



The AMP Adviser and Adviser Businesses Association Inc

Submission on the MBIE Options Paper – Emailed to faareview@mbie.govt.nz

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The Association is an organisation representing AMP Adviser Businesses and AMP Advisers, with its chief responsibility being to represent the interests of its members in their relationship with AMP, other AMP distribution channels and other industry participants. An Advisers' Association has now been in place and working with AMP since 1921.

Our submission covers most of the questions posed from Chapter 3 onwards and we believe our views are consistent with our FAA submission and offer balanced opinion and benefits for all parties involved. We would like to re-iterate the following points from our FAA submission:

Professionalism and Quality of Advice delivery from Advisers

Access to quality advice is essential to create a stable market place for consumers and we believe there is adequate competition in New Zealand. Advice delivery is about how the consumers needs are identified and appropriate solutions implemented to achieve the desired outcome for consumers.

Regulation plays its part by setting a framework of expectations and standards that a consumer can reasonably expect. It also should ensure that access to that advice is not overly complicated and costly to deliver for advisers. For something to be 'advice' it must be 'personalised' - most stakeholders are happy to see 'class' advice stay, but would like it to stop being called advice.

It is widely understood that insurance is as complicated as investment, and therefore when giving full personalised advice on it, all Advisers should be following the AFA Code and meeting those standards.

Consistent Adviser Standards

There needs to be a consistent and clear approach to adviser titles within New Zealand. Consumers are clearly unsure what the various descriptions of “Advisers” means and what level of qualified standing an AFA, QFE or RFA adviser holds. Whatever kind of adviser you are you should be subject to the same standards if you are selling the same product type with the same kind of advice. QFE advisers, RFAs, AFAs - if it's the same product, then it should be the same standards.

Submission Response

Chapter 3 – Barriers to achieving the outcomes

1. Do you agree with the barriers outlined in the Options Paper? If not, why not?

Association Feedback

Agree, however all the barriers could be explained under the term “Consumer Understanding” of regulation.

Each barrier its own level of complexity. The Title of an Adviser (RFA, AFA, QFE) is meaningless and will continue to be so (despite what it is changed to) to consumers. That said – there does need to be a title and AFA is the obvious choice. The competency levels of some Advisers does need to be raised to a uniform standard across NZ. Sub-optimal outcomes for consumers due to Adviser conflict of interest is not a large problem – the stats show very little in the way of empirical evidence that this is the case.

The conflict lies with the suppliers incentivising Advisers to use their products which are generally much the same –the only difference being pricing and commission levels. Finally clarity over what type of advice is being given sits with the Adviser to explain clearly to the client.

2. Is there evidence of other major barriers not captured in the Options Paper? If so, please explain.

Association Feedback

The use of websites for online sales, both direct and through third parties - the distinct lack of advice offered to this segment.

An emerging inability for Businesses (especially small firms) to introduce new Advisers in to our industry by providing an ability to earn a relatively suitable income.

Chapter 4 – Discrete elements

3. Which options will be most effective in achieving the desired outcomes and why?

Association Feedback

Increasing the professionalism of the adviser has to improve the industry.

Options 4.4; 4.6; 4.3; 4.8; 4.5 are important. These all lift the competency of the Adviser and allow for compliance mechanisms to be utilised.

There is still some concern around the apathy of consumers in understanding what they are being advised on and their true understanding of the solutions offered.

4. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?

Association Feedback

All businesses have costs and the financial services industry is no different. The cost to the consumer would be willingness to pay for the right advice, and the cost to the adviser would be to have the quality of the advice fit the cost.

5. Are there any other viable options? If so, please provide details.

Association Feedback

Enforcement of the current legislation is important to hold all parties accountable and to deliver the right outcome for consumers and the industry.

With regards to Risk products - Advisers are the best auditors – there is the potential to use them to offer feedback on churn cases (serial offenders will be weeded out quickly) A complaint and response service that discusses churn cases between parties and brings unethical behaviour to the fore.

