INSTITUTE OF FINANCIAL ADVISERS®

IFA Submission on the Financial Advisers Act Review
21 July 2015

The Institute of Financial Advisers (IFA) appreciates the opportunity to formally comment on the Financial Advisers Act Review. We continue to be mindful of the likely overall impact of regulation of financial advisers and the potential impact on the availability of Authorised Financial Advisers (AFA) to consumers of financial advice.

INTRODUCTION

The Financial Advisers Act (FAA) and its implementation have improved the financial advisory market in many ways. We look to the Review as a critical "next step" in achieving the Act's aim to ensure that consumers get suitable and quality advice, products and services based on their respective needs, from advisers displaying the highest standards of professionalism and expertise. We support MBIE's review work as it:

- Seeks out feedback from market participants;
- Achieves greater insight and clarity on how the profession operates;
- Refines its understanding of what has and hasn't worked over the last five years; and
- Concludes the Review by recommending refinements to the Act that will further advance the Act's aims.

In addition to providing detailed comments on the 82 questions provided, the IFA takes this opportunity to highlight what we as a professional adviser body see as the main issues.

It is our belief that the review of the can lead to improvement of, and a sustainable market for, future financial advice.

We would therefore, in addition to providing comments on the 82 questions, highlight what we as a Professional Adviser Body see as the main issues.

DEFINITION OF ADVICE

The review must be seen as an opportunity is to ensure **consumers** have greater clarity and confidence in the role of advisers in financial markets.

To this end, the Review must first address what we perceive as a fundamental issue of the Act as it stands – the FAA defines **advice** solely based on **product** rather than how a product applies to the client's situation.

We submit that the more appropriate basis for the regulation of advisers and their services is to define advice, and authorise advisers, based on the advisers competence to assess the **suitability** of a product or service to accommodate the complexity or otherwise of a **client's circumstances**. Products serve consumers as a means to resolve simple or complex situations in achieving their goals or satisfying a need.

The current regime has improved the market in many ways, but it needs to continue to evolve to ensure that **consumers** get good quality advice, products and services suited to their needs from advisers displaying highest standards of professionalism and expertise.

In our opinion Consumers want;

- Assurance that they will receive consistent quality advice at the level that they wish to engage.
- To know that the adviser they have has the necessary competence, ethics, skills and knowledge to achieve what the consumer wants to achieve **and maintains that level for the period of the relationship.**

Re-framing the Act with this distinction in mind is not only more appropriate, but will go some distance in distinguishing between "sales-driven" and "advice-driven" advisers so that consumers better understand whether they are simply selecting a financial product for purchase (ex-advice), or truly receiving personalised advice. The distinction will further help the consumer access and select the appropriate type of adviser, fit for purpose.

ACCESSIBILITY TO ADVICE

There is an opportunity to simplify the FAA in this regard and make it easier for **consumers** to identify what type of support they are seeking

Presently the FAA applies to somewhere between 25,000 and 30,000 individuals classed as financial advisers who are identified currently as – "Registered, Authorised or operate under a QFE.

In our opinion **consumers** are looking for guidance on where to go to assist them with either the **information** or **advice** they want to complete a transaction or achieve a goal.

This has been defined as access to advice. The spectrum of support consumers look for can take the form of:

- Information only
- A range of limited advice
- Through to a comprehensive financial plan.

The key issues are:

- What is an adviser competent to make a recommendation on, and
- How much does the consumer want to engage.

If we considered that that the level of advice were a spectrum from basic information through to considering all aspects of a client's goals and how products or services help them achieve the goals in a timely and efficient manner then we have two pieces of legislation that may serve to give clarity to consumers.

The Financial Markets Conduct Act (FMCA) sets the regulatory standard for Product providers, the FAA for financial advice.

If QFE's were to receive a licence, under the FMCA, for their staff to distribute printed information and class advice only, they could be removed from the FAA.

The rationale for this is the QFE advisers are largely given the role of providing information or class advice to consumers, to assist consumers in completing a transaction. Class advice was introduced as a simple written form of advice that applies to a class of consumer. By allowing verbal class advice consumers cannot easily identify where class advice finishes and personalized advice starts. Additionally there is the risk that advisers may step over the regulatory line. Printed class advice will remove both of these risks.

Under the FMCA QFE advisers could be involved in giving consumers information and class advice as part of assisting consumers through a transaction.

This would result in the FAA setting the environment for around 6,000 current RFA's and AFA's. This would enable the minimum standard for all advisers, who determine the suitability for consumers, to be set at a consistent level without over complicating the legislation. Presently the FAA defines the competence required for an adviser on the **product** they are discussing. The definition could be moved to the competence required of an adviser on their role to assist the **suitability** of a particular financial product or service to satisfy a consumer's need to achieve a longer term goal or goals.

With the introduction of FMCA, product providers and QFE's are more closely aligned in the accountabilities and it opens the opportunity for financial advisers to be measured on advice competency rather than product.

REGISTER FOR FINANCIAL ADVISERS

We support expanding the FSPR such that consumers can refer to it to more easily and identify potentially suitable financial advisers in their locale and offering what the consumer is needing.

The **consumer** needs to know where to find and how to identify the answers to the questions:

- Where can I go to find out the information I need to do a transaction?
- Who can speak to that can tell me if the product or service I am considering is suitable to achieve my goals or satisfy my needs?

If a register was constructed so consumers could refer to it and it categorised advisers under two aspects:

- Those **individuals** a consumer can go to for **advice** as to whether a product or strategy is suitable for the consumer to achieve their goal or satisfy a need. This register could list those individuals who have the authority to assess suitability for consumers. Listing their qualifications, competence, experience, any disciplinary history and the areas they may assess suitability.
- Those **firms** who are licensed as QFE's who have staff available to give printed information or class advice.

ADVISER TITLES

The current adviser titles of RFA, AFA and QFE advisers has been well identified as confusing and meaningless to a consumer and must be changed. At present this regime does nothing to provide clarity and incorrectly distinguishes an RFA adviser being more qualified than an AFA adviser merely through the common use of "Registered" being the accepted qualified standing in many occupational groups.

If only those advisers that are authorized to give opinion on the suitability to consumers are held accountable to the FAA then there would be no need to have different titles, minimum standards or be outside of a code of conduct.

However it would require the development of suitable standards for each discipline, recognizing in each product set there are simple and complex products which can applied to simple and complex consumer situations, and adaption of the existing code of conduct to reflect a range of product sets and spectrum of advice.

