



NZX Submission

In response to Issues Paper for Review of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008

22 July 2015



1. Do you agree that financial adviser regulation should seek to achieve the identified goals? If not, why not?

NZX agrees that the identified goals are broadly appropriate but considers that the review should particularly focus on the second goal of promoting accessibility of financial advice given that this is a constraint under the current regime.

Promoting broader access to appropriate advice will encourage greater participation in New Zealand's capital markets. This has the potential to lead to better financial outcomes for New Zealanders and to support businesses in New Zealand which require capital to grow. This in turn would support the Government's broader Business Growth Agenda.

It is important that the regime provides appropriate consumer protections to promote confidence in the financial adviser regime but the right balance needs to be struck to ensure that consumers are able to access the advice they require. On that basis, another important aim of the review should be to seek consumer focused outcomes which permit a broad range of financial advice to be provided to consumers. It will also be important to have a regime which accommodates market developments and therefore accommodate developing models of financial advice, such as online automated investment advice (aka 'robo advice'). We think this is particularly important given the general trend for people to do more 'online'.

NZX considers that the current review presents an opportunity to carry out a comprehensive review of the existing legislation in order to seek significant improvements and to achieve the desired goals of the review.

We consider the following factors within the current regime are currently limiting access to financial advice:

- It is too complex for consumers to understand
- The regime is not focused on consumer outcomes
- There are only limited numbers of advisers who are able to provide full personalised advice (i.e. AFAs), meaning most 'advice' is in the nature of sales information
- The regime should have an open architecture i.e. accommodating a full spectrum of information and advice, including specialist advice and robo advice
- There may be increased scope to regulate entities in order to reduce the compliance burden on individuals. Need to consider whether it is possible to reduce the compliance burden in other areas

We expand on some of these points, and the other questions highlighted under the discussion of goals within the Ministry of Business, Innovation & Employment's (MBIE) Issues Paper (Issues Paper), below:

Complexity

In our view, consumers are unlikely to understand the existing regulatory framework given its complexity. This is particularly so in relation to the different categories of advisers and the limitations on the advice which can be provided by each category of adviser (including the distinctions in product categories).

We note that there is also complexity in relation to the different approach to regulation of different advisers, with entities regulated in some cases (QFEs) and individuals (AFAs) in others. There are also different criteria for achieving the separate statuses of advisers and it is unlikely that consumers will have a good awareness of the levels of qualifications and expertise applying to the different categories of advisers.

We understand that financial advisers also struggle with the complexity of the current regime and that this leads to increased compliance costs. Steps need to be taken to reduce this complexity and to remove unnecessary compliance requirements. We consider this would be more easily achieved via a fundamental review of the regime.

Consumer focused outcomes

NZX agrees that the regime should focus on consumer driven outcomes. We consider that a key principle in relation to achieving this will be to ensure that suitable/appropriate advice is provided to a consumer in the circumstances and that disclosure is provided to consumers to explain why this is the case e.g. illustrative returns/costs, including comparisons with alternative options. Clearly the regime needs to strike the right balance because excessive disclosure has the potential to act as a disincentive to seeking financial advice.

Provided of course that an adviser has the necessary expertise, consumers should be able to determine the type of advice they wish to receive, including limiting the terms of any advice they wish to receive, provided these limitations are clearly understood and disclosed. In other words, appropriate qualified financial advisers should be able to rely on their own expertise and judgement to meet a consumer's needs.

Advice v sales information

We consider that the regime could draw a clearer distinction between the provision of sales information and financial advice, particularly to ensure that consumers are aware when they might only be receiving information in the nature of sales information.

The Financial Markets Authority's (FMA) 'Authorised Financial Advisers in NZ snapshot of the industry from AFA information returns 1 July 2013 – 30 June 2014'¹ highlights that there are currently very limited numbers of Authorised Financial Advisers (AFAs) in New Zealand – approximately 1900, and in our estimates it may be less than 1000 who are actively providing personalised financial advice. This contrasts with the large number of non AFAs working within Qualifying Financial Entities (QFEs) (approximately 23,000)² and Registered Financial Advisers (RFAs) (approximately 6,200)³. RFAs and advisers working within QFEs are only able to provide advice on a limited range of products⁴, and will only

¹ <http://www.fma.govt.nz/assets/Reports/150423-Authorised-Financial-Advisers-in-NZ.pdf>

² MBIE Issues Paper, paragraph 40

³ MBIE Issues Paper, paragraph 35

⁴ Noting the grid outlined on page 23 of the MBIE Issues Paper

have the expertise and financial incentives to do so. Therefore these services might be better viewed as the provision of sales information.