4.1 Restrictions on who can provide certain advice

6. What implications would removing the distinction between class and personalised advice have on access to advice?

Association Feedback

None

7. Should high-risk services be restricted to certain advisers? Why or why not?

Association Feedback

No - this is self-managing as only competent Advisers will get involved with complex cases. Those who aren't competent are either breaching the code or will stay away from this issue.

8. Would requiring a client to 'opt-in' to being a wholesale investor have negative implications on advisers? If so, how could this be mitigated?

Association Feedback

no comment

4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?

Association Feedback

Whilst it sounds like a good idea, technology is just part of the advice process – not all of it. It would be a great tool to gather data from clients and to access investment platforms to develop advice.

The legal fraternity has demonstrated that online advice is not advice - just a transaction. Very few take legal advice online as once it gets complicated it is too hard.

It should only be NZ based, financially rated and secure companies.

10. How, if at all, should requirements differ between traditional and online financial advice?

Association Feedback

Online is just a transaction - data in - data out

Option 2 appears better – gives the option of speaking to someone. The point however is that advice is not something that technology can offer – it just offers data. The ability for a consumer to discuss, question and understand issues and to even determine their goals is a difficult process. I agree that technology will expand the reach to consumers but could you really call this advice. Those of us who have used these “calculators” have had the experience and frustration that technology sometimes brings.

There should always be a person or persons taking responsibility for the advice provided (e.g. Directors or an Adviser)

11. Are the options suggested in this chapter sufficient to enable innovation in the adviser industry? What other changes might need to be made?

Association Feedback

They are ok – We would prefer that Advisers had access to the technology to then offer a more cost effective deliverable to consumers.

4.3 Ethical and client-care obligations

12. If the ethical obligation to put the consumers' interests first was extended, what would the right obligation be? How could this be monitored and enforced?

Association Feedback

Audits – unless anyone checks, the legislation is pointless. FMA increased audits and an increased obligation on QFE's to self-audit and report this back to the FMA on a regular basis. Both self and FMA audits should align with the code.

We disagree that extending ethical requirements across all Adviser classes will be subjective. Every case is subjective anyway but to test for "is this in the best interests of the clients" is a fairly simple thing to assess.

13. What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?

Association Feedback

It is hard to fathom that a consumer would willingly accept a product when knowing it "may" not be the right product for them.

Execution only transactions are an acknowledgement by the client that they do not wish to receive advice and have made their own decisions. This is sufficient as long as those consumers clearly understand this – typically consumers do not read or understand these forms.

14. If there was a ban or restriction on conflicted remuneration who and what should it cover?

Association Feedback

Conflicted Remuneration in cases where it is not a justified replacement and is not in the best interests of the client should be challenged on a case by case basis. The suppliers want new business and they are not questioning the business – the replacement business forms go to the new supplier - a copy should also go to the existing supplier so that they can challenge replacement. There needs to be demonstrable benefit to the client and this should include premium savings.

Suppliers should hold workshops guided by the FMA on various case studies to identify acceptable practices. This will soon identify churners and start to moderate the behaviour.

4.4 Competency obligations

15. How can competency requirements be designed to lift capability, without becoming an undue barrier to entry and continuation in the profession?

Association Feedback

Graduated entry with a strong base level requirement and graduated development over the years. This will start with being able to sell basic products and over time and with experience develop to more complex products.

RFA & QFE advisers that exist with little monitoring or no basic level of competence may be worse than a consumer who is not getting any advice – they may be giving the wrong or poor advice. Unfortunately the consumer only finds out when it is too late.

16. Should all advisers be subject to minimum entry requirements (Option 1)? What should those requirements include? If not, how should requirements differ for different types of advisers?

Association Feedback

Yes – a combination of options 1, 2 & 3

4.5 Tools for ensuring compliance with the ethical and competency requirements

17. What are the benefits and costs of shifting to an entity licensing model whereby the business is accountable for meeting obligations (Option 1)? If some individual advisers are also licensed (Option 2), what specific obligations should these advisers be accountable for?

Association Feedback

The costs will be significant but not unwarranted. Currently the requirements as an AFA and being under a QFE are far greater than merely being an RFA, all advisers should be accountable to the same set of standards and procedures.

