

# **CHILD POVERTY ACTION GROUP INC.**

Child Poverty Action Group

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**To the Financial Products and Providers Review Committee**

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## **Financial Products and Providers in New Zealand**

We thank you for the opportunity to submit our views on this review. Child Poverty Action Group formed in 1994 because of profound concern that poverty among families is endemic in Aotearoa-New Zealand and becoming increasingly intractable.

The aims of our organisation are:

- The development and promotion of better policies for children and young people.
- Sharing information and connecting with other groups with similar concerns.

The Child Poverty Action Group comprises a group of academics and workers in the field dedicated to achieving better policies for children. We represent a wide network, and our backgrounders and monographs are widely read and distributed. Our reports

*Our Children: The priority for policy* 2001, and 2003 can be found with other background material at our web site [www.cpag.org.nz](http://www.cpag.org.nz).

Children have been invisible in policy development for too long. We would encourage the committee to consider their perspective in the review of financial products and providers.

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***We would like to be heard in support of this submission***

***Background***

The Child Poverty Action Group believes impacts on the well-being of children and low income families must be given a higher priority in all macropolicy decision making (St John, Dale, O'Brien, Blaiklock & Milne 2001). <sup>1</sup> Financial products and providers impact on children indirectly because their parents and caregivers are the investors and of more concern here, the consumers referred to in the Ministry of Economic Development's documents associated with the Review of Financial Products and Providers (RFPP). This review gives the New Zealand government an opportunity to commit to social goals in the financial sector that prioritise our children as a matter of urgency, and in the manner laid out in the Agenda for Children.

Through exclusion, attrition and inaction, the economic position of children in Aotearoa New Zealand has worsened unacceptably since the 1990s. Our concern is not absolute poverty, but rather the insidious effects of relative poverty (see Appendix 1). Our early investigations into poverty levels suggested that one third of our children under the age of 15 were being raised in families that do not have sufficient disposable income to ensure their full development (St John, Dale et al. 2001). Since 2001, the Ministry of Social Development has regularly gathered evidence and reported, for example, *The Social Report, 2006*, <sup>2</sup> that children are disproportionately among our poorest citizens. Despite the overwhelming evidence of their need, little action has been taken to prioritise children at a policy level.

A deterioration in the economic position of children from low income families and the consequential social costs can be partially attributed to changes in demography and the labour market, and significantly attributed to a tax regime that has, over time, shifted an increasing share of the tax burden to the poor (Child Poverty Action Group 2003).<sup>3</sup> We submit that in recent years the lack of adequate consumer protection in the financial sector must also carry a share of the blame. Lack of protection for consumers increases the risk faced by potential investors and consequently decreases their participation in the industry.

We believe that the financial products and providers review committee has an opportunity and a duty to address the unfair and harsh consequences in communities of inadequate consumer protection in the financial sector. In addition, New Zealand's low rates of national savings and investment are well documented (e.g. Skilling & Boven 2005).<sup>4</sup> Appropriate regulation of the financial sector, as well as building a solid foundation for improving consumer awareness and confidence, could have the effect of increasing investor confidence and participation.

In summary, our submission recommends that:

- All providers of financial products are required to be registered with the Companies Office, and meet the standards as set out and monitored by the regulator, either the Reserve Bank or the Securities Commission.
- Membership and jurisdiction of existing voluntary industry disputes resolution schemes, Banking Ombudsman and Insurance and Savings Ombudsman, be extended to incorporate financial institutions that are currently excluded.
- The current definition of consumer (see Appendix 2) be extended to cover financial products.
- A public education campaign to inform consumers of the regulatory changes, their rights, and their access to dispute resolution and redress, accompany all further consultation and implementation of the new regime in the financial sector.

## ***Discussion***

Our comments and recommendations relate to two of the nine documents of the Ministry of Economic Development's Review of Financial Products and Providers: *Overview of the Review and Registration of Financial Institutions*,<sup>5</sup> and *Consumer Dispute Resolution and Redress*.<sup>6</sup> The recommendations in our submission regarding the *Overview* document endorses the proposals of the Review Committee. Discussion of the

*Consumer Dispute Resolution and Redress* document is followed by our recommendations.

### ***Review of Financial Products and Providers: Overview of the Review and Registration of Financial Institutions***

A deterioration in the economic position of children from low income families and the consequential social costs can be partially attributed to the lack of adequate consumer protection in the financial sector. Because they have the least choice, low-income families have always been the favourite prey of unscrupulous money-lenders. While the *Overview* acknowledges that "In some areas there are concerns about inadequate consumer protections", it does not note the proliferation of finance companies in low-income areas. Perhaps this oversight is a consequence of advisory groups for the first and second stages of the review being made up of people from key industry organisations, industry participants, professional organisations and government bodies (p. 8), and no advisory group of consumers (p. 20). (See Appendix 2 for definition of consumer.)

