

# Submission template

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## Disclosure requirements in the new financial advice regime

### Instructions

This is the submission template for the discussion document, *Disclosure requirements in the new financial advice regime*.

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in the discussion document by 5:00 pm on Friday 8 November 2019. Please make your submission as follows:

1. Fill out your name and organisation in the table, “Your name and organisation”.
2. Fill out your responses to the consultation document questions in the table, “Responses to discussion document questions”. Your submission may respond to any or all of the questions in the discussion document. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. When sending your submission:
  - a. Delete these first two pages of instructions.
  - b. Include your e-mail address and telephone number in the e-mail or cover letter accompanying your submission – we may contact submitters directly if we require clarification of any matters in submissions.
  - c. If your submission contains any confidential information:
    - i. Please state this in the cover letter or e-mail accompanying your submission, and set out clearly 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 proactively releasing submissions or responding to requests under the Official Information Act 1982.
    - ii. Indicate this on the front of your submission (e.g. the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
    - iii. Please provide a separate version of your submission excluding the relevant information for publication on our website (unless you wish your submission to remain unpublished). If you do not wish your submission to be published, please clearly indicate this in the cover letter or e-mail accompanying your submission.

Note that submissions are subject to the Official Information Act 1982.

4. Send your submission:

- as a Microsoft Word document to [faareview@mbie.govt.nz](mailto:faareview@mbie.govt.nz) (preferred), or
- 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).

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

## Your name and organisation

<b>Name</b>	Ross Sheerin, AFA FSP 55081
<b>Organisation</b>	None - these are personal comments

## Responses to discussion document questions

<b>1</b>	<p>Will the proposed record-keeping requirement be workable in practice?</p> <p>Yes.</p>
<b>2</b>	<p>Do you have any comments on the drafting of the Regulations that will require information to be made publicly available?</p> <p>Move the 'Duties Information' in Schedule 21A Cl. 6(j) to the Public Information section set out in Cl. 4. It would be useful to consumers to have the Duties Information in the Publicly Available Information. This would serve at the outset to inform a potential consumer about what an adviser should do for a client. It is less useful to tell them at the time advice is given. If the duties information is given earlier it allows more time for the consumer to digest and understand the role of the adviser prior to and during any preliminary discussions, even before advice is given.</p>
<b>3</b>	<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>Move the 'Duties Information' in Schedule 21A Cl. 6(j) to the Initial Information section set out in Cl. 5. It would also be useful to have the Duties Information in the Publicly Available Information. This would serve at the outset to inform a potential consumer about what an adviser should do for a client. It is less useful to tell them at the time advice is given. If the duties information is given earlier it allows more time for the consumer to digest and understand the role of the adviser prior to and during any preliminary discussions, even before advice is given.</p>

4

Do you have any comments on the draft Regulations that will require the disclosure of information when the financial advice is given?

Remove the requirement under R229E to provide Additional Information in situations where an ongoing contract of engagement is in place between the adviser and the client. As I understand it, this regulation **implies** that Additional Information must be provided to any clients, upon receiving advice, where the Additional Information has not been provided within the prior 12 months. (I refer here to R229E (5).) That is, if advice is provided outside the 12 months period, then the Additional Information must be provided again. I think these provisions may be of value when the adviser-client relationship is in more of a transactional nature (the example in the draft regulations is for lending advice) but where there is an ongoing contract in place with the client, I think the implied provision is excessive and will puzzle and frustrate clients more than materially inform them.

On-going client contracts generally require, or imply that, the adviser informs the client if there is a material change to the relationship. Until that occurs, if ever, then I don't think there should be a need to perform this on-going disclosure. This requirement does not exist at the moment (except if perhaps in the 'supplementary secondary disclosure' requirement of the regulations) and I am unaware that it causes any problems.

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. Provisions look workable

6

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

No. Provisions look workable

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.

No

8

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

9

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

See sections 2, 3 and 4 above.

10

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

No comment here.

Thank you for the opportunity to comment.