Summary of goals and key questions

Proposed goals	Key questions for feedback
Goal 1: Consumers have the information they need to find and choose a financial adviser.	Do consumers understand the regulatory framework? Should there be a clearer distinction between advice and sales? How should we regulate commissions and other conflicts of interest?

Regulation of Financial Advice

Goal 1: Consumers have the information they need to find and choose a financial adviser

Do consumers understand the regulatory framework?

NO they don't

They do not understand what the designations "Approved" and "Registered" mean. In fact I have heard that some consumers won't deal with advisers who are 'only approved', they want to deal with someone who is registered.

The terms were intended to delineate based on the complexity of the financial products. However, the split was, at best, fairly arbitrary and, at worst, just plain wrong.

We propose a fundamental re-think of the structure ***with the aim of providing total clarity for consumers.***

The restructuring is in 2 parts.

Part 1

Under the current structure, the consumer has absolutely no idea what areas of financial advice an adviser deals in. They may very well contact an adviser for advice on 'life insurance' only to find the adviser works only in investment.

However, if the whole field of "financial advice" is divided into specific disciplines, viz.

Life Risks Insurance – commonly referred to as life insurance
General Insurance – commonly referred to as fire & general
Investments
Mortgages
Property Investments might either be a separate designation or be a classification under Investment such as "Investment – property",

"Financial Advisers" would then be classified according to the area/areas they work in, e.g.;

Investment adviser
Life insurance adviser
Investment and Mortgage adviser etc

This is not necessarily a fully comprehensive list. For example there might be an area for Estate Planning.

This would then make it very clear to the consumer what areas the 'adviser' works in and is competent in (see Part 2).

Part 2

Create **two (**2) totally distinct designations; Adviser and Product Marketer. The distinction needs to be totally clear as would be the case if the following requirements to be an adviser were enforced.

Adviser
Requirements to be classified as an Adviser would be;

1. Totally unrestricted in choosing the companies they place business with. Among other things, this would exclude anyone who;
   I. Is required to put a level of their business with any one company, whether this is by way of an amount or a percentage.
   II. Has only a select number of companies they can place business with.
2. Always put, and be seen to put, the client's interests first. On the basis of "being seen to", this would exclude anyone who;
   I. Is in an employee relationship with a provider of financial products.
3. Personally responsible for the advice they give.
4. Meet prescribed levels of education/competence in the specific discipline(s) they are accredited for. On this point
   I. We believe the current Certificate (Level 5) is unsuitable for this and needs to be replaced appropriate qualifications designed for each specific discipline with commonality in some areas such as the current Standard Set B paper.
   II. Level 5 qualification should be seen as a base-entry point. Higher levels of education/competency would be appropriate but all advisers who do not currently have these must be given a reasonable time to acquire them at a reasonable cost.
   III. As insurance products change on a regular basis, I believe it would be appropriate for all Insurance Advisers to be accredited in the product range of any provider they claim to be able to write business for. This accreditation would need to be renewed at least annually.
5. Meet prescribed levels of ongoing Professional Development specific to the discipline(s) they are accredited for.
6. Provide full disclosure along the lines currently required for AFAs.
7. Belong to an approved Resolution Disputes Scheme.
8. Pay an annual Licence fee & be individually monitored by the FMA.

Under this structure, the adviser would then be referred to as "Licenced" or "Registered"

Product Marketer
This would refer to anyone else either selling product or offering "advice" who does not meet these above requirements. This would include all bank and insurance staff.
Product Marketers would be required to:

1. Advise the client if a level or percentage of their business must be written through any particular company and, if so, what that level or percentage is.
2. Ask the client if the financial product they sell is replacing existing business and, if so, state quite clearly that the product they are selling or recommending may not be as appropriate for the client's needs as the one being replaced.
3. Be suitably trained for the role. If they are an employee or part of an entity currently called a QFE, it is the responsibility of that organisation to ensure they are properly trained and follow all requirements. Failure of a Product Marketer to comply should bring sanctions

against the organisation as a whole from requiring immediate retraining of staff to cancellation of the 'licence' for the organisation.
4. Advise the client the name of the entity responsible for their training and ensuring they comply and their dispute resolution procedures.

Qualifying Financial Entity
As the term Qualifying Financial Entity is not understood by consumers and anyone within an existing QFE would not have the designation of Adviser, the term can be removed.

Should there be a clearer distinction between advice and sales?

With the structure outlined above, the distinction between advice and sales is self-evident – only Advisers can advise, Product Marketers sell

How should we regulate commissions and other conflicts of interest?

While it can be considered that any form of commission creates a conflict of interest, full disclosure under the adviser's Disclosure Statement makes the client fully aware of the facts and they can base their decisions with this in mind.

In our opinion, banning commissions in favour of fee-based remuneration is really ***relevant to investment only*** where commission paid, especially an annual commission based either on contribution or fund balance, directly impacts on the net investment return to the client.

Therefore, we see that different rules could apply between investment products and risk products

Considering risk insurance, in general terms, New Zealanders are underinsured. Banning commissions would make the profession untenable for many current advisers which would only make this worse. There is very little appetite by consumers to pay a fee for service and, quite frankly, any fee your standard "mum & dad" might be willing to pay would likely be too small for an adviser to run a viable business. How would these consumers feel about paying a fee which results in advice they don't take up?

An ultimate goal might be to replace current up-front commission models with renewal models. In fact many established life risk advisers operate solely on a renewal commission basis.

However, making this model mandatory for all advisers would make it very difficult to recruit new people into the profession as they would start with no income but some expenses to get Licenced etc then be earning insufficient to make a viable business.

What is probably ***not understood*** by those not directly involved in the profession is the amount of time per case involved in getting an insurance plan implemented – including the time involved with potential clients who ultimately don't proceed.

Is the Towbridge Report relevant in New Zealand?

Let's make it quite clear, the situations in Australia and New Zealand are very different.
In Australia;

- An entity holds a licence to carry out financial services
- Individual advisers come under the umbrella of the licensee
- All commissions are paid to the licensee who then determines any split of those commissions between the adviser and the licensee.
- The licensee can receive a bonus from the supplier based on the volume of business.
- Australia's regulatory regime was far more draconian than New Zealand's.
- Australia has a higher rate of replacement business than New Zealand.

- Australia has a 1-year claw-back of commissions. I.e., once the contract has been in force 12 months, the adviser can rewrite the business with another insurer and there is no write-back of the commissions paid to the licensee.

In New Zealand;

- Individual advisers are 'licenced' to carry out financial services, with the exception of QFEs.
- Commission is, generally, paid directly to the adviser.
- We have a lower level of replacement business than Australia
- Generally, there is a write-back period of at least 2 years.

If we are really concerned with "churn" then, perhaps we should be looking more closely at;

- Insurance companies who offer over-the-top levels of commission, sometimes for a limited time and often with very 'generous' take-over terms. We know of companies who have offered to take over entire sections of business from some advisers just on the signing of a new direct debit in favour of their company.
- Advisers whose method of operation indicates, quite clearly, the regular movement of clients from one company to another once the write-back period has expired.

If these were cracked down on with examples being made of offenders we would see real cases of "churn" minimised with replacement being in line with the intentions of the Act; "in the client's best interest".

Demographics

*** 83. Please provide your name and/or the name of the group of people, business, or organisation you are providing this submission on behalf of:**

Michael White Financial Services Limited

*** 84. Please provide your contact details:**

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