



#19

COMPLETE

PAGE 2: Role and regulation of financial advice

Q1: Do you agree that financial adviser regulation should seek to achieve the identified goals? If not, why not?

Yes, there is no point having regulation if it is not going to achieve the desired outcome, in this case that consumers are protected and able to make informed decisions. Advice must be accessible at a reasonable cost to the consumer. The current terminology "financial Advice" is confusing the consumer when the reality is that the "advice" is broking or sales>

Q2: What goals do you consider should be more or less important in deciding how to regulate financial advisers?

That all advisers must adhere to the to same rules and regulations and keep being educated and up to date with current trends and market issues. All advisers should be bound by a code of conduct. Financial advice must be affordable and unbiased which will build confidence in this profession, this does not mean that it is left to the banks to fleece clients.

Q3: Does this definition adequately capture what financial advice is? If not, what changes should be considered?

Consumers do not understand what is financial advice or sales patter.

Q4: 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?

No this is not effective as clients are being classified as wholesale when the reality is they are retail clients, and therefore are outside the act. Consumers do not understand the difference.

Q5: Is the distinction in the Act between a personalised financial service and a class service appropriate and effective? If not, what changes should be considered?

Consumers have no understanding of the difference between Class & personalised advice, specifically when this advice is provided by Banks & Insurance companies. All advice should be personalised and provided by qualified advisers. The term class advice has used the "modern portfolio theory" which is a process to classify clients. This theory is not advice.

Q6: Is it appropriate to have different requirements on advisers depending on the risk and complexity of the products they advise upon?

All advisers should be under the same obligations and codes of conduct irrespective of the type of advice being provided.

Q7: Does the current categorisation system accurately reflect the level of complexity and risk associated with financial products? If not, how could it be improved?

No. The product category is confusing for consumers, The term "advice" confuses what is being provided when the reality is it is a sale, broking etc. If the designations were more descriptive of the service being provided this

could alleviate some of the confusion, eg Mortgage broker, insurance agent, etc. Essentially call the person providing the advice / service what they are.

Q8: Do you think that the term Registered Financial Adviser (RFA) gives consumers an accurate understanding of what these advisers are permitted to provide advice on and the requirements that apply to them? If not, should an alternative term be considered?

Absolutely not. This adopted term has no meaning and is very confusing for consumers. This has come about through the name of the Act "Financial Advisers Act", it has provided adviser,s to claim a title not warranted, when sales / agent would be more appropriate. If the designations were more descriptive of the service being provided this could alleviate some of the confusion, eg Mortgage broker, insurance agent, etc.

Q9: Are the general conduct requirements applying to all financial advisers, including RFAs, appropriate and adequate? If not, what changes should be considered?

No, advisers should be bound by the one code of conduct. All advisers must advise if they have a preferred supplier of a product to consumers. Currently the exemptions distort the advice field with differing levels of accountability.

Q10: Do you think that disclosing this information is adequate for consumers? Should RFAs be required to disclose any additional information?

Current disclosure specifically Registered Advisers is inadequate, as it does not require advisers to disclose preferred supplier or other incentives that will influence their advice.

Q11: Are there any particular issues with the regulation of RFA entities that we should consider?

Yes this term and class of adviser should be cancelled, with current advisers required to meet competency and character tests. They should have ongoing education requirements to keep abreast of markets. Consider this: A mortgage broker needs only to be registered, no formal qualifications, competency testing, or ongoing study. What has the potential to cause significant distress to consumers. a 30 year commitment for a mortgage of \$100's of dollars, or a \$5,000 investment (not denigrating the \$5,000 investor as it may be all their savings) but the Authorised adviser has significantly higher obligations and a code of conduct to adhere to.

Q12: Are the costs of maintaining an adviser business statement justified by its benefits? If not, what changes should be considered?

The advisor business statement has little relevance to consumers. Therefore the cost to maintain this document is not warranted other than for legislative requirements.

Q13: Is the distinction between an investment planning service and financial advice well understood by advisers and their clients? Are any changes needed to the way that an investment planning service is regulated?

I don't believe that any changes are needed in this area.

Q14: To what extent do advisers need to exercise some degree of discretion in relation to their clients' investments as part of their normal role?

There will always be measure of discretion required when dealing with clients investments subject to client approval.

Q15: Should any changes be considered to reduce the costs on advisers who exercise some discretion, but are not offering a funds management-type service?

Yes, This cost is passed onto clients through increased costs which then creates a barrier to some clients seeking personalised advice. This then leads to banks having the monopoly and provide lesser service to clients.