While stating the FAA could be applied to all those advisers who assess suitability, it is not intended that advisers under the FAA are excluded from giving printed information or class advice.

ADVISER QUALIFICATION AND EDUCATION

From a **consumer** confidence point of view, it is important that all advisers are required to **attain** and **maintain** a minimum level of knowledge and competence, to provide advice on an adviser's particular discipline.

As a core entry level to be a financial adviser, we see the NZ Certificate in Financial Services – Level 5 as the **minimum** entry requirement. The new certificate provides a wide range of "strands" for advisers to choose from to attain the basic education requirements for their intended area of advice.

We would additionally submit that the Level 5 is a **minimum** standard and would suggest that in some areas of product advice a **higher level of qualification should be set** in the near future as the complexity of the product or client situation requires a higher level of competence.

Currently Level 5 is a requirement in the Code of Professional Conduct for AFA's and it is our opinion it should apply to all who are promoted as or who are giving "advice".

COMMISSION

While we do not have a strong position on commission, we acknowledge that it can create bias that can distort consumer outcomes.

To a very large extent commission in the investment area has reduced substantially and the current commentary is mainly focused on the Life Insurance market and would make the following observations and comments:

- There has been no indication of loss of benefit to consumers, like in the examples in Australia.

- It needs to be acknowledged that advisers are not the designer of the commission models merely the recipients.
- In other product sets, General Insurance and Mortgages, commission exists in level and up front forms. It is accepted in these business models by product providers that the consumer can move providers, as regularly as annually, without creating significant issues for the consumer.
- If there is a need to change the business model, perhaps this should involve change within both the product provider and the adviser structure.

PROFESSIONAL ADVISER BODIES

The value a professional body brings is - it creates a profession by considering industry recognised best practice. In benchmarking models such as lawyers, accountants and doctors a professional body requires participants to prescribe to a particular code of practice and ethics.

Whilst there is an advocacy role for the professional bodies there are other important functions they perform.

We believe there several arguments in favour of professional bodies:

- When you are a professional, your first and foremost responsibility is to the profession and the standards they set, that sets behavioural standards.
- Set higher than minimum standards as a condition of membership
- Promote aspirational further education qualifications to members.
- Members have individual **accountability** to an independent body acting in the public interest.
- Offering peer reviews and supervision to members.
- Continuing Professional Development.
- Set ethical rules and standards designed for the public benefit, higher than those set by regulation. Regulation sets minimally acceptable practices. It has limited capacity to encourage or incentivise improved behavior.

The IFA is largely made up of AFA's in the current regime. Where advisers have embraced the standards required, as a member, they have experienced easier compliance to requirements of the FAA.

Additionally it was evident in the recent FMA monitoring report, that the minimum requirements to be an AFA, by both qualification and ongoing training, have resulted in an improvement in the quality of advice in the area they operate.

It is important to develop on this across the spectrum of advice.

We also believe that the professional bodies can add far more to the financial adviser landscape and would welcome any opportunities to assist in the regulation process.

In our opinion no current professional body could claim to represent all that is needed, however there is an opportunity for bodies and their memberships to display leadership and further the development of the profession.

If the industry can show it is effective in areas of self-regulation, regulators may feel able to give it more breathing space.

Regulation of an adviser's activities can only achieve so much.

The most important component of the existing legislation is the principle based code which requires a level of faith and trust on behalf of the regulator, the consumer and advisers. It goes a long way towards building trust which is the financial industry's greatest challenge.

This must be met from within, by all working together – providers, regulators and advisers for the benefit of consumers.

FAA Review –IFA submission

1. **Do you agree that financial adviser regulation should seek to achieve the identified goals? If not, why not?**
We agree with the goals which is underpinned by Clause 3 of the FA Act –

"The purpose of this Act is to promote the sound and efficient delivery of financial adviser and broking services and to encourage public confidence in the professionalism and integrity of financial advisers and brokers"

However we do have concerns around the "promotion" of financial advice generally and with the Commission for Financial Literacy having as goal that "Everyone has a current financial plan and is prepared for the unexpected" that promotion needs to be done but is currently invisible!!

2. **What goals do you consider should be more or less important in deciding how to regulate financial advisers?**
We believe the more important goals in the regulation of financial advisers should be to have readily available information on how to choose an adviser which means that in both the registration requirements and initial disclosure that areas of advice competency, education, qualifications and membership of a professional adviser body be included as a matter of course.

We also strongly believe that the Code of Conduct should apply to all who refer to themselves as "Advisers" be they under the current regulations an Authorised, Registered or QFE Adviser.

3. **Does this definition adequately capture what financial advice is? If not, what changes should be considered?**
The current wording of "financial advice" is restricted to a "financial product" and therefore the current legislation does capture that definition.

However our view is that "advice" should not be defined by "product". "Advice" should be defined by the assessment of suitability to achieve a client's need or goal then the complexity of the client's situation.

We would also submit that this definition could be widened as there are other things that someone could hold including collectibles such as art, gold etc that the client certainly sees as an investment.

Then of course there is the "real property" issue which we most certainly see as having to be addressed as part of this review and we will make further comments on this in Q32

4. **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?**
We agree that there should be a distinction between wholesale and retail clients. However we are of the opinion that the definition of a wholesale client is not clearly understood particularly by the clients themselves. The $ value of a client is not a good

indicator of the level of knowledge of a client. The review should look to ensure that this definition is more clearly defined.

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 current issue as we see it is that both advisers and the public are affected by these distinctions:

   - The public generally do not understand the difference and will nearly always consider that they have received personalised advice.
   - The advisers see themselves in a conflicted situation. The Guidance Note sets out an Overview for providing limited personalised advice but the "approach" and "training and judgement" sections of the Guidance Note if followed to the letter has the adviser without doubt in personalised advice world.

   There needs to be a more effective way that an adviser can provide limited personalised advice without being captured in a possible monitoring visit that a more personalised service was due to the client.
   This could be by a written or verbal statement that clearly sets out the limited advice that will be offered

   We are also concerned that this is an area that is exploited by some advisers and organisations so that "advice" can be given under the guise of "class advice" eg how can advice on KiwiSaver ever be "Class?"

6. **Is it appropriate to have different requirements on advisers depending on the risk and complexity of the products they advise upon?**
   We want to strongly make the point that the adviser has a proven competency assessment to advise on the complexity of products. There is quite adequate education pathway under both the old and new Certificate in Financial Services Level 5 which allows an adviser to attain in addition to core requirements various strands of qualifications to prove his/her competency. In addition to that all advisers should be required to complete CPD requirements related to their particular areas of advice.

