

Corporate Law  
Labour and Commercial Environment Group  
Ministry of Business, Innovation & Employment  
PO Box 3705  
Wellington  
New Zealand

14 July 2014

Dear Labour and Commercial Environment Group

This submission is made by Kepa Financial Services Ltd. We are a nationwide dealer group comprising 750 life insurance, mortgage and investment advisers. Kepa's strategic purpose is *'leading the way in adviser growth'*. We achieve this through deploying significant resource via 26 employees and contractors to provide professional development services to our members. Additional information on Kepa is available at [www.kepa.org.nz](http://www.kepa.org.nz).

## Executive Summary

### 1. Goals of regulation of financial advisers.

We agree with the stated goals for the regulation of financial advisers except that we do not believe the goals are explicit in fostering a highly competitive marketplace where consumers receive unbiased independent\* advice. The current regulatory environment is dominated by QFEs who, in the main, offer single supplier product solutions. Unless a greater focus is given to creating a competitive, independent\* market for financial advice there is a very real danger that the industry will return to the structures where QFEs use their financial resources and distribution advantages to reduce consumer consideration sets. If this trend continues to gain momentum consumers will be poorly served by regulation because a weakened independent\* market means consumers will have less choice.

(\*independent is defined as having access to a minimum of four supplier solutions with no more than 66% of the total business going to any one supplier).

Proposed change: explicitly include the development of a 'competitive' (not just efficient) market.

### 2. Different advisers status (AFA vs RFA)

The splitting of advisers into two separate groups (AFA and RFA), when regulation was first introduced, has served neither the consumer nor the adviser market well. Additionally the arbitrary delineation of category one and two products is simplistic: there are many category two products that are as, or more complex than some existing category one products.

Proposed change: require all advisers to become AFAs (i.e. remove the RFA status following a transition period) and complete level 5 qualifications.

### 3. QFE status

The introduction of QFE status was a late change to the regulations. It is a structure that has served large institutions particularly well because they have been able to avoid the higher costs of regulation that are imposed on AFAs and RFA. It is perplexing that large organisations such as banks (whom have the greatest capacity to pay the cost of regulation) are actually given a competitive advantage compared to other financial advisers. Of even more concern to the regulators should be the high proportion of overall consumer complaints coming from QFEs and the associated lack of transparency that is inherent with the current QFE structure.

Proposed change: review/revise QFE status so that all financial advisers providing advice are treated equally under regulation.

### 4. Do consumers understand the regulatory framework?

Multiple categories (AFA, RFA, QFE etc.), combined with exemptions (e.g. accountants and solicitors) along with four separate disputes resolution schemes (each with their own individual sets of rules) amounts to a very complex structure. Consequently it is hardly surprising that most consumers have a poor understanding of the regulatory framework. The framework needs to be simpler and then it needs to be properly promoted so that there is an increasing level of consumer awareness.

Proposed changes:

- Remove the distinction between RFAs and AFAs
- Remove the exemption for Accountants and solicitors
- Make disclosure requirements consistent for all financial advisers
- Establish a single disputes resolution scheme to simplify the process for consumers
- Promote the system to consumers so that they have a chance of understanding it.

### 5. Should commissions be restricted or banned?

While some product classes have had commissions restricted or banned in some jurisdictions (e.g. investments in Australia) this does require a higher level of financial literacy than currently exists in New Zealand. Additionally some product classes such as life insurance and domestic F&G are very poorly suited to fee based structures. U.K. experience showed that even the threat of removing commissions (which was rescinded at the last minute) resulted in over 20% of the adviser force leaving the industry.

Proposed changes: Conflicts of interest can be dealt with through effective disclosure rather than restrictions or a wholesale ban of commission. This MUST include a framework that allows for transparent and equitable comparisons between advisers (predominately those in institutions) that are remunerated on salary and commission/bonus (where providing financial advice is a core component of their role) and those that are commission based. A balance needs to be struck between maintaining or growing capacity to provide advice and solutions with a sustainable an transparent remuneration structure.

### 6. Do you think that professional bodies should play a formal role in the regulation of financial advisers?

The majority of the financial adviser based professional associations are strategically redundant in the regulatory environment. [REDACTED]

Proposed changes: Dealer groups should play a more formal role in the regulation of financial advisers because many already have the capacity and capability to support financial advisers. It would certainly be more feasible to achieve this aim through using the dealer group mechanism than the professional associations because in most product sectors the majority of RFA and AFA advisers already belong to a dealer group. In this aspect, New Zealand could follow Australia's lead by introducing a licensing model where financial advisers are required to belong to a licensee that is responsible for their regulatory compliance.

[REDACTED]

Kind regards

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Head of Training and Development