

# Submission

By



To

**The Ministry of Economic Development**

On

**Revised option for proposed levy to fund  
the Financial Markets Authority**

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## 1. Introduction

The Insurance Brokers Association of New Zealand Inc (IBANZ) is pleased to make this submission to the Ministry of Economic Development (MED) on the discussion document issued in June 2011 regarding the revised option for proposed levy to fund the Financial Markets Authority.

### 1.1 About IBANZ

IBANZ is New Zealand's professional body representing the interests of fire and general insurance brokers, risk managers and consumers in New Zealand.

We have 159 member firms employing in excess of 2,200 staff many of whom are financial advisers and therefore would be subject to the proposed FMA and FAA levies. Members write \$2.3 billion of premiums annually out of a gross market premium of approximately \$3.5 billion.

Demographics of membership are as follows, showing the number of companies (Corporate Members) within each band of RFA numbers:

<b>Corporate Members</b>	<b>Numbers of RFAs employed</b>
43	1
98	2 - 10
11	11 - 25
3	26 - 100
2	100 - 150
2	300 +

IBANZ advises members, government, consumer groups and other stakeholders on key insurance issues and provides training, technical advice, guidance on regulation and business support.

### 1.2 Release of information

We have no objection to the public release of any information contained in this submission.

## 2. Executive Summary

IBANZ believes the revised approach to funding for the FMA is a considerable improvement on the original proposals. Many of the previous issues have been successfully addressed however there some matters requiring attention in this new proposal. The following are the key issues we have identified.

The proposed basis of charging which imposes a disproportionate burden on the insurance sector, the omission of some QFEs and the “broking service” charge are the primary areas we see as introducing distortions and inequities. We are also concerned that no distinction has been made between an AFA and a RFA, which is contrary to the whole approach of the legislation and regulations to date.

## 3. Inequities / Market Distortion

The purpose of the proposed FMA levy is to fund the FMA’s general monitoring, supervision, surveillance and investigation of financial markets as well as general regulation of financial markets participants (FMP).

We appreciate the challenge of finding measures/statistics to fairly apportion the costs of regulatory effort across different classes of FMPs; however the proposed approach we believe creates an inequitable result.

### 3.1 Basis of Levy

Different categories use different bases to calculate the applicable levy; e.g. assets, GWP, individual adviser numbers. This results in unclear, inconsistent and inequitable levy allocations across industries.

The resulting levies as proposed do not fairly reflect the relative profitability or different size of businesses within the categories. The insurance industry, insurers and RFA advisers, carry an unfair and clearly disproportionate burden under this model, particularly when comparative industry profitability is taken into account.

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**A consistent approach is required to give equity to across all financial service providers. Additionally, we note that while Bank and Insurer levies are effectively capped. Large non-QFE financial entities employing AFA’s and RFA’s have no cap and some could end up paying more than Banks and Insurers.**

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### 3.2 Certain QFE types omitted

Two types of QFE, banks and insurers, have been identified in the paper and separately addressed in the proposed levy structure. However there are other QFEs such as those in our sector of insurance that are not mentioned at all.

This then leaves their handling open to interpretation. Our reading is that a non bank/insurer QFE could simply pay \$300 as an FSP and no levy for any staff. Clearly there will be no fiscal neutrality between a QFE and non-QFE particularly for those organisations which have a large number of RFAs.

As a result financial service providers are likely to restructure their businesses to reduce the cost of levies rather than having structures that reflects the regulatory intent. Ultimately as a consequence of this restructuring there will be a significant reduction in fees/levies collected.

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**All QFEs must be specifically addressed within the proposals and levy structures should not unduly influence business structures.**

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### 3.3 No distinction between AFA and RFA

The approach in the legislation and in subsequent regulations has been to clearly identify the difference between an AFA and an RFA. This distinction has not been carried forward into the latest funding proposal and unfairly penalises the RFA.

There are significant costs incurred by the FMA in dealing with the AFA sector. They are required to set up and maintain a Complaints Committee and a Code Committee which deal specifically with the Authorised Advisers.

In addition much of the monitoring work is focused on the areas of high risk which has been identified as being in the AFA area. In fact the split between AFA and RFA was created because of the perceived difference in risk. The cost on a standard per financial adviser basis does not recognise the difference in risk for the differing groups of market participants.

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**The approach to the levy should reflect the risks associated with the complexity of product advised upon and therefore potential risk. To ensure a fair allocation of charging the difference in costs incurred by the FMA must be acknowledged.**

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### 3.4 Category 5 “Broker” definition

The “clarification” of this category has only served to continue the confusion associated with the term “broker” in the legislation. Taking the suggested revised approach would seem to result in all FSPs that provide a “broking service” paying \$7,500.

