11 March 2022

To
David Hargreaves
Reserve Bank of New Zealand

From
CUBS New Zealand

By Email
dta@rbnz.govt.nz

Dear David

Deposit Takers Exposure Draft - submission on matters relevant to CUBS New Zealand

This letter is written on behalf of CUBS New Zealand (**CUBS NZ**), an unincorporated association of deposit takers that are customer-owned or charitable in nature and supplements a joint submission made on behalf of CUBS NZ members and the RBNZ Regulated Finance Companies sent at the same time as this letter. This letter and the Joint Submission are intended to expand on the initial submission made by the same parties dated 21 February 2022 (which was also accompanied by a cover letter from CUBS NZ).

This letter is intended to reiterate the value that the members of CUBS NZ (**CUBS**) offer to New Zealand financial system (and New Zealanders) and make additional submissions on the Exposure Draft of the Deposit Takers Bill (**Bill**) that specifically affect the CUBS.

The co-operative economy

Credit Unions and Building Societies are co-operative enterprises. Unlike a traditional bank, customers (members) are owners of a CUBS. Revenue is returned to members through higher dividends, fewer fees and lower interest rates. Christian Savings is also a member of CUBS NZ and while it is not a co-operative, it is a charitable entity that focuses on providing the best value services to its customers (often other charities) rather than maximising profits and therefore operates on a similar principles.

Internationally, the co-operative movement is strong in financial services. In Australia, there are 27 Credit Unions, 30 mutual banks and one Building Society with a total of $139 billion in assets and serving more than 4.5 million Australians. One-third of the U.S. population belongs to a Credit Union.[1] Globally, there are over 75,000 Credit Unions in 109 countries with 260 million members. Unfortunately, as a result of demutualisation, there remain fewer than 100 Building Societies.

While the New Zealand co-operative economy is thriving, financial services are heavily underrepresented in comparison to the international landscape. International research reveals that twenty-one in the Top 300 financial services enterprises based on turnover are co-operatives.

1

In New Zealand, we have seven non-financial co-operatives in the international Top 300 (largely in the agriculture industry) emphasising the impact co-operatives have made to the NZ economy in other sectors where they have been given the appropriate environment and legislative support.

Internationally, co-operatives have been established by low decile and under-served communities to raise their participation in the economy. While this has not been the history of financial co-operatives in New Zealand, our role is increasingly moving in that direction. Since financial co-operatives meet the needs of people in many rural and/or underserved communities, they make it possible those communities to achieve significant milestones in life, like buying a first car, a first home or starting a business.

On the world scene, New Zealand is being left behind as international organisations, individual countries, charitable institutions and high net worth individual's embrace co-operative enterprises as a way of promoting inclusion, alleviating poverty and advocating entrepreneurship.

The United Nations (UN) has endorsed a paper "Ensuring that no one is left behind: The co-operative sector as a partner in the Implementation of the United Nations 2030 agenda for sustainable development."[2] which recommends to member Governments that they adopt the following policy (amongst others):

> *Governments need to embrace the co-operative sector in a meaningful way as a viable pillar in their policy development mix. This needs to be supported with appropriate policy measures and incentives to grow and sustain the sector. For example, tax incentives could be given to foster the formation of co-operatives as a business model. Co-operative membership could also qualify for tax benefits for saving in a Credit Union. Regulations should be implemented that are generally enabling and supportive.*

International experience again shows the way and how macro-prudential policy can be tilted towards the co-operative sector to achieve desirable social as well as micro-prudential objectives.

In "The benefits and impacts of co-operatives" Dr. Jessica Gordon Nembhard researched the co-operative sector in the US and found that "co-operatives provide many benefits to their members and communities and have many positive impacts on the economy as well as on the lives of their members.

She also found many of the barriers which we have faced in New Zealand in relation to financial services were evident in those jurisdictions where the model was "not well known and often denigrated". She also found that where access to capital was limited, it also limited their potential to provide the benefits that would otherwise be generated.

Policy recommendations from her paper included:

1. Increasing awareness of and information about co-operatives among the general public and government agencies and employees;

2. Expanded, less restrictive and more uniform co-operative laws (at state and federal levels);

2

3. Enabling laws and supportive infrastructure, particularly for start-up, capitalization, and financing (at all levels), including loan funds, small business services, and workforce funding dedicated to co-operative development.

