

DRAFT FOR CONSULTATION

Financial Markets (Conduct of Institutions) Amendment (Duty to Provide Financial Services) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This amendment is intended to prevent registered banks “debanking” or withdrawing banking services from New Zealanders, body corporates or companies, whose political views or outlook may not align with the sensibilities of that institution.

This includes the withdrawal or refusal to provide banking facilities and services from businesses on murky ‘environmental, social or governance’ moralising. The New Zealand economy needs everyone and every business to play its part to maintain our status as a first world country. Access to banking services and facilities is fundamental. This Bill removes moralising from banking and leaves decision-making where it ought to be, based on law or for valid and verifiable commercial grounds. This means it is not open slather for persons or companies with poor financial records. It stops good people and companies losing fundamental services because of how they think and what they do. To provide teeth, this bill creates an offence that provides for fines of up to \$500,000 for each offence.

This amendment, furthermore, extends protection from debanking to industries that environmental, social or governance rules deem to be undesirable.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on the day after Royal assent.

Clause 3 identifies the Financial Markets (Conduct of Institutions) Amendment Act 2022 as the Act being amended by the Bill.

**Financial Markets (Conduct of Institutions)
Amendment (Duty to Provide Financial Services)
Amendment Bill**

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Explanatory note

Clause 4 places a new duty on financial institutions to provide financial services to customers except in situations based on law or for valid and verifiable commercial grounds. To do so for any other reason constitutes an offence, which is provided for in *new section 446JB*.

Andy Foster

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Financial Markets (Conduct of Institutions) Amendment (Duty to Provide Financial Services) Amendment Act **2025**.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Financial Markets (Conduct of Institutions) Amendment Act 2022.

4 Section 12 amended (New subpart 6A of Part 6 inserted)

In section 12, after new section 446J, insert:

Duty to provide financial services

446JA Financial institutions must not withdraw or refuse to provide financial services except for commercial reason

- (1) Except as provided in **subsection (2)**, a financial institution—
 - (a) must provide financial services to a consumer; and
 - (b) must not treat any consumer less favourably in the provision of financial services than would otherwise be the case for any of the following reasons:
 - (i) any of the prohibited grounds of discrimination in section 21 of the Human Rights Act 1993:
 - (ii) any direct or indirect environmental, social, or governance consideration:
 - (iii) any climate-related reporting standard issued by the External Reporting Board:
 - (iv) the industry within which the consumer operates.
- (2) Despite **subsection (1)**, a financial institution may withdraw or refuse to provide services to a consumer, or may treat a consumer less favourably,—
 - (a) for a valid and verifiable commercial reason; or
 - (b) as required or permitted by any other enactment.
- (3) In this section, **consumer** includes—
 - (a) a potential consumer; and
 - (b) a wholesale or a retail consumer.

446JB Offence to fail to provide financial services

A financial institution that contravenes **section 446JA(1)** commits an offence and is liable on conviction,—

- (a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$50,000; and
- (b) in the case of a body corporate, to a fine not exceeding \$500,000.