

# 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 Friday 31 March 2017**.

Your submission may respond to any or all of these questions. We also encourage your input on any other relevant work. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please include your name, or the name of your organisation, and contact details. You can make your submission:

- By attaching your submission as a Microsoft Word attachment and sending to [faareview@mbie.govt.nz](mailto:faareview@mbie.govt.nz).
- By mailing your submission to:

Financial Markets Policy  
Building, Resources and Markets  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand

Please direct any questions that you have in relation to the submissions process to:  
[faareview@mbie.govt.nz](mailto:faareview@mbie.govt.nz).

## Use of information

The information provided in submissions will be used to inform the development of the Financial Services Legislation Amendment Bill, decisions in relation to the outstanding policy matters, and advice to Ministers.

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 MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). 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 in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and in particular, which parts you consider should be withheld, together with the reasons 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 the cover letter or e-mail accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that MBIE may publish.

## **Permission to reproduce**

The copyright owner authorises reproduction of this work, in whole or in part, as long as no charge is being made for the supply of copies, and the integrity and attribution of the work as a publication of MBIE is not interfered with in any way.

## **Submission on The Financial Services Legislation Bill**

**Submitter:** Morgan Steel Financial Services Limited (T/A SHARE) FSP431746

Market Service Licenced under Financial Markets Conduct Act 2013

**Director:** James Sheridan BA Hons Econ Authorised Financial Adviser

**REDACTED**

### **Submission 1: New Adviser Designations**

Proposed Designations with three letter acronyms (TLA)

#### **From**

Registered Financial Adviser RFA

Authorised Financial Adviser AFA

Qualified Financial Entity Adviser QFE

#### **To**

Financial Adviser FA

Financial Adviser Representative FAR

Financial Advice Firm FAF

#### **Justification Stated**

Improve Customer Understanding

Consistency of Enforcement

#### **Comment**

It is not clear to me that a move from RFA, AFA and QFE to FA, FAR and FAF will in any way improve Customer understanding.

Intuitively the acronyms of FA, FAR and FAF will be less professional by their very nature and implication.

#### **Overseas Comparison**

Stated comparisons to the UK and USA for guidance on these points was deemed a good reference.

#### **USA designations -comparison**

USA designations are fractured and can included titles from both State and the Regulator FINRA

See below for the many types of designation. This is not a jurisdiction to duplicate.

<http://www.finra.org/investors/professional-designations>

#### **UK Designations**

Purely 2 noted

Independent Adviser IFA

Restricted Adviser RA

The independent Adviser gives unbiased advice after considering products across the market.

The Restricted Adviser

‘Works with one product provider and only considers products that company offers’

<https://www.fca.org.uk/consumers/types-investment-adviser>

Independent Advisers in the UK may receive investment trail income but not commission for new policies (the difference is generally disclosure and transparency). Life and disability insurance commission are not covered by this. (as detailed in the article below).

<https://www.theguardian.com/business/2012/dec/30/fsa-ban-commission-selling-death>

My submission is that the Independent Adviser and Restricted Adviser designations are perfect for the New Zealand advice environment.

There will be perfect Customer Understanding from day 1.

There will be immediate clarity on the 2 roles for consistency of enforcement. The Restricted Advisers would sit neatly in the Financial Advice Firm structures noted in the Bill.

This will clarify that the Independent Financial Advisers have personal liability for the Advice they give and putting the Clients interest first, yet the Restricted Financial Advisers are well, restricted.

The term ‘Independent Advice’ is the Lexicon of the New Zealand public generally used in this space, as shown below by our Government bodies asking the public to seek it.

<http://www.kiwisaver.govt.nz/contact/>

<https://fma.govt.nz/consumers/kiwisaver/transferring-uk-pension-funds/>

## Summary

Any move to FA, FAR and FAF designations would be a laughable mistake and will confuse the public no end when compared to the iconic ‘Independent Financial Adviser’ title.

The Alternative as Sweet FA and a FAF are ridiculous.

## **Submission 2. discretionary investment management services (DIMS) will no longer be regulated as financial advice.**

As an Authorised Financial Adviser, I provide advice. How can DIMS be exempted from being advice. DIMS is simply a portfolio of investments that suits a retail (or wholesale investor). It would be bad law to exempt it from advice and counter intuitive to do so. May I submit to reword this element of the Bill. It should be governed as part of all advice and combined into the Financial Services Legislation as an integral part. Any reasonable Customer would expect this to happen.

It would be inappropriate for small Advisers businesses with DIMS to have separate licenses. This would not be compliant with the goal of minimising compliance.

## **Submission 3. Exemptions from Financial Advice Section 14 Financial Advisers Act 2008**

All entities that are exempt from the current Financial Advisers Act including ‘other occupations’ and incidental advice are to have the same duty of care towards the Client documented in the Bill.

Including

- An obligation to put the Clients interests first
- To act with integrity

- Minimum Standards of Competency and Skill

A reasonable retail Client would expect to be covered by the same standard or better as regulated Financial Advisers.

Regulating bodies such as The Law Society would need to regulate members and ensure CPD is undertaken.

## Demographics

1. Name:

James Sheridan

2. Contact details:

0800 246 801

3. Are you providing this submission:

As an individual

On behalf of an organisation

Morgan Steel Financial Services Limited trades as SHARE it is a 1 Authorised Financial Adviser Practise with a current FMCA License.

4. Please select if your submission contains confidential information:

I would like my submission (or specified parts of my submission) to be kept confidential, and attach my reasons for this for consideration by MBIE.

Reason: Enter text here.