Q16: Are the current disclosure requirements for Authorised Financial Advisers (AFAs) adequate and useful for consumers?

Yes these are appropriate and very useful for clients as full disclosure is required.

Q17: Should any changes be considered to improve the relevance of these documents to consumers and to reduce the costs of producing them?

The requirement for two or more disclosures is confusing for consumers. As the current primary disclosure is generic it has little value for consumers to make comparisons when selecting and advisor.

Q18: Do you think that the process for the development and approval of the Code of Professional Conduct works well?

Yes I believe this has worked well and should continue to do so.

Q19: Should any changes to the role or composition of the Code Committee be considered?

No

Q20: Is the Financial Advisers Disciplinary Committee an effective mechanism to discipline misconduct against AFAs?

Yes

Q21: Should the jurisdiction of this Committee be expanded?

I don't believe so, unless they can discipline Registered Financial Adviser if this class of adviser is to remain.

Q22: Does the limited public transparency around the obligations of Qualifying Financial Entities (QFEs) undermine public confidence and understanding of this part of the regulatory regime?

Very much so. Given that the majority of QFE advisers are employed by Banks & insurance companies the employee performance / remuneration models are based on sales targets etc this presents a massive conflict of interest. Disclosure of the sales etc is not provided to consumers. Also QFE advisers have to provide the QFE solution to consumers even if there is a better option in the market place they are unlikely to provide this information to the consumer.

Q23: Should any changes be considered to promote transparency of QFE obligations?

Yes. full disclosure and all advisers must be level 5.

Q24: Are the current disclosure requirements for QFE advisers adequate and useful for consumers?

No They should have to disclose the sales targets they are measured against and bonuses they could receive. Likewise for Insurance advisers who have soft dollar incentives along with large up front commissions.

Q25: Should any changes be considered to improve the relevance of these documents to consumers or to reduce the costs of producing them?

All adviser disclosures should be equal.

Q26: How well understood are the broker requirements in the FA Act? How could understanding be improved?

I do not believe that consumers understand broker requirements. Better disclosure needs to be provided to ensure portfolio churn is eliminated within the broking houses, which can often occur off market between advisers within the same business.

Q27: Are these requirements necessary and/or adequate to protect client assets? If not, why not?

See above

Q28: Should consideration be given to introducing disclosure requirements for brokers? If so, what would need to be disclosed and why?

Yes all costs and the reasons for changing an investment as the brokerage costs can be hidden within the portfolio and the consumer does not know the full cost of using the broker service.

Q29: What would be the costs and benefits of applying the broker requirements in the FA Act to insurance intermediaries?

Respondent skipped this question

Q30: Are the requirements on custodians effective in reducing the risk of client losses due to misappropriation or mismanagement?

Yes I believe that the current requirements provide a good level of protection to clients.

Q31: Should any changes to these requirements be considered?

I don't believe so

Q32: Is the scope of the FA Act exemptions appropriate? What changes should be considered and why?

Current exemptions for real estate agents, accountants & Lawyers should be terminated. Real Estate agents "Commission agents" can encourage people to purchase investment properties with no understanding of the consumers overall financial position, this has the potential cause significant distress, eg "Bluechip". Similarly accountants & Lawyers generally donot take the consumers full situation into consideration, they will comment on the transaction or situation (Singular).

Q33: Does the FA Act provide the Financial Markets Authority (FMA) with appropriate enforcement powers? If not, what changes should be considered?

I believe the level of enforcement is about right.

Q34: How accessible and useful is the guidance issued by the FMA? Are there any improvements you would like to see?

the level of guidance is general in nature, however more prescriptive would be useful to ensure everyone has a better understanding of the expectations.

PAGE 3: Key FA Act questions for the review

Q35: 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.

This area needs to be refined. The removal of the RFA would go along way to clarifying the industry. Call the adviser what they are "mortgage broker, insurance agent, etc

Q36: To what extent do consumers understand that some financial advisers' primary roles may be selling financial products, rather than solely acting as an unbiased adviser to their clients?

Consumers have no idea that this is the case. the QFE's (banks) have abused the intent of the act to provide quasi advice to consumers, when in fact all they have done is sell product which may or may not be appropriate. When staff are measured and remunerated on achieving sales targets there is no way the advice can be unbiased. Especially if being able to achieve the target means you will retain your job or be let go for non performance. The banks will deny this is the case however I have observed a specific role within one of the banks being advertised 4 times over a twelve month period, this speaks volumes.

