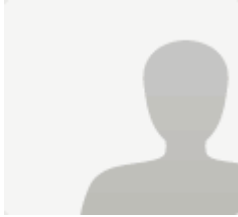


#7



## COMPLETE

### PAGE 2: Role and regulation of financial advice

**Q1: Do you agree that financial adviser regulation should seek to achieve the identified goals? If not, why not?**

Partly. However I think that the regulation should also educate the public on where to get reliable advice from. A celebrity endorsement or friend is NOT always reliable advice, and will NOT stop the ponzi schemes or bad investment decisions made by uneducated people.

**Q2: What goals do you consider should be more or less important in deciding how to regulate financial advisers?**

Look at where the losses have been in the past, and legislate in a way that will stop that. Regulating the good advisers will not stop bad advice from people who are not qualified. Educate the public, and point out the advantages of using a registered adviser.

**Q3: Does this definition adequately capture what financial advice is? If not, what changes should be considered?**

Educate the public. Is advice on buying a rental property, or bar of gold classified as Financial Advice? Is asking a mate what Kiwsaver default provider you should have Financial advice? Why is there a huge difference in the classification of these "advices", yet there are different risk weights but no consequences for the former two?

**Q4: Is the distinction in the Financial Advisers Act (FA Act) between wholesale and retail clients appropriate and effective? If not, what changes should be considered?**

Look at it from the clients perspective, and the likely loss to them.

**Q5: Is the distinction in the Act between a personalised financial service and a class service appropriate and effective? If not, what changes should be considered?**

Look at it from the clients perspective, and the likely loss to them. There is no clear definition at all, and it is very confusing to many advisers and clients alike. Through in the persuasion from a bank teller hiding under the skirts of a QFE and all rules go out the window. The client might as well ask their taxi driver or hairdresser.

**Q6: Is it appropriate to have different requirements on advisers depending on the risk and complexity of the products they advise upon?**

Definitely. I could easily become an AFA, and then be allowed to give advice on all sorts of stuff I know nothing about. Or I could become a celebrity and endorse some product I know nothing about and convince most of NZ that they would be a better person if they signed up.

**Q7: Does the current categorisation system accurately reflect the level of complexity and risk associated with financial products? If not, how could it be improved?**

No. As a mortgage adviser my banking and finance skills and qualifications are not recognised by the FAA, so I am a nobody. Yet I have more competency than most people who have completed the Mortgage module.

**Q8: Do you think that the term Registered Financial Adviser (RFA) gives consumers an accurate understanding of what these advisers are permitted to provide advice on and the requirements that apply to them? If not, should an alternative term be considered?**

Registered means just that - the adviser is registered, and clients are protected by the act. Our qualifications should also be recognised, eg Registered Mortgage and Risk adviser, or Registered Financial Planner, or whatever else. Alternatively for the AFA's who want the extra recognition - RFA, Authorised to advise on Morggages, Risk, Investments, Kiwisaver, Insurance, DIMS, etc... Clarify what the RFA is Authorised to advise on. At present, RFA's are made to feel very inferior.

**Q9: Are the general conduct requirements applying to all financial advisers, including RFAs, appropriate and adequate? If not, what changes should be considered?**

I think they are adequate, but look at it from the clients perspective, and the likely loss to them.. Even though there are requirements, there are bad eggs in every industry. Just look at the building industry, especially in Auckland at the moment. The quality of workmanship is atrocious - with final inspections failing 30% of the time. The building industry is one of the most regulated, but the wrong part is regulated. The individual practitioners (advisers) need to be regulated and educated. THEN the FMA needs to convince the public to only use only accredited advisers, authorised to give that specific advice. The product providers (banks, insurance companies, investment houses) should be more accountable for the advisers they allow to peddle their wares.

