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

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?

Yes

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

Financial Advice needs to be accessible to all NZers no matter their income, wealth or ability to understand.

Whether is simple personal family budgeting to raising mortgage finance or investing the life savings for retirement - all NZ need to have access to free financial advice. If not, it will become a service for the rich only. Better financial literacy throughout NZ will only benefit the country as a whole. I believe its not how much money one earns, it what one does with it....hence sound financial education and advice will only benefit all aspects on NZ life and improve the standard of home life

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

yes - but i believe alot of financial products that are sold through retailers (REDACTED TEXT are a major course of financial hardship within families due to the lack of understanding and costs long term. The selling of these type of products are not falling within the act and majorly affecting the community and people that access them who are generally people with limited financial understanding, low income or poor budgeting skills.

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?

yes

5. 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?

yes

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

No - every advisor should be treated the same. The impact on poor mortgage advisor can have the long term effects as poor advice on investment so can poor insurance recommendations.

7. 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 - i believe Kiwisaver shouldn't be Category 1 product. Should be a separate product like Lending, Insurance as too there is not enough advice being made available to clients due to lack of advisers in the market.

The average mum and dad kiwisaver doesn't understand their investment and risk class - hence not being reviewed as move closer to retirement.

8. 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 - I'm an AFA in category 2 products only and went the extra step to show my commitment to my clients but i have the same limitations as a RFA - just alot more compliance and costs to a RFA. It doesn't give my clients any more benefit

All advisers need to have the training and remove the confusion for the consumer. From a client point of view RFA or AFA have Financial Adviser in it which means you must be able to give our financial advice - a client doesn't understand the difference and doesn't provide confidence in the system. Its like to you do have two levels of GP's one that deals with colds and flus and another

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

no - its a start but again why have different levels between AFA and RFA when the advice and impact on any advice is just important.

It must be noted in law that RFA must comply with the Ethic code as per AFA.

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

no - i know RFA that have had personal claims via courts and formal complaints that are not disclosed to new clients and continue to trade today. Its currently a way for poor advisers to not disclose their poor past.

They also have no requirement to disclose payment system between different providers and what impact its having the advice process - reason why i went to AFA level to show my commitment and disclosure to my clients.

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

no

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

For a small business like myself doesn't seem to be a major cost as very simple - Once established the statement is a good business tool and helps with my business plans.

13. 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?

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

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

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

Yes, but the needs to be easier for the consumer - remove the primary and secondary levels - create one statement that cover everything and all disclosures for all advisers should be available on line via their websites and the advisor register to all consumers.

If available on line and even emailed to clients at first contact replace the need for clients to sign and save printing costs - must clients i deal with don't care about my disclosure statement they are focus on their needs and request.

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

As per question 16 - let make them available on line and records held to show that they are issued via emails.... let stop printing them. If the consumer is interested they will read it on line and research the adviser before they take their advice.

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

19. Should any changes to the role or composition of the Code Committee be considered?

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 Qualifying Financial 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. Should any changes be considered to improve the relevance of these documents to 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?

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

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

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

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

31. Should any changes to these requirements be considered?

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

yes - but i believe alot of financial products that are sold through retailers (REDACTED TEXT) are a major course of financial hardship within families due to the lack of understanding and costs long term. The selling of these type of products are not falling within the act and majorly affecting the community and people that access them who are generally people with limited financial understanding, low income or poor budgeting skills.

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?

Very poor - i have asked questions in the past and only been referred to their website which then can be taken a number of ways. I have found the FMA unhelpful when i have had a question to ensure i doing things correctly on a compliance side - seem no one is willing to provide advice to ensure i'm acting within the rules, from the point they either don't know or too scared to commit to an answer.

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.

Yes - remove the AFA and RFA. A financial advisor is simply a financial advisor. They give advise on what they are trained for. Staff within Banks and insurance companies are not advisors and are simply sales people for their companies - this needs to be clear to consumers that if you go direct to the suppliers - you are buying products and not getting advise.

Advise is about understanding the clients needs, goals and risks - putting a plan whether its mortgage finance with insurance, family budgeting and retirement plan that includes kiwisaver. This needs to be free to all NZers and a set commission paid by all providers (banks and insurance

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?