The Basel Committee on Banking Supervision recommends to member Central Banks that credit unions be able to adopt a simplified approach to regulatory supervision “unless the institution is one of the world’s 29 largest banks, uses internal models, or trades in some types of options”.[3] Of course, none of NZ’s CUBS meet those criteria.

In summary:

1. Co-operatives are a major part of New Zealand’s economy and play a dominant role in a particular non-financial services industries.
2. Co-operatives are proportionally under-represented in the financial services sector in New Zealand and the model is not well recognised by the regulators of that sector.
3. In the financial services sector, account holders (members) are owners of a Credit Union/Building Society and derive documented benefits and advantages.
4. In comparison to international advancements, NZ is being left behind in legislative and regulatory support for financial co-operatives.
5. Major international research and policy development recommends supportive laws and regulations that allow co-operatives to fulfil their potential to bring the many financial and social benefits of the model to their members.
6. The Basel Committee has also recommended that Credit Unions be allowed to adopt a simplified governance framework in relation to capital that recognises the size, scope and nature of the model.

The Australian Experience

Our Australian counterparts have emphasised to us that a single regime comes with a significant risk of our sector being disproportionately affected by regulation and compliance costs. The Australian mutual sector, while substantial, has stagnated in the last few years and it has been reported to us that this is as a result of being subject to a prudential regime based on Basel that is designed for global banks. The Australian Government has recently intervened to force regulators to consider the impact of regulatory change on "market competition".

It was suggested that in order to ensure regulators develop fit for purpose regulatory approaches that are applied proportionately, it is important to have a clear statutory mandate and appropriate accountability mechanisms. As such, in addition to the proposals made in the Joint Submission, we also suggest some the additions to the Bill below.

---

[3]

Additional Accountability Measures to Support the CUBS

We strongly support the Bill follow the approach in the UK of requiring the regulator to consider the impact of its decisions on the mutual sector. This is achieved as follows:

Regulatory Principles

Section 3B(f) of the Financial Services and Markets Act 2000 (UK) (**FSMA**) provides the following as a regulatory principles that must be taken into account when making decisions:

> (f) the desirability where appropriate of each regulator exercising its functions in a way that recognises differences in the nature of, and objectives of, businesses carried on by different persons [F3 (including different kinds of person such as mutual societies and other kinds of business organisation)] subject to requirements imposed by or under this Act;

Statement of Impact

Section 138K of the FSMA sets out how the regulator must consider the impact of any proposed rule that will be applied to a mutual society.

[F1 138K Consultation: mutual societies

(1) Subsection (2) applies where a regulator proposes to make a rule ("the proposed rule") which would apply both to—

- (a) authorised persons which are mutual societies, and
- (b) other authorised persons.

(2) The regulator must prepare a statement setting out—

- (a) its opinion whether or not the impact of the proposed rule on persons within subsection (1)(a) will be significantly different from its impact on persons within subsection (1)(b), and
- (b) if so, details of the difference.

(3) Subsection (4) applies where a regulator makes a rule which—

- (a) applies both to—
  - (i) authorised persons which are mutual societies, and
  - (ii) other authorised persons, and
- (b) differs from the draft of the proposed rule published under section 138I(1)(b) or section 138J(1)(b) (as the case may be).

(4) The regulator must prepare a statement setting out—

- (a) its opinion whether or not the impact of the rule is significantly different from the impact of the proposed rule on—
  - (i) the persons within subsection (3)(a)(i), and
  - (ii) those persons as compared with persons within subsection (3)(a)(ii), and
- (b) if so, details of the difference.

(5) A "mutual society" is—

- (a) a building society within the meaning of the Building Societies Act 1986;
- (b) a friendly society within the meaning of the Friendly Societies Act 1992;
- (c) a registered society within the meaning of [F2 the Co-operative and Community Benefit Societies Act 2014];

Separate mutuals society category for standards and supervision

As is noted in the Joint Submission, without specific mechanism in place, there is a real risk that taking a proportionate approach will not be prioritised by the Reserve Bank. As such, we suggest that there is a separate category included in the Bill for credit unions and building societies for the purpose of standards and supervision. This will ensure that the Reserve Bank is required to turn its mind to how standards and supervision should work for this sector.

This approach can be found in the UK, where credit unions have their own PRA handbook and tailored supervisory statements, and Canada and US where mutual societies have their own regulatory regime.

We look forward to continuing to work with the Reserve Bank on the Bill to create something that will benefit all New Zealanders.

Yours faithfully

CUBS NZ