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?**
   The current categorisation not only divides products – it also divides advisers with AFA's living in both category 1 & 2 world and RFA's living in Category 2 world.
   There is no doubt that many advised category 2 product issues are more complex than some basic Category one products eg a comprehensive risk programme of Life, Income Protection, trauma, TPD and Health is far more complex than a straightforward enrolment of someone into KiwiSaver.
   The complexity is in relation to how a product satisfies a client's needs or goals, therefore the current categorisation only looks at a product type and does not recognise both client situations and products can be along a spectrum of simple to complex depending on the need and goal.

   What is required is to do away with the "category" structure and leave the responsibility with the competency and qualifications of the adviser.

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?**
   The term "Registered" implies a higher level of competency than "Authorised", that is the first anomaly.
   The question also needs to be answered in relation to adviser terms in general. Not only does the RFA term not give consumers an accurate picture nor does the AFA and QFE terms.

   Consumers do not understand the difference and how it may impact on them and the advice they receive. Competence level is how advisers should be differentiated.

   This is a real priority in this review as consumers have already indicated in surveys they have no idea.

9. **Are the general conduct requirements applying to all financial advisers, including RFAs, appropriate and adequate? If not, what changes should be considered?**
   Whilst RFA's are seemingly included in general conduct requirements (specifically sections 33-36 of the FA Act – including to exercise care , diligence and skill and not engage in misleading or deceptive conduct) we feel that all advisers should have the same conduct requirements , that of an appropriate code.

10. **Do you think that disclosing this information is adequate for consumers? Should RFAs be required to disclose any additional information?**
    We are strongly of the opinion that RFA disclosure should be broadened to provide more detail than that currently required by them in a Primary Disclosure Statement. An AFA providing advice on a category 2 product is required to have a Secondary Disclosure which has defined requirements of remuneration and any fees to be charged and we can see no reason why this disclosure should not be widened to include RFA's and QFE Advisers. (I know the question is in relation to RFA's but all Advisers should be required to provide the same information) All advisers should be held to the same standard of disclosure to ensure transparency for the consumer and appropriate conduct, as evidenced by the current AFA review result. An RFA or QFE adviser on salary is no less conflicted than a commission only advisers if the culture of their employer is such that they have to deliver sales to retain their position

11. **Are there any particular issues with the regulation of RFA entities that we should consider?**
    On the basis that this question is specifically about "RFA Entities" which allows the entities employees to provide Class advice the "particular issue" is to ensure that the entity does not use this as a mechanism to avoid personal financial advice.
    We can see no reason therefore why there should not be consistent requirements and standards regardless of which adviser type (RFA, AFA, and QFE) or an RFA Entity.

12. **Are the costs of maintaining an adviser business statement justified by its benefits? If not, what changes should be considered?**
    As there are no benefits to the Adviser the costs cannot be justified. The key benefits associated initially with adviser business statements were achieved as part of the implementation of the provisions of the Act. The requirement now to maintain an ABS is unnecessarily administratively burdensome for the remaining benefit, particularly in light

of other requirements also now in place, such as the annual AFA and AML/CFT returns required to be completed. In addition a more simplified Disclosure Statement would assist. We therefore submit that the requirement to have and maintain an Adviser Business Statement should be removed.

13. **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?**
    Advisers would know the difference but clients not necessarily so. A client is normally looking for advice and may therefore think that the advisers is able to fulfil their requirements under the "financial adviser service" authorisation.

    It would seem sensible that if an AFA is to provide a financial adviser service in regards a category one product they should also be required to have the "investment planning service" authorisation as well.

    We also note the issue in regards the investment planning service being limited to natural persons (individual) and would suggest that be widened to include entities such as trusts.

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?**
    Initially this will depend on the service the client expects and agrees to with the adviser, the duty is on the adviser to ensure the client understand the service they are receiving.

    The introduction of DIM's has also changed this landscape.

    - An adviser with a Class DIM"s licence can provide discretion in line with their investment authority
    - An adviser who does not have a DIM's licence be it Class or Personalised has only the DIM's exemptions available to them.

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?**
    We have not identified any changes that would assist but, to the extent that there are such services provided, any such changes that might be proposed should be available to entities and advisers equally, to avoid the risks associated with regulatory arbitrage that might otherwise occur.

16. **Are the current disclosure requirements for Authorised Financial Advisers (AFAs) adequate and useful for consumers?**
    We would submit that they may well be adequate but would question their usefulness for consumers as most clients do not read or understand the disclosures. A consumer is likely to receive at least 3 Disclosure Documents as part of an advice process namely:
    1. The prescribed Primary
    2. A possible full template Secondary Disclosure
    3. And in regards the Statement of Advice, this is also required to be branded a Secondary Disclosure Statement

Thinking about “adequate” and “usefulness” from a consumer perspective they would be better served by a more comprehensive Primary Disclosure which could include the most important parts of the prescribed information.
The SOA – “Second Secondary” is more likely to be read and is required to include the important disclosures of fees and remuneration.

17. **Should any changes be considered to improve the relevance of these documents to consumers and to reduce the costs of producing them?**
We refer to the comments in Q 16. Most certainly there would be less paper and more importantly by widening the Primary it could be a far more effective document that may see a greater relevance to the consumer.
We would also like to refer to the FSPR. It may be a sensible suggestion to have more information on this register to include the prime information currently required in the Primary document. This would certainly provide relevance to consumers (they can view and compare advisers on line) and advisers by reducing paperwork and costs.

18. **Do you think that the process for the development and approval of the Code of Professional Conduct works well?**
We support the process for the development and approval of the Code of Professional Conduct, believing that the involvement of industry and consumer representation helps ensure an appropriate balanced development of industry standards. But we strongly make the point that this Code should apply to all advisers.

19. **Should any changes to the role or composition of the Code Committee be considered?**
We feel there should be representation from Adviser Associations who would bring the voice, concerns and experience of a large percentage of the adviser community, both RFA and AFA to the committee. Also on the basis the review may require all advisers to be covered by the Code, association representation would assist in growing the professionalism of the industry and have more influence on conduct standards.

We also suggest consideration be given to providing secretariat and legal support to the Code Committee independent of the FMA and that the Code Committee become subject to the provisions of the Official Information Act.

20. **Is the Financial Advisers Disciplinary Committee an effective mechanism to discipline misconduct against AFAs?**
Yes, albeit we suggest that consideration be given to providing secretariat and legal support to the Financial Advisers Disciplinary Committee independent of the FMA.

