



SUBMISSION

by

**EMPLOYERS AND MANUFACTURERS'
ASSOCIATION (N) INC.**

On

**Trans-Tasman Mutual Recognition of Offers
of Securities and Managed Investment
Scheme Interests –**

Discussion Paper

Prepared on 16 July 2004

1. BACKGROUND

This submission is made by the Employers and Manufacturers Association (N) Inc. (EMA)
The EMA is made up of approximately 7500 member companies covering the New Zealand region north of Taupo. This membership includes approximately 1500 manufacturers ranging from large to SME.

A significant number of our member companies operate on both sides of the Tasman and therefore our membership has a strong interest through the EMA in mutual recognition issues.

The EMA includes in its advocacy role a keen interest in compliance costs for our members within the New Zealand market and in ensuring international best practice is applied to all regulatory regimes and is consistent with international agreements such as CER and World Trade Organisation rules.

Duplication of regimes with differing rules does not benefit member companies operating on either side of the Tasman when looking to expand or operate in both markets. We are therefore keen to ensure that all reasonable efforts are made to ensure mutual recognition or harmonisation in all areas of Trans-Tasman operations.

2. CONTACT

For further contact in relation to this submission:

Garth Wyllie
Executive Officer
Employers and Manufacturers (N)
Private Bag 92-066
Auckland

Telephone: 09-3670913
Direct: 09-3670935
E-mail: garth.wyllie@ema.co.nz
Web: www.ema.co.nz

3 SUBMISSION:

The EMA has viewed the discussion paper and makes the following comments:

Mutual Recognition

As an organisation the EMA supports mutual recognition where it adds value to our members efforts to raise capital and efficiently operate their business. This has been occurring for a number of years in the products and services area and it is a logical progression to move into the financial and transactional areas of business between two highly integrated markets such as New Zealand and Australia.

With all trading banks in New Zealand now Australian owned this is an area we support for change to be explored.

As both countries do have differing business laws it is difficult to go to the full harmonisation route with most areas of law. Therefore the MOU signed in August 2000 on the co-ordination of business law makes the "Mutual Recognition" route the easiest to apply in the short term and should give the greatest benefit to New Zealand companies seeking additional capital for their business growth.

The Proposed Model

We have viewed the proposed model and looked at the other models offered by example. We agree that the proposed model will substantially deal with the requirements for a Trans-Tasman Mutual Recognition arrangement. We can see no merit in pursuing the alternates as these not only require a greater legislative process but in model 2 is unlikely to find acceptance by the Australian regulators due to its removal of powers and potential to create unintended loopholes.

We therefore support the proposed model as the best option for a Trans-Tasman Mutual Recognition arrangement.

Legislation Change and Process

We note that in most areas it is easier for New Zealand to implement such an agreement since New Zealand already has in law a mechanism providing for the proposed arrangement and the implementation would therefore be mostly by regulation.

Conversely because the Australians have to modify law to provide for the arrangement, it does raise the possibility that New Zealand could allow such offers to be made earlier by Australian business than would be available for New Zealand business. The EMA therefore supports co-ordination of the process to ensure that Australia implements its changes in a timely manner that does not place Australian business at a greater advantage than New Zealand business in raising capital and making offers.

4. Summary Statement

The EMA supports the principle of a Trans-Tasman Mutual Recognition for offers of securities and managed investment schemes.

We believe that the proposed model is the best option available and the most acceptable to regulators in both countries and is therefore our preferred model.

We advocate that the implementation must be co-ordinated so as to not disadvantage New Zealand business, which would occur through early adoption of the arrangement by New Zealand.