

22 July 2015

Corporate Law
Labour and Commercial Environment Group
Ministry of Business, Innovation & Employment
PO Box 3705
Wellington
New Zealand

Dear Sir/Madam,

Financial Advisers Act Review

BNZ welcomes this opportunity to provide a response to MBIE's Issues Paper on the review of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

BNZ invested considerable time and resources to assist with the implementation of the current regime, noting that the regime was brought in with considerable urgency and with a correspondingly short lead time. Industry, officials and regulators all worked cooperatively to try and ensure that the policy outcomes were delivered upon. In some areas this was successful, but in other areas the regime needs to be improved.

BNZ acknowledges that the current regime has introduced some significant improvements on what went before – there is now visibility of people providing an adviser service, via the Financial Service Providers Register (FSPR). In addition, customers have better awareness of conflicts of interest through improved disclosure and they have easier access to dispute resolution when things go wrong.

Despite those improvements, there are areas where the regime simply is not delivering what consumers need in the way of access to advice and services that help maximise their financial outcomes. The key themes that BNZ elaborates on further in its response to the specific questions are:

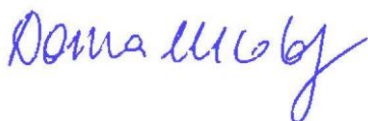
- NZ consumers are not getting access to advice. One of the unintended consequences of the legislation is that New Zealanders now have less access to advice than they did prior to the regime coming into effect. BNZ is committed to improving financial literacy for New Zealanders and outcomes for its customers and good quality advice is key to that. The legislative framework needs to make it easier for customers to seek and obtain advice to make the right decisions today that will have a material impact on their financial futures.
- The current regime is too complex and not easily understood. BNZ submits that the average New Zealander would not know the difference between class and personal advice, nor what that distinction meant to the type of service they receive and from whom. The complexity and potential liability settings have resulted in service providers limiting the types of services and advice they provide to avoid compliance issues.

- The regime needs to consider increasing flexibility in how advice is provided and the level of advice eg. simple advice for KiwiSaver vs complex personal advice. Aligning fees to services provided will ensure that adviser remuneration is paid in accordance with their effort. A more targeted approach may also provide an opportunity to assess whether a fee for service model would be preferable to ensure actual or perceived conflicts of interest are effectively managed – this would help promote public confidence in the professionalism of advisers and ensure that customers receive the right level of advice at the right time.
- There needs to be improved customer access to emerging technologies. The current regime limits the giving of advice to an individual and this artificially excludes entities from giving advice in an online context. The regime ought to be amended to recognise that entities can and do give advice, and that there is an inexorable shift towards New Zealanders accessing products and services, including advice, in an online or mobile setting without speaking to or engaging with an adviser.
- The disclosure information provided to customers needs to be reviewed. BNZ submits that the existing QFE disclosure could be simplified to a regime where the relevant information is readily accessible online and the information handed to customers is better targeted to their needs. AFA disclosure ought to be reviewed to ensure that customers are getting only the information that is specifically relevant to help them assess the adviser and their suitability to provide the service.
- Ethical standards should be lifted in the registered adviser area so that they are subject to Code of Professional Conduct obligations, and the related oversight by a Code Committee. QFE's already have a similar obligation in relation to the oversight and enforcement of appropriate practices for their advisers, and in the case of bank QFE's, are bound by the Code of Banking Practice.

As mentioned above, BNZ has been closely involved in the development of the current regime, its implementation and ongoing operation. It is a QFE with over 5000 employees and also has AFAs in its Wealth and Private Bank business. This puts it in a unique position to understand the complexities of the regime and the significant opportunity to improve customer outcomes that may be realised through an effective review of the FAA and FSPR regime. In order to maximise that opportunity, BNZ urges officials to conclude the first phase of this review with a published range of options for discussion and consultation with industry, regulators and consumer groups, rather than being too fixed on an outcome based on initial feedback and comments.

BNZ is committed to assisting with this reform process and would welcome the opportunity to provide further information if that would help clarify any of the content of its submission.

Yours sincerely



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