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Professional IQ College Submission on Review of the Financial Adviser Act 2015

Professional IQ College (PIQ) is a NZQA accredited education provider registered as a Private Training Establishment. We are accredited to deliver the New Zealand Certificate in Financial Services Level 4 & 5

This submission will only address portions of the options paper particularly focused on ethics and the education and entry competency levels components of the paper.

4.3 (Q12) Ethical and Client Care Obligations

Q12 Response

Ethical obligations need to apply to everyone within their scope of service. Currently this obligation is blurred between sectors. PIQ believes that a Code of Practice that applies to all 'advisers' with specific sections applicable to each sector is required. For example there could be an overall ethical standard of due care, skill and diligence (putting the needs of the client first) with the 'how' this is applied to each sector of financial advice specified. This could include differing disclosure requirements to suit a particular scope of service. All 'financial advisers' do not need the same disclosure requirements (in particular) imposed on them as those for current AFA as the cost of compliance would outweigh the value to the consumer. Rather a tailored approach is more practical and would ensure increased compliance and keep cost for advice contained. For example remuneration disclosure as part of the ethical obligations should be at banded levels rather than actual for the likes of the current RFA's.

Professional IQ College believes that enforcement of the ethical standards and compliance overall would rest with the Regulator either directly or through a Board or Statutory Committee empowered under the legislation to do so. If a professional body was to enforce compliance there would need to be mandatory membership for all advisers to an approved professional body. Professional Bodies couldn't administer and enforce for non-members. Professional Bodies could be represented on the Board/Committee and therefore play a part in ensuring ongoing compliance as a sector.

The ethical responsibility needs to rest with the individual and the entity not with the entity alone. Therefore individual registration/licensing is important rather than the current QFE structure which allows for the entity to be the responsible party rather than the individual. With no personal responsibility the standard of advice and the ethical standard is at risk of being lowered.

Q13 Response

The difficulty in drawing the line between 'advice' and 'sales' in the public's eye is that the public doesn't know the difference. One option could be to say that a *financial services salesperson* is a giver of information only. NO product comparison is provided and only one product for the type of service is offered i.e. one Life cover, one supplier's mortgage product etc. Advice comes in when the consumer asks a question or wants a comparison. This would then need to be referred on to the appropriate adviser. Clear delineation in terms of titles would be needed and this should help the public differentiate between an adviser for financial services and a *financial services salesperson* of finical services.

If there is clear delineation between sales and advice this may mean that the *financial services salespeople* are not covered under the Financial Advisers Act and would revert to being covered under the Financial Markets Conduct Act instead.

4.4 Competency Obligations

Q15

The issue here is really how do you measure competency without imposing undue barriers to entry or undue cost to those already in operating in the sector. Firstly to address the cost for those currently operating in the sector there is a simple solution which has been used in other sectors previously where registration or licensing requirements have been changed e.g. the real estate sector.

1. In the first instance individual licenses/registrations for current people could be transferred across in the new regime. I.e. those currently working in the industry are transferred;
2. Mandatory qualification prior for entry as an adviser would ensure competency at a compliance level prior to entry and safeguard the public. New advisers must enter the industry under the new competency standard. The minimum level of qualification for an adviser would be the NZ Certificate in Financial Services Level 5 (or equivalent)
3. At the same time competency is maintained (and over time increased) through mandatory CPD of at least 30 hours of structured training over 2 years. For any who leave the sector but retain their license/registration (e.g. for parental leave) they must have met their CPD requirements before re-entering the workforce.
4. If QFE advisers and call centre/robo advisers were to remain under the Financial Advisers Act they would need to be individually registered under the registered entity and gain the NZ Certificate in Financial Services Level 4. They could not operate as an financial services salesperson without the oversight of a registered entity and were supervised by a registered adviser qualified at NZ Certificate in Financial Services Level 5 as a minimum. Title should not be 'adviser' but rather *financial services salesperson*.

Mechanism to Recognise Competency

Measuring competency against an identified standard or qualification can be done through Recognition of Current Competency (RCC) or where there is a qualification Recognition of Prior Learning (RPL). All training providers can do this. It is a recognised NZQA process.