21. **Should the jurisdiction of this Committee be expanded?**
We feel that any adviser who provides advice on suitability should be subject to FADC discipline.

On the basis that we are recommending that the Code applies to all advisers then the jurisdiction of the FADC should be widened to include RFA’s and QFE advisers

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?**
Definitely yes.

- Firstly there is little if any transparency and in particular the limitations of advice that a QFE adviser provides.
- It is not so much an undermining of public confidence but more that the public just do not know or understand the limitations of advice.
- It is our view that QFE's should be required to meet the same Code Standards as AFA's
- As a final point we submit that if QFE advisers were limited to information and the QFE licensed under the FMCA this would leave all advisers who make recommendations based on suitability falling under the FAA and accountable to the FMA first.

23. **Should any changes be considered to promote transparency of QFE obligations?**
We refer to our comment in the previous question:
• *"As a final point we submit that if QFE advisers were limited to information and the QFE licensed under the FMCA this would leave all advisers who make recommendations based on suitability falling under the FAA and accountable to the FMA first. "*

Limit advice under QFE's to information on or class benefits of a product, then making it clear that for suitability this is restricted to advisers under the FA Act who are competent in the area the client is looking for advice or the complexity of the client situation.

24. **Are the current disclosure requirements for QFE advisers adequate and useful for consumers?**
We would submit that this question falls into the regime of the need to completely rethink the overall Disclosure requirements. As mentioned earlier to Q 16 where we have suggested a more comprehensive Primary. It is very important in our opinion that the consumers are not confused by paperwork.

A straightforward Primary for all advisers, RFA's and QFE included which requires disclosure of incentives and remuneration is vital if a level playing field of advice is to ensue.

25. **Should any changes be considered to improve the relevance of these documents to consumers or to reduce the costs of producing them?**
No submission comment

26. **How well understood are the broker requirements in the FA Act? How could understanding be improved?**
We would recommend that there is a consistent approach to competency of the advisers to give advice on complex client situations.

27. **Are these requirements necessary and/or adequate to protect client assets? If not, why not?**
No evidence to point to it not being the case.

28. **Should consideration be given to introducing disclosure requirements for brokers? If so, what would need to be disclosed and why?**
We understand that whilst disclosure is provided for under Section 77 of the FA Act it has not been promulgated. We can see no reason why brokers should not disclose as today portfolios of asset management are more common in the share broking fraternity which in our view makes them no different to a current AFA's who are required to disclose.

29. **What would be the costs and benefits of applying the broker requirements in the FA Act to insurance intermediaries?**
No Submission comment

30. **Are the requirements on custodians effective in reducing the risk of client losses due to misappropriation or mismanagement?**
Yes, but it is important to recognise that reduction in risk is not the same as eliminating such risk, and that total elimination of such risk is not practical.

31. **Should any changes to these requirements be considered?**
We consider that the current requirements are proportionate in reducing the risk of client losses from a range of possible causes and we do not recommend any further changes.

32. **Is the scope of the FA Act exemptions appropriate? What changes should be considered and why?**
Whilst Lawyers and Accountants are exempt and are covered by the Financial Advisory Engagement Standard we can see no reason why an accountant or lawyer who goes beyond the "discuss and consider" situations and makes specific recommendations about the makeup of an investment portfolio or the type of risk (life) programme that should be implemented then they should have to adhere to the same requirements as an AFA.

All advisers should be held the same standard, irrespective of profession.

If some advisers are excluded due to advice incidental to their role this should go both ways or it is unfair, therefore it is impractical to have exclusion. If any advisers, who a client would be reasonable to consider trustworthy, gives advice outside of their area of competence that steps over the boundary of information into suitability they should face a punishment irrespective of profession.

Investment (both residential and commercial) property should not be exempt from the FA Act. There are numerous examples of organisations promoting residential property investment along with real estate agents, property development companies etc all offering "investments" to sell their properties with no evidence of competence to provide that advice.

Similarly commercial property syndicates are promoted to clients of legal practices etc without any regard to the implications of "advice' on the investors. Property is regarded by most NZ'ers as the most rewarding investment class and are unaware of the risks they

are taking which, in some cases are as big as those taken a few years back in Blue Chip and Finance Companies. The FA Act needs to cover this area of ADVICE and the consumer is potentially at risk due to the current exemption.

The not for profit organisations who can provide “free” advice should also restrict themselves to “class” advice only or also be required to adhere to more standard requirements. We would comment further that these not for profit organisations could well be speaking with clients who in many cases require qualified advice because of their situations.

33. **Does the FA Act provide the Financial Markets Authority (FMA) with appropriate enforcement powers? If not, what changes should be considered?**
We consider the FMA enforcement powers to be appropriate and we do not suggest any changes for consideration. However there appears to be either a reluctance or lack of resources to use these powers to stamp out behaviour and advice that is not competent.

34. **How accessible and useful is the guidance issued by the FMA? Are there any improvements you would like to see?**
The usefulness of FMA's communication and guidance is poor.

It is a challenge for NZ advisers to keep up with the volume of changes in the regulatory environment, as well as FMA expectations on adviser practice and conduct. Adviser perception is that the amount of material provided to the profession is excessive and unclear. A very real concern expressed by advisers is what they perceive as information overload in an environment of moving goal posts. By way of example, the amount, quality and changing nature of guidance around personalised DIMS over the last two years did not justify the end results (only 44 personalised DIMS applications). Another example would be the FMA's handling of Question 6.1 of the AML/CFT Annual Report -- a regulatory requirement advisers still find confounding to answer.

We believe the FMA's role in providing advisers guidance and communication is critical. From the profession's perspective, areas for improvement are:

Greater use of "plain English". Advisers consistently highlight the difficulty in understanding FMA guidance notes. Specific complaints include:

- too verbose/wordy
- the use of too much legal and/or policy jargon;
- unclear guidance of adviser responsibilities and obligations;
- the use of uncommon terms to the advisory profession e.g., "in scope"
- the misuse of common terms to the advisory profession, e.g., "settlement"

More definitive guidance. Advisers also complain that FMA guidance materials often lack clear and definitive instructions on achieving compliance objectives.
Fewer, but higher quality regulatory updates. There is a risk of providing too much communication/correspondence on issues before final guidance is developed by FMA. In general, advisers simply need to know when and how to comply. Most advisers are busy running practices and serving clients, and do not aim to become compliance experts. They are "willing compliers" and simply look to the FMA to provide clear and direct guidance in the most efficient manner.

