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Labour and Commercial Environment Group  
Ministry of Business, Innovation and Employment  
PO Box 3705  
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To whom it may concern

### **Submission on the Financial Advisers Act Issues Paper**

Thank you for the opportunity to provide feedback to the Ministry of Business, Innovation and Employment (MBIE) on the Financial Advisers Act Issues Paper (**Issues Paper**).

### **Introduction**

ANZ Bank New Zealand Limited (**ANZ**) welcomes the review of the Financial Advisers Act (**FA Act**). As noted by MBIE in the Issues Paper, the FA Act was subject to an intense regulatory development process and numerous changes were introduced prior to its finalisation. Five years after the FA Act has been embedded by financial market participants, it is timely to review the FA Act's success in achieving its objectives, and to identify areas for improvement where those objectives are not being met or where participants are subject to unnecessary compliance burdens. In general, ANZ considers the FA Act regime has had a positive impact on the financial adviser industry, in particular promoting confidence in the industry.

ANZ believes it is in a unique position to respond to the Issues Paper. We are the largest financial institution in New Zealand and provide a full range of financial services to retail, commercial and institutional customers across New Zealand. This includes banking, insurance, wealth management and financial advisory services. We are both a Qualifying Financial Entity with the largest QFE adviser network in New Zealand and an employer of Authorised Financial Advisers. The breadth of our business activities means that we are well positioned to understand consumer needs and industry issues and have direct and unique experience operating in all areas of the FA Act's application.

### **Opportunity for reform that establishes New Zealand as a leader in financial advisory regulation**

ANZ believes this review represents a significant opportunity for the Government to amend the FA Act to simplify the existing regime and promote access to financial advice for New Zealanders. The regulation of the provision of financial advice has presented a long-standing challenge across international jurisdictions. Anecdotal evidence suggests that no-one has yet got it completely right. Other jurisdictions have largely opted to reform by way of incremental change to existing frameworks, without deep consideration as to whether the frameworks are appropriately construed. New Zealand has an opportunity to thoroughly re-

examine the framework and future-proof it for current and future generations of New Zealanders seeking financial advice.

In ANZ's view, the majority of the FA Act framework is based on sound principles which remain valid. This includes aspects such as the objectives of the FA Act, entity licensing and setting of adviser education and ethical standards. However, ANZ believes that some of the language and concepts contained within the FA Act should be amended to better reflect the needs of consumers in their interactions with financial product and service providers (including financial advisers). There is also an opportunity to ensure the FA Act takes account of the role of new technologies (such as the increasing digitalisation of provision of financial advice) and to ensure the FA Act is more closely aligned with other recently reformed regulatory regimes such as the Financial Markets Conduct Act and the Responsible Lending Code. This will result in a regulatory framework that reflects compliance practices and consumer needs that have evolved since the FA Act was introduced, and that meets the stated objectives of the FA Act to promote and increase access to financial advice in New Zealand.

ANZ also notes that the timing of this review is critical, as it falls in the middle of a period where financial market participants have been subject to sustained, sweeping and complex legislative reform affecting all aspects of their business activities. It is imperative that sufficient time is allocated to this review in order to maximise the desired outcomes. This will ensure that adequate consideration is given to recommendations made and changes stemming from the review in the broader context of other legislation which is reliant on the FA Act. Allocating sufficient time is crucial in allowing financial market participants to effectively manage implementation of any changes, and reduce unnecessary compliance costs arising from a hurried reform. ANZ acknowledges MBIE's work since the inception of the review, and appreciates its willingness to engage with industry members to obtain a diversity of views.

### **Key Messages**

ANZ would like to specifically draw your attention to our key messages about the review set out below:

#### **Key messages**

- Reduce complexity in the FA Act's application
- Create clear standards relating to the provision of "product advice" and "financial advice", with advisers appropriately trained or qualified per type of advice
- Ethical standards of care, diligence and skill should apply to both product advice and financial advice and to providers and financial advisers
- The FA Act needs to be future proofed, particularly for emerging digital technologies which will alter the way advice is provided to large numbers of consumers
- An appropriate transition period should be provided

We have discussed each of these key messages in detail in Schedule 1 of this letter and have provided some case studies in Schedule 2.

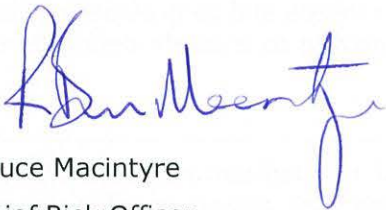
Our specific responses to MBIE's questions in the Issues Paper are set out in Schedule 3 of the letter. Given the number and broad coverage of the questions, we have selected the most relevant questions to respond to directly.

**Contact for submission**

ANZ welcomes the opportunity to discuss any of our submissions directly with MBIE officials. Contact details for ANZ are Rebecca Bonnevie, Regulatory Affairs Manager, <sup>18(d)</sup>  
<sup>18(d)</sup>

Once again, we thank MBIE for the opportunity to have input into the FA Act review.

Yours sincerely



Bruce Macintyre  
Chief Risk Officer

**Schedule 1**  
**KEY MESSAGES**

**1. Reduce complexity in the FA Act's application**

**Recommendation**

The FA Act needs to be clear, simple and easily understood by financial market participants and consumers alike. A core objective of the FA Act – access to appropriate high-quality financial advice – will be achieved by reducing complexity in the layers of the FA Act's application. The FA Act requires amending to reflect customer needs and to provide greater compliance certainty for industry participants. This includes moving to a single definition of "financial adviser" and "financial advice".

ANZ believes that the customer should be the key focus of the legislation. The FA Act requires increased clarity as to when non-personalised financial advice is able to be provided, in order to meet customer needs and provide industry participants with greater compliance certainty.

The language used in the FA Act should be plain English, and reflect commonly understood concepts and address consumer advice needs. ANZ believes that a reduction in the current complexity will have a significant impact on achieving the FA Act's stated objectives and will result in improving confidence and integrity in the financial adviser industry.

The FA Act was originally drafted to distinguish between different participants and products in the market to bring clarity to existing practices at that time. In ANZ's view, the complexity in the FA Act's application to:

- o categories of financial advice;
- o categories of financial adviser;
- o categories of financial product; and
- o compliance requirements for the provision of certain types of financial advice (eg a written plan for personalised financial advice)

has ultimately resulted in compliance approaches by financial markets participants and advisers that do not achieve what consumers want, and to a complete lack of understanding or disinterest by consumers as to what they should be requiring or receiving when seeking financial advice.

In ANZ's experience, customers are frustrated by not being able to access product related advice which they often perceive as financial advice. We believe one of the key drivers of this problem is the complexity the FA Act introduced into the financial advice industry, and the way in which industry had tried to implement and deal with that complexity. For example, a customer does not know if they need to speak to an RFA, and AFA, or member of a QFE, and is intimidated by these technical terms and industry jargon.

