



COVERSHEET

Minister	Hon Kris Faafoi	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Regulations to support Financial Services Legislation Amendment Act 2019 Paper 2: policy approval for other regulations	Date to be published	June 2019

List of documents that have been proactively released

Date	Title	Author
June 2019	Cabinet paper: Regulations to support Financial Services Legislation Amendment Act 2019 Paper 2: policy approval for other regulations	Office of Minister of Commerce and Consumer Affairs
June 2019	Cabinet minute: Regulations to support Financial Services Legislation Amendment Act 2019 Paper 2: policy approval for other regulations	Cabinet Office

Information redacted

NO

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Cabinet Economic Development Committee

Minute of Decision

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Regulations to Support the Financial Services Legislation Amendment Act 2019 (Paper 2): Policy Approval for Other Regulations

Portfolio Commerce and Consumer Affairs

On 12 June 2019, the Cabinet Economic Development Committee:

Background

1 **noted** that:

- 1.1 the Financial Services Legislation Amendment Act 2019 (the 2019 Act) passed into law in April 2019;
- 1.2 regulations are needed to support the new financial advice regulatory regime and registration changes introduced by the 2019 Act, which will come into force on a date to be set by Order in Council;

Registration details on the FSPR

2 **agreed** to the changes to existing registration regulations outlined in Appendix 1 to the paper under DEV-19-SUB-0155, which are required to:

- 2.1 enable the collection and display of more detailed information on the Financial Service Providers Register (FSPR);
- 2.2 minimise overlap between categories of financial services;

3 **authorised** the Minister of Commerce and Consumer Affairs to make further decisions in relation to the detail of the changes described in paragraph 2 above, consistent with the purposes of the FSPR and the policy agreed in the paper under DEV-19-SUB-0155;

4 **noted** that sole financial adviser practices currently have an exemption from the requirement to register on the FSPR, which is unworkable in the new financial advice regime where it is necessary for both the sole adviser and their business to be registered;

5 **agreed** to repeal the sole adviser practice exemption, and instead provide relief for these small businesses from compliance costs in the form of lower levies, as set out in the associated paper on *Regulations to Support the Financial Services Legislation Amendment Act 2019 (Paper 1): Licensing Fees and Levies* under DEV-19-SUB-0154;

Supporting measures to address misuse of the FSPR

- 6 **noted** that to help address the misuse of the FSPR by unscrupulous overseas-controlled providers, the 2019 Act provides for regulations to prescribe a threshold level of financial services below which a provider is not able to register on the FSPR;
- 7 **agreed** to prescribe a threshold for registration on the FSPR, as set out in paragraph 1 of Appendix 2 to the paper under DEV-19-SUB-0155;
- 8 **noted** that this threshold applies in respect of financial services except:
- 8.1 where a licence is required to provide the service in New Zealand;
 - 8.2 the provider is a reporting entity under money laundering legislation providing financial services;
 - 8.3 registration is required under other legislation;
 - 8.4 the provider is a creditor under a consumer credit contract; or
 - 8.5 the provider is an individual financial adviser.
- 9 **agreed** to prescribe a warning statement that providers must include if the provider is registered but not licensed in New Zealand, and the provider refers to its FSPR registration or New Zealand dispute resolution membership, other than where the reference is required by law or dispute resolution rules;
- 10 **agreed** that the relevant warning statement in the circumstances set out in paragraph 9 above should explain that the provider has not been licensed by a New Zealand regulator and is not actively regulated in New Zealand;
- 11 **agreed** to prescribe additional warning statements in the circumstances set out in paragraph 9 above for registered providers that have no place of business in New Zealand to explain that it will be more challenging for New Zealand regulators and dispute resolution schemes to assist if something goes wrong, and that they will likely be unable to assist overseas clients;
- 12 **agreed** to require previously-registered providers that are being deregistered due to providing services below the threshold set by paragraph 7 above, to inform remaining retail clients if it means the provider is no longer a member of a dispute resolution scheme;
- 13 **agreed** that providers without a place of business in New Zealand be exempt from registration on the FSPR if they do not promote services to New Zealand clients;

Other matters

- 14 **agreed** to make regulations to continue the effect of existing exemption regulations under the Financial Advisers Act 2008;
- 15 **agreed** to exempt operators of foreign passport funds under the Asia Region Funds Passport regime from the requirement to become licensed under the new financial advice regulatory regime;
- 16 **authorised** the Minister of Commerce and Consumer Affairs to make decisions in relation to carrying over existing regulations in relation to those that hold client money, with changes to reflect the policy in the 2019 Act and other minor changes;

- 17 **authorised** the Minister of Commerce and Consumer Affairs to make further decisions in relation to other consequential matters necessary to give effect to the new regime for financial advice, including updating terminology, provided the decisions are consistent with the policy in the 2019 Act and the paper under DEV-19-SUB-0155, and are made in consultation with the Minister of Justice in relation to regulations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- 18 **agreed** to provide transitional relief to allow Discretionary Investment Management Services to be provided on a contingency basis by a financial advice provider if the authorised financial adviser named in the investment authority is engaged by the provider;

Commencement of the new regime

- 19 **agreed** that an Order in Council be made bringing the provisions of the 2019 Act relating to the new financial advice regulatory regime and changes to the financial service providers registration system into force in June 2020;
- 20 **invited** the Minister of Commerce and Consumer Affairs to report back to the Cabinet Legislation Committee by October 2019 with an Order in Council prescribing the commencement date or dates of the new regime;

General

- 21 **authorised** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;
- 22 **authorised** the Minister of Commerce and Consumer Affairs to make further decisions on the details of the matters covered in above paragraphs and on any issues that arise during the drafting of the regulations, consistent with the policy agreed in the paper under DEV-19-SUB-0155.

Janine Harvey
Committee Secretary

Present:

Hon Kelvin Davis
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Dr Megan Woods
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Shane Jones
Hon Kris Faafoi
Hon Willie Jackson
Hon James Shaw
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Commerce and Consumer Affairs