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.**
A change is certainly necessary. The consumer survey conducted on behalf of MBIE confirmed that consumers have no idea about the designations and more importantly the qualifications and competency of advisers that will give consumers confidence in dealing with an adviser.

The solution surely must be to firstly address the competencies and qualifications an adviser has and allow these to be the priority. All advisers who look at the suitability of a product to achieve a need or goal should be held to the same standard.
If that means a change to RFA and AFA titles so be it but our preference would be for the AFA title under which an adviser can be registered with a description of the services they are qualified to provide advice on.
There has also been much comment and discussion about the access to quality advice and the register needs to also change so that consumers can more clearly establish what sort of adviser they are looking for and we refer to previous comments about making the FSPR register details of an adviser more detailed so that a consumer can have information that is easier for them to choose an adviser from.

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?
We do not think that consumers understand this situation at all. On the basis that Code Standard 1 is paramount one wonders why anybody should be "sold" a financial product rather than "advised"

The distinction needs to be simple – *"these QFE's/sales people can give you information about a product, these individuals can give you information and recommend a product that is suitable to achieve your need or goals."*

This is just a time to revisit the purpose of the FAA – *"to promote the sound and efficient delivery of financial adviser and broking services, and to encourage public confidence in the professionalism and integrity of financial advisers and brokers".*

Advice does that not Sales.

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?**
We reiterate that "advice" is the cornerstone.

We submit that there is sufficient legislative and regulatory clarity about these distinctions, irrespective of whether or not consumers understand the distinction. In the event that there is concern about consumer failure to understand the distinction, we submit that such concern can best be addressed by requiring clarity be provided (either verbally or in

writing) to the consumer at the time of service delivery about the nature of the service being delivered, the limitations and risks associated with the type of service delivery and the responsibility remaining with the consumer to assess and determine need and suitability. In short the "person" needs to simply provide the consumer with a statement – preferably written that clearly states whether "information" is being provided or "advice.

38. **Do you think that current AFA disclosure requirements are effective in overcoming problems associated with commissions and other conflicts of interest?**
We think that the current disclosure requirements are effective. The "commissions" situation is clearly covered in an AFA's Secondary Disclosure and the Institute has received no enquiries or complaints from members' clients over this issue or any conflicts of interest. We would add however repeat from Q10 that an RFA or QFE on a salary is no less conflicted than a commission only adviser, if the culture of their employer is such that they have to deliver sales to retain their position.

39. **How do you think that AFA information disclosure requirements could be improved to better assist consumer decision making?**
As mentioned earlier we are strongly of the opinion that the current Disclosure regime needs an overhaul. Consumers do not understand or read the information and the basic information on the FSPR is a starting point for commencing a review in this space.

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?**
Our view is that all advisers providing some form of service for the same product to a client should be subject to the same regulatory commission and conflict of interest disclosure requirements, irrespective of their designation as an RFA, AFA or QFE Adviser.

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?**
We do not believe that product commissions are a problem. The Code – in particular Code 1 – Client first is the behaviour that matters.
However the "soft dollar" aspects of adviser benefits need to be removed as in our opinion it does affect adviser behaviour and does nothing to the consumer's perception of the financial adviser profession.
It is also not necessary if the Code and Disclosure applies to all forms of advice.
In regards costs and benefits – the costs of banning commissions would obviously see far less of the members of the public being serviced and advised with the population in our view receiving no perceived benefits.

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)?**
What is meant by competition? The minimum standard is about having the right level of competence to ensure advisers provide robust advice to consumers, competition is not a factor in setting a standard. Compliance that is easy and not costly to implement into an advisers business and easy for consumers to understand is the issue.

There must be concern about AFA adviser numbers that have stalled or shrunk from the initial 1,950 with only some 1,700 AFA's operating in the market at present. Whilst we have no issue with minimum standards we would make the point that prior to regulation there were a large proportion of the existing 4,500 RFA's who were providing some basic advice around Kiwisaver and basic investment advice. We would suggest that these "lost" AFA's would be in most cases competent to provide at least a basic level of investment advice if only to Kiwisaver clients but who have through regulatory requirements of both time and money decided to refrain from crossing to AFA status. We would add however that we are not suggesting that there be a loosening of requirement to advise on Category One products.

43. **What changes could be made to increase the levels of competition between advisers?**
    Does the FA Act want to promote competition between advisers? No submission comment.

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?**
    We think that the Code strikes the right balance but that the guidance issued by the FMA in endeavouring to interpret the Code on this issue tips the balance the wrong way, as previously expressed in this submission. In the event that the FMA decides not to change the guidance, the opportunity exists for the Code Committee to seek to make changes to the Code that creates a different outcome that makes the FMA guidance obsolete and thereby required to be reviewed and amended. This highlights that some issues with the regime may be able to be dealt with via non legislative fixes.

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?**
    See our earlier comments about limited personalised advice in particular, while noting that this is not a defined legislative term. As such, the solution to the issue raised may also be non-legislative.

    Outside of that issue, we don't necessarily see the categorisation of the types of advice and advisers as significantly distorting the types of advice or information that is provided. Categorisation may result in restrictions on the advice or information provided, but that does not necessarily imply distortion, particularly if there is agreement that the restrictions are necessary and appropriate.

46. **Are there specific compliance requirements from the FA Act regulation that have affected the cost and availability of independent financial advice?**
    We have provided an analysis of AFA costs before which suggest that the costs of maintaining AFA status to an adviser is in the region of $15,000 to $20,000 including both the fiscal costs of registration, levies, DRS costs, AML/CFT costs, CPD requirements and increased hours in overall compliance.

47. **How can regulatory requirements be made less onerous without reducing the quality and availability of financial advice?**
There are a variety of current requirements that could assist in this area and some have been canvassed in earlier questions:

Consolidation over the following areas:

- Disclosure which currently can be 3 or more Disclosure Documents should be looked at
- The FSPR– is there a simpler way to include more information here that wins not only in too "onerous" an area for advisers but is a plus for consumers?
- Is the ABS still relevant with the AFA Information Return requiring an annual report
- AML/CFT reporting – for many advisers who may only operate in a minimal way in Cat 1 eg KiwiSaver is a full AML/CFT report required?

48. **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?**

Part I: Compliance Costs

We estimate AML/CFT compliance costs for a non-QFE adviser as follows (ex-GST):

Initial one-off costs of $5,950

Ongoing annual compliance costs of $3,850

A biennial cost of $1,613

These costs can then be considered industry-wide and client levels ***(see attached table - Appendix 1).***

These estimates are based on the following methodology.