For financial markets participants, it is difficult to assess from the FA Act what the boundaries of a "class service" are, and where product-related sales advice provided to individual customers (rather than to a class of customers), who have no expectation or requirement for a personalised financial adviser service, fits within the current regime. Accordingly, many financial market participants have followed a conservative compliance path due to the consequences of non-compliance with the law (including reputational), often

resulting in the specific “product advice” customers actually want being restricted or, at worst, not made available.

ANZ believes that the submissions we are putting forward relating to categories of “product advice” and “financial advice” will have the effect of simplifying some unnecessarily complex distinctions that currently exist in the FA Act. For example, the different categorisations of financial products and the differing levels of advice able to be offered on Category 1 products (including different standards for Category 1 products issued by a QFE) as compared with Category 2 products.

In ANZ’s view, the framework of the current FA Act could be reworked to:

- o remove the distinction between class and personalised advice. All financial advice should be considered personalised and be distinct from product sales/advice.
- o define “financial advice” along the lines of the existing definition of a financial adviser service that is a “personalised service” and contains a clear recommendation.
- o remove the different categories of financial adviser and replace with a single category of ‘financial adviser’.
- o establish a regime that enables the sale of financial products (without “financial advice” as defined above) via both of the existing licence regime for entities whose QFE employees sell financial products and registered product distributors (entities or individuals). This approach recognises that the sale of financial products can occur after information is provided about the product, with an actual or implied recommendation or opinion about the product, but without assessing additional personal circumstances or factors of the customer. We have called this “product advice” throughout the remainder of this submission. We further consider that product advice/sales by QFE employees of QFE provided consumer credit products should be carved out of the FA Act as these products and the interaction between providers of these products and consumers is already extensively regulated by the Credit Contracts and Consumer Finance Act 2003 and the Responsible Lending Code.
- o define “product advice” in such a way that makes it clear that a person is not giving financial advice in a situation where that person provides a recommendation or opinion to a customer about a product without taking into account that customer’s personal financial situation or goals, provided that a prescribed warning has been given to that customer which makes this clear. The ability to provide product advice should apply even where that customer has previously received financial advice from that person.
- o establish baseline ethical standards that apply to all financial market participants and individuals. Higher standards should apply to those who provide financial advice (as defined above). Establish education requirements that apply to all individuals who provide financial advice (as defined above) on financial products (using an appropriate sliding scale relevant to the complexity of the financial product).

Finally, ANZ notes that the distinction between wholesale and retail clients should be retained – it is practicable and ensures the compliance costs of the FA Act are allocated appropriately. A significant benefit of the review of the FA Act is the opportunity to ensure consistency and alignment with other financial market participant regulation.

## **2. Create clear standards relating to the provision of “product advice” and “financial advice” with advisers appropriately trained or qualified per type of advice**

### **Recommendation**

The FA Act will achieve its stated goals if a clear distinction is created between “product advice” and “financial advice”, and the requirements that relate to each. All financial advice is considered personalised. Financial advice must always ensure the financial product is suitable for the customer and be provided in the best interests of the customer. The FA Act should have a single definition of financial adviser, authorised by the Financial Markets Authority. Product advice must always be given with a clear statement that it does not constitute financial advice, together with clear information about the types of customer the product is appropriate for and the purpose(s) for which the product is suitable for use. Categories of financial product should be removed.

In ANZ’s experience under the current regime, customers have poor understanding of the types of financial adviser, and where to seek financial advice from. For example, customers do not appear to understand the distinction between QFE advisers, Registered Financial Advisers and Authorised Financial Advisers. There also appears to be a significant mismatch at present between what a large number of customers want by way of “advice” on particular products, and what ANZ considers it is able to provide as “advice” within the current legislative framework.

ANZ has attached case studies in Schedule 2 from different parts of the ANZ business demonstrating where the interpretation and application of the current FA Act requirements results in poor outcomes for customers. These real-life examples show how the current FA Act regime produces results that frustrate the consumer and do not promote access to financial advice. Please note we have changed names to maintain customer confidentiality and privacy.

For example, ANZ frequently receives requests from customers seeking opinion/recommendations relating to a particular product or products in situations where the customer does not want a comprehensive assessment of their financial situation or goals to be undertaken prior to the provision of the opinion/recommendation. Customers want (and expect) ANZ to provide enough information relating to the advantages/disadvantages of the product in question by reference to a general factual situation for them to be able to make an informed decision about whether to buy (or dispose of) the product.

Due to an uncertainty as to whether the provision of such information would trigger the FA Act’s personalised financial advice requirements, and driven by an organisational need for consistent and clear compliance policies for a large sales force to follow, this type of request often results in very vanilla information being provided to the customer (i.e. very limited factual product information with no contextual product or market recommendation/opinion discussed or provided) or an offer to refer the customer to an AFA for personalised financial advice (which may take hours of time and not be what the customer wants). Neither of these approaches delivers what the customer actually wants (see Case Studies 1 and 4 in Schedule 2). This leads to a poor customer experience and, in many cases, a potentially worse financial outcome where decisions are being made by customers without receiving the benefit of ANZ’s considerable product knowledge and market expertise.

ANZ’s view is that the FA Act should permit QFE employees to provide product advice to consumers – that is, advice relating to the acquisition or disposal of a product but that is not personalised to their circumstances. QFE employees should also be required to provide the

customer with a prominent warning stating that the customer's personal financial situation and goals have not been taken into account when providing that product advice.

Registered product distributors should be responsible for themselves or their product advisers (i.e. supervision and ensuring competency, training, conduct) but they, and their product advisers, must also clearly identify the types of customers each product is appropriate for and the purpose for which that product may be used ('product suitability'). Discussion of 'product suitability' needs to be part of any product advice that is provided (over the phone or in writing) by the product adviser. It is for the customer to determine whether from this advice the product is suitable for their personal circumstances.

ANZ believes this approach would address the current gap that exists whereby consumers want only a limited form of product specific advice to be given (without going through a full assessment of their personal financial situation). This approach would also recognise that the sale of financial products will still occur with (new) legislative protections (refer key message 3 below). ANZ further notes that consumers receiving such product advice would remain supported by other consumer based protections in legislation such as the Fair Trading Act, Consumer Guarantees Act and Financial Markets Conduct Act (and relevant industry Codes of Practice).

### **3. Ethical standards of care, diligence and skill should apply in respect of both product advice and financial advice and to providers and financial advisers**

#### **Recommendation**

The overarching principle of the regulation should be that the sale of financial products and the provision of any advice (product or financial) must be undertaken with care, diligence and skill. Financial advisers should be required to attain relevant standards of competency to provide financial advice on relevant financial products, and be required to specify to customers which types of financial products they are qualified to advise on.

