



#18

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?

Yes.

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

Improving accessibility. Removing conflicts of interest.

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

Regulating financial advice so that only *actual* financial advisers can call themselves financial advisers.

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?

I think the rules are confusing. I am not sure if "execution only" options have been fully considered...where the client consciously signs off adviser accountability. A third party (e.g. solicitor/accountant) signs off the execution only instruction. This can only be done via AFAs.

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?

It has distinguished insurance advisers from investment advisers, which is a good thing. I think QFEs have stretched the boundaries of class advice - not acting within the spirit of the regulation.

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

Yes.

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. Life insurance products are now seen as pretty much unregulated.

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?

No. My view is only an Authorised Financial Adviser should be allowed to use the term "financial adviser". The RFA is being used to infer authorization and status linked to ability and qualification.

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

No. Too many people who call themselves "financial advisers" aren't financial advisers. Their conduct remains that of sales people, selling products. This is true of QFEs too.

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

RFAs should not be relied on for financial advice. What they do isn't financial advice. A real estate agent is not a financial adviser. The RFA designation should be re-named "Registered Agent" or similar to clearly indicate to the public that they are dealing with someone who is selling financial products.

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

As per 10.

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

I find it relatively easy. It's hard for QFEs though because they want a consistent ABS (even though it's meant to be the AFA's document...).

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?

No. Investment planning should happen after the advice piece has finished. Operationally, it's all wrapped into one process where the available product becomes compatible with the client's needs. It's the wrong way around.

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?

Financial advisers that want to offer a DIMS service can choose to offer this, as long as they are clear on their scope of service and the client understands that they are engaging the client for this reason.

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?

Respondent skipped this question

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

Not really. AFAs use these documents as required by law and we use wording templates to legally cover our bottoms - but something about disclosure documents makes them hard to read for the public. However, they do offer details and access to a dispute resolution service, so overall they are a good thing. The AFA is accountable and these documents remind all parties of that.

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

Disclosure Documents should be available on adviser websites without having to ask. Fees should be as clear as possible, so people know what they're getting into.

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

Seems process-driven and steered by legal advice.

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

A mandatory minimum presence of working Authorised Financial Advisers.

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

Respondent skipped this question

Q21: Should the jurisdiction of this Committee be expanded?

Respondent skipped this question

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. I am not a fan of QFEs because it seems to be a special set of conditions for the larger organisations. It has allowed employees within a QFE to position themselves as advisers. QFE organisations seem to fight tooth and nail with the regulators to define legal wordings etc.

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

QFE advisers as a term should be stopped. It undermines the value of proper financial advice.

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

Not at all. In my view, QFE advisers are not financial advisers unless they are Authorised Financial Advisers. They are (mainly) bank employees with targets to sell a limited suite of financial products.

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

They should be more explicit in stating that the service given by a QFE is not a financial advice service. QFE organisations should invest in training and development of new AFAs and offer their services to customers, when they need financial advice.

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

Q31: Should any changes to these requirements be considered?

Respondent skipped this question

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

Experience tells me that the exempted professionals are not conversant with financial advice. Set C in the Level 5 qualification should be mandatory for anyone wanting to be an AFA. A great solicitor may be a terrible financial adviser.

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

Respondent skipped this question

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

My dashboard online doesn't seem to give me reminders of the payments of the annual levy etc. Direct advice would be good, too. "You should seek legal advice" is not helpful. The FMA is the law! I would like more confident and definitive direction from the FMA at times.

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.

Financial Advice should only be offered by Authorised Financial Advisers. An AFA may then refer the placement of any financial product to an insurance agent, directly with a provider or do it themselves. The act of financial advice should not necessarily mean a product is sold. RFAs should not be seen to be offering financial advice. They sell products and get them set up.

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?

Customers seem to think that financial advisers are life insurance sales people or finance company-type people. At the moment, the term "financial adviser" has many connotations, mostly negative.

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. Professional financial advice should be offered only by qualified AFAs. The placement of the product (if any) should be done separately and - possibly - by someone else. A skilled Insurance Agent can get a life insurance application written with a provider and has the relationships with underwriters, BDMs etc. It's a financial service, not financial advice. I think a decoupling from financial advice and financial products would be healthy. AFAs could choose to place products themselves, or refer that work on.

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

Not really. All of this is disclosed, but the current model is that AFAs place products and are largely remunerated by the one or more providers in the form of commission. It's the present nature of the beast. Specialist financial advisers that actually give financial advice only are thin on the ground.

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

The AFA can highlight the cost of advice only. The specific commissions involved need to be disclosed only when they end up recommending a financial product. The current disclosure documents cover all bases and are too vague.

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?

For AFAs, yes. For anyone else - no. My view is that only AFAs should call themselves "financial advisers". RFAs and bank employees and insurance agents clearly work for an organisation and are openly earning money through setting up financial products. They are not financial advisers. This is why there is confusion in the marketplace over who people deal with.

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?

No. The act of financial advice results in recommendations, which may or may not involve the customer setting up a new financial product. The customer should know that the financial advice itself comes at a cost, regardless of whether a financial product is sold. As a guiding principle, if a product is sold, the AFA will disclose any commission received and offer to offset that against the advice fee payable.

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)?

Not really. RFA and QFE Advisers are a problem here. QFE arrangements seem to allow QFEs to self-regulate, which is a concern.

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

There is no need to increase levels of competition with Advisers. There are very few financial advisers.

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?

Yes.

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?

It allows for too much sophistry in wording and definitions. We need to define financial advice and conclude that financial advice is different from selling, setting up and placing financial products. An AFA should be able to identify that someone needs a retail life insurance policy and refer the placement of the product to an agent.

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

No - it's up just that there are very few truly independent financial advisers in NZ.

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

By decoupling financial advice from product placement.

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?

I know those costs have affected many adviser but this does not affect the service I provide.

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?

I am worried that this debate will conclude that specific decumulation products are deemed necessary. I am also concerned about a limited requirement for "KiwiSaver advice". KiwiSaver is the most important investment most people have, certainly in the future. It's intertwined with all other aspects of financial advice and must be seen holistically.

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

I think it will change the market for investment advisers and life insurance advisers as costs for the products go down. Truly independent Financial Advisers, not so much because the service is by definition more holistic and personal.

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

Respondent skipped this question

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

The standards are appropriate, and I have seen many borderline advisers exit the industry. This is good to see - but I think the separation of financial advice as a discrete service is not widespread. It's all about selling.

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

I think actual financial advisers should aspire to a higher standard.

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

Current L5 certificate in Financial Planning is adequate - but the exemptions for accountants and legal professionals should go.

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?

Yes. Not as onerous as AFAs - but certainly something that demonstrates knowledge of the wider market and the regulations.

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

Respondent skipped this question

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

"Professional bodies" is quite a broad term.

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

All parties should be involved.

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?

Covered elsewhere.

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?

No. The QFE system is in need of an overhaul or abolition. I think it has given large organisations a mechanism to operate against the spirit of the regulations and, as much as possible, carry on regardless. It's effectively a halfway house of self regulation for large organisations. I don't think the outcomes for the end customer have been good.

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?

Equal importance.

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?

Respondent skipped this question

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?

Dashboard for advisers to remind, cajole and inform.

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

PAGE 6: Key FSP Act questions for the review

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

Respondent skipped this question

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, very much so.

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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:

9(2)(a)

Q84: Please provide your contact details:

9(2)(a)

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:

-
- Yes
 - **Explanation:** [b\(2\)\(ba\)\(i\)](#)
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