Q37: Should there be a clearer distinction between sales, information provision, and advice? How should such a distinction be drawn? What should or should not be included in the definition of financial advice?

Advice should be personalised, "class" is a process not advice. Sales staff need to be designated as such, if denoted as a sales person there can be no confusion for consumers. Eg: You discuss buying a television @ Noel Leeming, you know you are dealing with a sales consultant.

Q38: Do you think that current AFA disclosure requirements are effective in overcoming problems associated with commissions and other conflicts of interest?

Only if correct disclosure is provided there should be no confusion, commissions should be fully disclosed.

Q39: How do you think that AFA information disclosure requirements could be improved to better assist consumer decision making?

Full disclosure to enable consumers to better understand how the adviser gets paid, and who is paying them, also if they have a preferred supplier of that product or service.

Q40: Do you support commission and conflict of interest disclosure requirements being applied to all financial advisers? If so, what requirements are appropriate for different adviser types?

Most definitely there should be a level playing field for all advisers, with this extended to preferred supplier disclosure. I am aware of mortgage brokers having preferred mortgage providers and this is not disclosed to consumers and volume incentives.

Q41: Do you think that commissions should be restricted or banned in relation to financial advice, and if so, in what way? What would be the costs and benefits of such an approach?

Commission should be banned all together

Q42: Has the right balance been struck between ensuring advisers meet minimum quality standards and ensuring there is competition from a wide range of providers (and potential providers)?

There needs to be a level playing field for all advisers which I do not believe there is at this time, registered financial advisers have much less compliance and accountability as have QFE advisers.

Q43: What changes could be made to increase the levels of competition between advisers?

I believe the competition between AFA advisers is about right, the disparity exists between Registered advisers and QFE advisers, these designations should be done away with.

Q44: Do you think that the Code of Professional Conduct for AFAs strikes the right balance between requiring them to understand their clients and ensuring that consumers can get advice on discrete issues?

Yes, the code should apply to all advisers

Q45: To what extent do you think that the categorisation of types of advice and advisers is distorting the types of advice and information that is provided?

The act has forced advisers (AFA's) to specialise which has limited the number of advisers able to give advice, and some to be registered as they do not want to have to operate at a higher level in compliance and competency.

Q46: Are there specific compliance requirements from the FA Act regulation that have affected the cost and availability of independent financial advice?

There seems to be duplication of reporting to authorities with reports overlapping. Multiple levels of disclosure, ie primary, secondary, and subsequent amendments etc.

Q47: How can regulatory requirements be made less onerous without reducing the quality and availability of financial advice?

Combining disclosure into one document as a starting point.

Q48: What impact has the Anti-Money Laundering and Countering Finance of Terrorism Act had on compliance costs for advisers? How could these costs be minimised?

This legislation has placed significant cost on advisers, mainly in time cost, and frustration for clients. I agree with the intent of the legislation and that we need to have this to meet our obligations, however when the client is required to provide the same information 2 or 3 times for the same thing this often makes the client not want to seek advice.

Q49: What impact do you expect that KiwiSaver decumulation will have on the market for financial advice in New Zealand? Are any specific changes to regulation needed to specifically promote the availability of KiwiSaver advice?

At this time the expectation from authorities to provide advice for little compensation has many advisers not being involved in this area.

Q50: What impact do you expect that the introduction of the Financial Markets Conduct Act (FMC Act) will have on the market for financial advice in New Zealand? Should any changes to the regulation of advice be considered in response to these changes?

Advisers will be less likely to provide personalised advice to consumers.

Q51: Do you think that international financial advice is likely to increase? Is the FA Act set up appropriately to facilitate and regulate this?

This a possibility in the future. The act should cover this providing all advisers adhere to the same code of conduct.

Q52: How beneficial are the current arrangements for trans-Tasman mutual recognition of qualifications? Should further arrangements be considered?

Mutual recognition would be beneficial for both countries and advisers.

Q53: In what ways do you expect new technologies will change the market for financial advice?

Robo advice is major concern as consumers will be forced to make decisions not fully understanding what they are investing in.

Q54: How can government keep pace with technological developments to ensure that quality standards for advice are maintained, without inhibiting innovation?

One would hope so

Q55: Are the minimum ethical standards for AFAs appropriate and have they succeeded in fostering the ethical behaviour of AFAs?

Yes the current code of conduct is about right. I believe that advisers are truly providing advice for their clients with the best of intentions. no regulation is going to prevent fraudulent people scamming the vulnerable.

Q56: Should the same or similar ethical standards apply to all types of financial advisers?