ANZ submits that the best approach to the provision of financial advice (which in all cases would be considered personalised) is to focus on the individual providing the advice and their qualifications and experience in relation to the financial product or service they are advising on. This approach essentially makes it simple for consumers to identify who to seek out to talk to – i.e. a financial adviser when they are seeking personalised advice – and to understand the scope of the financial adviser's capabilities.

ANZ's experience shows that the current FA Act has resulted in attrition of the number of Authorised Financial Advisers and a reduction in new people joining the industry. In ANZ's view, if the FA Act recognises the place of QFE and QFE employees in product distribution/sales and the provision of product advice, QFEs will provide a training ground for individuals to become financial advisers in the future. This will promote participation and longevity in the industry, a challenge it is currently facing. Additionally, ANZ believes that changes to the FA Act will make it simpler for advisers to move between Australia and New Zealand (such as, if Australian qualifications are recognised by the FA Act acknowledging jurisdictions with equivalent legislative requirements), encouraging more people into the industry.

ANZ believes that the FA Act should apply a single overarching requirement for all participants and individuals involved in a) the sale of financial products and/or b) the provision of product and financial advice, to behave in accordance with an appropriate duty of care.

Using a single category of 'financial adviser' for those providing financial advice (and not simply sales related product advice) would allow those financial advisers to be held to an additional higher standard. A financial adviser should also be required to ensure the product is suitable for the customer and the financial advice is in the customer's best interests.

Additionally, ANZ believes customers understand the concept of product 'sales' advice and the concept of 'financial advice'. Sales reflect a request by a customer for, or identification by a product distributor of, a particular product or service and an understanding that it is for the customer to do their own due diligence on the product or service as it applies to their personal circumstances (and within the parameters of existing consumer protection laws). Product distributors must register on the Financial Service Providers Register (and will include QFEs).

Financial advice, which requires an assessment of the customer's personal circumstances, is typically something you would expect to pay an appropriately qualified individual for. This approach gives financial advice and financial advisers a special position in the market, reflecting their higher training and competency, and aligns with the approach taken to other client service professions (for example, lawyers, accountants etc). ANZ submits that the FA Act should retain the position where only "financial advisers" in the new regime (currently known as AFAs) are able to provide full Investment Planning Services.

ANZ further believes that the self-regulation model under the QFE licence regime (which sets out the minimum standards for behaviour and requirements QFEs must meet in relation to regulating the sales behaviour of its staff) is appropriate and should remain. Essentially, regulation should focus on the behaviour of the QFE and its employees, rather than attempting to regulate the activities it undertakes using different product and advice categories in the FA Act.

#### **4. The FA Act needs to be future proofed, particularly for emerging digital technologies which will alter the way advice is provided to large numbers of consumers**

##### **Recommendation**

The FA Act should recognise that delivery of financial advice via digital technologies is an important component of the future of providing financial advice to the mass market. The FA Act should require the entity responsible for the delivery of the advice to clearly articulate the parameters of that advice.

The digitalisation of financial advice ("robo-advice") is highly likely to be part of the New Zealand financial market landscape and provides an opportunity to provide financial advice to a large number of consumers. The FA Act should recognise the electronic delivery of advice and require the entity delivering the advice to meet ethical standards in the provision of the tools that deliver the advice (for example, due care and skill must be exercised in creating the algorithms that produce the advice outcomes). The entity should also be required to be transparent about the use of the tools, for example, by including prominent statements about the advice not replacing the need to speak with a financial adviser when a consumer requires their particular financial situation or goals to be taken into account.

ANZ's view is that promoting and protecting the use of digital tools and services (such as robo-advice) in the FA Act will assist with alleviating other challenges found in the industry, including conflicts, commissions and confusion from the advisers about what can or cannot



be said. The expectations of customers who utilise such digital tools and services are also likely to be clearer because the parameters of what those tools and services can (and cannot) deliver will be required to be clearly articulated.

## **5. An appropriate transition period should be provided**

### **Recommendation**

The effective date of amendment legislation should be 2018, with appropriate grandfathering provisions provided in the transition period.

The review of the FA Act falls in the middle of a period of sustained, sweeping and complex reform of banking and financial services regulation (for example, consumer protection and financial market and conduct regulation). Appropriate transition time needs to be provided to financial market participants and individuals involved in the provision of financial advice.

This will allow those participants and individuals to understand their new requirements, and embed compliance practices stemming from any structural changes to the FA Act. The effective date of amendments should be in 2018. This also allows for existing regulatory reform to be fully implemented prior to having to make further changes under the FA Act. Grandfathering during the transition period is also required, in particular, to allow individuals wishing to complete qualifications and requirements necessary to be authorised as financial advisers to achieve this, without eliminating them from the market.

**Schedule 2**  
**CASE STUDIES**

**Case Study 1: DIMS, product outside portfolio**

<p>Situation</p>	<p>John, an ANZ client, has a personalised investment plan and portfolio according to that plan worth \$3M. John sells his business and has \$2M he wishes to invest outside that portfolio. John comes to his ANZ adviser with a question – “what is your opinion about product ‘hot\$’.”</p>
<p>What is the customer looking for?</p>	<p>What John is looking for a general opinion on the product (as opposed to an answer in the context of his existing portfolio and personal circumstances) .</p>
<p>Outcome under current regime</p>	<p>FMA is of the view that as John is a personal client of the adviser, the adviser is unable to give John a general opinion.  The adviser offers to revisit John’s personalised investment plan and revise it in light of product ‘hot\$’ to give John a view about whether he should invest his \$2M in that product.  John doesn’t want to review his personalised plan.  As the adviser is unable to give a view, John has the option a) to seek an opinion from someone else or b) make the decision with no advice.</p>
<p>ANZ’s ideal outcome</p>	<p>To be able to provide John with product advice about product ‘hot\$’.</p>

## Case Study 4: KiwiSaver, balances

Situation	Sarah calls the Contact Centre because her KiwiSaver balance in Internet Banking has dropped.
What is the customer looking for?	Sarah wants reassurance because her KiwiSaver balance has dropped overnight. A natural question that follows is whether she's in the right fund.
Outcome under current regime	<p>"I am unable to provide an opinion on whether you are in the right fund. We have a risk profile questionnaire that may help you find a fund that fits your risk appetite, or I can put you through to an authorised financial adviser who can provide you with personalised financial advice."</p> <p>Where Personalised Advice is required the adviser is required to comply with the FA Act and their obligations under the code of professional conduct.</p> <p>QFE Advisers are unable to tell Sarah whether she is in the right fund as their scope is limited to class advice. They can provide factual information or general advice about what might be right for a class of persons, but it is unclear whether that information or generic advice could also fall under personalised financial advice in this context. Because the guidance is unclear, the customer often ends up being transferred to Wealth Direct where they may end up going through a two hour review.</p> <p>All the customer really needed, was to understand why her balance was falling (the effects of gains or losses when the assets change in value or earn income) - and that KiwiSaver is a long term investment product.</p> <p>If a QFE Adviser does not provide ALL information about ALL investment options they can be seen as recommending a certain fund by omitting information on others.</p> <p>Wealth Direct conducts first appointment, sends out a letter of advice and conducts a second appointment so the customer is clear on which fund is best for them. Process can take up to two weeks, when the customer only wanted reassurance and a single question answered.</p>
ANZ's ideal outcome	<p>Clear scope of advice.</p> <p>If we state upfront that the information and assistance is product advice being provided by a QFE Adviser on behalf of ANZ, we should be able to give enough information and guidance as part of the process of product distribution/sales to help Sarah make a choice without using an AFA. Legislation should support and protect QFEs and QFE Advisers in those circumstances.</p> <p>Sarah doesn't want to go through a full advice process when all she wants is reassurance she is in the right fund and an understanding that KiwiSaver is a longer term investment.</p>