Consumers understand this, but not every adviser is solely focus on advice like myself. I do free family budgeting and mentoring services. A good advisors stand out from sales advisors - word of mouth in the community works well.

The reason clients are going to mortgage, insurance and investment advisers is to review products and get advice on them.

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?

Financial Advice is personalized advice from a full range of options (not necessary to one supplier), but a range of structure and formates that match clients needs and best interest. Bank Staff don't give advice in insurance as they have set products and not necessary in clients best increase because they have limitations within products - this is sales.

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

yes. but doesn't reflect the pressure put on adviser by supplies with targets and threats of punishment if targets are not meet.

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

Need to be reduce to one document - remove primary and secondary formate.

40. 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?

As a AFA in category 2 only products, i have no issue in disclosing commission and conflict of interest with commission to my clients and enjoy being open with them. My clients understand that due to the level of service and advise i provide it saves them a lot of money as my costs are covered by the fat banks that can afford it (where most of the profits go oversea). I feel like its Robin Hood formate - help the one that need it and the rich banks are paying for the service which is looking after their clients.

The issue that STRONGLY needs to be address is the actions of the providers (mainly BANKS) on

41. 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?

For the mum and dads, first home buyers and low income people commissions need to be stay or your have alot of people not being able to access financial advice. The banks and insurance companies are making the profits and adviser commisions are included into their costings - so why change it and put it back on the poor mum and dads that are just making a living now.

People will simply not seek the advise which could put alot more consumers at financial risk and hardship.

42. 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)?

43. What changes could be made to increase the levels of competition between advisers?

Why do you need competition between advisers - is i not about working in the best interest of the client and if advisers start to compete for business and lively hood - could this not bring in bad practices.

Its a service and advice industry and all comes down to customer service and support - hence word of mouth works well and should continue as is.

44. 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?

45. 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?

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

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

48. 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?

A lot more time chasing things to confirm details. ID is fine if someone drives or has passport. What about large amount of people that don't have either.

The requirements under the law to confirm address details is why out of date. With technology everything is sent by email now days (look at NZ post figures) - from power accounts to bank statements. So how do you expect a client to confirm an address when they don't get mail posted - or they live/board with others and don't have power accounts etc.

49. 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?

To many NZers and their kiwisaver funds are at risk because they don't have the understand and support how best to manage the savings. Kiwisaver should be in catergory 1 product - needs its own skill level that more advisers can achieve without the large training costs and compliance needs.

Again focus not on selling products or relocating them to new providers - but on advise process throughout the life of the client and costs need to be included /covered by provider via trail commission - hence paid out when clients sign a yearly review letter.

50. 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?

no

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

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?

No. Poor advisors will always be poor and not matter what regulations or ethical behaviour in put in place, if someone is going to either steal or mislead someone else they will and nothing will stop them.

It may increase the standard of the average advisor but poor and bad always do what they want.

56. Should the same or similar ethical standards apply to all types of financial advisers?

Yes.

57. What is an appropriate minimum qualification level for AFAs?

Yes . Current levels are good or you will force more out of the industry or young ones will not look to it as a choosen career path.

58. 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?

Yes - same for all including QFA . Why is QFA no included in the question?

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

60. How effective have professional bodies been at fostering professionalism among advisers?

PAA is very good and do alot more than FMA do in communicating and supporting advisors.

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

No. Nice to keep them as is and have independent authority as is. By lets look at the costs to advisors.

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

63. 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?

Role of financial service provider registration and dispute resolution

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

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

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

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?

69. What changes, if any, to the minimum registration requirements should be considered?

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

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

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

73. 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?

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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

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?

78. 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?

79. 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?

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

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

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

Demographics

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

***84. Please provide your contact details:**

18(d)

85. Are you providing this submission:

- [x] 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 work in the organisation, that you are providing this submission on behalf of?

- [ ] 1-5
- [ ] 6-19
- [ ] 20-49
- [ ] 50-99
- [ ] 100-250
- [ ] 251-500
- [ ] >500

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. Please send your submission.