There are 787 AML/CFT Reporting Entities supervised by FMA (17 July 2015, FMA's Register of Reporting Entities).

We estimate that between 250 and 400 of registered RE's represent the "smaller" retail non-QFE AFA and/or their firm that engage solely in providing traditional financial and investment planning services to NZ-based retail customers.

We estimate that of these advisers have on average between 50 and 150 clients.

Part 2

We submit that NZ's AML/CFT regulatory regime throws too wide of a net over its financial adviser industry, requiring too much compliance work for what appears to be little benefit in identifying and deterring ML and FT activities.

ML/FT risks faced by financial advisers as assessed by the Securities Commission are low for advisers who do not accept cash transactions (SECTOR RISK ASSESSMENT, March 2011).

We agree with this assessment. Further, in addition to not handling cash transactions, ML/FT risk is low for the non-QFE adviser given they:

- are unlikely to be involved in products or services that favour anonymity;
- deal only with NZ residents;
- deal only with well-known Australasian registered banks, managed funds and wraps (themselves REs, requiring advisers to conduct sufficient "coal-face" CDD upon placement of funds into their financial products); and
- know their clients personally.

The AML/CFT regime is risk-based. As the FATF states, this allows for:

" … a more efficient use of resources, as banks, countries and competent authorities can decide on the most effective way to mitigate the money laundering/ terrorist financing risks they have identified. It enables them to focus their resources and take enhanced measures in situations where the risks are higher, apply simplified measures where the risks are lower and exempt low risk activities."

Compliance costs for FMA, advisers and their customers are not justified by perceived benefits achieved given the low assessed risk faced by advisers. Limited resources are better directed to other sectors with higher ML/FT risk.

For this reason we propose that a rules-based RE exemption for the smaller retail financial adviser be developed. This will reduce the number of reporting entities to be monitored by the Government while not elevating ML/FT risk.

We envision such an exemption could be crafted around the risk assessment criteria laid out in Section 58 of the AML/CFT Act 2009, including advisers that do not deal with cash transactions, non-resident clients, products that favour anonymity, or non-Australasian registered banks and institutions. A FUM threshold may also be appropriate (say, $100million).

IFA is happy to work with Government on further developing a sensible exemption.

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?**

We do not see this being a particularly large issue in the next few years where withdrawal amounts are still less than $50,000. However in 10-15 years and beyond, as balances continue to accumulate, there is a greater risk of client's putting their future income in jeopardy. Requiring a greater level of competence of advisers and a greater need to provide advice to the 000's of Kiwisaver clients who will have to rely on their private savings to a greater extent to support their lifestyle.

At a recent Society of Actuaries meeting and repeated at a CFFC forum, it was suggested that those KiwiSaver clients nearing retirement , say 5 years prior to 65, should be able to draw down an adviser fee of say $1,000 to be used specifically for an adviser to plan their retirement income needs and issues.

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?**
We applaud the introduction of the FMCA, it increases the accountability on providers and QFE's where they offer information or class advice to consumers.

It makes sense to roll all product information requirements into the same act to avoid double jeopardy or gaps, therefore we suggest the FMCA be expanded to cover information only of class advice incidences for those who are not authorised to give personalised advice about the suitability of a product or service to satisfy a client need or achieve the individual goals.

This will ensure QFE's can operate in an environment that better matches their preferred activity, sales and information offering, without confusing the client as whether they are getting advice. To avoid misundersting, class advice should be given in writing, as it lends itself to production as a pamphlet or brochure which could be produced in bulk rather than given verbally. Verbal communication is too easily interpreted, or trips across into, a position where the consumer feels they have received personalised advice.

This would allow consumers to choose to engage under an advice model – where personal suitability is assessed or under an information model – where information or class advice is largely transactional. It would give consumers clarity and confidence about the model they are engaged in.

An obvious impact has been the significant reduction in the availability of Discretionary Investment Management Services (DIMS) to consumers, as it is clear from public reports about the number of AFAs seeking personalised DIMS authorisation and the number of DIMS licence applications that a significant reduction in the number of DIMS providers is occurring. We think that there will be an increasing likelihood that consumers may seek DIMS outside of New Zealand, with a consequential increase in other risks that are partially covered in the next question.

51. **Do you think that international financial advice is likely to increase? Is the FA Act set up appropriately to facilitate and regulate this?**
Yes, international financial advice into and out of New Zealand will continue to increase. No, the FA Act is not set up to appropriately facilitate and regulate this, particularly for incoming financial advice and it is difficult to imagine how best to achieve this unless or until there is significantly greater co-operation across jurisdictions to bring miscreants to justice.

This particular aspect can perhaps be better addressed via consumer capability whereby consumer understanding of the benefits and protections of obtaining advice and services from an individual or entity that is not only subject to New Zealand law, but can also be held to account under New Zealand law.

To the extent that the FA Act creates significant barriers to the availability of a service via an entity or individual appropriately and effectively regulated in delivering services in New Zealand, there is an increasing likelihood that consumers will take risks to access such

services internationally, even where there is and can be little or no protection. Perhaps a case of greed or ignorance overtaking fear in some cases.

52. **How beneficial are the current arrangements for trans-Tasman mutual recognition of qualifications? Should further arrangements be considered?**
    Not beneficial at present

53. **In what ways do you expect new technologies will change the market for financial advice?**
    Every way that you can imagine, and then more. It is simply the reality that it is not practical to envisage all of the ways that new technologies will change any market, including financial advice.

    One obvious way, already evident, is the ability to offer advice services from remote locations, whether within New Zealand, or across international jurisdictions. The difficulties in being able to effectively regulate and prosecute offences are clearly evident. Yet, as noted above, if the local regulatory barriers are set at a level that restricts consumer access to local services, we should not be surprised to see consumers seeking services internationally, with or without an understanding of the risks of doing so.

54. **How can government keep pace with technological developments to ensure that quality standards for advice are maintained, without inhibiting innovation?**
    The only answer that we can suggest is that legislation and regulation remain principles based, as significant prescription will almost certainly provide loopholes or inhibit service or innovation. There also needs to be increase consumer activity awareness to detect and thereby avoid fraud or scam.