## Case Study 5: KiwiSaver, retirement options

<p>Situation</p>	<p>Frank has received a retirement letter from ANZ Investments saying his \$30,000 is now un-locked. The letter sets out his options now he is retired which include: remain in the investment, set up a regular withdrawal or withdraw all.</p>
<p>What is the customer looking for?</p>	<p>KiwiSaver is not Frank's main retirement solution, but he is not sure what he should do with the money. Frank rings ANZ Investments wanting some advice, or help with what his options are.</p>
<p>Outcome under current regime</p>	<p>"I am unable to give you advice but I can put you through to an authorised financial adviser who can provide you with personalised financial advice."</p> <p>Where Personalised Advice is required the adviser is required to comply with the FA Act and their obligations under the code of professional conduct.</p> <p>QFE Advisers are unable to tell Frank what he should do with his \$30,000. They can provide factual information or generic advice about what might be right for a class of persons, but it is unclear whether that information or generic advice could also fall under personalised financial advice in this context. Because the guidance is unclear, the customer often ends up being transferred to Wealth Direct where they may end up going through a review, for \$30,000 that the customer has no intention to use in his retirement planning.</p> <p>All the customer really needed, was to understand what other options were available to him. AFA will offer full advice process, which includes two appointments and an investment proposal. The whole process can take up to a month to implement. Customer is put off by this and ends up not getting the information they were looking for.</p>
<p>ANZ's ideal outcome</p>	<p>Clear scope of advice.</p> <p>If we state upfront that the information and assistance is product advice being provided by a QFE Adviser on behalf of ANZ, we should be able to give enough information and guidance as part of the process of product distribution/sales to help Frank make a choice without using an AFA. Legislation should support and protect QFEs and QFE Advisers in those circumstances.</p> <p>If by the end of an information-only call/interaction with frontline staff, Frank still does not have sufficient information to make an informed decision then he can be passed to a suitably qualified person to provide financial advice.</p>

## Case Study 2: Mum and Dad investor in the government's partial SOE sale

<p>Situation</p>	<p>Lisa and James have seen that the Government is selling part of its shareholding in a state owned company. They have a small amount of money saved (\$3500) and want to know more about the IPO.</p>
<p>What is the customer looking for?</p>	<p>Lisa and James are looking for someone to discuss the government's offer and give an opinion about the shares before they decide whether to invest.</p>
<p>Outcome under current regime</p>	<p>It isn't clear how much advice, if any, can be given by an ANZ staff member that is not an AFA (eg by a QFE Adviser). As it isn't clear what can be provided in respect of this specific offer of shares under the regime, ANZ (including a Wealth AFA or an ANZ Securities equities dealer) will simply point the customers to the public offer documents or give limited factual information if at all, but otherwise will provide no other comment.</p> <p>This results in Lisa and James being exposed to limited opinions from lay people less qualified to provide advice relating to the product – lawyers, accountants, the Prime Minister – but are unable to discuss and obtain an opinion from a QFE Adviser.</p> <p>What adds to the confusion is that ANZ is appointed as a manager in the IPO to distribute the shares, but is unable to comment on the offer.</p> <p>Unable to get the information and to ask questions of anyone, Lisa and James decide not to participate in the government's share offer.</p>
<p>ANZ's ideal outcome</p>	<p>ANZ provides 'product advice' to Lisa and James including commentary and opinion about the terms of the offer, the share market and a description of the type of investment that shares represent. Based on this product advice, Lisa and James decide whether or not the share offer is something they wish to take up.</p>

### Case Study 3: Small Importing Company

<p>Situation</p>	<p>EatWell Ltd, a small food importer, is referred to ANZ's Markets business by their ANZ relationship manager. EatWell Ltd needs to pay USD30,000 to their supplier in California in three months' time. EatWell Ltd has historically bought USD on the day payment is required to be made under the invoice.</p>
<p>What is the customer looking for?</p>	<p>An understanding as to whether there is another foreign exchange product which might better suit EatWell Ltd's business needs.</p>
<p>Outcome under current regime</p>	<p>It isn't clear how far a markets dealer may go in describing and recommending the benefits of a forward exchange contract ("FEC") in providing certainty to Eatwell Ltd of the amount it will pay in NZD for its goods in NZD in 3 month's time.</p>
<p>ANZ's ideal outcome</p>	<p>A QFE (Product) Adviser as a specialist in foreign exchange products can provide information on the foreign exchange market generally and product sales information ('product advice') on spot foreign exchange and forward exchange contracts. This advice can include that the FEC is a risk management product intended for importers and exporters or other parties to manage the uncertainty of the cost in NZD of future receipts or payments in a foreign currency. ANZ can recommend this product to EatWell Ltd. Comfortable with the product advice received and that an FEC meets their needs, EatWell Ltd enters into an FEC with ANZ.</p>

## Case Study 6: KiwiSaver, contributions

Situation	Joshua wants to know how much to contribute to KiwiSaver. He is currently working part time and can't afford much.
What is the customer looking for?	Joshua would like to know if there are any real benefits to contributing to his KiwiSaver scheme.
Outcome under current regime	<p>"I am unable to tell you how much to contribute to KiwiSaver. I can put you through to an authorised financial adviser who can provide you with personalised financial advice."</p> <p>Where Personalised Advice is required the adviser is required to comply with the FA Act and their obligations under the code of professional conduct.</p> <p>An AFA adviser will conduct a first appointment (30 minutes to an hour) to understand goals, objectives and risk profile, from this information create a Letter of Advice (an hour) provide letter of advice to customer and organise a second appointment (30 minutes to an hour) to go through letter and Investment Statement.</p> <p>Customers do not require this level of service and are not always looking for in-depth answers to their questions.</p>
ANZ's ideal outcome	<p>Joshua will get Government annual contributions providing he is contributing the minimum amount. There is a basic conversation that can be held to tell Joshua of the key benefits in KiwiSaver, without recommending to him what to contribute.</p> <p>If we state upfront that the information and assistance is product advice being provided by a QFE Adviser on behalf of ANZ, we should be able to give enough information and guidance as part of the process of product distribution/sales to help Joshua make a choice without using an AFA. Legislation should support and protect QFEs and QFE Advisers in those circumstances.</p> <p>Joshua doesn't want to go through a full advice process when all he wants is to be told it would be a good idea to contribute \$20 a week to get the maximum benefit from the Government – if this is balanced with what it might mean to his end retirement goal. This information can also be obtained by completing our online KiwiSaver calculator.</p>