18. What suggestions do you have for the roles of different industry and regulatory bodies?

Association Feedback

no comment

4.6 Disclosure

19. What do you think is the most effective way to disclose information to consumers (e.g. written, verbal, online) to help them make more effective decisions?

Association Feedback

One page disclosure statements using meaningful commonplace terms

Verbal and online – written is very time & profit consuming as these need to be printed. A simple verbal reference to the keys points and access to the online version will allow a consumer access to information that they want.

By giving them a printed copy that they disregard is not improving the position beyond an online version. We must remember that the consumer must take some responsibility in due diligence themselves.

The ABS, which may contain some of this information, appears to add no value at all and could be scrapped.

20. Would a common disclosure document for all advisers work in practice?

Association Feedback

A common template – especially where the business template is the same but with specific details around their experience, level of qualifications etc

21. How could remuneration details be disclosed in a way that would be meaningful to consumers yet relatively simple for advisers to produce?

Association Feedback

Available on request verbally or online

4.7 Dispute resolution

22. Is there any evidence that the existence of multiple schemes is leading to poor outcomes for consumers?

Association Feedback

Not that we are aware of..

23. Assuming that the multiple scheme model is retained, should there be greater consistency between dispute resolution scheme rules and processes? If so, what particular elements should be consistent?

Association Feedback

There should just be one model - all cases are heard consistently this way

24. Should professional indemnity insurance apply to all financial service providers?

Association Feedback

yes

4.8 Finding an adviser

25. What is the best way to get information to consumers? Who is best placed to provide this information (e.g. Government, industry, consumer groups)?

Association Feedback

Consider creating an adviser list on a current website such as sorted.co.nz and have these details updated as part of the annual declaration

26. What terminology do you think would be more meaningful to consumers?

Association Feedback

Use terms that clearly describe what is being provided i.e. Insurance Adviser, Investment Adviser or Mortgage Adviser

4.9 Other elements where no changes are proposed

The definitions of 'financial adviser' and 'financial adviser service'

27. Do you have any comments on the proposal to retain the current definitions of 'financial adviser' and 'financial adviser service'?

Association Feedback

No – except to say that the difference between “Advice” and “Sales” or “Order Taking” need to be better defined.

Exemptions from the application of the FA Act

28. Are those currently exempt from the regime posing undue risk to consumers through the provision of financial advice in the normal course of their business? If possible, please provide evidence.

Association Feedback

Yes - for example real estate agents, lawyers and accountants should be subject to the same standards as financial advisers - they are often involved in the same activities with little or no proven capability.

Territorial scope

29. How can the FA Act better facilitate the provision of international financial advice to New Zealanders, without compromising consumer protection? Are there other changes that may be needed to aid this, beyond the technological options outlined in Chapter 4.2?

Association Feedback

no comment

30. How can we better facilitate the export of New Zealand financial advice?

Association Feedback

no comment

The regulation of brokers and custodians

31. Do you have any comments on the proposal to retain the current approach to regulating broking and custodial services?

Association Feedback

no comment

Chapter 5 – Potential packages of options

32. What are the costs and benefits of the packages of options described in this chapter?

Association Feedback

There needs to be changes. The more changes in each package, has the potential to add more cost. However we don't believe that the cost increase of any of the packages would be that great or excessive as all the proposed changes are amendments to current obligations for advisers so in effect we are doing these things anyway

33. How effective is each package in addressing the barriers described in Chapter 3?

Association Feedback

None of these packages will address the barriers described in chapter 3 in their entirety

34. What changes could be made to any of the packages to improve how its elements work together?

Association Feedback

no comment

35. Can you suggest any alternative packages of options that might work more effectively?

Association Feedback

no

Chapter 6 – Misuse of the Financial Service Providers Register

36. Do you agree with our assessment of the pros and cons of the options to overcome misuse of the FSPR?

Association Feedback

yes

37. What option or combination of options do you prefer and why? What are the costs and benefits?

Association Feedback

1, 4, 6 together as they will make a reasonable improvement

38. What are the potential risks and unintended consequences of the options above? How could these be mitigated?

Association Feedback

There are some as described but the benefits outweigh these

39. Would limiting public access to parts of the FSPR help reduce misuse?

Association Feedback

no comment

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