**Q10: Do you think that disclosing this information is adequate for consumers? Should RFAs be required to disclose any additional information?**

Look at it from the clients perspective, and the likely loss to them. In my opinion, we are asked to disclose far too much - most of my clients don't give a toss - they just want a home loan or insurance. Most of the paperwork I hand out goes into the rubbish bin and is never read.

**Q11: Are there any particular issues with the regulation of RFA entities that we should consider?**

Look at it from the clients perspective, and the likely loss to them. Keep it simple for the clients. Not everyone seeking financial advice is a genius. Many of the people seeking advice on life insurance or home loans are not comfortable with a lot of technical jargon or

**Q12: Are the costs of maintaining an adviser business statement justified by its benefits? If not, what changes should be considered?**

No - the cost of complying with the present legislation and disclosure requirements far outweigh any benefits. The present system is overbearing, cumbersome, complicated, convoluted, and offers the clients absolutely no benefit they they don't already have under other a Acts (Privacy Act, Disclosure Act, Credit Contracts Act, Consumer Guarantees Act, etc).

**Q13: Is the distinction between an investment planning service and financial advice well understood by advisers and their clients? Are any changes needed to the way that an investment planning service is regulated?**

Definitely not. Look at it from the clients perspective, and the likely loss to them. "Is now a good time to sell my house?", "Should I buy Gold or invest in the sharemarket?", "Should I pay off my home loan or put money into my Kiwisaver?" "Should I invest with South Canterbury Finance (because Mr Hubbard is a nice guy) or put my money with whatever that place is that Colin Meads suggests, because I like rugby?". "Gran has just died and left me her house - should I sell it and invest the money, or keep it as an investment property?". These are the questions getting asked every day by normal people. And they will be asking their friends, hairdressers, relatives. Surely they all have just as much risk, but there is nothing to protect any of them.

**Q14: To what extent do advisers need to exercise some degree of discretion in relation to their clients' investments as part of their normal role?**

At what point does advice become recommendation? In many situations the clients will ask "What do you suggest, or what would you do in my situation?" You know for a fact that they will do whatever you say, and despite all the facts you have presented, they are still not capable of making an intelligent decision. That goes both ways though. **REDACTED TEXT**

. Home loans are an example. Why are some banks getting broker business when there are other banks out there that are clearly better? Adviser opinion really counts, and can easily sway a clients final decision.

**Q15: Should any changes be considered to reduce the costs on advisers who exercise some discretion, but are not offering a funds management-type service?**

Yes, but again - Look at it from the clients perspective, and the likely loss to them.

**Q16: Are the current disclosure requirements for Authorised Financial Advisers (AFAs) adequate and useful for consumers?**

probably not. But Look at it from the clients perspective, and the likely loss to them.

**Q17: Should any changes be considered to improve the relevance of these documents to consumers and to reduce the costs of producing them?**

Yes - ask the clients what they want, and what they expect to see. If there was less water in the ocean it would be easier to see the sharks. Why hide the facts in a 5 page disclosure document?

**Q18: Do you think that the process for the development and approval of the Code of Professional Conduct works well?**

Leave that up to the product providers and clients to decide. Look on the wall of every car-sales in the world. You will find the words Trust, Loyalty, Reliability, Honesty. Yet that is one of the most UN-trusted industries in the universe, for good reason. Just because it is written on paper, doesn't mean it is so... It is illegal to rob, kill, steal cars... but these things still happen. Let the product providers chose the advisers, and they can accept the consequences of bad choices.

**Q19: Should any changes to the role or composition of the Code Committee be considered?**

Yes. Get some advisers in there, new and old, and some people form the general public, representatives of the very public that the FMA is supposed to be protecting.

**Q20: Is the Financial Advisers Disciplinary Committee an effective mechanism to discipline misconduct against AFAs?**

Possibly. But what about the law? What about legislation? What about the Disputes resolution schemes?

**Q21: Should the jurisdiction of this Committee be expanded?**

Look at it from the clients perspective, and the likely loss to them.

