

# ASFONZ

*The Voice of Workplace Super*

## Sustainable regulation – help or hindrance?

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29 August 2008

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## Sustainable regulation

- Regulation should protect investors, be cost effective and help encourage investment
- In step with continually evolving securities markets
- Adapt to changing market practices and financial products and technology

## Securities Commission

- Promotes the efficiency and integrity of securities markets
- New Zealand's main investment regulator
- Oversight of securities markets and disclosure obligations of investment advisers and brokers
- Aims to strengthen market confidence and foster capital investment

## Current climate

- Significant market turbulence
- Credit crunch – finance company collapses
- Losses for managed funds
- Market confidence at low point
- But – it could have been worse

## Regulatory framework

- Government reforms over last 7 years
- Evolved in response to:
  - changing market environment
  - new technologies
  - increasingly sophisticated products
- Fast approaching international best practice

## Co-regulatory environment

- MOU between Commission and NZX – co-regulatory role
- Front line responsibility (NZX) and public accountability (the Commission)
- Annual oversight review of NZX

## Financial Reporting Surveillance Programme

- Encourages high quality financial reporting – investor confidence
- Focuses on compliance by issuers – NZ GAAP and transition to NZ IFRS
- Provides guidance that is integrated into governance process

## Enforceable undertakings

- Efficient and cost effective
- Written undertakings by the Commission that can be enforced by the Court
- Accepted by the Commission when considered most appropriate outcome

## Financial Stability Assessment Programme

- Regulatory framework assessed in 2003 by IMF and World Bank
- Good report for NZ
- Shortcomings largely addressed by reforms

## Law reform

- Commission makes recommendations to the Minister
- Reforms are necessary for sustainable regulation
- Reforms ultimately designed to attract investment and build market confidence

## Continuous disclosure

- Statutory recognition in 2002
- Requires listed companies to immediately disclose material information that could affect share price
- New obligations for directors and officers
- Aims to maintain integrity of the market
- Benefits of timely market information appreciated

## Insider trading

- Law overhauled – focus on threat to market integrity
- *Information insider* – has *material information* about a public issuer not generally available
- Must not trade securities, disclose information or advise others
- Carries both civil and criminal penalties

## Market manipulation

- Law new to NZ
- Law prohibits:
  - making false or misleading statements or spreading information likely to affect price of securities
  - making false or misleading appearance of securities trading

## Substantial security holder disclosure

- To promote informed market
- Law changes streamline compliance and make disclosure more meaningful
- 5% holding of listed securities in any class
- Commission can require person to disclose interests – including unlisted and non-voting securities

## Investment adviser disclosure

- Laws since 1996 – but no ability for Commission enforcement
- New laws (effective February 2008)
  - more information for clients – especially fees and remuneration
  - full disclosure up-front
  - mandatory – up-to-date disclosure statements
  - rules for advertisements

## Enforcement powers

- Commission has wide ranging powers:
  - ban documents
  - make prohibition and corrective orders
  - seek compensation for investors
  - fine and make disclosure orders
  - accept enforceable undertakings
  - take Court action
- Best result for public – sustainable

## Financial advisers

- Largest gap in regulatory framework
- Industry and investors want change
- Financial Advisers Bill
  - aims to ensure quality financial information and advice to public
  - conduct and disclosure obligations for advisers
  - minimum standards to ensure accountability
- Promotes investor confidence

## Public understanding

- Implementation of reforms includes market awareness
- Benefits in helping market participants to understand obligations
- Financial education – confident investors

## International cooperation

- IOSCO:
  - global standards setter
  - Chair of Executive Committee
  - 30 broad Principals – international benchmark standards
  - Multilateral MOU – facilitates cross border cooperation
- Increased opportunities for NZ and local firms raising capital

## Mutual recognition of securities offerings

- Agreement between Australia and NZ
- Issuers can use one prospectus to offer securities in both countries –
  - Cost savings for companies
  - Greater choice for investors
- Model for other countries

## Capital Market Development Taskforce

- To help restore market confidence
- Government and private sector working together to develop NZ's capital markets
- Blueprint for action – late 2009

## Conclusion

- Regulatory regime closer to international best practice
- Sustainable approach most appropriate – encourages market participation and facilitates investment growth
- International profile – well-regulated and confident market

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Thank you

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