



#10

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?

I do not understand this question. What identified goals do you refer to?

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

Customers need to receive sound advice to help them achieve their investment or insurance goals. In this respect I believe the process the adviser goes through should be prescriptively laid out. This would include a roadmap of how to engage with the client, gather relevant information, make recommendations and provide a degree of ongoing advice and care. In terms of regulating the adviser per se, the adviser should be regulated to prescriptively follow an advice process. I am an RFA, so can't comment on AFAs. What I would say is that there is some sort of an advice process to follow, but it varies between advisers and aggregator groups. For example the template I was given by Ginger Group is vastly different to the one provided by NZFSG. I would like to see the FMA issue a template which must be used by all advisers. With standardisation based on best practice, comes more consistent and better advice being given.

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

Don't understand the question. What definition are you referring to?

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?

As an RFA providing personalised advice to retail customers for category 2 products and class advice for category 1 products I can't comment as I don't deal with wholesale clients.

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 strikes me as odd that the difference between personalised advice and class advice boils down to semantics. For example if I say "In my opinion you should invest in this unit trust" then it's personalised advice, and I can't give this unless I'm an AFA. If I say "For someone of your age group and with 30 years to retirement, you could consider investing in this type of unit trust" I am giving class advice, and I can do this as an RFA. My view is that personalised and class advice should be done away with as advice options. You either give advice or you don't, and the Act should reflect this.

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

Yes and no. At present the FMA has regulated that unit trusts and Kiwisaver are complex products, and that personalised advice on these products requires one to be an AFA. Yet on the other hand the FMA says one can give class advice on these products if you're an RFA. At the end of the day the client invests or they don't. And if they do, they run the risk of coming unstuck if the investment fails to perform. Whether the advice they were given at purchase time was personalised or class advice becomes irrelevant in a practical sense. In my view, an

adviser should be appropriately qualified to give advice on whatever they're advising on. At the moment the FMA have regulated that advice on investing in a unit trust or Kiwisaver is more complex and risky than giving advice on having the appropriate amount of life and disability insurance. I think they've got it wrong. Unit trusts and Kiwisaver are no more complicated to understand than a life or income protection insurance policy. And the risks of getting it wrong are equally high for category 1 and 2 products. In my view the level of qualification (AFA) to be able to give personalised class 1 advice is too high. One does not need to complete a year's study to obtain AFA status to be able to give someone sound advice on buying Kiwisaver or a unit trust. AFA is overkill. And on the other hand having no requirement to achieve any sort of accreditation whatsoever still allows one to give personalised advice on category 2 products (RFA). AFA requirements need to be toned down and RFA requirements need to be ramped up. Somewhere in the middle lies a happy medium.

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 it doesn't. Try telling a surviving spouse that the reason her husband was under-insured was because the FMA decided that category 2 products were simple and low risk, so there was no regulation for the adviser to meet a minimum level of understanding about how to calculate the right level of cover. I would also challenge anyone who says that Kiwisaver and unit trusts are so complex that they require someone to complete a rigorous course of study to be able to advise on them.

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?

RFA and AFA are industry terms. They don't tell the consumer anything. Like wise the terms category 1 and category 2 are industry terms. They mean nothing to Joe Public. I think RFA should be replaced with Insurance Products Adviser and AFA should be changed to Investment Products Adviser and/or Financial Planner. I would make the distinction that one can give advice on investing in a category 1 product without having to produce a financial plan for a client.

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

My observation is that there seems to be little red tape to buy insurance online through portals like [REDACTED]. Yet there's red tape by the metre if you're giving advice. You don't have to sign a form with [REDACTED] saying you've received a disclosure statement for example. Neither do you have to sign a disclosure form when buying house insurance through [REDACTED] or [REDACTED]. We have to get a client to sign that they've received a disclosure statement, and then we have to get them to sign a form acknowledging that what we've written down about the meeting is correct. Why is it not good enough to have our disclosure statement on our website. This sort of thing is overkill on the part of the FMA. With respect to the client having to sign that the information we've collected at the fact find meeting is true and correct - would this not be apparent by the information we present when we make our recommendations? If I go and see my lawyer or accountant, they don't have to get me to sign a form saying I've given them XYZ information. All this signing makes clients nervous. I do not see any reason why a client needs to be given a disclosure statement on a bit of paper in this day and age. And I don't think it necessary they should have to sign for it. Likewise I see it as unnecessary that a client must sign that the info they've given at the meeting is correct and will be used as the basis for the advice. The proposal makes this step redundant. So what I'm saying and illustrating by example is that the FMA has made things unnecessarily onerous.