**Q22: Does the limited public transparency around the obligations of Qualifying Financial Entities (QFEs) undermine public confidence and understanding of this part of the regulatory regime?**

Yes. The public does not yet understand the difference between financial advice and simply being asked if they want to transfer their Kiwisaver to them because they show a better return this year.

**Q23: Should any changes be considered to promote transparency of QFE obligations?**

Yes - lots. But there should not even be QFE's. They are the banks way of avoiding the whole issue of transparency and good reliable advice.

**Q24: Are the current disclosure requirements for QFE advisers adequate and useful for consumers?**

Look at it from the clients perspective, and the likely loss to them. The present disclosure offered is of no interest to clients and offers them no protection. The protection should already be in place. Keep it simple.

**Q25: Should any changes be considered to improve the relevance of these documents to consumers or to reduce the costs of producing them?**

Look at it from the clients perspective, and the likely loss to them. Keep them simple. One paragraph - If you have a complaint - this is what you do, this is who you go to. Being a registered bank has many obligations, including capital requirements and codes of conduct to protect customers. There is no need to double up on paperwork and specific legislation.

**Q26: How well understood are the broker requirements in the FA Act? How could understanding be improved?**

Obviously not very well understood when mortgage advisers are still referred to as brokers by industry leaders, banks, clients, and other advisers themselves. Surely we should be adopting a more universally accepted definition. Look at it from the clients perspective, and the likely loss to them. As for the actual requirements, because the term

**Q27: Are these requirements necessary and/or adequate to protect client assets? If not, why not?**

Yes, if it works for the clients and is not overly restrictive to their freedom of choice.

**Q28: Should consideration be given to introducing disclosure requirements for brokers? If so, what would need to be disclosed and why?**

Look at it from the clients perspective, and the likely loss to them.

**Q29: What would be the costs and benefits of applying the broker requirements in the FA Act to insurance intermediaries?**

Look at it from the clients perspective, and the likely loss to them.

**Q30: Are the requirements on custodians effective in reducing the risk of client losses due to misappropriation or mismanagement?**

Look at how and why clients are losing money and address the specific issues. Remember, it is illegal to drink and drive, but it still happens. You cannot stop the bad eggs in the industry! Look at it from the clients perspective, and the likely loss to them.

**Q31: Should any changes to these requirements be considered?**

Look at it from the clients perspective, and the likely loss to them.

**Q32: Is the scope of the FA Act exemptions appropriate? What changes should be considered and why?**

No - how can a lawyer or an accountant be exempt from giving advice when their clients will do anything they recommend? How can an interpreter or family member or friend be exempt when a client's decision can be altered by their opinion or recommendation?

**Q33: Does the FA Act provide the Financial Markets Authority (FMA) with appropriate enforcement powers? If not, what changes should be considered?**

Yes, but it is not solving the real issues - how do we protect the Public from themselves?

**Q34: How accessible and useful is the guidance issued by the FMA? Are there any improvements you would like to see?**

It is far too complex and open to so many different interpretations. Keep it simple, and...Look at it from the clients perspective, and the likely loss to them.

**PAGE 3: Key FA Act questions for the review**

**Q35: What changes should be considered to make the current regulatory regime simpler and easier for consumers to understand? For example, removing or clarifying the distinction between AFAs and RFAs.**

Look at it from the clients perspective, and the likely loss to them. Educate them, and explain the concepts on TV. The same way that the building industry, the Electrical industry, and the plumbing industry does.

**Q36: To what extent do consumers understand that some financial advisers' primary roles may be selling financial products, rather than solely acting as an unbiased adviser to their clients?**

They DON'T understand.

**Q37: Should there be a clearer distinction between sales, information provision, and advice? How should such a distinction be drawn? What should or should not be included in the definition of financial advice?**

Yes and no. Look at it from the clients perspective, and the likely loss to them. What do the clients want and expect? Whatever we say, the customers need to know they can have confidence in what we tell them, regardless of what advice class it is. However, what makes our advice any more or any less reliable than their friends?