55. **Are the minimum ethical standards for AFAs appropriate and have they succeeded in fostering the ethical behaviour of AFAs?**
    We consider that the minimum ethical standards for AFAs are appropriate. In terms of whether the standards have succeeded, we simply note the small number of cases taken to the AFA Disciplinary Committee. If the disciplinary committee statistics correctly represent identification of unethical behaviour, it suggests that a very high proportion of AFAs were previously meeting the standards and have continued to do so, or that they now are.

56. **Should the same or similar ethical standards apply to all types of financial advisers?**
    To the extent that an AFA and another adviser that is not an Authorised Financial Adviser (being an RFA, QFEA or something else) is providing the same advice or service, we submit that the standards should be the same. Any other outcome will only leave consumers uncertain or confused about what is or should be happening.

57. **What is an appropriate minimum qualification level for AFAs?**
    The IFA's view is that there is strong support for a higher minimum qualification than the current L5 Certificate. There does not seem however to be a clear pathway after attaining L5.

    There is a new L6 on the horizon – there is a Diploma at L7 and the NZX has its own Diploma content.

We would like to make a comment around the Level 5 Certificate:
There is currently a block in that Skills.org have an assessment monopoly around Capstones B&C (new Financial Advice strand in NZ Certificate Level 5).
If someone gets a Graduate Diploma in Financial Planning they still have to go back and do Capstones B&C. There should be a dual qualification pathway acceptable to AFA status - an academic pathway with the degrees and diplomas and a vocational pathway with the Level 5 Certificate in Financial Services.

The current situation is reducing accessibility of financial advice to the public. It is drying up the pathway to CFP^CM and CLU as less people take the academic route.

It was noted there is no academic means to assess Set C so there does need to be an assessor but in some instances the educational providers could take on this role. Set B is academic and could be included in the diploma.

The key issue is to not have advisers "stall" on the minimum of Level 5 but further qualifications available at this stage are aspirational rather than required. We would suggest that membership of professional bodies are the best place to raise minimum standards and that is evident in our membership base with 75% of our AFA's holding a higher qualification than Level 5.

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?**
We believe that there should be minimum standards for anyone alluding to be an adviser, currently an AFA, RFA or QFE adviser.
All should have Level 5 Certificate.

59. **How much consideration should be given to aligning adviser qualifications with those applying in other countries, particularly Australia?**
We feel that over time this may well happen. There has been some serious moves over there around the investment financial planning advice area with many firms embarking on a compulsory requirement for advisers to increase their qualifications. The CFP designation is one that is firmly established not only in Australia but worldwide and is an internationally recognised pinnacle mark.

60. **How effective have professional bodies been at fostering professionalism among advisers?**
The IFA is confident that the Institute with strong member requirements in regards our Code of Ethics and Institute Bylaws and the pinnacle marks of CFP and CLU has professionalism at a high standard.

61. **Do you think that professional bodies should play a formal role in the regulation of financial advisers and if so, how?**
Definitely – Currently the professional bodies have been active with the regulators in playing a recommendation, suggestion type role and it is now time to move to the next step.

We have made comments on how advisers and professional bodies should be more represented on the Code Committee and it is now our view that all advisers should be required to be a member of a professional membership body.

Membership of a professional body brings important benefits, both to the individuals concerned and to the public interest.

Members are expected to place the values of their profession first. Consumers can draw comfort from the fact that they are properly qualified and continue to undertake training and that they are subject to the disciplines of their profession.

These last two points: training and discipline have effectively been taken over by the FMA to the detriment of the professional bodies. It needs to be returned so that we play a far more important role to galvanize the industry and promote the use of financial advisers and broker services in line with the pre-eminent clause in the FA Act.

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?**
Perhaps if a blend of New Zealand's current legislation and Australia's positon was considered it may look like the following

QFE's received a license to give information or class advice under FMCA, this enable their staff to complete sales, hold them accountable to the QFE and QFE to the FMA.

The FAA would hold advisers personally accountable to the FMA, enabling those specially listed on the register to conduct, information, class advice and then advice as to the suitability of product to satisfy an individual consumer need or achieve a goal or range of goals with competing issues. This would mean the FAA defines an adviser on providing suitability advice. This then gives the opportunity to define the competency requirements for advice based on the complexity of a product or a clients' situation rather than the type of product. For instance in a simple client situation may be insuring a house for fire damage, a complex situation may be insuring an individual for Professional Indemnity when they operate offshore and does not have trust or company structure, both are currently considered category 2 products at the moment with no competency assessment, which does not match the risk to the consumer if the advice is wrong.

Finally, irrespective of who carries out the compliance obligations, the individually authorised advisers should be the entity that is accountable for advice as the businesses they represent cannot give advice.

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 consider that the QFE structure is achieving its goals, but it may not be perceived as doing so. We therefore repeat some of the points made in answer to Questions 22 & 23.

"There does not seem to be strong recognition that QFEs are required to meet the same Code standards as AFAs, except to the extent that an "If not, why not" analysis has been completed to identify appropriate areas for relief".

Disclosure should be the same for all advisers. (Although QFE Advisers have to meet the same code standards they do not have to meet the same disclosure standards)

The evidence of confidence being undermined or lack of understanding is perhaps most obvious in critical comments, both public and private, made by advisers operating outside of QFE structures of the supposedly lesser obligations that QFEs and QFE advisers have to meet.

Transparency of QFE obligations might be enhanced if a document was publicly available outlining any relief granted to a QFE under the "If not, why not" analysis.

64. **Do you agree that the Register should seek to achieve the identified goals? If not, why not?**
    Agreed.

65. **What goals do you consider should be more or less important in reviewing the operation of the Register?**
    The register currently is visited rarely by the public and the current information does nothing in their likely search for an adviser
    We are of the opinion that the register is a very important tool and therefore it should contain much more information on an adviser. On the basis that it is agreed that the current RFA and AFA terms mean little to the public the register should be more focussed on providing sensible information.
    We would suggest that this register should contain required information of education, qualifications and membership of a professional body. Then the advisers competency or areas of specialisation could be listed eg, Life insurance adviser, Mortgage adviser, Investment adviser, financial planner, discretionary investment management etc.

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

67. **What goals do you consider should be more or less important in reviewing the dispute resolution regime?**
    ACCESS and AWARENESS first, as without these, confidence can't begin to develop. Note that we consider confidence can only be achieved when consumers feel that dispute resolution is delivering efficient and effective results, including prompt payment of any restitution. If restitution is awarded but not received, confidence can never be achieved.

68. **Does the FMA need any other tools to encourage compliance with financial service provider (FSP) registration? If so, what tools would be appropriate?**
    No submission comment.

