### **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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# 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?

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. Does the current o	-	_		
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-	ding of what these	advisers are p	ermitted to prov	ride advice on and
ccurate understand	ding of what these	advisers are p	ermitted to prov	ride advice on and m be considered?
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RFAs, appropriate and adequate? If not, what changes shoul	cial advisers, including d be considered?
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0. Do you think that disclosing this information is adequate RFAs be required to disclose any additional information?	for consumers? Should
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1. Are there any particular issues with the regulation of RFA consider?	entities that we should
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2. Are the costs of maintaining an adviser business statements for a considered?	nt justified by its benefits
	nt justified by its benefits

b. Is the distinction between an investment planning service and financial advice well inderstood by advisers and their clients? Are any changes needed to the way that an vestment planning service is regulated?  Is To what extent do advisers need to exercise some degree of discretion in relation to eir clients' investments as part of their normal role?  Is Should any changes be considered to reduce the costs on advisers who exercise some discretion, but are not offering a funds management-type service?  Is Are the current disclosure requirements for Authorised Financial Advisers (AFAs) dequate and useful for consumers?	2 le the dictineti	omissions on between an inve	etmont plane	ng convice and fi-	annoial advice well
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17. Should any changes be considered to improve the relevance of these documen	ts to
consumers and to reduce the costs of producing them?	
18. Do you think that the process for the development and approval of the Code of	
Professional Conduct works well?	
Professional Conduct works well:	
40. Observed annual benevate the male annual title of the Oada Oannuittee ha	
19. Should any changes to the role or composition of the Code Committee be	
considered?	
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20. Is the Financial Advisers Disciplinary Committee an effective mechanism to	
discipline misconduct against AFAs?	
21. Should the jurisdiction of this Committee be expanded?	

22. Does the limited public transparency around the obligations of	
Entities (QFEs) undermine public confidence and understanding	of this part of the
regulatory regime?	
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23. Should any changes be considered to promote transparency	of QFE obligations
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24. Are the current disclosure requirements for QFE advisers ade consumers?	quate and useful fo
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consumers or to reduce the costs of producing them?  26. How well understood are the broker requirements in the FA A	Y

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28. Should consideration be given to introducing disclosure require	ments for brokers
f so, what would need to be disclosed and why?	
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.9. What would be the costs and benefits of applying the broker requ	uirements in the F
Act to insurance intermediaries?	
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60. Are the requirements on custodians effective in reducing the risk lue to misappropriation or mismanagement?	of client 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?
33. Does the FA Act provide the Financial Markets Authority (FMA) with appropriate
enforcement powers? If not, what changes should be considered?
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34. How accessible and useful is the guidance issued by the FMA? Are there any
improvements you would like to see?
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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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-AA Review Submissions
36. 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?
37. 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?
38. Do you think that current AFA disclosure requirements are effective in overcoming problems associated with commissions and other conflicts of interest?
39. How do you think that AFA information disclosure requirements could be improved
to better assist consumer decision making?

40. Do you support commission and conflict of interest disclos applied to all financial advisers? If so, what requirements are apadviser types?	
	A V
41. Do you think that commissions should be restricted or band financial advice, and if so, in what way? What would be the cos an approach?	
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42. Has the right balance been struck between ensuring advise standards and ensuring there is competition from a wide range potential providers)?	
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43. What changes could be made to increase the levels of compadvisers?	petition between
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44. Do you think that the Code of Professional Conduct for AFAs stable balance between requiring them to understand their clients and enconsumers can get advice on discrete issues?	_
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	<u>A</u>
	<b>Y</b>
45. To what extent do you think that the categorisation of types of s distorting the types of advice and information that is provided?	advice and advisers
	<b>A</b>
46. Are there specific compliance requirements from the FA Act requirement	gulation that have
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17. How can regulatory requirements be made less onerous withou	ut reducing the
juality and availability of financial advice?	