While the provision of sales information will often meet consumer needs, this will not always be the case, so there is a question of whether there are sufficient numbers of advisers who are able to offer full service advice (personalised financial advice) or advice based on whatever a consumer's interests or demands might be. A crude analysis of the numbers would suggest that each AFA would need to have more than 2,100 clients in order for all New Zealanders to be serviced (we acknowledge that there will be people too young to require such services), noting also that many high net worth individuals will likely use a number of different financial advisers.

Given the restricted nature of the information which can be provided by non-AFAs it may be inaccurate to describe this information as 'financial advice' as a consumer would generally understand that term. We consider that most consumers would generally expect such term to mean that an adviser could provide 'personalised financial advice' rather than just information or advice on a limited product range. The restricted nature of the information provided in these circumstances needs to be clear to consumers. In addition, the incentives for the providers of this information will not always align with the consumer's best interests.

We consider that it will be important to address what appears to be a significant structural issue with the current regime to ensure that consumers receive advice which is suitable for them. The number of QFE advisers and RFAs suggests that consumers will generally be receiving advice on the same limited product ranges (i.e. category 2 products and only a limited range of category 1 products (those of the QFE entity)). A fundamental component of the Government's Business Growth Agenda is to ensure that capital gets to the right areas of the market, including small to medium sized businesses. This is far less likely to be achieved given the constraints noted above.

Qualification and accreditation regime

NZX considers that an option to improve the professional, ethical and education standards for financial advisers would be for a professional body to have a greater role in overseeing the current regime. This has the potential to lead to greater empowerment for the industry and is a model which works effectively in other professions, such as legal, medical and accountancy professions. It is likely that membership of such a body would be seen as valuable to the industry.

There appear to be very minimal qualification and accreditation criteria for RFA's or for advisers within QFEs. There is probably a need to reduce the gap between these requirements and the requirements to become an AFA. However, we are also aware of feedback indicating that the qualification requirements for AFAs are relatively low.

Open architecture

In order to ensure consumer focused outcomes, the financial advice legislation needs to facilitate access to a broad range of advice. This includes different models of financial advice, in particular online automated investment advice (robo advice), which is discussed further below. As noted above, we consider that there will be increasing demand for robo advice given the trend internationally of increased demand for this type of advice and the general trend for consumers to seek to do more online. There are likely to be different definitions of 'robo advice' but we understand the key features are as follows:

- It deals with the financial situation of a client
- It uses online questionnaires to obtain client information

- It uses algorithms to devise recommendations based on answers given on questionnaires
- It provides online reporting with little or no human interaction as a routine part of these activities

We consider that the current review should be proactive in meeting the likely demand for this model of advice. Our research indicates that there are at least 45 robo advisers operating within the markets of USA, Canada, EU, Australia and Asia.⁵ We note also a separate survey conducted by Midwinter Financial Services Pty Ltd, an Australian based provider of financial planning technology, which notes the increasing awareness of this model of advice amongst financial advisers in Australia and highlights that this model of advice presents an opportunity for its industry – 68% of the 288 participants surveyed noted that robo advice presents an opportunity for their business.⁶ Some other interesting statistics from this survey:

- 79% of advisers are familiar with the concept of robo advice
- 48% of advisers believe Gen Y (early 1980s – early 2000s) is most suited to robo advice, followed closely by gen Z (mid 2000s – present day)
- 52% consider that ASIC should regulate robo advice in some form
- 30% indicated that it was important to tell clients about the technology and 52% suggested they would let clients know the option existed
- 37% believed that robo advice would increase the demand for advice from advisers

The regime should also accommodate specialist advice. Many consumers will only require advice in small parcels about specific areas of their financial situation at a particular time, rather than wanting or requiring full financial planning advice. This is especially true for small and mid-sized businesses (including farmers) who are typically provided with information or advice through retail channels. The regulatory regime needs to be able to accommodate the provision of such advice in order to meet consumer demand. This requires advisers who are able to specialise in a particular area and focus on advising on a single area of expertise e.g. derivatives.

Conflicted remuneration

The issue of conflicted remuneration is a challenging area (and we note the trends internationally) but given the fundamental role these arrangements play at all levels of the current regime care needs to be taken when considering the appropriate policy response. It will be important to ensure that any regulatory response does not lead to unnecessary limitations on the availability of financial advice to consumers. Therefore disclosure may remain an appropriate solution in the short term.

