



#20

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?

The register of financial advisers has very little value. In order for it to be useful to consumers, it needs to be enlarged so that more detail of individual advisers is available. In particular, the areas in which the adviser works would enable a consumer to choose from advisers who do work in a specific geographical area and in a specific area of financial advice. That said, in my 46 years experience, I have never had a client go shopping for advisers. Most new clients are introduced to me by existing clients, and I do not recall ever having had a potential client compare my work with that of other advisers.

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

No comment

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

No. The definition should be expanded thus: "Makes a recommendation or gives an opinion in relation to acquiring, amending or dealing with, or disposing of a financial product." This because life and health insurance advisers frequently give advice to clients they are dealing with an existing financial product, not acquiring or disposing of it.

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?

No comment

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?

No comment

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

Yes. There are significant differences in the complexity of products, and in particular, investment advice is far more complex and has far more potential for damaging impact on consumers than insurance or mortgage advice.

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?

Yes

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?

It is really irrelevant as most consumers have no idea of the difference between AFA and RFA advisers. Important point is that the advisor understands what he or she is able to advise on. Having said that, if it is felt that a change of terminology might assist consumers then you might consider Registered Insurance Adviser or Registered Mortgage Advisor

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

Yes

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

Disclosure is adequate.

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

No

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

No

Q13: Is the distinction between an investment planning service and financial advice well understood by advisers and their clients? Are any changes needed to the way that an investment planning service is regulated?

No comment

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?

No comment

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?

No comment

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

No comment

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

No comment

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

No comment

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

In my opinion, the committee representation from qualified advisers.

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

No comment

Q21: Should the jurisdiction of this Committee be expanded?

It should be extended to include RFA's and QFE advisers

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?

The public has no idea of what QFEs are and this cannot have confidence in them.

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

No comment

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

No. QFE advisers should be required to make it very clear that their advice is limited by rules set by the QFE.

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

No comment

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

No comment

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

No comment

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

Brokers should be subject to the same disclosure requirements as other investment advisors, i.e. AFAs

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

Client money is only ever held by fire and general insurance brokers - not life and health insurance brokers. The benefits of applying the broker requirements to F&G insurance brokers would be to add an extra layer of protection for consumers. The sad but inevitable consequence is that the costs of meeting these new requirements would fall on the shoulders of the vast majority of honest, diligent F&G brokers to protect consumers from the acts of the few.

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

No comment

Q31: Should any changes to these requirements be considered?

No comment

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

No. Anyone giving financial advice should be subject to the same rules as those who are in the business of giving such advice.

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

No comment

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

It would be helpful if the guidance was more prescriptive!

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.

In my experience, consumers are not particularly interested in the regulatory regime. Clarify the distinction between AFAs and RFAs, I believe that the terms Registered Insurance Adviser and Registered Mortgage Advisor would be better than RFA.

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?

Given that consumers are told that insurance advisers are paid by commission, the very clear inference is that their primary role is selling financial products. In my experience, this has never been a problem.

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?

No comment

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

No comment

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

No comment

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?

There is no need. In all my years, I have never had a client ask what my commission is.

Q41: Do you think that commissions should be restricted or banned in relation to financial advice, and if so, in what way? What would be the costs and benefits of such an approach?

No. In respect of life and health insurance, performance -related remuneration, i.e. commission, allows an adviser earn more by working smarter or working harder. Removing that incentive, will dramatically reduce the number of advisers who respond to such initiatives.

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)?

Yes

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

There is absolute competition between advisers, so there is nothing that could be done that will increase the levels of competition.

Q44: Do you think that the Code of Professional Conduct for AFAs strikes the right balance between requiring them to understand their clients and ensuring that consumers can get advice on discrete issues?

Yes

Q45: To what extent do you think that the categorisation of types of advice and advisers is distorting the types of advice and information that is provided?

No comment

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

No comment

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

No comment

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?

No comment

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?

No comment

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?

No comment

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

No

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

There is no benefit whatever to be gained from mutual recognition of qualifications in respect of insurance advice.

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

No comment

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

No comment

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

Yes they are appropriate, but have probably made no difference in changing the ethical behaviour of AFAs. The AFAs that I know acted ethically before the implementation of the FAA, and they have not changed since.

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?

No comment

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?

RFAs do a fine job now without any minimum qualification requirements. The imposition of any such requirements would add significant costs for no real benefit. Current industry training is adequate. The imposition of the same ethical requirements as for AFAs is all that is required.

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

None. Let New Zealand stand on its own feet. We should not be doomed to replicate the failed experiments of other jurisdictions.

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

As a past president of one professional body and vice president of another, I have seen some very positive benefits from those associations, and some very dubious decisions that add no value. I am currently not professional body as in my opinion, they do not add value for the fees they charge.

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

No. I have seen professional bodies is hijacked by strong-willed individuals and would be very concerned if they were to play a formal role in regulation.

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?

No

Q63: Is the QFE system achieving its goals in terms of consumer protection and reducing compliance costs for large entities? If not, what changes should be considered?

No. Anecdotal evidence abounds of frontline bank staff having quotas of insurance and Kiwisaver work they are obliged to introduce. I am sure that the QFE system has reduced compliance cost for large entities, but at the cost of consumer protection.

PAGE 4: Role of financial service provider registration and dispute resolution

Q64: Do you agree that the Register should seek to achieve the identified goals? If not, why not?

Yes

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

No comment

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

The amount of money that has been poured into dispute resolution schemes by participants commencement, is dramatically disproportionate to the number of disputes or complaints.

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

No comment

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?

No comment

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

No comment

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

Yes

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

No comment

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

No comment

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?

No comment

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?

There should be no limit

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

No

PAGE 6: Key FSP Act questions for the review

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

Information about the areas in which advisers work

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?

No comment

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?

No comment

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

No comment

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

No comment

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

The comment

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:

Graeme Lindsay, Strategy Financial Services Ltd

Q84: Please provide your contact details:

18(d)

Q85: Are you providing this submission:

-
- As an individual

Q86: If submitting on behalf of an organisation: How many people are in the organisation, or work in the organisation, that you are providing this submission on behalf of?

Respondent skipped this question

Q87: I would like my submission (or specified parts of my submission) to be kept confidential, and explain my reasons for this, for consideration by MBIE:

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- No
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