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## 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?**

Yes, agree.

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

Most important is - Financial advice is accessible for "ALL" consumers. Many consumers have and will continue to make bad financial decisions, because of the lack of financial advice due to being unaware of the professional service and its benefits, lack of suitably qualified adviser, or perceived or actual costs.

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

"financial advice as when a person makes a recommendation or gives an opinion in relation to acquiring or disposing of a financial product." Believe this is too narrow. " financial advice as when a person makes a recommendation or gives an opinion in relation to any financial decision" - this would include purchases, sales, borrowing, savings and investments. It must include credit, loans, hire purchase, mortgages, buying and selling vehicles and property, KiwiSaver, shares and other investments. It needs to cover where the normal person makes their major financial decisions in life and where getting it wrong has major consequences.

**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?**

Yes.

**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?**

Yes.

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

Yes.

**Q7: Does the current categorisation system accurately reflect the level of complexity and risk associated with financial products? If not, how could it be improved?**

No, the main focus is on investments. Inadequate Insurance or Mortgage advice can have a major impact on future wealth.

**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?**

A common term for all e.g. Professional Financial Adviser, with a specialization noted "Investments" will help promote the profession, and identify expertise.

**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?**

Yes - same as AFA.

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

*Respondent skipped this question*

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

AML should only apply to those who handle or transact money. e.g. banks, investment companies, etc. AFAs and others giving advice need to comply with providers requirements, and should not be required to duplicate and provide separate audits, returns, etc on the same clients. AML should follow the money trail.

**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?**

Yes. No.

**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?**

This is dangerous for both the client and adviser. The Adviser should only give advice, and the client make any decisions. If the client is away or incapable, then a person with POA can make the decisions. All investment products should appoint an independent person with POA.

**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?**

*Respondent skipped this question*

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

Yes.

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

Yes - enable them to be generic, not specific, and there is no need for a separate signature from the client. Acknowledge could be included with other documents signed when the advice is accepted prior to implementation.

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

Yes

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

Include AFAs!!

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

In theory!

**Q21: Should the jurisdiction of this Committee be expanded?**

Yes, to include QFE and RFA.

**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?**

Yes.

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

Yes - should align with AFA requirements.

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

No.

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

*Respondent skipped this question*

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

*Respondent skipped this question*

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

*Respondent skipped this question*

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

*Respondent skipped this question*

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

*Respondent skipped this question*

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

*Respondent skipped this question*

**Q31: Should any changes to these requirements be considered?**

*Respondent skipped this question*

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

*Respondent skipped this question*

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

*Respondent skipped this question*

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

Useful.

### **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.**

Either combine all under a single title or actively educate the public on the real differences between AFA, RFA, QFE and Brokers.

**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?**

They do not understand, but appreciate the difference when they receive service from an AFA.

**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?**

Yes - see proposed definition above.

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

Yes. The Churn and commission issues are created by providers and RFA / QFE advisers.

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

No.

**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?**

Yes.

**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.

**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?**

Put AFA, RFA and particularly QFE on the same level with qualifications and compliance costs. Currently unfair.

**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?**

*Respondent skipped this question*

**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?**

Needing to be, and the costs of compliance for an AFA (or QFE) is reducing access to qualified advisers on investments and KiwiSaver.

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

*Respondent skipped this question*

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

*Respondent skipped this question*

**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?**

See answer above - follow the money. AFAs comply with Providers requirements and do not transact money - why duplicate with needing AFA AML/CFT Programmes, Risk Assessments, Audits and Reports on the same clients. Stop all duplication, particularly if the money for an investment or deposit is coming from or going to a NZ based bank or financial institution.

**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?**

Banks are already identifying captured KiwiSaver maturity clients and offering their in many cases inappropriate products, sold by their QFE staff. Require the advice from an AFA before KiwiSaver balances can be withdrawn.

**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?**

Should increase demand for advice. No changes to regulations should be needed.

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

Yes, many clients work overseas, yet use NZ based financial services and products. This trend is increasing.

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

Under CER - desirable. Practically, it is difficult enough to keep up with local regulations, markets and products, let alone another country, although there are many similarities. I recommend to my Australian based clients, that they seek a local adviser for local investments.

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

People now do more research on websites prior to making decisions, or seeking advice. They will know more and expect more, for less.

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

Set the standards with sites like Sorted. Provide the best generic advice.

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

Yes.

**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?**

Level 5.

**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?**

Level 5.

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

Under CER - some. Learn from Australia's mistakes - do not follow them and decimate the industry further.

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

Should be more effective - if there was only one body!

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

No

**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, consumers are being captured and not given market competitive options. The QFE system should be abolished.

#### **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?**

All important.

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

Yes.

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

*Respondent skipped this question*

#### **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?**

*Respondent skipped this question*

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

*Respondent skipped this question*

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

Should apply to all.

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

Yes

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

Yes

**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?**

Hopefully.

**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?**

Yes, to \$1m, and include residential property.

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

Yes, financial service providers should have adequate arrangements in NZ, covering all potential compensation payments.

#### **PAGE 6: Key FSP Act questions for the review**

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

Experience - years in the business.

**Q77: Would it be appropriate for the Register to include information on a financial adviser's qualifications or their disciplinary record?**

Yes. Only relevant qualifications.

**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?**

Yes - as already demonstrated.

**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?**

Must be practicing in NZ.

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

Not known. So few claims.



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

Yes, a single govt appointed body, one set up by the Professional Body.

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

Yes. Advertising on FairGo.

**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:**

John Hyde

**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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