



**Submission to the Ministry of Business, Innovation and Employment on the Review of the
Financial Advisors Act 2008**

July 2015

1. Summary of Submission

1.1 Accuro supports the goals of this review to make such changes to;

- 1.1.1 Ensure consumers have the information they need to find and choose a financial adviser.
- 1.1.2 Make financial advice accessible for consumers
- 1.1.3 Promote public confidence in the professionalism of financial advisers

2.1 Accuro's submission is that the key changes required to achieve these goals are to;

- 2.1.1 Consider the financial literacy of the public
- 2.1.2 Make it easy for consumers to identify qualified, independent financial advisors
- 2.1.3 Have only one registration category
- 2.1.4 Restrict use of the title 'financial advisor'.
- 2.1.5 Require a standard disclosure of authority to give advice and of any matters that may assist a consumer to decide whether or not the advisor is the most appropriate person to advise them on the financial matter concerned

2. Background

Accuro Health Insurance was set up in 1971 as the Hospital Services Welfare Society which was owned, operated and funded as an entity of the Hospital Boards Association but with its own board appointed by the Department of Health, the Hospital Boards Association and the Combined Hospital Unions.

In 1991 the board established HSWS as an independent society under the ownership of its members. Today it operates as a private health insurer trading under the name Accuro Health Insurance and is solely a health insurance provider, New Zealand based in terms of its operation and membership. Accuro has been providing health insurance to its members for 45 years. The current count of insured individuals is 30,000.

As a health insurer grounded in the public health sector Accuro is strongly committed to supporting the effectiveness of publicly funded health services and better health outcomes for all New Zealanders. Effective regulation of financial services is essential for the protection of the public and to obtain better financial outcomes for all New Zealanders'. Accuro sees strong parallels between the objectives of regulation of health professionals and the regulation of financial advice professionals.

Accuro commends the Ministry of Business, Innovation and Employment in undertaking this review and welcomes the opportunity to make this submission.

3 Discussion

3.1 Financial literacy

The general health and wellbeing of individuals, communities and society in general is closely linked with their financial security and wellbeing. Equity of access to the means of achieving financial security is therefore of great importance. A key element to this achievement is that everyone has a level of financial literacy that enables them to take basic steps required to optimise their financial wellbeing.

A fundamental problem noted is that very many people have insufficient financial literacy to recognise the potential value of obtaining basic financial advice. However these are amongst the individuals who would have most to gain from access to good financial advice. It is unlikely any changes to the regulatory framework could directly address this problem but it is our submission that wider educational action to improve the financial literacy of the whole population is a wider policy priority. As an example we commend the work of the Office of the Retirement Commissioner.

In considering ways to improve the financial advisor regulatory framework it is important to remain mindful that the current financial advisor 'industry' responds only to the minority of the population who are already relatively financially secure. Changes that achieve the goals of this review but without extending the range of consumers accessing professional financial advice will be worthwhile but more limited than is needed to achieve sustainable health and economic gain for New Zealand.

3.1.1 Recommendation: Consider the financial literacy of the public

3.2 Public protection

It seems reasonable to believe that the financial 'investment' activities of most people are informed by advice from friends and family supplemented by personal inquiry seeking relevant information, by sales information and sometimes by seeking professional advice. The fact it is now practical for almost anyone to access vast amounts of information electronically has elevated the need for a careful analysis of the ways people obtain the information they use to inform their choices about where to spend their money.

It is important that consideration of changes to the regulatory framework of financial advisors are considered within the context of this wider informational system. In practical terms this requires recognition that access to financial advice cannot be closed down to a particular channel.

Any restrictions on the provision of financial advice must aim to protect the public from the particular problem of potential, malicious or incompetent use of opportunities to provide financial advice. Making it easy for the public to identify whom they can trust to give sound, independent financial advice is an important public protection measure.

3.2.1 Recommendation: Make it easy for consumers to identify qualified, independent financial advisors

The effectiveness of regulation as a public protection measure depends on its effectiveness in ensuring that when an individual needs individualised advice it is easy for them to identify who they should consult. There will always be good reasons why a regulatory framework needs to be complex but all drivers towards complexity must be tested against the need to deliver a 'product of regulation' that is fit for public consumption. If the outcome is a product that can only be understood by the financial professionals themselves or requires specialist legal interpretation, then it will be of limited use for its primary purpose.