In our sector all insurance broking companies would provide this service so even very small companies would attract the \$7,500 charge. The intention appears to be to capture significant entities transacting large values.

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**The Financial Advisers Act specifically recognised that insurance intermediaries were governed by the specific obligations under the Insurance Intermediaries Act and as a result were excluded from the obligations under the FAA which affect “brokers”. In our view the category of charging brokers should not extend to general insurance broking organisations.**

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### 3.5 Category 6 Companies

While your paper requests that this category is not amended in any alternatives we advise it is IBANZ belief that the \$10 charge is insignificant and adding \$5 or \$10 would equally be of little consequence to a company.

However given the numbers of companies the result of even a small increase significantly affects the costs to financial service providers. In particular the impact on individual advisers would be significant and we submit greatly reduce the chances of driving individuals out of the business.

The overall costs of the legislation including registration, dispute resolution, and general compliance are already impacting on individuals. A further levy is only going to result in the undesirable outcome of reducing independent adviser numbers either through leaving the business or through forcing them into corporate structures.

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**We submit that the company charge should be increased by \$10 thereby significantly reducing the pressure on individual advisers where they would be far better spending their money on continuing professional development or qualifications.**

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#### 4. Response to Specific Questions

We make these comments in response to the questions posed in the discussion document.

**1. *How do the proposed levy categories and tiers perform against the assessment criteria?***

We submit that the benefits for all parties are not consistent with the levy amount. The size of business in category one is significantly greater than for example category two making the insurers contribution relatively far greater while the benefits are no greater.

The disconnect between levy and benefit is more pronounced when comparing a non-QFE employing RFAs. For example our largest non-QFE members could be paying at least as much as the largest insurer. To add to this inequity the insurer or bank levy is capped whereas the financial adviser employer has no upper limit.

**2. *How would we best differentiate between smaller and larger broking firms?***

The simple approach is to create a tier system for category 5 much as has been done with category one and two. If properly structured this would eliminate the need for the \$7,500 levy on large “broking” firms depending on whom you are attempting to capture with this sub group.

**3. *Are there any alternative options we should consider for raising the required \$16.4 million in annual levy funding for the FMA?***

We submit that the company charge should be increased by \$10.

**4. *If you consider that one or more categories proposed would pay excessive levies, please provide alternative proposals summing to \$16.4 million without changing the \$10 levy for companies.***

- We consider Categories 2 and 5 are paying excessive levies under these proposals. No doubt the insurers will address Category 2 so we have focused our attention on Category 5 which would cover our members.

- As stated previously the amended words (clarification) for this category would result in a significant distortion requiring even small companies to pay \$7,500. We are unsure what this particular levy is intended to achieve.
- We believe that a tiered approach to this category would be the best option; this can be based on annual fee income or adviser numbers. Through the registration process the numbers of advisers per organisation can be determined. Based on our demographics we would suggest bands of adviser numbers:
  - Less than 10
  - 10 to 50
  - 50 plus
- We also suggest that a cap should be set within this category to ensure companies employing significant numbers of advisers are not penalised compared to banks/insurers whose levies are capped.
- Our understanding is that the FSP numbers used in Category 5 are also significantly understated, possibly by as much as 1,500. By correcting this figure the suggested fee per adviser should be reduced.
- The other issue to be resolved is the significant companies that have few advisers, the ones we assume were originally identified as share brokers and for which a \$7,500 levy was proposed.

**We strongly oppose any suggestion this levy apply to all “brokers” supplying a “broking service”. This would capture all of our members and we suggest most other FSPs resulting in a significant distortion of the levy structure particularly for the smaller companies.**

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IBANZ notes that it has canvassed opinion from all of its membership, which consists of 159 general insurance broker companies with around 2,200 employees. Our membership supports this submission and several have contributed to the content.



IBANZ corporate member; a significant company with over 600 staff, have contributed to this submission. They are in total agreement with the comments expressed within it.



IBANZ corporate member which recently took over another large corporate FMR Risk employs over 500 staff; have contributed to this document and are fully supportive of the content of the submission.



IBANZ corporate member employing 270 staff; Marsh have contributed to this submission and support it in full.



BrokerWeb, a consortium of 38 independently owned and operated general insurance broking companies fully support the IBANZ submission.



Allied Insurance group, a consortium of 30 independent general insurance broking companies have given their full support to the IBANZ submission.