48. What impact has the Anti-Money Laundering and Countering Finance o	f Terrorism
Act had on compliance costs for advisers? How could these costs be mini	imised?
	<b>~</b>
l9. What impact do you expect that KiwiSaver decumulation will have on the inancial advice in New Zealand? Are any specific changes to regulation not be specifically promote the availability of KiwiSaver advice?	
	A
50. What impact do you expect that the introduction of the Financial Marke	ets Conduct
Act (FMC Act) will have on the market for financial advice in New Zealand?	
changes to the regulation of advice be considered in response to these ch	_
	<b>A</b>
51. Do you think that international financial advice is likely to increase? Is t	he FA Act set
p appropriately to facilitate and regulate this?	
	<b>Y</b>

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58. Do you think that RFAs (for example insurance or mortgage l	prokers) should be
required to meet a minimum qualification relevant to the area of a	dvice they specialis
in? If so, what would be an appropriate minimum qualification?	
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59. How much consideration should be given to aligning adviser	qualifications with
hose applying in other countries, particularly Australia?	
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60. How effective have professional bodies been at fostering pro	fessionalism amon
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60. How effective have professional bodies been at fostering pro advisers?	fessionalism amon
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FAA Review Submissions	
62. Should any changes be considered to the relative obligation	s of individual advisers
and the businesses they represent? If so, what changes should	be considered?
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63. Is the QFE system achieving its goals in terms of consumer p	protection and reducing
compliance costs for large entities? If not, what changes should	l be considered?
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Role of financial service provider registration and disput	o recolution
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64. Do you agree that the Register should seek to achieve the ide	ontified goals? If not
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why not?  65. What goals do you consider should be more or less important	
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FAA Review Submissions	
66. Do you agree that the dispute resolution regime should seek to achieve the identified goals? If not, why not?	
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67. What would do you consider should be more or loss 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	
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AA Review Submissions	
70. Does the requirement to belong to a dispute resolution scheme apply to the types of financial service providers?	e right
71. Is the current framework for the approval of dispute resolution schemes appropriate? What changes, if any, should be considered?	
	<b>V</b>
72. Is the current framework for monitoring dispute resolution schemes adequ What changes, if any, should be considered?	ate?
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 ar controlled?	
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FAA Review Submissions	
74. Should the \$200,000 jurisdictional limit on the size of claims that dispute resol	ution
schemes can hear be raised in respect of other types of financial services, and if	so,
what would be an appropriate limit?	
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75. Should additional requirements to ensure that financial service providers are	ahla ta
	abie to
pay compensation to consumers be considered in New Zealand?	a
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Key FSP Act questions for the review	
76. What features or information would make the Register more useful for consur	ners?
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77. Would it be appropriate for the Register to include information on a financial	
adviser's qualifications or their disciplinary record?	
adviser s quantications of their disciplinary record:	a
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_	misuse of the Regist	=	_
gnificant risk to N	ew Zealand's reputation	n as a well-regulated	jurisdiction and/or to
ew Zealand busin	esses?		
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Are there any ch	nanges to the scope of	the registration requi	rements or the nower
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regulators that s	hould be considered i	response to this issu	ler
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solution schemes	on effective dispute i	PSNIIITINN?	
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dispute resolution options? How could awarene	in raising awareness of available ess be improved?
emographics	
*83. Please provide your name and/or the name organisation you are providing this submission	
<b>★84. Please provide your contact details:</b>	
85. Are you providing this submission:	
As an individual	
On behalf of an organisation	
Please describe the nature and size of the organisation:	
86. If submitting on behalf of an organisation: How many people are in the organisation, or wo providing this submission on behalf of?	k in the organisation, that you are
□ 1-5 □ 6-19	
□ 6-19 —	
<ul><li>□ 6-19</li><li>□ 20-49</li></ul>	
<ul><li>□ 6-19</li><li>□ 20-49</li><li>□ 50-99</li></ul>	
<ul><li>□ 6-19</li><li>□ 20-49</li><li>□ 50-99</li><li>□</li></ul>	

FAA Review Submissions		
87. I would like my submission (or specified parts of my submission) to be kept		
confidential, and explain my reasons for th		
Yes	□ No	
Explanation:		
	<u></u>	
Thank you for your time. Please send your submission.		