### Schedule 3 – Issues Paper questions

#	Question	ANZ response
1	Do you agree that financial adviser regulation should seek to achieve the identified goals? If not, why not?	ANZ supports the stated goals for regulation. ANZ considers this review an opportunity to refocus the FA Act regime on the consumer. This is a subset of goal 2 – financial advice being accessible – but the goal could include that the regime is responsive to consumer needs and wants regarding financial advice. It is not enough that a consumer can access financial advice if the adviser is not able to provide the type of advice the consumer is looking for.
2	What goals do you consider should be more or less important in deciding how to regulate financial advisers?	The regime needs to be consumer-centric. If consumers can understand the regime to access the advice they want and need from advisers they have confidence in, then it is a success.  In addition, increased professionalism of financial advisers will have the flow on effect of boosting consumer confidence.
3	Does this definition adequately capture what financial advice is? If not, what changes should be considered?	This is a key issue with the current regime. ANZ considers that this definition is too broad, it captures more than financial advice. ANZ further considers that the regime should create a clear distinction between financial advice and product distribution/sales (“product advice”).  Difficulties presented by the current definition of “financial advice”:  - ANZ QFE advisers are unable to give an opinion on product features without this being “financial advice”. This has created the situation where customers cannot access answers to specific questions where there is a potential that the question requires ‘personalised advice’ and consideration of the customer’s individual circumstances is required. An

example is when ANZ acts as manager of an offer but cannot provide an opinion on the product features (eg what the product would be used for in a portfolio, what good and bad features of the product are) to consumers. During the sale of the publically owned entities consumers were hearing opinions from many members of society (politicians, the Prime Minister, "analysts"), but ANZ QFE advisers were unable to comment on the features of the product.

Solutions:

- ANZ proposes that 'financial advice' be redefined along the lines of the existing definition of a financial adviser service that is a personalised service, and contains a clear recommendation. A possible definition is: when a person '*makes a recommendation to acquire, hold or dispose of a financial product. A person is not giving financial advice if they provide information or an opinion on the features of a product.*' However defined, a distinction between financial advice and product advice is necessary.
- ANZ proposes that financial advice be focused on something you would expect to pay an appropriately qualified individual for that is personalised to the individual's circumstances (noting that there would be a sliding scale of qualifications relevant to the products the adviser can advise on). ANZ is happy to have further discussions with industry and officials to workshop possible drafting solutions.
- ANZ considers that all financial advice should be considered personalised.
- This creates a distinction between product advice and

		<p>financial advice, recognising that financial advice requires a certain level of training and is a higher service than product advice.</p> <ul style="list-style-type: none"> <li>- Define "product advice" in such a way that makes it clear that a person is not giving financial advice in a situation where that person provides a recommendation or opinion to a customer about a product without taking into account that customer's personal financial situation or goals, provided that a prescribed warning has been given to that customer which makes this clear. The ability to provide product advice should apply even where that customer has previously received financial advice from that person.</li> <li>- The overarching principle of the regulation should be that the sale of financial products and the provision of any advice (product or financial) must be undertaken with care, diligence and skill.</li> </ul>
4	<p>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? Role and regulation of financial advice</p>	<p>Yes. ANZ recommends the distinction is retained.</p> <p>Wholesale clients should not be the focus of the protections provided by the FA Act. This distinction appropriately lowers compliance costs and creates efficiencies in dealings between financial market participants and wholesale clients (noting that wholesale clients have the ability to opt to be treated as a retail client under the FA Act).</p>
5	<p>Is the distinction in the Act between a personalised financial service and a class service appropriate and effective? If not,</p>	<p>This is another key issue with the regime. At present the interpretation of the definition of advice, alongside the FMA's interpretation of the distinction of personalised and class financial</p>

what changes should be considered?

service has created a "chasm" in adviser services.

Difficulties presented by the current distinction:

- The FMA have provided guidance that if an adviser has a personal client, that adviser is unable to provide class advice to that client.
- The advice chasm is particularly evident in the KiwSaver space, which is where most consumer frustration comes from. For example, ANZ frequently receives requests from customers seeking opinion/recommendations relating to a particular product or products in situations where the customer does not want a comprehensive assessment of their financial situation or goals to be undertaken prior to the provision of the opinion/recommendation. Customers want (and expect) ANZ to provide enough information relating to the advantages/disadvantages of the product in question by reference to a general factual situation for them to be able to make an informed decision about whether to buy (or dispose of) the product and which features to take advantage of (if multiple options exist). ANZ takes a conservative compliance approach to this situation to ensure that it is not breaching the legislative requirements, which leads to a simple question being referred from the Contact Centre (QFE Advisers) to Wealth Direct (Authorised Financial Advisers) and the customer potentially ending up in a complex end to end review.
- Consumers would benefit if QFE employees were able to provide an opinion/view on the features of a product without this being captured by the definition of "financial advice".

Suggested solutions:

- Remove the categories of advice and replace with a single definition of financial advice as per question 3:
- ANZ proposes that 'financial advice' be redefined along the lines of the existing definition of a financial adviser service that is a personalised service, and contains a clear recommendation. A possible definition is: when a person 'makes a recommendation to acquire, hold or dispose of a financial product. A person is not giving financial advice if they provide information or an opinion on the features of a product.' However defined, a distinction between financial advice and product advice is necessary.
- ANZ proposes that financial advice be focused on something you would expect to pay an appropriately qualified individual for that is personalised to the individual's circumstances (noting that there would be a sliding scale of qualifications relevant to the products the adviser can advise on). ANZ is happy to have further discussions with industry and officials to workshop possible drafting solutions.
- Define "product advice" in such a way that makes it clear that a person is not giving financial advice in a situation where that person provides a recommendation or opinion to a customer about a product without taking into account that customer's personal financial situation or goals, provided that a prescribed warning has been given to that customer which makes this clear. The ability to provide product advice should apply even where that customer has previously received financial advice from that person. QFE employees and registered product distributors (individuals or entities)

		should be able to provide product advice.
6	Is it appropriate to have different requirements on advisers depending on the risk and complexity of the products they advise upon?	Yes but note that it is important to do so in a way that reduces confusion for the consumer. ANZ believes that financial advisers should be qualified to advise on a product by product basis – and the training, experience, education completed should be relevant to this. This makes it easy for both advisers and consumers to understand who to speak to, and what can be spoken about.
7	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. Consumers do not understand the difference between the product categories.  ANZ believes that the proposals put forward relating to “product advice” and “financial advice” will have the effect of simplifying some unnecessarily complex distinctions that currently exist in the FA Act – one of these being the category 1 and category 2 distinction. As a result, the categories should be disestablished and the products be simply referred to by their street name. However, ANZ notes that the impacts on other legislation (eg Financial Markets Conduct Act) will need to be carefully thought through if this approach is taken.  The level of qualification or training (as set out in independent standards or as defined by the QFE) determine whether a financial adviser can provide advice on a particular product.
8	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. ANZ considers this to be confusing and misleading to the consumer. ANZ submits that only one category of adviser is needed (see question 10), but if a differentiation is to be made, ANZ considers plain English terms should be used.

