Except as noted for home reversion loans, we do not consider there is sufficient justification to

require consumers to incur additional costs for legal advice on top of the existing consumer protection law and the proposed new regulatory regime.

With regard to the question of relationship to other financial products and the potential for undue pressure: we consider that this is an area that would be covered by the standards of an Approved Professional Body and all intermediaries advising on HECs would be required to be registered and belong to such a body.

The advice process may include a suggestion that other family members be included in discussions before the contract is signed, but that will be appropriate only if it is the wish of the customer. There should no more be a requirement to do that for a HEC than for any other financial product. The privacy of the customer's personal information should be paramount.

## **Dispute Resolution**

As noted above, an effective method of resolving consumer complaints is one of the essential components of consumer protection.

The ISI submission dated 1 October 2006 in response to the Ministry of Economic Development discussion document on regulation of financial intermediaries recommended establishment of a Financial Services Ombudsman service with a jurisdiction encompassing all financial services products and providers, and the provision of advice.

In addition, we support the proposed requirement for all financial intermediaries to be registered and members of an Approved Professional Body with membership standards covering competence, ethics and dispute resolution.

Sanctions and penalties applicable to HEC schemes should be developed by the Financial Services Ombudsman scheme.

## **Disclosure**

Rather than restricting or mandating terms for a HEC contract, we consider that full disclosure, backed up by an effective complaints resolution service, is the key to consumer protection. The terms and conditions of the contract will be set out in the document to be signed by the customer and should be written so as to be clear and easily understood. We envisage that the membership standards of an Approved Professional Body would also require an intermediary to ensure that a HEC product is understood and is appropriate for the customer. In addition, intermediaries advising on HEC schemes should be covered by the same disclosure requirements as intermediaries dealing with or advising on other credit or insurance products. We would expect this to include commission and brokerage payments.

Public education will be increasingly important and the Retirement Commissioner's plans to improve the level of financial literacy will assist in that area. We recommend that the

ORC's Sorted web site should continue to be the focus of public financial education, supplemented by specific product information from providers.

### **Specific HEC Regulation**

We do not consider that there is an adequate case for HEC schemes and providers to be regulated under a different regime from other financial services providers. As noted, HEC schemes are currently covered by consumer protection legislation and we support the additional protection expected to come from the proposals of the RFPP and proposed changes to regulation of financial intermediaries and consumer dispute resolution. HEC providers should be included in overall financial services regulation of non-bank financial institutions resulting from the RFPP which would include a requirement for them to be registered.