Under the current framework is not always easy for financial service providers and financial advisors to be clear what is required of them to comply with the Act. A level of confusion that exists amongst experts translates into a system that is largely opaque for the general public. It is our view that clarity for the consumer is essential in three main areas;

1. Identifying persons who are authorised under the Act to give independent financial advice
2. Distinguishing sales from advice
3. Deciding whether a particular advisor is the best advisor in a given circumstance

3.3 One registration

The current framework responds to the problem that different financial services and instruments can have quite different levels of complexity and risk by categorising products and making a distinction between levels of advisor with legislative approval to provide advice on different categories. It is our submission that this does not adequately deal with the problem it seeks to address while at the same time introducing confusion for the public in answering the most fundamental question; does this adviser have legislative authority to give me the advice I need?

The best way to clarify the issue is to provide for just one level of registration. Instead of attempting to define registration categories in response to types of financial products advised upon, registration should be based on those core things required of a professional financial advisor for them to be deemed a competent practitioner;

1. They have proof of competence – education, qualification, practise
2. They have integrity – clearance on police and business checks
3. They are subject to discipline – bound by code of ethics, under authority of peer review and regulatory review

The issue of different types of products requiring different levels of expertise should be dealt with as an internal professional and regulatory function rather than by way of outward expression of regulation. This would be analogous to medicine where there is just one registration; registered medical practitioner even though no individual doctor is able to undertake or advice on all types of medical 'product' or 'service'. The public has the simple assurance that if they need medical advice and they consult a registered medical practitioner they can trust the advice they receive. The problem that not all medical practitioners are qualified to advise on every area of medical practice is managed via specified requirements to belong to relevant professional colleges or societies and to hold authority to practice only in specified scopes of practice. These broad controls are further refined by restrictions imposed by the medical code of practice.

Also congruent with the professional regulatory approach developed with health practitioners is our submission that the obligations and responsibilities of individual professionals must be located unambiguously at the individual practitioner level. This does not absolve businesses providing financial advice of all responsibility but the obligations upon an employer or consulting service must

not erode the professional responsibilities of their individual employees or partners. Rather the employer and business obligations should be around engaging suitably qualified staff and supporting all their individual practitioners to fulfill all professional obligations.

3.3.1 Recommendation: Have only one individual registration category

3.4 Advice and sales

The distinction between whether financial information is independent advice tailored to individual need or sales information is often unclear. It is unrealistic to expect the distinction can always be made clear but the current framework tends to blur the distinction rather than make it easier for consumers to identify when an advisor is acting independently in their best interests. This blurring arises for example when staff who are employed by a financial product provider to facilitate sales of their product are required to hold authority to provide independent advice. This can support an inference to be drawn by a consumer that while the customer has engaged with a particular provider they are receiving unbiased advice independent of the adviser's employer.

We agree it is essential that there are checks and balances on sales information but it is our submission that the assurance of the integrity of sales information and public protections against false or misleading sales practices is appropriately managed separate from measures to assure the integrity of financial advisory services.

The simplest way to make it clear to consumers that the person they are being advised by is not engaged in sales but is providing independent financial advice is by restricting the use of the term financial advisor only to persons authorised as financial advisors under the Act.

3.4.1 Recommendation: Restrict use of the title 'financial advisor'.

3.5 Standard disclosure

Another way of clarifying the distinction between independent advice and sales is by way of a standard disclosure statement that registered advisors must make readily available and have signed by the client as part of any agreement to provide financial advice. A standard disclosure statement needs to be as short as reasonably practical while covering the key points required by a consumer to decide whether a particular advisor is the best advisor for them in their circumstances. The elements to be included in a standard disclosure could include for example;

That the adviser;

- Is a registered independent financial advisor
- Has () years of experience in the industry
- Receives remuneration by way of;
 - commission
 - incentives
 - salary
 - fees

[With sufficient detail of all components of remuneration to enable a consumer to establish the absence of any potential conflict of interest between the advisor's duty of care to the client and the advisor's personal interest, or if conflict of interest does exist, whether the conflict is material]

Perhaps concluding with a list of the types of products that the adviser is competent to advise on and a list of the financial service providers the adviser is credentialed to recommend.

The above disclosures could be covered essentially with yes no answers on each bullet point with a link back to a web page with a larger document that covered off any other points and gave the necessary supporting evidence and details.

3.5.1 Recommendation: Require a standard disclosure of authority to give advice and of any matters that may assist a consumer to decide whether or not the advisor is the most appropriate person to advise them on the financial matter concerned.

4 Contact

For further discussion on any of the points raised in this submission please contact:
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This submission is made by Accuro to support the MBIE in the conduct of its review of the Financial Advisors Act. Accuro gives approval to MBIE to use this submission in whatever ways it considers may facilitate the aims of the review.