69. **What changes, if any, to the minimum registration requirements should be considered?**
    Referencing question 75, we suggest that consideration be given to appropriate minimum registration requirements to mitigate the risks that a registered entity is unable to meet restitution or compensation payments that might arise in the event of an adverse ruling.

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

71. **Is the current framework for the approval of dispute resolution schemes appropriate? What changes, if any, should be considered?**
    No submission comment.

72. **Is the current framework for monitoring dispute resolution schemes adequate? What changes, if any, should be considered?**
    No submission comment.

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?**
    We believe so.

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 is hard to say without knowing how many claims are at the upper limit or have exceeded it. If it is regularly being exceeded then there would be logic to increase it.

75. **Should additional requirements to ensure that financial service providers are able to pay compensation to consumers be considered in New Zealand?**
    We understand the intent of the current legislation is to have the courts and disputes determine suitable compensation. We have not seen any evidence that this process has failed. However we believe that the biggest threat to consumer confidence in dispute resolution outcomes is a failure for restitution to be made.

    We believe the responsibility and capability to make restitution or pay compensation should lie with the individual or entity that is subject to some ruling to do so.

    We do not support structures involving industry levies or other industry based funds to provide restitution when an individual or entity is unable to meet its own obligations to pay restitution or compensation arising from a ruling.

76. **What features or information would make the Register more useful for consumers?**
    We repeat our answer to question 65 but would add this comment.

    The actual existence of the register needs to be more visible and promoted and perhaps should be a requirement to have this link as a matter of course on product provider websites, professional association websites, Disputes Resolution websites etc

    The register currently is visited rarely by the public and the current information does nothing in their likely search for an adviser

We are of the opinion that the register is a very important tool and therefore it should contain much more information on an adviser. On the basis that it is agreed that the current RFA and AFA terms mean little to the public the register should be more focussed on providing sensible information.

We would suggest that this register should contain required information of education, qualifications and membership of a professional body. Then the advisers competency or areas of specialisation could be listed eg, Life insurance adviser, Mortgage adviser, Investment adviser, financial planner, discretionary investment management etc.

77. **Would it be appropriate for the Register to include information on a financial adviser's qualifications or their disciplinary record?**
    We are in favour of the register including education and qualifications and also membership of a professional body.

    We also support inclusion of the disciplinary record in relation to adverse discipline outcomes arising directly from the regulatory regime, and those from a professional body.

78. **Do you consider misuse of the Register by offshore financial service providers is a significant risk to NZ's reputation as a well –regulated jurisdiction and/or to NZ businesses?**
    Yes, we consider it a risk and welcome the current legislative changes designed.

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**
    We understand that there is evidence that current awareness of availability of dispute resolution schemes is low suggesting the current regulatory settings are not adequate but we do not have any immediate suggestions to offer as to how this might be improved.

80. **What are the effects of (positive and negative) competition between dispute resolution schemes on effective dispute resolution?**
    No comment

81. **Are there ways to mitigate the issues identified without losing the benefits of a multiple scheme structure?**
    No comment

82. **Are the current regulatory settings adequate in raising awareness of available dispute resolution options? How could awareness be improved?**
    No comment

Assumptions

Hourly Rate of Adviser ($)	175
Average Cost of Independent AML/CFT Audit ($)	1,000

			Industry Wide -- Financial Advisers				Number of Clients in Adviser's Client Base		
		Per Adviser	*250*	*300*	*350*	*400*	*50*	*100*	*150*
ONE OFF Initial AML/CFT Set Up									
Initial CPD on AML/CFT (Hours)	10	$1,750	$437,500	$525,000	$612,500	$700,000	$ 35.00	$ 17.50	$ 11.67
Time Spent Developing RA (Hours)	8	$1,400	$350,000	$420,000	$490,000	$560,000	$ 28.00	$ 14.00	$ 9.33
Time Spent Developing CP (Hours)	16	$2,800	$700,000	$840,000	$980,000	$1,120,000	$ 56.00	$ 28.00	$ 18.67
		$5,950	**$1,487,500**	**$1,785,000**	**$2,082,500**	**$2,380,000**	**$ 119.00**	**$ 59.50**	**$ 39.67**
OnGoing Compliance									
Exception Handling, AML/CFT "Upstream" Requests from Other REs, ongoing CDD, etc. (Annual Hours)	12	$2,100	$525,000	$630,000	$735,000	$840,000	$42.00	$21.00	$14.00
OnGoing AML/CFT CPD (Annual Hours)	2	$350	$87,500	$105,000	$122,500	$140,000	$7.00	$3.50	$2.33
Annual AML/CFT Online Report (Q6.1 and 6.2)	8	$1,400	$350,000	$420,000	$490,000	$560,000	$28.00	$14.00	$9.33
		$3,850	**$962,500**	**$1,155,000**	**$1,347,500**	**$1,540,000**	**$77.00**	**$38.50**	**$25.67**
Bienniel Independent Audit									
RE Prep for Bienniel Audit (Total Hours)	2	$350	$87,500	$105,000	$122,500	$140,000	$7.00	$3.50	$2.33
Bienniel Audit Direct Time with Auditor, incl Debrief	1.5	$263	$65,625	$78,750	$91,875	$105,000	$5.25	$2.63	$1.75
Audit Fee		$1,000	$250,000	$300,000	$350,000	$400,000	$20.00	$10.00	$6.67
		$1,613	**$403,125**	**$483,750**	**$564,375**	**$645,000**	**$32.25**	**$16.13**	**$10.75**

The Institute of Financial Advisers is the professional body for some 700 members, representing financial advisers in New Zealand. All members are individual members, not corporate members. We estimate that our members provide advice to some 130,000 New Zealanders each year, many of whom would be couples rather than individuals, with an overall client base of around 400,000.

Our members provide advice to their clients in the areas of insurance, investments, financial planning, work-based savings and insurance, retirement planning, estate planning and financial services generally. Their professional practices reflect the broad spectrum of New Zealand businesses – they operate as local SME's, are part of large regional or national dealer groups, are associated with strong financial organisations, services companies in banking, funds management, or insurance, work in employee benefits organisations, or sometimes practice as lawyers, accountants and other professional advisers.

The Institute reinforces compliance with a code of ethics and practice standards, runs a Professional Conduct Committee and Disciplinary Tribunal that are independently chaired, offers education pathways that can lead to professional designations and the attainment of internationally recognised adviser marks, maintains and ensures compliance with a continuing professional development programme, and provides networking, education, development, and business practice forums at a national and regional level for members.

Contact information:

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