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

I think the disclosure statement is fine.

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

See the points I made in (6). AFA is too onerous; RFA too simple.

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

Don't know what an "Adviser business statement" is.

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?

AFA should be changed to become two distinct types of adviser: 1. Investment Products Adviser 2. Financial Planner (Note it would be possible to be both 1 and 2)

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?

An adviser's role is to assess their clients appetite for risk and investment objectives, and advise accordingly. One has to use one's knowledge and experience in order to do this. So to a degree one uses one's discretion to give the client the best possible result.

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?

Can't comment

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

I can't comment. I'm an RFA.

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

I've mentioned that it should be sufficient to direct a client to one's website where they can view the disclosure statement. In this day and age it's standard business practice.

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

Can't comment

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

Can't comment

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

Can't comment

Q21: Should the jurisdiction of this Committee be expanded?

Can't comment

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?

Can't comment

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

Can't comment

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

Can't comment

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

Can't comment

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

n/a

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

n/a

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

n/a

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

Don't know

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

n/a

Q31: Should any changes to these requirements be considered?

n/a

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

n/a

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

I imagine so.

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

Could improve. I've made mention of the benefits of the FMA producing standardised best practice forms for managing the client engagement process.

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.

I have made comment that the terms are not meaningful or useful, and I have suggested alternatives.

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?

Selling a financial product and providing unbiased advice are not mutually exclusive. For example, I sell financial products, but I pride myself on providing unbiased advice. Not sure what the purpose of this question is.

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?

My view is that the FMA have made things complicated enough without putting a further level of definition in place. To what purpose would it serve? At the end of the day all that a customer wants is to have their needs and aspirations properly understood, and for appropriate advice to be given to meet those needs and aspirations.

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

I would first ask the question, what are the so-called problems? Is it the FMA who thinks there's a problem, or are the public saying there's a problem?

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

I very much doubt that consumer's use the disclosure statement when deciding if they're going to entrust their finances or insurances with a particular adviser. The FMA seems to place a lot of weight on this document, when really it's seen as red tape by the adviser community, and is not seen as particularly important by an adviser's clients. I have never had anyone ask me questions about my disclosure statement.

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?

My clients know I'm remunerated by commission. I see no benefit advising them to what degree.

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?

NZ has one of the lowest rates of life and disability insurance in the OECD. If we adopt a model where the client directly pays the adviser, we'll be looking at third world levels of under-insurance.

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

No, I think the FMA has got this wrong. There are only about 1,800 AFAs in NZ. The bar is set too high to become an AFA, both in terms of time and financial investment required to get the qualification. I have gone into this in some detail in previous question responses.

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

Firstly one has to ask the question, is it necessary to increase the level of competition between advisers? I don't see a problem here.

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?

I don't understand this question. In order for a consumer to get advice on a discrete issue, the adviser must understand their client and what advice they're needing.

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?

I've made detailed mention of this problem previously. The whole class advice vs personalised advice thing needs an overhaul. Advice is advice. Bad personalised advice is bad advice. Bad class advice is bad advice. The focus on the FMA regulations should be to set standardised procedures to ensure that the clients needs and aspirations are properly accounted for, and that appropriate advice is given. Who cares if it's class or personalised advice? The customer doesn't care. All they want is good advice. I have said that advisers should fall into three categories. I have given details of these three categories in previous responses.

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

Yes. I consider myself to be a very capable adviser. I have a B.Com and 20 years commercial experience. I am also an accomplished investor. However because I do not have the AFA qualification I am limited in what type of advice I can give. (Personalised vs class). If I had AFA status I would not charge more for my services in providing insurance and investment advice, so I don't see the cost of advice going up because one is an AFA. The only exception to this being charging to do a comprehensive financial plan.

