

Submission on discussion document: *Exposure draft: Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2019*

Your name and organisation

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Organisation	First Capital Financial Services

Responses to discussion document questions

1	<p>Will the proposed record-keeping requirement be workable in practice?</p> <p>See 8 below.</p> <p>We have concerns about maintaining records of each disclosure given to each client given that there would be two per client minimum. Maintaining the record is not so bad however having to modify disclosure document every time we see a client to for example to note the scope of service is impractical and lends itself to potential for errors.</p>
2	<p>Do you have any comments on the drafting of the Regulations that will require information to be made publicly available?</p> <p>Overall no and we see no issue with this being on our website. However, under Schedule 21A Part 21(e) there is a requirement to list the names of the product providers we give advice on. We believe this is impractical especially on the investment side of the business where we would need to list a substantial number of different fund managers that we work with.</p>
3	<p>Do you have any comments on the draft Regulations that will require the disclosure of information when the nature and scope of the advice is known?</p> <p>We have an issue with timing eg we have a first meeting at which time we then determine the advice required so we cannot provide disclosure and meet 5 1 (c) – in the example given with Alice and Claire how can Claire met the requirement to disclosure the type of advice the client will be given as she has only just found out.</p>
4	<p>Do you have any comments on the draft Regulations that will require the disclosure of information when the financial advice is given?</p> <p>It is difficult to understand the purpose of this disclosure as a large part of the information</p>

required to be disclosed is the same as disclosed clause 5. The balance is what is available publicly and the only new info appears to be section (j) regarding duties. We believe this would only add confusion and extra paperwork for the client.

5

Do you have any comments on the draft Regulations that will require the disclosure of a provider's complaints handling and dispute resolution processes when a complaint is received?

No – all ok with this.

6

Do you have any comments on the draft Regulations that set the manner in which information must be disclosed?

No we are comfortable with electronic and hard copy. Only issues are with repetition and practicality of timing.

7

Are there instances in your business when regulation 229D might apply to someone who is not the one to give advice to the client? Please give examples and provide any comments on how the draft Regulations apply in such scenarios.

In our business we often work as a team with clients for example two advisers meet with the same client at the same time. The adviser who specialise in risk is advising on that and the adviser who specializes in KiwiSaver, advises on that. This would mean we are providing two lots of disclosure all at the same time. Or even if both advisers are advising on risk eg business and personal – same issue.

8

Do you have any further comments on new regulation 229A to 229H of the draft Regulations?

Overall, we have no main concerns with the content but believe there is a large amount of repetition in what is provided to the client. This will only confuse clients further. Also, we are concerned about the practicality of maintaining hundreds of disclosure documents for clients compared to the current practice of having one generic version that the client acknowledges receipt of and that date of that document.

Under Clause 5 1 (f)(iii) – our understanding of this is that all that needs to be disclosed is the basis on which the value of commission is determined e.g. $y\% \times \text{annual premium}$ which is what we do presently. If so then we are comfortable with that. Any requirement to disclose the actual \$ paid would be totally impractical as often this is not known until well after the client has completed insurance application and the business is completed.

9

Do you have any further comments on new Schedule 21A in the draft Regulations?

No

10

What (if any) transitional provisions should be included in the regulations?

We see no reason why new disclosure regulations cannot be introduced at same time as the code and FSLAA come into effect.