

Financial Advisers Act review submission by:

## Cigna Life Insurance New Zealand Limited

21 July 2015

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

Yes.

*We are a QFE selling insurance solutions only so our submission does not purport to address issues around advice relating to the offering and sale of investment and savings products. Our comments refer specifically to the sale of insurance products (mainly life).*

*It is acknowledged that NZ has an underinsurance problem and the regulations should not make it harder for individuals to buy insurance provided that they have the information they need to make an informed decision.*

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

*It is important:*

- 1. To ensure that the public can access the level of advice appropriate to their needs.*
- 2. To recognise and appropriately cater for the differences between areas of greater complexity, (e.g. investments, business insurance etc) and simplicity (e.g. basic family life insurance). Not all situations are complex requiring full scale financial advice and the Act should not make it difficult for people to buy the insurance they need. That will exacerbate the underinsurance problem.*
- 3. To ensure controls are in place to protect the public from poor advice and/or improper behaviours.*

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

*The current definition of advice within the Act could be clearer. There is a fine line between "sales" and "advice" and even simple sales require some degree of advice to ensure the product is suitable for the customer's needs. The Act needs to remove all doubt as to what is allowed in all types of sales situations - perhaps defining various stages of advice.*

**5. 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?**

*The Act is quite broad and it could be clearer as to what type of activities fall outside the definition of "advice". The FMA has provided guidance that where an opinion or recommendation is implied it is potentially within the definition of "advice" but this is in itself a bit vague.*

*The Act should:*

- 1. Remove any doubt as to what advice falls into the two categories, and*

2. *Acknowledge that even direct sales require taking the customer's personal situation into account to ensure the product is suitable for their needs.*

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

*Yes. The current requirements are appropriate.*

**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?**

*Yes.*

**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.*

*Very few consumers understand the different categories of advisers.*

*RFAs are limited to Category 2 risk products and this should be clearer. The average consumer does not know the difference between AFA or RFA and what it means for them. It should not be a major issue - perhaps "Insurance Adviser" is a better description of an RFA.*

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

*The conduct requirements for all advisers are appropriate and adequate. However, it is questionable whether RFAs are adequately monitored to ensure they meet the general conduct requirements. RFAs should be subject to the same controls that QFEs impose on their Advisers.*

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

*As a QFE, the costs and effort required to maintain an Adviser Business Statement are costly but manageable. Our ABS is a living document and ensures all parts of the business know what is expected of them and their role in adhering to the standards. We would be concerned if the cost (\$ and time) of maintaining our ABS increased due to changes in regulatory requirements.*

**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?**

*Whilst there is a general lack of consumer understanding about the regulatory regime, the lack of transparency around the obligations of a QFE are not a specific driver of that. There is more benefit in a consumer clearly understanding the type of service they are engaging with than understanding the details of a QFE's regulatory requirements.*

**23. Should any changes be considered to promote transparency of QFE obligations?**

*The public would benefit from a clearer distinction between the various types of advisers (AFA, RFA, QFE); in the case of a QFE the consumer would be reassured that the QFE is responsible for its advisers and is required to exercise a high degree of control over their sales practices.*

**24. Are the current disclosure requirements for QFE advisers adequate and useful for consumers?**

*Viewed in isolation, yes they are adequate. However, the current disclosure requirements for QFE advisers are likely to have little real meaning to consumers. There should be more standardisation of disclosure requirements across all channels where "advice" is offered.*

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

*If there is a clearer separation between "sales" and "advice" then they may need changing. They should be standardised but also need to be straightforward and easy for consumers to understand. They also need to be practical in their ability to be implemented. Consumers utilise a variety of channels for advice and sales situations (e.g. face to face, telephone, digital) and disclosures must work within those.*

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

*They are appropriate. No changes recommended.*

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

*Yes.*

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

*We have found the FMA advisers to be accessible.*

**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.**

*The average consumer does not understand the current framework - the terms AFAs, RFAs and QFEs mean little or nothing. The AFA and RFA categories could be combined with a designation to distribute various product categories (AFA-Investments and Insurance; AFA-Insurance Only). The training and education should be aligned to the product complexity.*

*Consumers should also be aware of whether they are entering into a full advice service or a product sales service. Once again the training should be aligned to the complexity and sophistication of the service, e.g. full financial planning vs. basic understanding of consumer needs to match to an appropriate product in the sales process.*

**36. 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?**

*For straightforward needs, e.g. life insurance for someone who has no cover, this should not be an issue. It is no different to other industries where consumers go directly to a brand they trust where they accept that the sales person is only able to offer that company's products. People who want to compare products are more likely to understand this.*

