



#39

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

Q21: Should the jurisdiction of this Committee be expanded?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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.

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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)?

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Advances in technology (software and hardware) and social media platforms have changed how people consume information and how they make purchasing decisions. Customers expect to be able to engage with an organisation, conduct research, and undertake most activities online anytime, anywhere and on a device that is convenient for them. The digital advances have impacted customer expectations of financial advice and the channels through which it is provided. We consider that this will result in (or is already resulting in):

- Customers expecting to access personal financial advice through digital channels anytime and anywhere without delay.
- An expectation of more tailored offers. Customers expect on-line interactions to be tailored to them – so they expect providers to have and use their own and publicly available information to do this.
- An increasing demand for and provision of on-line tools to research options, to select products, and to tailor the products to the individual.
- An expectation that financial advice recommendations and product selections can be implemented through digital channels. These customer expectations apply regardless of product, and to simple tools – for example to KiwiSaver or insurance option selectors. Similarly, the potential risk that these tools will be regarded as personalised advice (and non-compliant with the current regime) applies from simple to more sophisticated tools, such as the algorithm based portfolio management services referred to in the Issues Paper. In addition, customers do not stick solely to one channel. Customers generally use multiple channels as part of their approach to researching and deciding which financial product meets their needs. For example, a customer might research on-line, call or visit a branch to discuss, go away to consider before processing an application on-line and ‘click to chat’ about any questions that arise in their application. In practice, it is difficult for organisations to track these customer interactions toward a decision – resulting in the customer potentially receiving different or multiple documents or disclosures. Some interactions may be generic, whilst others may be personalised, but cover only limited aspects of the product or decision. This movement between channels needs to be considered in adapting the regime to respond to customer behaviour and needs. Technology could be powerful in helping customers engage with their financial future and improve their financial literacy:
- Digital forecasting tools can provide customers with a view of their future and allow customers to see the possible consequences of their financial decisions (or of things that might impact them, such as accidents or a job loss). They can explore a number of scenarios and solutions in a low cost, unintimidating and accessible way which is less time intensive.
- An empowering experience through digital channels will make financial advice attractive and accessible to a wider audience - including to those who either can’t access it (due to cost or other factors), or who do not want to use the current face to face model (for example because of convenience or hesitation about understanding).
- Digital tools can enable the provision of financial advice to be scalable in New Zealand. This is critical against a back drop of ever increasing KiwiSaver balances that is already beginning to spark members into asking for guidance. We agree that technology can assist in educating customers and in facilitating accessibility of advice. The flip side is that if the regime does not move to facilitate use of new technologies, engagement may actually decrease, as younger customers may find traditional face to face and paper based channels too cumbersome, compared to their usual methods of communication. The restrictions of the current regime present a barrier to reaping the benefits that on-line tools and digital channels could provide and should be amended.

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

We agree that the current framing of the Act presents some barriers to new uses of technology. For example, the current position allows a firm to make a tool available to an AFA, RFA or QFE adviser, but potentially not to make the same (or similar) tool available to the end customer to self-serve. There is currently no clear guidance on the line between more sophisticated calculators or technology tools which may be regarded as personalised advice and the current relatively simple tools (which are regarded as class advice and permissible under the current regime). In addition, there is no guidance on how such personalised tools might be accommodated under the current Act. A work around for more sophisticated tools that provide personalised advice is to get an AFA, RFA or specific QFE adviser to approve them. This has the effect that one individual may be held accountable for advice to a large number of customers. One individual is unlikely to have the necessary skills to assess all aspects of the tool and the associated ongoing processes needed to take accountability. For example, this might require skills to:

- Assess the ‘advice’ given by the tool, reviewing any financial models or research behind the tool;
- Consider the robustness of the controls to ensure that the tool is not changed inadvertently, or without authorisation;
- Consider the usability of the tool for customers, including the language used. This single person accountability to customers or regulators inhibits the appetite to implement such tools and therefore the accessibility and benefits of such models. (Separately, where an adviser uses a tool in the course of advice to a client, we accept that the adviser must take care about the source and appropriate use of the tool and the reasonableness of its results.)

The current restriction that personalised advice only be provided by a person should be amended, so that entities can provide personalised advice. Supporting this we note:

- Entities are more likely to have access to the range of skills necessary to develop appropriate models (eg advice, IT, investment analysts, modelling).
- Entities can

apply approval processes for models or technologies using independent people and the necessary range of skills. They can apply appropriate checks and balances (eg compliance monitoring, or internal audit etc). • Provision of advice by entities through digital channels need not affect the existing accountability of individual advisers, but would be more realistic about when an individual can and should be accountable for in a technology-based model. • An entity-based approach: o fits more closely with customer behaviour, where a customer is likely to move between digital, phone and physical channels within an entity; o is more scalable to deliver lower cost accessible advice; and o is consistent with overseas regimes, such as Australia, UK, and US . • Advice by entities would align with related entity-based requirements in other Acts eg Consumer Guarantees and Fair Trading Acts. • For KiwiSaver particularly, the ratio of AFAs to KiwiSaver members (around 1:1,300) makes receiving personalised advice from an individual adviser impractical for most customers. Given the current modest number of AFAs, provision of advice by an entity is unlikely to threaten the market for AFAs, who would generally work with customers with larger amounts to invest. Instead, it will allow people who currently cannot afford or access personalised advice to get some form of tailored guidance. For example, for KiwiSaver this might affect younger customers or those with lower balances. Customers would still have the option to see an individual adviser, for example as their investment accumulates and/or they develop more complex needs. A technology-based model has the potential to deliver more consistent advice than a more subjective individual based one, albeit that it may limit the tailoring of advice. If more requirements are needed to permit digital advice models, we suggest that the Act includes only high level principles, and sets up a mechanism for the development of a Digital Advice Code. This would build on the successful model used for the Code of Professional Conduct for AFAs. This mechanism would: • Allow the requirements to be flexible and to be adapted more easily to industry developments as technology and customer expectations inevitably change; • Be industry led, allowing the involvement of people with a wide range of relevant backgrounds, including technology, customer and adviser representatives; • Allow ongoing alignment of digital and other advice codes, through involvement of common Committee members; • Possibly mirror the current safeguard of approval by the regulator and the Minister. Changing the Act to allow entity based financial advice would facilitate digital channels and the use of technological tools, and will provide a better outcome than holding an individual adviser accountable for such advice or not providing such advice at all.

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

Respondent skipped this question

Q56: Should the same or similar ethical standards apply to all types of financial advisers?

Respondent skipped this question

Q57: What is an appropriate minimum qualification level for AFAs?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

PAGE 6: Key FSP Act questions for the review

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

Respondent skipped this question

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

Respondent skipped this question

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?

Respondent skipped this question

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?

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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

Respondent skipped this question

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:

Kiwibank QFE Group, including GMI

Q84: Please provide your contact details:

18(d)

Q85: Are you providing this submission:

-
- On behalf of an organisation
 - **Please describe the nature and size of the organisation:** The Kiwibank QFE Group, includes Kiwibank (which had 880,000 customers at the end of December 2014) and GMI (which offers a tailored investment service and manages the investments for the Kiwi Wealth KiwiSaver Scheme).

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?

-
- >500

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:

-
- No