Regulation of entities or individuals

The current regime takes a mixed approach to regulation of financial advisers by regulating individuals in some cases and entities in others. Consideration should be given to whether there is more scope to regulate entities in the first instance at all levels of the regime, as is

⁵ Report titled, 'Automated Investment Advisers Global Market Review 2015,' prepared on behalf of FinDigital Pty Ltd and Ignition Wealth Pty Limited

⁶ <http://www.midwinter.com.au/midwinters-robo-advice-survey-results/>

the case currently for QFEs. Individual advisers (e.g. AFAs) working within regulated entities should be able to benefit from the framework of that regulated entity i.e. the systems, controls and processes that the employing entity has in place. An increased focus on the regulation of entities as opposed to individuals has the potential to reduce the compliance burden for individuals whilst still ensuring appropriate monitoring and supervision measures are in place and continuing to provide for appropriate liability provisions.

We support a principles based approach to regulation to ensure that any regime remains flexible in its application and to allow for the use of soft tools such as FMA guidance, which we think have the potential to deliver significant value in supporting legislation if deployed effectively.

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

As above, we think the current regime has introduced some important consumer protections. However, it is important to strike the right balance to ensure that accessibility of financial advice is not unduly hindered. On that basis, NZX considers that an important focus of the current review should be to ensure that financial advice is accessible for consumers.

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

We understand the reasons for the current definition of 'financial advice' (page 22 of the Issues Paper) but consider that it may not adequately distinguish between the provision of financial advice and sales information. The strict definition is unlikely to align with consumer expectations of what constitutes 'advice'.

It might be possible to distinguish between the relevance of this definition for the purpose of seeking to regulate the industry and from a consumer facing perspective.

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 consider that a distinction between wholesale and retail clients is appropriate. However, we are aware that concerns have been raised in relation to different definitions of these terms within legislation.

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?

We consider that such a distinction is appropriate and that it will be important to take a different approach to regulation of different models of advice. We consider that 'personalised financial advice' is most likely to align with consumer expectations of what constitutes 'financial advice'.

We are not in a position to comment on the effectiveness of this distinction currently.

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

We agree that a risk based approach to regulation is appropriate but query whether this is effectively achieved via the existing product category distinctions. There will likely be a number of factors which determine the riskiness of a potential financial product or investment option for a consumer, most notably their particular financial circumstances and the proposed amount of the investment/expenditure relative to their overall financial resources.

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?

As above, not necessarily, this will depend on a number of variables and we do not consider that this assessment can be made on the basis of the type of product alone. This may be leading to a bias against certain asset classes.

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?

We would be surprised if consumers fully understood the distinctions between the different categories of advisers. We consider that the term Registered Financial Adviser probably gives an impression of more formality than is warranted because it seems relatively easy to achieve this status i.e. simply register on the Financial Service Providers Register.

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

No comment

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

No comment

11. Are there any particular issues with the regulation of RFA entities that we should consider?

No comment

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

No comment

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?

No comment

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?

No comment

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?

No comment

16. Are the current disclosure requirements for Authorised Financial Advisers (AFAs) adequate and useful for consumers?

Whilst this information seems to make sense at face value, there is probably a question mark over whether consumers value all of the disclosure they receive.

As an aside, assuming the relevant AFA has the necessary expertise in the circumstances, AFAs should have the ability to qualify the nature of their advice in order to provide the advice sought by a consumer, including 'limited personalised advice'.

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

No comment

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

No comment

19. Should any changes to the role or composition of the Code Committee be considered?

No comment

20. Is the Financial Advisers Disciplinary Committee an effective mechanism to discipline misconduct against AFAs?

No comment

21. Should the jurisdiction of this Committee be expanded?

No comment

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?

We consider that there is probably only a limited understanding of the QFE regime by consumers. In particular, it may be unclear to consumers that they can only receive limited advice from a QFE adviser as opposed to a full personalised service. In particular, we query whether it will be clear to consumers that they can only receive information in relation to the (category 1) products of that particular QFE. Greater distinction needs to be made between

the provision of product sales information (i.e. information in relation to the product set of a particular QFE, for example) and financial advice.

23. Should any changes be considered to promote transparency of QFE obligations?

As above

24. Are the current disclosure requirements for QFE advisers adequate and useful for consumers?

No comment

25. Should any changes be considered to improve the relevance of these documents to consumers or to reduce the costs of producing them?

