



#24

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

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

We believe all goals are important, however goal one provides key consumer information that flows through to the other goals.

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

Currently the definition of advice is linked to a product, and the acquisition, disposal or retention of such. We believe this is a fundamental flaw and a clearer distinction should be drawn between a simple product sale, and the provision of advice. Any categorisation of advice therefore should also consider the potential for financial risk that that advice or sale constitutes to an individual.

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?

Respondent skipped this question

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?

No. The reality is that often 'class advice' is provided, but the client unintentionally interprets this as 'personalised advice', even if the advice was not delivered in this way. Clearly identifying material provided in this way would help, as would the inclusion of a specific wording to alert the user. This wording could recommend seeking personalised advice.

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

It is appropriate as more complex and riskier products should require 'advice' versus a simpler product that can be 'sold'.

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?

The potential harm from a wrongly advised category 2 product can be as severe as that of a category 1, as we have seen from insurance errors during the Canterbury earthquakes. If the current categorisation is retained there needs to be a certain level of training and product knowledge required to ensure the client's needs are to the foremost in any transaction Property 'investment' still remains a grey area, given New Zealander's propensity

to use property as in investment vehicle, creating a large, often illiquid and non-diversified investment prompted by rental returns and marketing promises.

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?

No. To many people the term 'registered' actually implies a greater level of qualifications than the term 'authorised'. Consider the application of registration in other industries, i.e. registered gasfitter, to understand this bias. The term 'financial adviser' should be protected for those qualified to provide advice, and who adhere to the highest standard of client care.

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Once completed, the costs of on-going review and updates are not onerous, however most AFA's would like to know if the FMA really find these documents necessary or useful anymore. Can sufficient information be drawn from the AFA return, or could additional information be included in this return to remove the need to hold an ABS.

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?

No. With the introduction of the DIMS regime, does there still need to be any distinction, or could the process be covered under the term 'financial advice'.

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?

This should only be limited to the extent that client contact is impractical, i.e. the client is overseas and unable to be contacted. Any activity under discretion still should be notified to the client as soon as practicable.

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?

Any changes need to ensure they are not creating a blurred space between a DIMS service and a non-DIMS provision, or the entire rationale behind DIMS would be eroded

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

No. The Primary Disclosure document in its prescribed form adds very little value, and while intended to give consumers a way of choosing between advisers really contains very little specific info to aid this purpose. A more comprehensive initial disclosure containing more information about fees, commissions, product providers and adviser's experience/qualifications would be more useful

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

Disclosure should be on 1 document, and then followed up with a simple secondary disclosure upon sale or advice. This would detail fees/costs for the specific engagement

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

Yes. It is important to retain the industry input and knowledge in how best to apply the principles of the FAA into a practical sense.

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?

Respondent skipped this question

Q21: Should the jurisdiction of this Committee be expanded?

Respondent skipped this question

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?

Quite the opposite. QFE's enjoy a perception of 'safety' from the general public.

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

Advice provided by a QFE member should be subject to the same disclosure requirements of other advisers.

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

Q31: Should any changes to these requirements be considered?

Respondent skipped this question

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

Many accounting practices are moving to a holistic advice model, and this is likely to see the boundaries of the 'incidental advice' area being tested in the future. These exemptions should be narrowed and where the advice given by a lawyer or accountant fits any new definition of financial advice then they should be required to meet the same standards.

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

Respondent skipped this question

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

Respondent skipped this question

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.

Remove the distinction between AFA and RFA Financial advice should only be provided by an AFA (or equivalent), with others being licenced to 'sell' products. This should still require a certain level of training to be achieved.

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?

They don't. This is not an issue where a client has a need for a product and has chosen a provider to satisfy that need, i.e. decided to open a bank savings account.

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?

Basing any definition on where the fiduciary duty lies will assist in making the definition clearer.

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

Yes - but in their current form are read by very few clients

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

All disclosure should be the same, with a standardised format.

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?

Yes - all should be the same. The disclosure required for a certain client engagement should be the same regardless of whether the advice was provided by an AFA, RFA or OFE adviser.

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?

Where commissions are clearly discussed and disclosed with clients there should be no problems. The payment of a commission or trail however should have a service expectation. KiwiSaver advice could be an area of negative impact as the small level of trail commission enables advisers to provide some service

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)?

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Extra audit costs averaging \$600pa per adviser. Staff time to prepare plans, returns at 10 hours pa Consideration to incorporating information where possible into one return

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

If Financial Advisers wish to be seen as a recognised profession then level 7 should be the minimum

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?

Sales staff should have a minimum of level 4 or 5 Any advice should require a higher level of knowledge

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

Respondent skipped this question

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

Respondent skipped this question

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

Professional bodies can assist with educational pathways and support, mentoring advisers and providing vital ethics training

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?

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

PAGE 6: Key FSP Act questions for the review

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

Promotion to the general about the existence of the register would be a very good start. The terminology used is not user-friendly and should be easier to understand for the public

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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:

Kepler Group Southland Limited

Q84: Please provide your contact details:

18(d)

Q85: Are you providing this submission:

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- On behalf of an organisation
 - **Please describe the nature and size of the organisation:** We are a financial adviser business providing advice in the Investment, Retirement, KiwiSaver and Insurance areas to retail clients. We have 4 advisers and 3 support staff.

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?

-
- 6-19
- 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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