A consumer would advise the Review Committee to walk down the main street of Otahuhu and other low-income suburbs, and count the ever-increasing number of finance companies, money shops and pawnbrokers. If they want to drive rather than walk, those shops have just the deal! Off the main streets and out in the suburbs are the clothing vans, selling their stock on the basis of the credit they provide. Apart from constantly advertising on TV, finance companies also pursue direct mail campaigns, tempting the consumer, and "normalizing" their product. Easy access to credit that they cannot afford, written up in ill-understood or unreadable contracts, results in consumers who are parents and caregivers having even less money each week for food and other necessities. Families often find out too late they are locked into contracts that require they repay the original purchase price many times over.

Although the preceding narrative is generic, *The Social Report 2006* concluded that, even after five years of solid economic growth, the proportion of the population, including children, living below the threshold of 60 percent of median income was substantially higher than it had been in 1988. The percentage of children in severe and significant hardship increased from 18% to 26% between 2000 and 2004 (Ministry of Social Development 2006). The long-term consequences for society of an unregulated financial sector include poverty effects on children as they grow into adulthood. They also include a lack of trust in that sector, and reduced participation. Thus, the long- and short-term economic effects extend far beyond the confines of the financial sector.

The *Overview* states that the outcomes the Government would like from a well-functioning non-bank financial sector include "Confidence in the sector that encourages participation by consumers, firms and providers." Currently, although there are

registration requirements for some non-bank financial providers and for particular financial products, there is no comprehensive way of identifying or monitoring providers of financial services. The current framework does not provide assurance that financial service providers have not been convicted of financial crimes or other misconduct or that they are fit to run financial institutions, nor does it provide assurance that they have the experience, capability or capacity to run financial institutions (p. 10). Currently, non-bank financial institutions do not have to meet standards of disclosure or prudence, and reliable information is often not available to consumers.

## ***Recommendations***

To improve access to information and consumer confidence and protection in the finance sector, Child Poverty Action Group endorses the proposals put forward in the *Overview*.

- The requirement for registration of all providers of financial products with the Companies Office, with the register showing details of the directors, management and others in control or who can significantly influence the financial service provider (p. 41). The registration requirements would include collecting some base level information about the entity and undertaking negative assurance checks, ensuring directors, senior management and significant shareholders do not have director or management bans, have not undertaken relevant criminal activity, and have not been bankrupted within a specific period (p. 28).
- Qualitative checks that people have the experience, capability and capacity to run a particular financial institution would be undertaken by the appropriate Regulator, either the Reserve Bank or the Securities Commission, who would notify the registrar if the person/s met the necessary requirements (p. 28).
- Non-bank deposit takers and suppliers of credit would be required to meet the licensing and ongoing supervisory requirements of their prudential supervisor. These would include a minimum level of capital, a minimum capital adequacy ratio, a minimum credit rating, a limit on related party exposures, and some governance and disclosure requirements. This regime may prevent a recurrence of the recent collapse of two large non-bank deposit takers, and curtail the worst excesses of some credit providers.
- The register would be electronic and easily searchable for market participants and would contain information on an entity in one easily accessible place (p. 13).
- Registration will bring all financial institutions into legislated disclosure, prudence, and monitoring regimes, reducing risk to consumers and the industry, and restoring consumer confidence.

- The definition of consumer (see Appendix 2) would be extended to cover purchase of financial products.

### ***Review of Financial Products and Providers: Consumer Dispute Resolution and Redress***

Supporting the overarching aim of a robust and efficient financial sector, in the context of *Consumer Dispute Resolution and Redress*, there are two further policy objectives relevant to this submission: Promote consumer and investor confidence in financial markets, and Reinforce market incentives ... to encourage fair and reasonable behaviour by financial providers towards their customers (p. 4).

We have noted the issue of unfair and unreasonable behaviour by finance providers above. The Review Committee interprets recent consumer surveys as showing significant problems with consumers seeking redress, and showing the level of consumer problems with misleading or unfair treatment by financial providers as relatively low (p. 4). In reality the data is less clear. The results of the survey conducted for the Ministry of Consumer Affairs in 2005 <sup>7</sup> indicate that from 11 to 24 percent of financial product consumers perceived they had experienced a problem, and up to a quarter of consumers of financial products simply put up with misleading or unfair treatment (p. 12-3). The consumer survey conducted by Task Force on Financial Intermediaries <sup>8</sup> revealed that while 30 percent of consumers had considered making a complaint about a financial intermediary, a third of those had not actually complained.

The types of problems currently experienced by consumers in the financial sector include lack of information and knowledge of financial products and providers, discrimination, lack of disclosure by providers of full costs associated with the contract, lack of knowledge of dispute resolution and redress, lack of protections against misleading or untrue information and unscrupulous providers, and too easy access to credit at high rates of interest, all "normalised" by advertising and direct mail promotions.

Currently, effective access to redress for financial product consumers is provided by voluntary industry-based dispute resolution schemes, the Banking Ombudsman and the Insurance and Savings Ombudsman. These schemes do not extend to building societies, credit unions, finance companies, financial intermediaries and some superannuation schemes. Disputes with such companies must be taken through the disputes tribunal or the courts (p. 21-2). The significant advantages to the consumer of these Ombudsman schemes over the Disputes Tribunal and courts is that there is no cost attached to making a complaint, and more importantly, there is no cost attached to investigation of the complaint by the Ombudsman.

