

22 February 2016

Financial Markets Policy
Ministry of Business, Innovation and Employment
PO Box 3705
WELLINGTON

By email

Email: faareview@mbie.govt.nz

Thank you for the opportunity to comment on the "Review of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008" Options Paper. This submission is made by Partners Life Limited ("**Partners Life**") and follows our earlier submission on the Issues Paper.¹

This letter sets out Partners Life's key submissions on the Options Paper. More detailed responses to the specific questions raised in the Options Paper (set out in the prescribed submissions template) are **attached**.

In addition, we have also **attached** (by way of appendices to this letter) six papers that expand on some of the substantive points that are addressed in our submissions, including proposed templates to implement some changes. The six papers are titled:

- Universal Financial Competence Qualification Curriculum.
- Minimum Life Insurance Adviser Qualification Curriculum.
- Standardised Financial Advice Disclosure Document.
- Standardised Product Sales Disclosure Document.
- Replacement Business Definition for Code of Professional Conduct.
- Product Provider Replacement Business Obligations.

Acronyms used in this letter are the same as those set out in the Options Paper.

In summary, our submissions support a combination of the changes proposed in Packages 1 and 3. We consider that a few well-targeted adjustments to the FA Act will achieve the desired outcomes of the review, with minimal disruption and cost. Some of the key points arising from our submissions are:

1. **Product specific competence:** An adviser should only be able to provide advice on products and / or services that the adviser is able to demonstrate their competence in (ie a minimum competency standard). The onus should be on the adviser to prove (at any one time, and to the satisfaction of the FMA) that they are competent to provide advice on whichever products and / or services they advise on. Competency is demonstrated by qualifications and / or experience, however, these do not necessarily need to be formal or specific. Guidelines issued by the FMA could provide the curriculum topics that a suitable qualification may contain and / or the length of specific industry experience that could be considered the equivalent of a formal qualification. We consider that appropriate curriculum topics would include those as proposed in our Universal Financial Adviser Competence Qualification Curriculum in **Appendix One**. As a further point of reference, we have provided part of Partners Life's curriculum for its training programme around life insurance for new RFAs in **Appendix Two**.²
2. **Universal ethical obligation that is objectively assessed:** All advisers should have an obligation to put the consumers' interests first to the extent that an objective, knowledgeable third party would reasonably consider the advice to be in the best interests of the consumer.

¹ MBIE *Review of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008" Issues Paper* (May 2015).

² We provided this curriculum to you in Schedule 1 of Appendix Two to our submissions on the Issues Paper.

Importantly, the obligation should be assessed objectively, and we consider that "an objective, knowledgeable third party" would capture: a prudent adviser; a knowledgeable industry expert; and / or the FMA.

3. **No licensing regime needed:** We do not support the introduction of a licensing regime (at either an individual or entity level). A licensing regime would introduce additional compliance costs, disadvantage individual advisers and small-tier firms (with some potentially exiting the market), and reduce consumer access to advice that is independent of large institutions and / or product providers. We also consider that the reform is unnecessary as the same effect can be achieved by targeted amendments to the current registration model (at a lower cost).
4. **Universal standardised disclosure:** We consider that standardised disclosure, for all advisers, is essential to address the imbalance of knowledge between the adviser and the consumer. We consider disclosures should be made at two levels:
 - (a) General disclosure: the consumer is made aware of: (a) the adviser's legal obligation to make disclosures; (b) why disclosure is important for the consumer; and (c) where the consumer can access disclosures.
 - (b) Specific disclosure: the adviser discloses anything that they may have a potential conflict of interest in. We propose adopting the standardised disclosure document provided at **Appendix Three**, which (amongst other things) covers: areas of competency; list of product providers which the adviser can contractually recommend; details of product research / comparative tools / engines that the adviser contractually has access to; and replacement business advice. Regarding replacement business advice, the adviser must: (a) identify and disclose "replacement" risk(s); and (b) disclose ways in which those risks are to be mitigated.

Provided advisers are subject to both general and specific disclosure obligations, Partners Life consider that disclosure of remuneration details is not necessary (nor meaningful to consumers).

5. **Distinction between sales and advice.** These two terms should be distinguished, and each should be clearly defined in the FA Act. We propose a definition of "advice" and "sales" in our full submissions at Question 13, and we have provided separate standardised disclosure documents for salespersons and financial advisers at **Appendix Three** and **Appendix Four**.
6. **Registration regime supported by a Universal Code of Conduct:** Any person (or system) that provides advice should be bound by a Universal Code of Professional Conduct, and it is appropriate that this Code be recognised in the FA Act as the measure of compliant advice. Accordingly, the Code of Conduct is the appropriate mechanism to implement the obligations discussed in points 1 - 2 and 4 above (and in our full submissions at Question 12). Further, the Code should specifically address replacement business advice. Therefore (in addition to including the disclosure obligations outlined in point 4) a definition of replacement business should be included in the Code (we propose a definition in **Appendix Five**) and specific obligations on product providers (these obligations are discussed in further detail in **Appendix Six**).

Partners Life is happy to provide MBIE with any further information in relation to its submissions and we would be interested in meeting with MBIE to discuss our submissions further.

Kind regards,

Redacted

Naomi Ballantyne
Managing Director
Partners Life Limited