Q16 Minimum Entry Requirements

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Entry level qualification: Yes 'Advisers' should be qualified before entry to the industry. The level 5 New Zealand Certificate in Financial Services (NZCFS L5) (or the equivalent) should be the minimum standard for all advisers. For all new entrants to the sector they must have a specified qualification prior to being able to give advice and should be supervised (i.e. can't sign up investments or policies) for the first 6 months. Supervisor could be defined as: an experience adviser with more than 2 years' experience in the sector for the scope required and should have the NZ Certificate in Financial Services Level 5 or equivalent or be an AFA. The CPD obligations would apply to new entrants also.

Transfer all current advisers across to new regime at designated date. Ensure they have to do structured CPD in the first year (could even specify what that must be) and then monitor and enforce CPD obligation - after that at 30 hours over 2 years. When they leave the sector they can only reenter under the new entry level requirements.

However the NZCFS L5 is structured in such a way that there could be different components of the qualification required for different sectors. E.g. for Life Insurance professional advisers the Life & Health Insurance strand plus the Core knowledge would ensure they have the full qualification. It would not be necessary for the current category 2 advisers (RFA's) to gain the Financial Advice strand as the appropriate legislation is contained within each strand when combined with the Core Knowledge module.

For those people who could potentially be classified as '*financial services salespeople'* there is a NZ Certificate in Financial Services Level 4 which is a good introductory qualification and supports an understanding at entry level for both the banking and/or the insurance sector and includes applicable legislation.

4.5 Tools for ensuring compliance with the ethical and competency requirements

Q17 Entity Licensing

This is not a good option and PIQ College doesn't support this option as we believe the individual should be personally responsible and liable. The entity can also be licensed but there must be individual responsibility which is missing from the current QFE model.

4.9 Other Elements where no changes are proposed

Q 17 Definitions of 'financial adviser' and 'financial adviser service'

Under the term financial adviser there would need to be a list of common terminology (names/titles) used to define what that means to the public. E.g. ask a member of the public if an insurance broker is a financial adviser they would probably say no. So for clarity at the public level common terminology in terms of titles should be used. Drop the terms Registered and authorised financial adviser replacing it with financial adviser (insurance broker) for example. Each person must be suitably qualified for their scope of service.

A more appropriate term for the current QFE advisers/ call centre/robo advice salespeople where they are only selling one product is *financial services salesperson* and they should be obligated to be individually registered as such and qualified to a level 4 NZ Certificate in Financial Services with the appropriate strand prior to entry as a financial services salesperson. Under this definition they may not fall under the Financial Advisers Act but rather under the Financial Markets Conduct Act. This ensures the public is safeguarded, as the legislative and regulatory obligations are at least known to the salesperson.

The title *Financial Services Salesperson* makes it clear that they are a financial services salesperson **not** an adviser. This draws the line in the sand between advice and sales. Again these people would be defined as selling only one product and would have to disclose that they are only selling one product and for comparison or further advice the client/customer need to talk to an adviser. This may mean they fall outside of the scope of this Act.

Chapter 5 Potential packages of options

As outlined above a better option (probably a hybrid of option 3) would work better. Transfer all current advisers across to new regime at designated date. Ensure they have to do structured CPD in the first year (could even specify what that must be) and then monitor and enforce CPD obligation - after that at 30 hours over 2 years.

For all new entrants to the sector they must have a specified qualification prior to being able to give advice and should be supervised (i.e. can't sign up investments or policies) for the first 6 months. Supervisor could be defined as: an experienced adviser with more than 2 years' experience in the sector for the scope required and should have the NZ Certificate in Financial Services Level 5 or equivalent or be an AFA. The CPD obligations would apply to new entrants also.

For *financial services salespeople*, where they are only selling one product, a level 4 NZ Certificate in Financial Services, in the sectors' appropriate strand must be gained prior to. This ensures the public is safeguarded as the legislative and regulatory obligations are at least known to the salesperson. This could apply to call centre/robo advice salespeople and the current QFE type adviser. The registration would be as a registered financial services salesperson. This title makes it clear that they are a financial services salesperson **not** an adviser. This draws the line in the sand between advice and sales.

For questions or further information

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Submission on behalf of the College