FAA Review Submissions

Financial Advisors Review: Submissions

How to have your say

Submissions process

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in this document by 5pm on 22 July 2015.

Your submission may respond to any or all of these issues. We also encourage your input on any other relevant issues. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please also include your name, or the name of your organisation, and contact details.

Use of information

The information provided in submissions will be used to inform MBIE's policy development process, and will inform advice to Ministers on the operation of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

We may contact submitters directly if we require clarification of any matters in submissions.

Except for material that may be defamatory, MBIE intends to upload PDF copies of submissions received to the **FAA page on MBIE's website**. MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.

Release of information

Submissions are also subject to the Official Information Act 1982. Please set out clearly with your submission if you have any objection to the release of any information in the submission, and in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.

If your submission contains any confidential information, please indicate this on the front of the submission. Any confidential information should be clearly marked within the text. If you wish to provide a submission containing confidential information, please provide a separate version excluding the relevant information for publication on our website

Private information

The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that MBIE may publish.

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FAA Review Submissions

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Role and regulation of financial advice
When providing your comments, we would particularly appreciate information about the relative benefits, costs (financial or otherwise) and any other impacts of these proposals on businesses, consumers or other stakeholders. This information will help us more fully understand the effects of the current regulation.
1. Do you agree that financial adviser regulation should seek to achieve the identified
goals? If not, why not?
2. What goals do you consider should be more or less important in deciding how to regulate financial advisers?
3. Does this definition adequately capture what financial advice is? If not, what changes should be considered?
4. Is the distinction in the Financial Advisers Act (FA Act) between wholesale and retail
clients appropriate and effective? If not, what changes should be considered?

Is the distinction in the Act between a persona ervice appropriate and effective? If not, what c	
Is it appropriate to have different requirement omplexity of the products they advise upon?	s on advisers depending on the risk and
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Does the current categorisation system accura	
Do you think that the term Registered Financi ccurate understanding of what these advisers a e requirements that apply to them? If not, show	are permitted to provide advice on and

	uld be considered?
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0. Do you think that disclosing this information is adequat RFAs be required to disclose any additional information?	e for consumers? Should
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	Y
1. Are there any particular issues with the regulation of RF	A entities that we should
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2. Are the costs of maintaining an adviser business statements of the considered?	ent justified by its benefits
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A Review Submissions	
3. Is the distinction between an investment planning service and fina	
nderstood by advisers and their clients? Are any changes needed to	the way that an
nvestment planning service is regulated?	
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4. To what extent do advisers need to exercise some degree of discr neir clients' investments as part of their normal role?	etion in relation to
	A
	Y
5. Should any changes be considered to reduce the costs on advise ome discretion, but are not offering a funds management-type service.	
	<u>~</u>
6. Are the current disclosure requirements for Authorised Financial Adequate and useful for consumers?	Advisers (AFAs)
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22. Does the limited public transparency around the obligations of Qualifying Financia	ı
Entities (QFEs) undermine public confidence and understanding of this part of the	
regulatory regime?	
23. Should any changes be considered to promote transparency of QFE obligations?	
24. Are the current disclosure requirements for QFE advisers adequate and useful for	
consumers?	
25 Chould any change he considered to improve the relevance of these decuments	4
25. Should any changes be considered to improve the relevance of these documents	[0
consumers or to reduce the costs of producing them?	
26. How well understood are the broker requirements in the FA Act? How could	
understanding be improved?	

28. Should consideration be given to introducing disclosure requirements for four that would need to be disclosed and why?	or brokers
	or brokers
f so, what would need to be disclosed and why?	
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29. What would be the costs and benefits of applying the broker requirement	s in the F
Act to insurance intermediaries?	
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80. Are the requirements on custodians effective in reducing the risk of clieng lue to misappropriation or mismanagement?	t losses
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1. Should any changes to these requirements be considered?	

