

22 July 2015

Corporate Law
Labour and Commercial Environment Group
MBIE
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Emailed to:

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Dear

AA Insurance Limited

Submission on the Review of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008

1 Introduction

- 1.1 This submission is from AA Insurance Limited (AAIL), 99 Albert Street, Auckland.
- 1.2 AAIL thank you for the opportunity to submit on the review of these Acts.
- 1.3 AAIL supports the ICNZ submission relating to the review as far as it is relevant to financial service providers operating directly to consumers. AAIL has contributed towards the views and opinion expressed in that submission. Where there is a differing view from the ICNZ submission this has been explained in our submission.

2 About AAIL

- 2.1 AAIL is a direct personal lines insurer, which operates in New Zealand under a joint venture agreement between the Australian financial services group Suncorp and the NZAA.
- 2.2 AAIL employs over 560 people and currently operates the AA Insurance brand in New Zealand.
- 2.3 At present AAIL writes insurance policies to the value of approximately \$285m per annum across domestic motor, domestic home & contents, and pleasure-craft portfolios.
- 2.4 AAIL is a QFE and our QFE advisers deal directly with consumers. Our submission is limited to our perspectives on fire and general insurance (a 'financial service' and 'category 2 product' under the current legislation).

3 Response the Financial Advisers Act (FAA) review

- 3.1 AAIL support retention of the current regulatory regime for financial advisers, with the adjustments noted in our submission. We support and reinforce the need for quality advice in the insurance market.

- 3.2 AAIL support regulation that does not hinder innovation. We expect technology will significantly impact the way insurance products are bought and sold, and the way information and advice about insurance products is disseminated, throughout the lifespan of the FAA. In our view the current FAA is lengthy, complex and restrictive rather than permissive. Through requirements of lengthy disclosure statements and information that creates 'clutter', particularly in the online space, this detracts from providing innovative solutions that consumers are increasingly demanding. If the FAA hinders insurers from adapting to changes in technology and to otherwise innovating their service offerings, that would be a bad outcome for the insurance market and ultimately consumers of insurance products.
- 3.3 It is our view consumers do not understand the complexities of financial advisers' regulatory framework. The distinction between QFE advisers, AFAs and RFAs, and the difference in levels of responsibility between categories of financial product are not well understood. The regulatory framework is complex and can be difficult for the industry to understand as well.

The FAA should distinguish between advice and sales

- 3.4 We support MBIE's analysis of the distinction between sales and advice. The FAA's current definition of financial advice is broad and does not distinguish sales and advice, to the extent that many 'sales' situations will be caught by the current definition of 'financial advice'.
- 3.5 AAIL registered as a QFE because our staff will from time to time have conversations with customers which could fall within the definition of 'financial advice', even though the conversations are almost entirely about the characteristics of AAIL's insurance products. This, as MBIE rightly identifies, is not 'pure advice', and should therefore not be regulated by the FAA. Our staff should be able to have free and frank conversations with customers about the products being sold without being caught by FAA's definition of 'financial advice'.
- 3.6 We believe that sales can by and large be regulated by other legislation, such as the Consumer Guarantees Act generally, and the Financial Markets Conduct Act specifically. In our view the Fair Dealing provisions of the Financial Markets Conduct Act provide substantial protection for the purchasers of financial services. Those provisions ensure that accurate information and representations about insurance products will be made at point of sale with the customer. Further, provided the Financial Service Providers (Registration and Dispute Resolution) Act 2008 also applies to individuals and companies selling insurance products, consumers will have access to basic information about those salespeople and free dispute resolution if any problems should arise.
- 3.7 Given existing protections for the regulation of sales, the FAA could be left to focus on regulating 'pure advice' about insurance products and focus on supporting a strong, efficient market for independent financial advice, while regulating sales to a lesser degree, allowing a salesperson to be subject to lighter but more fundamental regulation. It is our view that if the individual concerned is an employee of AAIL, or any other insurer that is underwriting the insurance product, then the individual concerned should be regarded as a salesperson.
- 3.8 In contrast, if the individual concerned is independent of the insurer, and is assisting the customer to distinguish between two (or more) insurance products, then the individual concerned should be regarded as an adviser and regulated by the FAA. We support this analysis because in our view the greatest potential for consumer harm arises where a salesperson or adviser holds themselves out as being independent when they are not.

Companies should take responsibility for their staff and agents

- 3.9 In a regulatory regime that allows for company responsibility, licensed insurers can take responsibility for their staff. We should be free to provide product information and make recommendations to consumers about buying or not buying that product, including by reference to the consumer's individual circumstances. This would allow greater access to high quality information about insurance products for many consumers than is possible under the current regime.
- 3.10 Centralising compliance allows us to regulate more effectively while significantly reducing compliance costs. We have elected to be a QFE and continue to support the QFE model for this reason.
- 3.11 The review document notes a perception that company responsibility allows QFEs to get away with lower standards than AFAs must adhere to. We are not aware of this perception having any substance or supporting evidence and believe the standards we have in place are not only adequate, but also extremely robust and fit for purpose. In our view the current regime of company-based responsibility is working well. We support maintenance of the status quo in this regard.

4 Financial Service Providers Act Review - registration

- 4.1 We support the submission made by ICNZ relating to registration.

5 Financial Service Providers Act Review – dispute resolution

- 5.1 AAIL believe that it would be appropriate to consider having one dispute resolution scheme supporting the insurance industry. While there are benefits to having multiple providers through increased competition we acknowledge this gives rise to consumer confusion and raises concern around confidence within the industry.
- 5.2 Having a single dispute resolution scheme could allow alignment with other industries such as the banking industry, and ensure there is a greater awareness by consumers.

6 Concluding comments

- 6.1 AAIL thanks MBIE for the opportunity to submit. You can contact our Chief Executive Chris Curtin on [18\(d\)](#) or our Head of Finance Risk and Compliance Jacqui Thompson on [18\(d\)](#)

Yours sincerely



Chris Curtin
Chief Executive



Jacqui Thompson
Head of Finance Risk & Compliance