**Q38: Do you think that current AFA disclosure requirements are effective in overcoming problems associated with commissions and other conflicts of interest?**

not sure.

**Q39: How do you think that AFA information disclosure requirements could be improved to better assist consumer decision making?**

Look at it from the clients perspective, and the likely loss to them. What do the clients want and expect?

**Q40: Do you support commission and conflict of interest disclosure requirements being applied to all financial advisers? If so, what requirements are appropriate for different adviser types?**

Definitely conflict of interest, but clients do not care about commission, unless it influences the recommendations we make. Therefore i am in favour of more legislation around making commissions equal between providers, regardless of production levels. There should not be any production-based bonuses.

**Q41: Do you think that commissions should be restricted or banned in relation to financial advice, and if so, in what way? What would be the costs and benefits of such an approach?**

Certainly restricted, and commission rates should be the same across the board.

**Q42: Has the right balance been struck between ensuring advisers meet minimum quality standards and ensuring there is competition from a wide range of providers (and potential providers)?**

No

**Q43: What changes could be made to increase the levels of competition between advisers?**

Why increase competition between advisers? Surely we should all be working towards educating and helping customers. Look at it from the clients perspective, and the likely loss to them. What do the clients want and expect? What makes one adviser better than another in the eyes of the client?

**Q44: Do you think that the Code of Professional Conduct for AFAs strikes the right balance between requiring them to understand their clients and ensuring that consumers can get advice on discrete issues?**

Not certain

**Q45: To what extent do you think that the categorisation of types of advice and advisers is distorting the types of advice and information that is provided?**

Clients have no idea. However in my role as mortgage and risk adviser, it would make sense to discuss and provide Kiwisaver advice and even make recommendations. It makes no sense at all that an employer of fellow employee has more persuasive power than I do - someone who has 25 years experience in investment planning, but am only an RFA.

**Q46: Are there specific compliance requirements from the FA Act regulation that have affected the cost and availability of independent financial advice?**

I can no longer give retirement planning advice to my mum-and-dad clients. These are the clients who do not want to spend a lot of money to get a financial plan when a simple superannuation fund will suit them fine, and will be better than nothing. I am overwhelmed now by people preferring to get a mortgage and not planning for retirement. I am also seeing a disturbing number of elderly coming to me asset rich and cash poor. This could easily be remedied, but I am not able to advise on this and solve a simple problem.

**Q47: How can regulatory requirements be made less onerous without reducing the quality and availability of financial advice?**

Get product providers to be more accountable for the advisers they use, and they provide the training.

**Q48: What impact has the Anti-Money Laundering and Countering Finance of Terrorism Act had on compliance costs for advisers? How could these costs be minimised?**

pain in the proverbial. Trivial requirements make client identification difficult and frustrating. A simple task can now be stretched over several days and many more dollars. There must be a better way.

**Q49: What impact do you expect that KiwiSaver decumulation will have on the market for financial advice in New Zealand? Are any specific changes to regulation needed to specifically promote the availability of KiwiSaver advice?**

Let RFA's give advice! If necessary a specific kiwisaver module could be made.

**Q50: What impact do you expect that the introduction of the Financial Markets Conduct Act (FMC Act) will have on the market for financial advice in New Zealand? Should any changes to the regulation of advice be considered in response to these changes?**

Stop all this ridiculous legislation. instead of helping the public, it is driving advisers out of the industry due to the overly clumsy and cumbersome legislative requirements. Look at it from the clients perspective, and the likely loss to them. What do the clients want and expect? focus on the clients needs

**Q51: Do you think that international financial advice is likely to increase? Is the FA Act set up appropriately to facilitate and regulate this?**

yes - it is already here, and no - neither the FAA nor the FMA are able to cope with it. It does not offer any protection to the clients.