9	<p>Are the general conduct requirements applying to all financial advisers, including RFAs, appropriate and adequate? If not, what changes should be considered?</p>	<p>A general overriding principle should be that all financial advisers must act with care, diligence and skill and the financial product must be suitable for the customer. An additional principle could be that financial advice must always be provided in the best interests of the customer.</p> <p>A professional code of conduct should apply to all financial advisers, whether currently viewed as RFA or AFA.</p>
10	<p>Do you think that disclosing this information is adequate for consumers? Should RFAs be required to disclose any additional information?</p>	<p>There should not be an RFA category and instead one single category of financial adviser. People should either need to register as a product distributor on the FSPR or become a financial adviser.</p>
11	<p>Are there any particular issues with the regulation of RFA entities that we should consider?</p>	<p>Due to the lack of oversight of RFAs it is difficult to hold RFAs to account for their behaviour – recourse is only under section 33 and 34 of the FMC Act.</p>
12	<p>Are the costs of maintaining an adviser business statement justified by its benefits? If not, what changes should be considered?</p>	<p>At initial licensing the ABS served a purpose. In the current regime the ABS requirements should be amended.</p> <p>ANZ proposes that the ABS should be submitted once (and not be required to be resubmitted annually). The requirement to report material changes to the ABS should continue. ANZ notes there is a requirement to keep the ABS up to date– so QFEs should have processes in place to address any material changes to the ABS.</p>
13	<p>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?</p>	<p>No. The language and terminology used in the FA Act regime is a key issue.</p> <p>The difference is still not clear – this creates issues for QFE advisers as they can provide personalised financial advice but not investment planning service. Clients end up needing to deal with more than</p>

		one adviser depending on the extent of services they require. As noted in our cover letter we believe it is clearer for “financial advisers” to be able to provide financial advice (including both personalised advice to the customers particular circumstances - on one or more products - and investment planning services), with QFE employees providing product advice.
14	To what extent do advisers need to exercise some degree of discretion in relation to their clients’ investments as part of their normal role?	ANZ is not responding to this question.
15	Should any changes be considered to reduce the costs on advisers who exercise some discretion, but are not offering a funds management type service?	ANZ is not responding to this question.
16	Are the current disclosure requirements for Authorised Financial Advisers (AFAs) adequate and useful for consumers?	The concept of disclosure provided only when personalised advice is provided is problematic. Especially when an adviser provides personalised advice on some products and class services on others. A single disclosure document should be able to be provided when financial advice is provided. The disclosure document should be tailored to be made specific to the type of advice that the adviser is providing.
17	Should any changes be considered to improve the relevance of these documents to consumers and to reduce the costs of producing them?	The QFE disclosure is very broad and not particularly useful to consumers. This could be addressed by the disclosure focussing on the role of the employee in the sale of the products offered by the QFE, and clarifying that what advice can and cannot be provided.
18	Do you think that the process for the development and approval of the Code of Professional Conduct works well?	Yes. Having meaningful industry input into the development of a Code is beneficial.
19	Should any changes to the role or composition of the Code	ANZ is not responding to this question.



	Committee be considered?	
20	Is the Financial Advisers Disciplinary Committee an effective mechanism to discipline misconduct against AFAs?	Yes.
21	Should the jurisdiction of this Committee be expanded?	ANZ is not responding to this question.
22	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?	ANZ is not responding to this question.
23	Should any changes be considered to promote transparency of QFE obligations?	ANZ is not responding to this question.
24	Are the current disclosure requirements for QFE advisers adequate and useful for consumers?	No. ANZ submits that if the FA Act is amended to reflect the role of product distributors/sales/product advice, a simple statement as to the nature of this role could be provided to clarify for consumers what they are getting.
25	Should any changes be considered to improve the relevance of these documents to consumers or to reduce the costs of producing them?	ANZ is not responding to this question.
26	How well understood are the broker requirements in the FA Act? How could understanding be improved?	They are not well understood. Terminology is mis-interpreted in the financial industry.
27	Are these requirements necessary and/or adequate to protect client assets? If not, why not?	Yes. Requirements are essential to protect client assets (see RAM issues).
28	Should consideration be given to introducing disclosure requirements for brokers? If so, what would need to be disclosed and why?	Yes – how money is handled, kept, audited and so on.

29	What would be the costs and benefits of applying the broker requirements in the FA Act to insurance intermediaries?	ANZ is not responding to this question.
30	Are the requirements on custodians effective in reducing the risk of client losses due to misappropriation or mismanagement?	ANZ is not responding to this question.
31	Should any changes to these requirements be considered?	ANZ is not responding to this question.
32	Is the scope of the FA Act exemptions appropriate? What changes should be considered and why?	ANZ is not responding to this question.
33	Does the FA Act provide the Financial Markets Authority (FMA) with appropriate enforcement powers? If not, what changes should be considered?	No – RFAs are subject to much weaker FMA regulatory powers and supervisions. This would be addressed if their role as product distributors was clarified and they were held to a general duty of care.
34	How accessible and useful is the guidance issued by the FMA? Are there any improvements you would like to see?	Guidance is very welcome to clarify best practice and promote consistency in the market. However, the FMA should be careful to avoid regulatory creep and making significant changes to the common understanding of the regulatory regime through guidance. The consultation process on proposed guidance is important here.
35	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.	<p>The distinction is confusing for consumers and should be removed. Anyone who provides financial advice (see question 3) should be a financial adviser.</p> <p>This will foster better understanding – all “financial advisers” will have minimum education standards, and then specialities that explains/limits the scope eg “Mortgages” or “Life Insurance”.</p> <p>The regulation should be simple and easy to understand so that consumers know that they can receive information about a product that is not personalised to them, unless they are getting financial</p>

