



#34

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?

The provision of sound and transparent financial advice delivered efficiently by professionals.

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

The following sentence should be amended to read ... "a financial product or a financial solution".

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?

Yes

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 - there should be no distinction between personalised advice and class advice - just because an investor provides a PoA to an adviser does not mean personalised advice is not being given. The DIMs solution has only driven the further institutionalisation of advice and attempts to solve a problem that would have been solved by requiring assets to be held by an independent custodian and setting reporting standards for platforms. The latter will be required for Robo advice going forward if investors are to be protected.

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

Yes

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 as risk products can be more complex than investment products. Remove class 1 and class 2 distinction and provide authorisations to advisers to operate in particular categories eg investment, risk, mortgages etc. Investment properties, rentals etc should also require authorisation

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 - Financial Adviser endorsed to provide insurance advice

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

Yes, except remuneration needs to be disclosed

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

Yes - they should disclose the same information as AFAs are required to

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

Licence the advisers as well as the RFA entity

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

No - there is little point in this exercise. Disclosure documents should disclose relevant information on the adviser and the business. Get rid of the ABS and use the AFA annual return to update the detail.

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 - in line with specialisation an adviser should be licenced to provide financial advice, with investment, insurance etc as specialisations. Remove the investment planning criteria altogether

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?

The amount of discretion varies according the client - if managing their portfolio the adviser requires a reasonable degree of discretion. If selling financial products little discretion required.

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?

No

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

Yes - not sure how helpful they are for consumers.

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

Get rid of the primary and secondary and have one provided prior to initial engagement

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

Yes

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?

No - a waste of time as most of the misconduct happens with RFA's. Should be a single disciplinary body through which all financial services complaints are dealt with.

Q21: Should the jurisdiction of this Committee be expanded?

Yes - see above

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 few people know what a QFE even is - get rid of them and make advisers directly accountable

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

No as they are not required

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

No - because effectively they can sell products without advice

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

Get rid of them all and create a charter with simple outcomes

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

Known only to parts of the industry

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

Yes

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

If they derive financial benefit from a client transaction then for transparency this should be detailed to the client, as should any conflicts of interest

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

Insurance intermediaries holding client funds should be subject to the same rules as other financial intermediaries.

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

Yes

Q31: Should any changes to these requirements be considered?

No

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

Yes

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

Yes

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

The FMA needs to be more prescriptive in its interpretation of the legislation which would save the industry a lot of time and effort in endeavouring to conform to the vague details set out in the legislation. An ABS is a great example - a simple template common to all should be provided for completion annually.

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 all distinctions, roll financial advice up under one umbrella and market this to consumers

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?

Most consumers would not understand that that in dealing with banks they are being sold financial products and that the banks are conflicted in selling these products. This is why financial products and solutions should be regulated.

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?

No - greater transparency and disclosure of conflict. Enforcement of "putting the client first" will solve the issue long term.

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

No - need to be simpler. Do not think commission is a problem in the AFA market

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

Combine Primary and secondary, simplify, and require disclosure of any payments or support directly to the adviser or their company by product manufacturers. Where more than 50% of the business is placed with any one provider additional disclosure required

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 - see above. Treat all advisers the same

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?

It's not the commission - its the quality of the advice which should be regulated

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)?

Yes - however the QFE environment has allowed poor quality products to be sold by institutions. All product sales need to be accompanied by advice

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

New Zealanders generally hate paying for advice - by requiring all financial products and solutions to be sold with advice "attached" and a fee payable revenue would increase and bring more advisers into the market

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?

No - as the advice requirements are so onerous AFA's steer away from product advice.

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?

Yes - delivery of advice needs to become advice delivered by a financial adviser who is authorised to give advice on products and solutions

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

Education - requiring qualifications has created a barrier to entry ABS - more about information for the FMA than improving the availability of advice DIMS - constant changing regulations requiring constant updating with internal processes and procedures

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

The delivery of quality advice is the core focus - provide simple templates to be completed that capture conflicts and transparency.

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?

There is a lot of duplication in this process - for example banks are required to verify the identify of clients and the source of funds however when a client opens a portfolio using a bank deposit (by internet or cheque) we are required to go through a full verification process when we do not handle the funds. Then when the funds are sent the manager then verifies the client again. How many tiers of identification are required

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?

An advice component should be built into all Kiwisaver funds and used to pay for advice when funds are withdrawn

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?

No comment

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

As globalisation of investment grows so will the demand for advice - the FA Act would need to broaden its scope to recognise this

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

The two jurisdictions are very different in their approach, so while basic qualifications should be recognised each jurisdiction will to some degree require a degree of specialisation

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

Will commodify the market - however the need for high end personalised advice will continue to remain in the marketplace. Automated advice from offshore (and onshore) institutions will need to be regulated for the protection of the consumer

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

Needs to maintain a continuing dialogue with the industry and ensure a suitable regime is in place to protect the consumer.

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

Yes

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

Yes

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

Level 5 Financial Services Certificate, moving to level 6 and then eventually a university degree

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?

Yes - Level 5 financial services certificate endorsed with the relevant knowledge strand

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

Should remain broadly in line as will be necessary if core qualifications are recognised in both countries

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

For those who belong - very effective

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

Yes - should be a single regulatory body such as that required for accountants and lawyers

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?

Both the employing body and the adviser should be licenced. The problem with the QFE is that advisers can only sell inhouse products no matter whether they are any good or not. They will often replace superior products with inferior products - all advice to buy or replace products should be justified with written advice to demonstrate that proper due diligence has taken place

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?

No - see above for the recommended changes

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?

Given that most people are unaware of the Register and overseas agents have used it to achieve a degree of respectability which is inappropriate the register has failed to meet its goals. Lack of oversight, lack of promotion and complexity make it not relevant to most people

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

Make every person providing financial advice hold a licence and be required to provide those details to a single professional body who maintain an accessible membership list along with relevant details

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

Yes

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

That all persons who have a dispute with a licenced financial provider have an access to a disputes process

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?

Licence rather than register individual financial advisers

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?

YEs

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?

Yes

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?

\$500,000

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

No

PAGE 6: Key FSP Act questions for the review

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

Respondent skipped this question

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

Yes

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?

Only open to NZ residents

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

No comment

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

No comment

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

Better education - also on what makes an issue a dispute to reduce spurious complaints

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:

Peter Christensen

Q84: Please provide your contact details:

18(d)

Q85: Are you providing this submission:

-
- As an individual
 - **Please describe the nature and size of the organisation:** Diversified financial services provider operating nationally in the retail market

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?

-
- 50-99

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