**Q52: How beneficial are the current arrangements for trans-Tasman mutual recognition of qualifications? Should further arrangements be considered?**

They are not acceptable for my qualifications. it is all revenue gathering for the select few.

**Q53: In what ways do you expect new technologies will change the market for financial advice?**

Technology is taking away the ability to give good financial advice. clients do not need to take advice to make some big financial decisions in their life now - they are all sucked in by the most attractive user interface. Fees and returns are not adequately disclosed, and solutions are not client focused - they are based around standard products offered by the providers. Clients do not get the benefits of custom-made solutions, instead being cattle-raced into bank-chosen products.

**Q54: How can government keep pace with technological developments to ensure that quality standards for advice are maintained, without inhibiting innovation?**

seek feedback from advisers and clients. Look at it from the clients perspective, and the likely loss to them. What do the clients want and expect? in years to come, the FAA and FMA will be worthless because technology would have overridden the need for advisers in the current format.

**Q55: Are the minimum ethical standards for AFAs appropriate and have they succeeded in fostering the ethical behaviour of AFAs?**

That is for the public to decide. In an ideal world every adviser would be bound by good ethics. However even now that the expected ethics are written down, the bad eggs in the industry will still pull the wool over unsuspecting or ignorant clients.

**Q56: Should the same or similar ethical standards apply to all types of financial advisers?**

yes

**Q57: What is an appropriate minimum qualification level for AFAs?**

whatever is appropriate for the advice they are giving, and it must be totally relevant. It would be more appropriate to be prescribed by the product providers, and the product providers themselves should be held more accountable for ensuring ethics are upheld and not just minimum standards, but ethical and reasonable standards are met.

**Q58: Do you think that RFAs (for example insurance or mortgage brokers) should be required to meet a minimum qualification relevant to the area of advice they specialise in? If so, what would be an appropriate minimum qualification?**

Definitely. I have a diploma in business studies, including international trade and finance, law, commercial and advanced banking, accounting, economics, lending and securities and other aspects. I also support in-depth training and qualifications prescribed or even provided by the product providers, and the product providers themselves should be held more accountable for ensuring ethics are upheld and not just minimum standards, but ethical and reasonable standards are met.

**Q59: How much consideration should be given to aligning adviser qualifications with those applying in other countries, particularly Australia?**

That is difficult, because the Australian model is very complex and comprehensive, but also clumsy and has failed.

**Q60: How effective have professional bodies been at fostering professionalism among advisers?**

Some have been very good - PAA, IFA. Others are simply revenue-gathering empires.

**Q61: Do you think that professional bodies should play a formal role in the regulation of financial advisers and if so, how?**

yes. They should be more accountable, within a standard framework to ensure consistency. However this should not be a revenue-gathering scheme, and should not put more financial burdens on the advisers. The cost could be off-set by reductions in compliance costs (eg FSP registration, Resolution disputes abolition, and other paperwork). The professional bodies could even take over the role or incorporate the disputes resolution role.

**Q62: Should any changes be considered to the relative obligations of individual advisers and the businesses they represent? If so, what changes should be considered?**

As above. QFE's - how can they give recommendations when they are only offering one option. It is anti-competitive. RFA's and AFA's should be better trained by the product providers, and both should be more accountable to each other.

**Q63: Is the QFE system achieving its goals in terms of consumer protection and reducing compliance costs for large entities? If not, what changes should be considered?**

get rid of QFE's. They are not serving their clients well.

#### **PAGE 4: Role of financial service provider registration and dispute resolution**

**Q64: Do you agree that the Register should seek to achieve the identified goals? If not, why not?**

yes

**Q65: What goals do you consider should be more or less important in reviewing the operation of the Register?**

Classes of advice, and what advice the adviser can give (what products and service the adviser can advise on) should be recorded on the register under each adviser name.

**Q66: Do you agree that the dispute resolution regime should seek to achieve the identified goals? If not, why not?**

yes.

