

## Government releases action plan for CMD Taskforce's recommendations

*[Glenn Joblin](#), Partner | Friday, 19 February 2010*

Commerce Minister Simon Power yesterday released the Government's initial response to the Capital Market Development Taskforce's recommendations set out in its final report ([Capital Markets Matter](#)).

The Government has responded positively to a majority of the 60 recommendations made by the Taskforce and its action plan sets out how it will progress each recommendation and a timetable for implementation.

Among the recommendations the Government says it will implement are:

- introducing plain English into investment statements and prospectuses, with warnings on high risk or complex products;
- ensuring the duties of fund managers and supervisors are clear and enforced;
- considering consolidating parts of the Companies Office, Securities Commission, and the NZX Disciplinary Tribunal into a new market conduct regulator; and
- making it easier and cheaper for companies to raise capital privately by clarifying and broadening the exemptions of the Securities Act and the Takeovers Act.

The Government proposes to implement a number of the Taskforce's recommendations as part of the review of the Securities Act that is already underway. It has indicated that a discussion document will be released on proposed changes to the Securities Act by April 2010, with the likely implementation of those changes by October 2011.

For further details of some of the Taskforce's key recommendations which will be considered under the Securities Act review refer to the table below.

The action plan confirms that changes to the Overseas Investment Act are imminent, with Cabinet decisions on proposed changes to the Act to be made by the end of this month.

One additional area that the Government seems particularly keen to pursue, is the Taskforce's conclusion that there is an opportunity for New Zealand to become a hub for financial services in the Asia Pacific region, specialising in providing high-value middle and back office functions for the funds management industry. In the Prime Minister's opening address to Parliament last week, John Key noted that the Government is keen to see if this or similar new industries could be developed in New Zealand and he has asked officials to determine what steps would need to be taken to make that a reality.

However, the Government has ruled out following the Taskforce's recommendation to improve the product range for investors through the partial listing of state-owned companies in its current term in government. It leaves open the possibility of local governments making the decision to list local government owned companies.

To view the Government's action plan [click here](#) or visit the Ministry of Economic Development's website at [www.med.govt.nz/cmdtaskforce](http://www.med.govt.nz/cmdtaskforce). You may also be interested in Bell Gully's earlier commentary on the Taskforce's recommendations: see the article [CMD Taskforce report raises issues for Securities Act review](#) on our website.

We will provide you with further updates on developments as they occur. In the meantime, if you would like to discuss any aspect of the Government's action plan or the nature and timing of any follow-up, please contact your usual Bell Gully adviser.

<b>Summary of Government's key responses and proposed action plan</b>			
<b>Area</b>	<b>Taskforce's recommendation</b>	<b>Government's response and action plan</b>	<b>Timetable</b>
<b>Retail investors –promoting trust</b>			
<i>Improve governance of managed funds</i>	Fund managers and supervisors should explicitly disclose the duties that they owe to individual investors and any restrictions on these, and should annually declare (e.g. in their statements to individual investors) that they have not breached their duties.	Support the recommendation.  Considering detail of disclosure of duties as part of the Securities Act Review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
	Improve and standardise periodic statements to managed fund investors so that asset holdings and performance are clear and comparable.	Support the recommendation.  Considering as part of the Securities Act Review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
<i>Disclosure – make it meaningful for investors</i>	Replace the investment statement and prospectus with a new two-part disclosure document that aids understanding and comparability. The first part should be 1-2 pages long, and much more standardised than the investment statement in content and presentation.	Support the recommendation.  Intend to introduce new disclosure documents, with work underway as part of the Securities Act Review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
	Include a warning label on disclosure documents where products are particularly risky or complex to encourage investors to exercise caution and seek independent advice	Support the recommendation.  Considering detail of disclosure documents as part of the Securities Act Review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
	Create a centralised website for disclosure documents that allows for easy comparison between products.	Support in principle.  Considering detail as to how this should be done as part of the Securities Act Review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
<b>Public equity markets</b>			
<i>Improve the "birth rate" on to public markets</i>	Allow NZX (as a registered exchange) to own and operate unregistered and exempt exchanges – so that NZX capability and expertise is available to help develop the pipeline of companies coming through to fully public markets.	Further consideration is required.  Considering as part of the Securities Act review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
	Create an environment in which unregistered and exempt exchanges can develop their	Further consideration is	Discussion document on potential changes

	own rules with a lower regulatory burden than on NZX (e.g. without continuous disclosure), so that companies can attract the capable directors and quality intermediary resources with the ability to help companies develop business plans and raise capital for growth.	required. Considering as part of the Securities Act review.	by April 2010. Potential changes implemented by October 2011.
<b>Private markets</b>			
<i>Clarifying boundaries with public market</i>	Review Securities Act and revise current Securities Act exemptions to provide a set of clearer, broader exemptions – registered investors; the existing exemption for “those who invest money as a principal business activity”; other professional investors with clear, quantified set of criteria; investors who have obtained a recommendation from a conflict-free authorised financial adviser; a more clearly defined exemption for relatives and close business associates; wealthy investors; and small offers.	Support the recommendation.  Agree with the need to clarify the public / private distinctions. Considering detail as part of the Securities Act Review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
	Implement changes to the Takeovers Act around thresholds for its application as recommended by the Takeovers Panel.	Support the recommendation.  Will seek to progress the amendment in the Regulatory Reform Bill.	Intend to introduce bill by August 2010.
<b>Regulatory agencies</b>			
<i>Design of regulators</i>	Review and clarify roles and scope of regulatory agencies to reduce duplication and conflicts of interest, build capability and scale around centres of excellence, and ensure that the focus of regulatory agencies is on facilitating capital market activity. This is likely to mean: <ul style="list-style-type: none"> <li>consider consolidating parts of the Companies Office, Securities Commission and NZX Disciplinary Tribunal into a new market conduct regulator.</li> <li>some front-line market monitoring activity remains with NZX, with protocols around referrals to the regulator and ability of regulator to initiate investigations.</li> </ul>	Support the recommendation.  Considering the regulatory landscape as part of the Securities Act Review.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
<i>Target enforcement</i>	Greater emphasis on monitoring and enforcement capability and activity.	Support the recommendation.  The Securities Act Review is considering how to shift the balance of Commission activities in this direction.	Discussion document on potential changes by April 2010.  Potential changes implemented by October 2011.
	Give regulators the power to have an ongoing monitoring role of all public securities –	Support the recommendation.	Discussion document on potential changes

	whether listed or not – and to deem products to be securities where products appear to be securities .	Considering this change as part of the Securities Act Review.	by April 2010. Potential changes implemented by October 2011.
	Give the regulator the power to seek civil remedies on behalf of investors and to initiate and coordinate class actions.	Support the recommendation. Considering how best to implement this change as part of the Securities Act Review.	Discussion document on potential changes by April 2010. Potential changes implemented by October 2011.
<b>General</b>			
	Better coordination to capital market policy development through the designation of a Minister for Capital Markets, or through a group of Ministers (supported by joined up advice from officials) that meets to actively consider capital market policy issues as they arise.	Support the recommendation. Appoint Minister Simon Power as the lead coordinator of the group of Ministers.	Ministerial Group has been established.