

What is the new regime for financial advice?

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The Financial Services Legislation Amendment Bill is currently before Parliament and the Bill can be viewed at www.legislation.govt.nz. The Bill repeals the Financial Advisers Act 2008 and creates a new regulatory regime for financial advice. An overview of the new regime in the Bill is provided below.

WHO CAN GIVE FINANCIAL ADVICE?

In the new regime, anyone giving financial advice to retail clients will need to be engaged by a licensed Financial Advice Provider (or be licensed as a Financial Advice Provider). Financial advice providers will be able to give financial advice:

- Directly (e.g. online), and/or
- Through 'financial advisers,' and/or
- Through 'nominated representatives' (who will have less discretion than financial advisers).

CONDUCT AND COMPETENCE REQUIREMENTS

All those giving financial advice (firms and individuals) will be held to conduct and competence requirements. In particular:

Anyone giving financial advice

- Must give priority to the client's interests
- Must disclose certain information to clients. This will be prescribed in regulations (currently under development) and may vary for wholesale and retail clients.

Anyone giving financial advice to retail clients

- Must ensure the client understands any limitations on the nature and scope of advice (e.g. how many products or providers have been considered)
- Will be subject to a new Code of Conduct that sets standards of competence, knowledge and skill, ethical behaviour and client care.

FLEXIBLE ENFORCEMENT

Financial advice providers will be subject to the compliance and enforcement tools in the Financial Markets Conduct Act 2013, such as civil liability, and licensing actions such as censure and the imposition of action plans.

All financial advisers will be subject to the existing Financial Advisers Disciplinary Committee and will face disciplinary consequences if found to have contravened a duty.

IMPROVING ACCESS TO ADVICE

Regulatory boundaries will be removed to make it easier for those giving advice to respond to their clients' needs and wants. This includes removing the current classifications of advisers and advice firms (Authorised, Registered or QFE) and the distinction between 'class advice' and 'personalised advice,' and between category 1 and 2 products.

The requirement for personalised financial advice to be given by a natural person will also be removed. Technology neutral legislation will further enable the provision of robo (or digital) advice and help future-proof the regime and enable new and innovative ways of providing financial advice.