FAA Review Submissions
32. Is the scope of the FA Act exemptions appropriate? What changes should be
considered and why?
Y
33. Does the FA Act provide the Financial Markets Authority (FMA) with appropriate
enforcement powers? If not, what changes should be considered?
34. How accessible and useful is the guidance issued by the FMA? Are there any
improvements you would like to see?
Key FA Act questions for the review
35. What changes should be considered to make the current regulatory regime simpler
and easier for consumers to understand? For example, removing or clarifying the
distinction between AFAs and RFAs.
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6 To what ovent	_			
			inancial advisers' pri	-
	j financial products,	rather than solely	/ acting as an unbiase	ed advise
o their clients?				
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		•	nformation provision,	
dvice? How should	d such a distinction	be drawn? What	should or should not	be
ncluded in the defir	nition of financial ad	vice?		
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	nt current AFA disclo		s are effective in over	coming
robiems associate	a with commissions	and other conflic	its of interest?	
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9. How do vou thin	ık that AFA informat	ion disclosure red	quirements could be i	mproved
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butter decide com		····3 ·		A
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dviser types?	nancial advisers? If so, what requirements a	sclosure requirements being are appropriate for different
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11. Do you thin	k that commissions should be restricted or	r banned in relation to
inancial advic	e, and if so, in what way? What would be th	e costs and benefits of such
an approach?		
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otential provi	ensuring there is competition from a wide ders)?	range of providers (and
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4. Do you think that the Code of Professional Conduct for	_
alance between requiring them to understand their clients	and ensuring that
onsumers can get advice on discrete issues?	
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5. To what extent do you think that the categorisation of t s distorting the types of advice and information that is pro	= -
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6. Are there specific compliance requirements from the FA Iffected the cost and availability of independent financial a	_
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Act had on comp	iance costs for	advisers? How co	ould these cos	sts be minimised?	?
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19. What impact o	lo you expect th	at KiwiSaver decı	ımulation will	have on the mark	cet fo
inancial advice i	n New Zealand?	Are any specific	changes to re	gulation needed t	:0
pecifically prom	ote the availabil	ity of KiwiSaver a	dvice?		
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52. How beneficial are the current arrangements for trans-Tasman mutual recognition of qualifications? Should further arrangements be considered? 53. In what ways do you expect new technologies will change the market for financial advice? 54. How can government keep pace with technological developments to ensure that quality standards for advice are maintained, without inhibiting innovation? 55. Are the minimum ethical standards for AFAs appropriate and have they succeeded in fostering the ethical behaviour of AFAs? 56. Should the same or similar ethical standards apply to all types of financial advisers?	AA NEVIEW SUDITIISSIONS	
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57. What is an appropriate minimum qualification level for AF	\s?
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58. Do you think that RFAs (for example insurance or mortgag	ge brokers) should be
required to meet a minimum qualification relevant to the area	of advice they speciali
n? If so, what would be an appropriate minimum qualification	?
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59. How much consideration should be given to aligning advis	er qualifications with
hose applying in other countries, particularly Australia?	
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60. How effective have professional bodies been at fostering	professionalism amon
advisers?	
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61. Do you think that professional bodies should play a forma	role in the regulation
inancial advisers and if so, how?	J
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62. Should any changes be considered to the relative obligations of indiv	
and the businesses they represent? If so, what changes should be cons	idered?
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63. Is the QFE system achieving its goals in terms of consumer protection	_
compliance costs for large entities? If not, what changes should be cons	sidered?
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Role of financial service provider registration and dispute resolu	ution
64. Do you agree that the Register should seek to achieve the identified g	soole? If not
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66. Do you agree that the dispute resolution regime should seek to achieve the identified goals? If not, why not?	
C7 What we do do you a socider about the many or local important in reviewing the	
67. What goals do you consider should be more or less important in reviewing the dispute resolution regime?	
How the FSP Act works	
68. Does the FMA need any other tools to encourage compliance with financial service	
provider (FSP) registration? If so, what tools would be appropriate?	
provider (FSP) registration? If so, what tools would be appropriate? 69. What changes, if any, to the minimum registration requirements should be	
provider (FSP) registration? If so, what tools would be appropriate? 69. What changes, if any, to the minimum registration requirements should be	
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70. Does the requirement to belong to a dispute resolution scheme apply to the types of financial service providers?	right
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71. Is the current framework for the approval of dispute resolution schemes appropriate? What changes, if any, should be considered?	
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72. Is the current framework for monitoring dispute resolution schemes adequate the changes, if any, should be considered?	ate?
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73. Is the existence of multiple schemes and the incentive to retain and attract sufficient to ensure that the schemes remain efficient and membership fees are controlled?	
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-AA Review Submissions
74. Should the \$200,000 jurisdictional limit on the size of claims that dispute resolution
schemes can hear be raised in respect of other types of financial services, and if so,
what would be an appropriate limit?
75. Should additional requirements to ensure that financial service providers are able to
pay compensation to consumers be considered in New Zealand?
Key FSP Act questions for the review
Rey F3F Act questions for the review
76. What features or information would make the Register more useful for consumers?
77. Would it be appropriate for the Register to include information on a financial
adviser's qualifications or their disciplinary record?

significant risk to New Zealand's reputation as a well-regulated juris New Zealand businesses?	saiction and/or to
New Zealand Businesses?	
	<u> </u>
79. Are there any changes to the scope of the registration requirement of regulators that should be considered in response to this issue?	ents or the powers
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60. What are the effects of (positive and negative) competition betwee esolution schemes on effective dispute resolution?	een dispute
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81. Are there ways to mitigate the issues identified without losing th	e benefits of a
<u>.</u>	_

82. Are the current regulatory settings adequat dispute resolution options? How could awarer	_
emographics	
*83. Please provide your name and/or the name organisation you are providing this submission	
≭84. Please provide your contact details:	
85. Are you providing this submission:	
As an individual	
On behalf of an organisation	
Please describe the nature and size of the organisation:	
	<u></u>
86. If submitting on behalf of an organisation: How many people are in the organisation, or we providing this submission on behalf of?	ork in the organisation, that you are
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□ 20-49□ 50-99	

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87. I would like my submission (or specified parts of my submission) to be kept	
confidential, and explain my reasons for this, for consideration by MBIE: — Yes — No	
Explanation:	
▼	
Thank you for your time. Places and your submission.	
Thank you for your time. Please send your submission.	