36	<p>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?</p>	<p>advice from a financial adviser.</p> <p>Consumers do not always understand the limitations. ANZ believes that only in large financial institutions where the adviser is advising on products issued by that institution, customers might understand the limitations for obvious reasons.</p> <p>Distinguishing "financial advice" and "product advice" would go to this point. Financial advice must always ensure the financial product is suitable for the customer and be provided in the best interests of the customer. Product advice must always be given with a clear statement that it does not constitute financial advice, together with clear information about the types of customer the product is appropriate for and the purpose(s) for which the product is suitable for use.</p> <p>ANZ considers that product advice/sales by QFE employees of QFE provided consumer credit products should be carved out of the FA Act as these products and the interaction between providers of these products and consumers is already extensively regulated by the Credit Contracts and Consumer Finance Act 2003 and the Responsible Lending Code.</p>
37	<p>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?</p>	<p>Yes.</p> <ul style="list-style-type: none"> <li>- Sales reflect a request by a customer for, or identification by a product distributor of, a particular product or service and an understanding that it is for the customer to do their own due diligence on the product or service as it applies to their personal circumstances (and within the parameters of existing consumer protection laws). Financial advice, which requires an assessment of the customer's personal circumstances, is typically something you would expect to</li> </ul>

pay an appropriately qualified individual for. This approach gives financial advice and financial advisers a special position in the market, reflecting their higher training and competency, and aligns with the approach taken to other client service professions (for example, lawyers, accountants etc).

- ANZ proposes that 'financial advice' be redefined along the lines of the existing definition of a financial adviser service that is a personalised service, and contains a clear recommendation. A possible definition is: when a person 'makes a recommendation to acquire, hold or dispose of a financial product. A person is not giving financial advice if they provide information or an opinion on the features of a product.' However defined, a distinction between financial advice and product advice is necessary.

- ANZ proposes that financial advice be focused on something you would expect to pay an appropriately qualified individual for that is personalised to the individual's circumstances (noting that there would be a sliding scale of qualifications relevant to the products the adviser can advise on). ANZ is happy to have further discussions with industry and officials to workshop possible drafting solutions.

- Define "product advice" in such a way that makes it clear that a person is not giving financial advice in a situation where that person provides a recommendation or opinion to a customer about a product without taking into account that customer's personal financial situation or goals, provided that a prescribed warning has been given to that customer which makes this clear. The ability to provide product advice should apply even where that customer has previously

		<p>received financial advice from that person. QFE employees and registered product distributors (individuals or entities) should be able to provide product advice.</p> <ul style="list-style-type: none"> <li>- ANZ considers that the provision of 'information only' is not necessary. The process of obtaining product advice results in information being provided.</li> </ul>
38	Do you think that current AFA disclosure requirements are effective in overcoming problems associated with commissions and other conflicts of interest?	Disclosure assists in addressing conflicts of interest by promoting transparency. However, the appropriateness of commissions also needs to be considered.
39	How do you think that AFA information disclosure requirements could be improved to better assist consumer decision making?	<p>Concept that disclosure is provided only when personalised advice is given is problematic, especially when an adviser provides personalised advice on some products and class service on others. A single disclosure document should be able to be provided when advice is provided. The disclosure document should be tailored to be made specific to the type of advice that the adviser is providing.</p> <p>Disclosure needs to make clear the scope and limitations of the adviser's advice.</p>
40	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?	Yes. Consumers do not understand the distinctions and differences in disclosure requirements. This can give a misleading impression that RFAs are not paid by commission.
41	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?	Unrestrained commissions do not drive the right kind of behaviour that this regulation is seeking to achieve. However, commissions do have a role in making some financial advice available to customers. Therefore, the best way to manage them is to have clear rules around their use (potentially investigating capping commissions)

		and transparent disclosure. A fee for service is more appropriate in some circumstances.
42	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)?	ANZ considers that the complexity of the current regime has deterred new joiners to the industry, resulting in a gradual decline in the number of AFAs. This is exacerbated because the large majority of AFAs are employed by QFEs.  In ANZ's view, if the FA Act recognises the place of QFE and QFE employees in product distribution/sales and the provision of product advice, QFEs will provide a training ground for individuals to become financial advisers in the future. This will promote participation and longevity in the industry, a challenge it is currently facing.
43	What changes could be made to increase the levels of competition between advisers?	ANZ is not responding to this question.
44	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?	The FMA interpretation has skewed the balance away from giving advice on discrete issues if a client is a personal client, on the basis that the adviser knows the client's entire financial situation and cannot provide discrete advice without taking all circumstances into consideration.
45	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?	Advice is not given where advisers fear they will overstep the 'class' advice boundary and this creates the chasm – the consumer misses out.
46	Are there specific compliance requirements from the FA Act regulation that have affected the cost and availability of independent financial advice?	ANZ notes that its experience shows that the number of new advisers entering the industry is decreasing, which overall is affecting the availability of independent financial advice. Our view is that this is due to complexity in the Act's application – it is not well understood and is confusing for people so it's easier to avoid it.

		In ANZ's view, if the FA Act recognises the place of QFE and QFE employees in product distribution/sales and the provision of product advice, QFEs will provide a training ground for individuals to become financial advisers in the future. This will promote participation and longevity in the industry, a challenge it is currently facing.
47	How can regulatory requirements be made less onerous without reducing the quality and availability of financial advice?	Education standards need to be relevant to the products a financial adviser would be able to advise on.
48	What impact has the AntiMoney Laundering and Countering Finance of Terrorism Act had on compliance costs for advisers? How could these costs be minimised?	ANZ is not responding to this question.
49	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?	For the first time in New Zealand's history large numbers of New Zealanders will reach the age of retirement with a lump sum from KiwiSaver. Access to competent advice and what customers should do with that money will be critical if New Zealanders are to use this to provide income in their retirement. The financial adviser industry must be able to cope with the expected demand and level of complexity involved in dealing with individual requirements for the use of the funds in retirement. We do not see specific changes are required, other than the changes suggested through this submission.
50	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?	It shouldn't radically change the market for financial advice. The disclosures and availability of information should be improved. The impact on exemptions and cross-references to product categories in the FA Act will need to be considered under the FMCA – and new definitions might need to be imported in the FMCA if Category 1 and Category 2 labels are removed.
51	Do you think that international financial advice is likely to	Yes. Online advice platforms especially may be provided from

	increase? Is the FA Act set up appropriately to facilitate and regulate this?	<p>international sources.</p> <p>The FA Act contains an extraterritoriality provision in s157 which has resulted in uncertainty to date. We believe that this could be remediated by a definition of "carrying on business" being inserted so that its application is clear or by the law recognising countries with mutually equivalent laws and requiring the advice to be regulated under that legislation instead. The FMA should not have jurisdiction in another territory where that territory has equivalent or better protections than New Zealand.</p>
52	How beneficial are the current arrangements for trans-Tasman mutual recognition of qualifications? Should further arrangements be considered?	<p>The current arrangements are not very broad. They are very specific for financial advisers from Australia who have qualifications and years of experience. Advisers are not able to transition to NZ without extra courses/costs/time.</p> <p>See our comment in question 51 and 59 about facilitating business between the two countries.</p>
53	In what ways do you expect new technologies will change the market for financial advice?	<p>ANZ expects an increase in "robo-advice" as digital delivery of products and services becomes increasingly the norm. We also expect that consumers will expect greater fluidity cross-border, particularly for companies operating in more than one country.</p>
54	How can government keep pace with technological developments to ensure that quality standards for advice are maintained, without inhibiting innovation?	<p>The FA Act should recognise the electronic delivery of advice and require the entity delivering the advice to meet ethical standards in the provision of the tools that deliver the advice (for example, due care and skill must be exercised in creating the algorithms that produce the advice outcomes). The entity should also be required to be transparent about the use of the tools, for example, by including prominent statements about the advice not replacing the need to speak with a financial adviser when a consumer requires their particular financial situation or goals to be taken into account.</p>