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

At present the requirement of needing to hold AFA to provide personalised advice for category 1 products means there are only 1800 people in NZ who can do this. Personally I think that allowing RFAs to give either class advice (cat 1) or personalised advice (cat 2) without having to sit any exams or assessments shows a major shortcoming in how the industry is regulated. So for AFA's I think more regulation is necessary. It's easier to be an RFA than it is to get a restricted driving license in this country. How come that was allowed to happen? On the other hand it would appear that the requirements that are necessary in order to advise on cat 1 are overly onerous. Making the requirements to give cat 1 advice less onerous is quite simple. Create a simpler more easily attained qualification which ensures that the prospective adviser has the necessary skills and knowledge to advise on cat 1. Given that an RFA can provide class advice on cat 1, one would imagine that the "gap" between giving this class advice and personalised advice is not so great that one needs to embark on a course of study that takes a year to complete and costs thousands of dollars in order to give personalised advice, vs giving class advice.

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?

n/a

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?

Don't know what decumulation is.

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?

Don't know.

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

Don't know

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

Don't know

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

Once artificial intelligence develops to a level where a piece of technology can better analyse a person's financial and insurance needs than a person can, I expect more people will use this technology. Based on the average premium through online insurance purchase, it would seem people with more complex needs are still reliant on personalised advice.

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

The impression I get is that there is less red tape when buying insurance online than doing so face to face. For example, the customer doesn't need to sign receipt of a disclosure document. I'm not sure how to answer this question, only to comment that at present it seems easier to buy online than through an adviser.

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

In any industry there will be ratbags. And no amount of regulation will stop them from doing what they do. I do think it's important that standards of conduct be in place for any adviser, RFA and AFA.

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

Yes.

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

Given that AFA is a qualification in itself, then that is the minimum qualification, so I'm not sure I understand this question.

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?

I think the whole RFA/AFA registration type needs a major overhaul. The qualifications needed to provide class 1 personalised advice are over the top, when one considers no qualifications are needed to provide class advice for cat 1 products. On the other hand the RFA ticket might as well come out of a Weet Bix packet. There is no assessment whatsoever to hold this title. Somewhere in the middle lies a sensible solution for regulating the industry.

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

Don't think it's that important. What if the Australians don't have a good system and we decide in our wisdom we should align with it?

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

ineffective from RFA perspective.

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

They would be well placed to provide ongoing education and assessment.

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?

I have mentioned several times now that RFAs need to be properly accredited, with some sort of assessment of competence before being allowed to practise.

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?

Don't know.

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?

Don't know what these goals are.

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

Don't know.

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

Don't know what the identified goals you speak of are.

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

The dispute resolution scheme seems fine to me. I would not seek to make changes.

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?

I think the FMA needs to produce standardised templates for managing the entire client engagement process. I mentioned previously that the templates provided to me from Ginger Group and NZFSG to conduct the insurance

fact find are vastly different in their level of detail. I think most people don't have a problem with complying, but there are grey areas in what one must do to comply. For example, as an RFA giving class advice on a category 1 product, other than making sure my advice is class advice and not personalised advice, I don't know what else I need to do to comply.

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

As i've said, RFA needs to be overhauled. There should be minimum levels of competency and a framework for assessment.

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

Probably

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

Probably appropriate

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

Probably ok

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?

Probably

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?

I imagine if someone wants to sue they'll sue. Saying that, \$500k is probably appropriate.

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

We have PI cover. A minimum amount should be regulated - say \$2mm

PAGE 6: Key FSP Act questions for the review

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

It's probably fine. I can't imagine many consumers check the register anyway.

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?

Can't say

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?

Can't say

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

I imagine the disputes hearing procedure is process driven, such that outcomes across different providers should not vary widely. Presumably they're monitored/audited?

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

n/a

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

Adequate

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:

Bruce Millner, Director, Yourlife limited

Q84: Please provide your contact details:

18(d)

Q85: Are you providing this submission:

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- As an individual
 - On behalf of an organisation
 - **Please describe the nature and size of the organisation:** Financial advisory business providing personalised advice for cat2 products and class advice for cat 1 products There are two advisers in the company.

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?

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- 1-5
- 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:**

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- No