## ***Recommendations***

To improve consumer confidence and participation in the financial sector, Child Poverty Action Group recommends that:

- All providers of financial products, including suppliers of credit, are required to be registered with the Companies Office and monitored by a regulator, either the Reserve Bank or the Securities Commission.
- The voluntary industry-based dispute resolution schemes be extended to cover all financial providers, including building societies, credit unions, finance companies, financial intermediaries and superannuation schemes.
- A public education campaign be conducted during the implementation of the regulatory regime to ensure consumers are informed of their improved protection and rights under the regime, and of the dispute resolution and redress options available.

## ***Summary***

Child Poverty Action Group recommends that the rights of children are foregrounded. This requires a focus on the future as much as the present. To ensure the Government's overarching aim of a robust and efficient financial sector driving a robust and efficient economy, a higher level of both consumer protection and participation is necessary. Consumers are members of families and communities, parents of children, and for them to participate, they must have a level of trust in the sector, and reason for that trust. Consumer protection, and consequently the well-being of children, will be improved by the proposed regulation, in conjunction with a campaign to disseminate information and knowledge to all sectors of the community, and extension of the existing disputes resolution and redress schemes.

- All providers of financial products are required to be registered with the Companies Office, and meet the standards as set out and monitored by the regulator, either the Reserve Bank or the Securities Commission.
- Membership and jurisdiction of existing voluntary industry disputes resolution schemes, Banking Ombudsman and Insurance and Savings Ombudsman, be extended to incorporate financial institutions that are currently excluded.
- That the definition of consumer (see Appendix 2) be extended to cover purchase of financial products.

- That a public education campaign to inform consumers of the regulatory changes, their rights, and their access to dispute resolution and redress, accompany all further consultation and implementation of the new regime in the financial sector.

## **Appendix 1: The nature of relative poverty**

*Being poor in Aotearoa New Zealand does not mean the absolute destitution that is the reality for children living on the streets in Jakarta or Bangladesh. A child in relative poverty here is excluded from participation in mainstream life, and denied the opportunity for development of their potential. Relative poverty means living without security, in temporary, overcrowded, and damp housing. It means moving house regularly, from one rented dwelling to another, and having to learn the new environment. It means changing schools often, and having to get to know new teachers, new schoolmates, and new expectations. It means not having enough money for proper dental and health care. It means parents choosing between a trip to the doctor, or proper meals for the week, or paying the electricity bill. Relative poverty means not going on the school camp with your friends because there is no money... It means either using foodbanks, or increasing debt, to have the essentials. (St John, Dale et al. 2001)*

## ***Appendix 2: Consumer Guarantees Act 1993***

### **Interpretation**

**Consumer** means a person who—

(a) Acquires from a supplier goods or services of a kind ordinarily acquired for personal, domestic, or household use or consumption; and

(b) Does not acquire the goods or services, or hold himself or herself out as acquiring the goods or services, for the purpose of—

(i) Resupplying them in trade; or

(ii) Consuming them in the course of a process of production or manufacture; or

(iii) In the case of goods, repairing or treating in trade other goods or fixtures on land.

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## References

<sup>1</sup> St John, S., M. C. Dale, M. O'Brien, A. Blaiklock, S. Milne. (2001). *Our Children: the priority for policy*. Auckland, Child Poverty Action Group Inc.

<sup>2</sup> Ministry of Social Development (2006). *The Social Report*. Wellington, Ministry of Social Development, Government of New Zealand.

<sup>3</sup> Child Poverty Action Group (2003). *Our Children: The Priority for Policy (2nd edition)*. Auckland, Child Poverty Action Group.

<sup>4</sup> Skilling, D. and D. Boven (2005). Discussion Paper 2005/4 *Dancing With The Stars*. Auckland, The New Zealand Institute.

<sup>5</sup> Ministry of Economic Development (2006). *Review of Financial Products and Providers: Overview of the Review and Registration of Financial Institutions*. Wellington, Ministry of Economic Development, New Zealand.

<sup>6</sup> Ministry of Economic Development (2006). *Review of Financial Products and Providers: Consumer Dispute Resolution and Redress*. Wellington, Ministry of Economic Development, New Zealand.

<sup>7</sup> National Research Bureau Ltd (2005). *National Consumer Awareness Survey on Awareness and Experience of Consumer Legislation*.  
[www.consumeraffairs.govt.nz/policy/lawresearch/awareness/nrb/index.html](http://www.consumeraffairs.govt.nz/policy/lawresearch/awareness/nrb/index.html).

<sup>8</sup> Task Force on Financial Intermediaries (2005). *Initial Questionnaire*.  
[www.med.govt.nz/templates/Page\\_\\_\\_7813.aspx](http://www.med.govt.nz/templates/Page___7813.aspx).