Most definitely

Q57: What is an appropriate minimum qualification level for AFAs?

Graduate diploma level 7.

Q58: Do you think that RFAs (for example insurance or mortgage brokers) should be required to meet a minimum qualification relevant to the area of advice they specialise in? If so, what would be an appropriate minimum qualification?

Most definitely level 5 as it is for afa's.

Q59: How much consideration should be given to aligning adviser qualifications with those applying in other countries, particularly Australia?

Worth thinking about

Q60: How effective have professional bodies been at fostering professionalism among advisers?

Very effective, I firmly believe that there should be one professional body for the financial advice industry.

Q61: Do you think that professional bodies should play a formal role in the regulation of financial advisers and if so, how?

Yes they can assist with raising ethical, & educational standards, also with disciplinary issues. A professional body can assist with interpretation of the act & code to ensure advisers meet requirements. As an example the IFA has higher standards for it's members to abide by, which are also aligned to the global body Financial planning standards Board.

Q62: Should any changes be considered to the relative obligations of individual advisers and the businesses they represent? If so, what changes should be considered?

Not at this stage

Q63: Is the QFE system achieving its goals in terms of consumer protection and reducing compliance costs for large entities? If not, what changes should be considered?

It is lowering costs for QFE's, I do not believe they are meeting the needs of consumers.

PAGE 4: Role of financial service provider registration and dispute resolution

Q64: Do you agree that the Register should seek to achieve the identified goals? If not, why not?

The register meets the current goals ie it records advisers names, however consumers donot know of it's existence and how to use it.

Q65: What goals do you consider should be more or less important in reviewing the operation of the Register?

The general nature of it reduces it's effectiveness

Q66: Do you agree that the dispute resolution regime should seek to achieve the identified goals? If not, why not?

Yes the disputes services do meet the current goals, however the lack of a central register defeats the purpose. Also the number of schemes available offers opportunities to fudge issues.

Q67: What goals do you consider should be more or less important in reviewing the dispute resolution regime?

Respondent skipped this question

PAGE 5: How the FSP Act works

Q68: Does the FMA need any other tools to encourage compliance with financial service provider (FSP) registration? If so, what tools would be appropriate?

No

Q69: What changes, if any, to the minimum registration requirements should be considered?

No changes required

Q70: Does the requirement to belong to a dispute resolution scheme apply to the right types of financial service providers?

Yes

Q71: Is the current framework for the approval of dispute resolution schemes appropriate? What changes, if any, should be considered?

yes

Q72: Is the current framework for monitoring dispute resolution schemes adequate? What changes, if any, should be considered?

No central register, consistency of decision when complaints made / resolved

Q73: Is the existence of multiple schemes and the incentive to retain and attract members sufficient to ensure that the schemes remain efficient and membership fees are controlled?

I do not believe that they are cost effective and can survive in the long run.

Q74: 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?

It should be higher in respect of property transaction when real estate agents, accountants, & lawyers are covered under the act!!

Q75: Should additional requirements to ensure that financial service providers are able to pay compensation to consumers be considered in New Zealand?

All financial service providers are required to hold liability insurance

PAGE 6: Key FSP Act questions for the review

Q76: What features or information would make the Register more useful for consumers?

Unsure

Q77: Would it be appropriate for the Register to include information on a financial adviser's qualifications or their disciplinary record?

Yes, however one professional body could hold and provide this information

Q78: Do you consider misuse of the Register by offshore financial service providers is a significant risk to New Zealand's reputation as a well-regulated jurisdiction and/or to New Zealand businesses?

Yes

Q79: Are there any changes to the scope of the registration requirements or the powers of regulators that should be considered in response to this issue?

They must have offices in NZ, NZ bank accounts and directors residing in NZ and paying tax here in NZ

Q80: What are the effects of (positive and negative) competition between dispute resolution schemes on effective dispute resolution?

Stated before

Q81: Are there ways to mitigate the issues identified without losing the benefits of a multiple scheme structure?

Respondent skipped this question

Q82: Are the current regulatory settings adequate in raising awareness of available dispute resolution options? How could awareness be improved?

Respondent skipped this question

PAGE 7: Demographics

Q83: Please provide your name and/or the name of the group of people, business, or organisation you are providing this submission on behalf of:

Don Broad

Q84: Please provide your contact details:

9(2)(a)

Q85: Are you providing this submission:

- As an individual

Q86: If submitting on behalf of an organisation: How many people are in the organisation, or work in the organisation, that you are providing this submission on behalf of?

Respondent skipped this question

Q87: 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:

- No
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