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

*Yes, it should be clearer.*

*It should also be clearer as to how much and what type of advice can be given in making a sale of simple insurance. There is a big gap between what is considered "personalised" and "class" advice and perhaps this could be clarified with a definition of what sits between the two.*

*An adviser selling an insurance product and not providing full advice should not be constrained from gathering personal information to ensure the product is suitable for the customer.*

**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?**

*Conflicts of interest should be disclosed by all types of advisers. That an adviser receives commission from the sale of a product should also be disclosed but not the amount of commission. If an adviser moves business (i.e. a policy) from one insurer to another the adviser should make it clear that they will be receiving new commission on this transaction.*

**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?**

*Not banned but maybe restricted for investment products. For insurance, commission is the accepted way of rewarding advisers for their efforts and banning commission would drive advisers from the market and worsen the underinsurance problem. There is a need to control the level of commissions to reduce the incentive to churn but this should be driven by the insurers rather than being regulated. If the industry can't or won't address this then perhaps government intervention, as in Australia, is the only solution.*

**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)?**

*We question whether there is consistency across distribution channels. As a QFE which is responsible for its staff we take Quality checking seriously and any breaches are escalated and dealt with immediately. The same standard should apply to all advisers.*

**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?**

*The definition of advice is broad; the difference between "class" and "personalised" seems to leave no middle ground. Erring on the side of caution limits the ability to provide suitable solutions in non-complex situations and contributes to the under insurance situation.*

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

*Differentiate between requirements for advising on complex situations and simpler, more straightforward situations. Maybe a clearer definition of what situations are categorised complex v. simple?*

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

*Digital channels will play a significant role in enabling New Zealanders access to financial products and solutions. The move from more traditional channels follows consumers changing preferences.*

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

*Developments will provide more options for customers and regulations should not be too heavy handed in limiting customer choice. Regulations to protect consumers should be relevant to channels where consumers choose to make purchasing decisions without human interaction.*

*The Act should recognise the growth of digital sales and regulators should pay more attention and devote specialist resources to monitoring trends and issues relating to digital sales than has been the case.*

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

*In principle the same or similar ethical standards should apply to all types of advisers.*

**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?**

*All advisers (AFAs, RFAs and QFEs) should be required to meet minimum education standards aligned with the complexity of the products and services they provide. It would be appropriate for a QFE adviser selling simple life insurance to be required to study to the same level as an AFA.*

*QFEs are well placed to take responsibility for the education of their advisers and should continue to do so.*

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

*NZ should develop its own minimum qualification levels based on NZ's different adviser regime.*

**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?**

*We believe so.*

*QFEs are responsible for their staff. Each QFE is required to produce and annually update its Adviser Business Statement (ABS) which sets out how the QFE operates and the controls and checks it has in place to monitor the behaviours and standards of its advisers. As a QFE we take consumer protection very seriously and there are consequences for non-compliance at the individual level. This works as long as the FMA:*

- 1. Is satisfied that the controls as stated in the ABS will protect consumers, and*
- 2. Routinely checks that the QFE is complying with its own ABS.*

**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?**

*Most important would be to promote the existence of the register so that the public know that it exists and to make it more useful. We question whether the public is aware of the register and the purpose it is meant to serve.*

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

*Yes, the goals are appropriate.*

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

*There should be consistency across the various providers.*

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

*Increased monetary penalties for blatant non-compliance. Deregistration for persistent breaches.*

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

*Yes, providers of services to retail clients are appropriate.*

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

*The current framework is appropriate.*

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

*Yes, adequate.*

**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.*

**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 an appropriate limit?**

*It makes sense for property related claims to have a higher limit. For other disputes the limit can be increased on a case by case basis if the two parties agree before the matter is submitted to the dispute resolution provider.*

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

*Yes, the stronger regulations applying in Australia would seem appropriate to NZ.*

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

*Yes to both.*

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

*We are not aware of the impact of competition between the various schemes.*

**83. This submission is provided on behalf of:**

*Cigna Life Insurance New Zealand Limited (Cigna NZ)*

**84. Contact details:**

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**85.** *This submission is provided on behalf of Cigna NZ, a New Zealand based insurance company which offers a range of life and related insurance products as well as travel insurance. Cigna NZ is part of the Cigna Corporation which is based in the USA with local operations worldwide.*

**86.** *Cigna NZ employs approximately 200 people in New Zealand.*