**Q67: What goals do you consider should be more or less important in reviewing the dispute resolution regime?**

What are the roles? What roles could be taken over by a professional body? What roles are already duplicated by other bodies, other procedures, and other acts?

#### **PAGE 5: How the FSP Act works**



**Q68: Does the FMA need any other tools to encourage compliance with financial service provider (FSP) registration? If so, what tools would be appropriate?**

Hunt down advisers who are not registered and publicly shame them. But as I have mentioned - what constitutes advice? When a hairdresser has more clout than me, and no consequences, the whole system is flawed.

**Q69: What changes, if any, to the minimum registration requirements should be considered?**

Less cost, and easier process, with clear rules on progression.

**Q70: Does the requirement to belong to a dispute resolution scheme apply to the right types of financial service providers?**

no

**Q71: Is the current framework for the approval of dispute resolution schemes appropriate? What changes, if any, should be considered?**

No. Try incorporating the role into the professional adviser bodies or producer groups. Make them more accountable.

**Q72: Is the current framework for monitoring dispute resolution schemes adequate? What changes, if any, should be considered?**

No. Again - try incorporating the role into the professional adviser bodies or producer groups. Make them more accountable.

**Q73: Is the existence of multiple schemes and the incentive to retain and attract members sufficient to ensure that the schemes remain efficient and membership fees are controlled?**

no

**Q74: Should the \$200,000 jurisdictional limit on the size of claims that dispute resolution schemes can hear be raised in respect of other types of financial services, and if so, what would be an appropriate limit?**

Why have a limit? Alternatively, why have any penalty. If an adviser has acted inappropriately, then let a court of law sort out a penalty that favours the clients.

**Q75: Should additional requirements to ensure that financial service providers are able to pay compensation to consumers be considered in New Zealand?**

No. Where do you draw the line? Why should the deeds of a few bad eggs be spread amongst the rest of us? That is what insurance is already in place for.

**PAGE 6: Key FSP Act questions for the review**

**Q76: What features or information would make the Register more useful for consumers?**

Ask the public. I suggest affiliations with Professional bodies, Classes of advice, Products and services that the adviser can give advice on, and professional qualifications

**Q77: Would it be appropriate for the Register to include information on a financial adviser's qualifications or their disciplinary record?**

Yes.

**Q78: Do you consider misuse of the Register by offshore financial service providers is a significant risk to New Zealand's reputation as a well-regulated jurisdiction and/or to New Zealand businesses?**

yes, definitely

**Q79: Are there any changes to the scope of the registration requirements or the powers of regulators that should be considered in response to this issue?**

Yes - as above and previous

**Q80: What are the effects of (positive and negative) competition between dispute resolution schemes on effective dispute resolution?**

Just more money for us to pay.

**Q81: Are there ways to mitigate the issues identified without losing the benefits of a multiple scheme structure?**

We are already paying large sums to our various professional bodies - why not incorporate this role into their training and disciplinary structure.

**Q82: Are the current regulatory settings adequate in raising awareness of available dispute resolution options? How could awareness be improved?**

Definitely not. Clients have no idea yet. Isn't that the whole idea of the FA Act? To promote public confidence in the financial advice arena? Surely the mainstay of this is knowing that the public has an easy route to dispute resolution. Yet the Act has failed miserably in my opinion.

#### **PAGE 7: Demographics**

**Q83: Please provide your name and/or the name of the group of people, business, or organisation you are providing this submission on behalf of:**

Andy Phillipson, Kauri Home Loans Ltd t/a The Mortgage Shop

**Q84: Please provide your contact details:**

18(d)

**Q85: Are you providing this submission:**

- 
- As an individual

**Q86: If submitting on behalf of an organisation: How many people are in the organisation, or work in the organisation, that you are providing this submission on behalf of?**

*Respondent skipped this question*

**Q87: I would like my submission (or specified parts of my submission) to be kept confidential, and explain my reasons for this, for consideration by MBIE:**

- 
- No