		<p>ANZ's view is that promoting and protecting the use of digital tools and services (such as robo-advice) in the FA Act will assist with alleviating other challenges found in the industry, including conflicts, commissions and confusion from the advisers about what can or cannot be said. The expectations of customers who utilise such digital tools and services are also likely to be clearer because the parameters of what those tools and services can (and cannot) deliver will be required to be clearly articulated.</p>
55	Are the minimum ethical standards for AFAs appropriate and have they succeeded in fostering the ethical behaviour of AFAs?	Yes.
56	Should the same or similar ethical standards apply to all types of financial advisers?	Yes.
57	What is an appropriate minimum qualification level for AFAs?	Diploma/tertiary based learning. Some form of continuing professional development/training should be required, as per other professional disciplines. A sliding scale of qualifications/experience should apply to financial advisers relevant to the products they are able to advise on.
58	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?	<p>Yes. All financial advisers should be required to meet minimum standards for the products/services they are qualified to advise on.</p> <p>Note that ANZ is proposing that the RFA categorisation be removed and the FA Act contain one "financial adviser" category.</p>
59	How much consideration should be given to aligning adviser qualifications with those applying in other countries, particularly Australia?	Consideration should be given to enable and encourage advisers to be able to cross the Tasman. This could be achieved through the legislation providing safe harbours or recognising other jurisdictions

		with equivalent legislative requirements and protections.
60	How effective have professional bodies been at fostering professionalism among advisers?	<p>Due to the smaller number of advisers New Zealand may be better served by one professional body.</p> <p>ANZ notes that the Australian body has led the drive to educate the public on the role of financial advisers.</p>
61	Do you think that professional bodies should play a formal role in the regulation of financial advisers and if so, how?	ANZ is not responding to this question.
62	Should any changes be considered to the relative obligations of individual advisers and the businesses they represent? If so, what changes should be considered?	ANZ is not responding to this question.
63	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?	<p>Yes. ANZ supports the QFE model, and licensed providers self-regulating their employees. See question 12 for further comments on the compliance costs.</p> <p>ANZ believes that the self-regulation model under the QFE licence regime (which sets out the minimum standards for behaviour and requirements QFEs must meet in relation to regulating the sales behaviour of its staff) is appropriate and should remain. Essentially, regulation should focus on the behaviour of the QFE and its employees, rather than attempting to regulate the activities it undertakes using different product and advice categories in the FA Act. Additionally, breach reporting thresholds in s77 and s45A need to be clarified. S77 is vague and unclear what the thresholds are. Should be "material" breaches and have defined threshold. S45A is unclear what the materiality threshold is.</p>
64	Do you agree that the Register should seek to achieve the identified goals? If not, why not?	Yes.

65	What goals do you consider should be more or less important in reviewing the operation of the Register?	ANZ is not responding to this question.
66	Do you agree that the dispute resolution regime should seek to achieve the identified goals? If not, why not?	Yes
67	What goals do you consider should be more or less important in reviewing the dispute resolution regime?	ANZ is not responding to this question.
68	Does the FMA need any other tools to encourage compliance with financial service provider (FSP) registration? If so, what tools would be appropriate?	ANZ is not responding to this question.
69	What changes, if any, to the minimum registration requirements should be considered?	ANZ is not responding to this question.
70	Does the requirement to belong to a dispute resolution scheme apply to the right types of financial service providers?	ANZ is not responding to this question.
71	Is the current framework for the approval of dispute resolution schemes appropriate? What changes, if any, should be considered?	Yes – ANZ considers no change should be made.
72	Is the current framework for monitoring dispute resolution schemes adequate? What changes, if any, should be considered?	Yes – ANZ considers no change should be made.
73	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?	Yes – ANZ considers no change should be made.
74	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	As per ANZ's submissions to the Banking Ombudsman and MBIE on the jurisdictional limit of the size of claims earlier in 2015, ANZ

	an appropriate limit?	supports an increase in the claim limit to \$250,000.
75	Should additional requirements to ensure that financial service providers are able to pay compensation to consumers be considered in New Zealand?	ANZ is not responding to this question.
76	What features or information would make the Register more useful for consumers?	ANZ considers that consumers are not fully aware of the Register or how to use it. It would benefit from more promotion by the FMA.
77	Would it be appropriate for the Register to include information on a financial adviser's qualifications or their disciplinary record?	ANZ is not responding to this question.
78	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?	ANZ is not responding to this question.
79	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?	Close loopholes with offshore directors and enforce the place of business in New Zealand.
80	What are the effects of (positive and negative) competition between dispute resolution schemes on effective dispute resolution?	ANZ is not responding to this question.
81	Are there ways to mitigate the issues identified without losing the benefits of a multiple scheme structure?	ANZ is not responding to this question.
82	Are the current regulatory settings adequate in raising awareness of available dispute resolution options? How could	ANZ is not responding to this question.

	awareness be improved?	
83	Please provide your name and/or the name of the group of people, business, or organisation you are providing this submission on behalf of	ANZ Bank New Zealand Limited
84	Please provide your contact details	Rebecca Bonnevie  18(d)
85	Are you providing this submission: as an individual; on behalf of an organisation	On behalf of an organisation.  ANZ is the largest financial institution in New Zealand and provides a full range of financial services to retail, commercial and institutional customers across New Zealand. This includes banking, insurance, wealth management and financial advisory services. ANZ is both a Qualifying Financial Entity (with the largest QFE adviser network in New Zealand) and an employer of Authorised Financial Advisers.
86	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?  Demographics * *As an individual/On behalf of an organisation  Please describe the nature and size of the organisation: 1-5, 6-19, 20- 49, 50-99, 100250, 251 - 500, >500	ANZ employs approximately 8,500 staff.
87	I would like my submission (or specified parts of my submission) to be kept confidential, and explain my reasons	N/a

	for this, for consideration by MBIE	
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