No comment

26. How well understood are the broker requirements in the FA Act? How could understanding be improved?

NZX notes that it is currently engaging with the Securities Industry Association in relation to an application for an exemption from s 77P(1A) of the Financial Advisers Act 2008 for the purpose of considering the impact on NZX's own rules (e.g. NZX's Participant Rules).

Otherwise - no comment.

27. Are these requirements necessary and/or adequate to protect client assets? If not, why not?

No comment

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

No comment

29. What would be the costs and benefits of applying the broker requirements in the FA Act to insurance intermediaries?

No comment

30. Are the requirements on custodians effective in reducing the risk of client losses due to misappropriation or mismanagement?

No comment

31. Should any changes to these requirements be considered?

No comment

32. Is the scope of the FA Act exemptions appropriate? What changes should be considered and why?

Please note response to question 26 above



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

No comment

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

We consider that guidance is a useful tool and should be encouraged, particularly where supplementing principles based regulation.

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.

Key areas of complexity are as follows:

The different categories of advisers - as above, these could potentially distinguish more clearly between providers of sales information and financial advice.

The existing distinctions between the different types of advice and product categories may not be understood. Consumers are unlikely to understand that the information they can receive from certain 'advisers' is very limited in nature (e.g. limited to a single product set).

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 consider that this is a key issue with the current regime and that there is unlikely to be a good understanding of this point. The limitations in relation to the nature of advice (and the ability to provide advice beyond certain parameters, such as a single product set) need to be much clearer.

Ideally any limitations in relation to the nature of advice provided in a particular situation should be driven by the consumer, assuming in the first place that the relevant adviser has the expertise to provide advice on the matters the consumer has approached them for.

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?

Yes. We think there are important distinctions between these types of services and that it is appropriate to regulate each differently. As noted above, there is an argument to suggest that the provision of information-only or sales services is not actually 'financial advice' and should therefore fall outside this definition. This would result in only personalised financial advice being recognised as 'financial advice.'

We consider that this is an important issue to address with the current regime.

If the definition of financial advice was amended to reflect that only personalised financial advice was considered 'financial advice' consumers would be very clear that if they wanted personalised financial advice on a category 1 product they would need to talk to a "financial adviser". As suggested in responses above, any provider who was only able to offer limited

scope 'advice/information' (for example, limited to only one provider's products) would need to make sure this restriction was understood by the consumer.

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

We consider that this is a difficult area and that commissions are not just relevant in an AFA context. The AFA disclosure requirements seem appropriate, provided consumers actually review and understand the disclosure.

Disclosure should be based on the terms and nature of the advice sought by the consumer. We think it is also important that advisers should disclose in a clear, concise and effective manner the reasons why the advice provided to the consumer is suitable/appropriate for their needs – for example, disclosure of the likely costs and returns with reference to the available alternatives.

However, the use of commissions are a fundamental part of existing structures so any move to prohibit such arrangements would need to be carefully considered so as not to adversely impact accessibility of advice. On that basis disclosure may remain a better solution in the short term.

We consider that this issue is also relevant in the QFE and RFA context.

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

No comment

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?

Yes – as above, this issue is relevant for all providers of financial advice, information-only and sales services. It will be just as important for consumers in these other contexts to understand the nature of any commission arrangements or other conflicts of interests.

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 note our response to question 38 above

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)?

There appear to be supply constraints in relation personalised financial advice and specialist advice. The regime also needs to accommodate developing models of advice, such as automated online advice (or robo advice).

43. What changes could be made to increase the levels of competition between advisers?

We note our response to question 1 above.

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 consider that more could be done to facilitate the provision of specialist advice or single product advice. Our sense is that the right balance has not been struck in terms of facilitating this and that this is likely to be a key area of demand from consumers.

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?

As above, this seems to be a particular issue in the context of services provided by QFEs and RFAs. The current overall numbers within each of these categories would indicate that the majority of consumers are being provided sales related services.

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

We understand that the regime currently requires a significant amount of disclosure to be made to consumers in order to comply with the FA Act. However, consumers will only be able to digest so much disclosure and therefore an appropriate balance needs to be struck in order to ensure that the disclosure which is provided is clear, concise and effective. Similarly, if compliance costs are too high in terms of maintaining client files and meeting minimum compliance requirements, advisers will choose not to offer certain services because it will be uneconomic to do so. We would suggest that given the declining numbers of AFAs that this already appears to be happening.

47. How can regulatory requirements be made less onerous without reducing the quality and availability of financial advice?

Consider whether all of the existing disclosure requirements are necessary. Consider an alternative approach to regulation, including greater scope for regulation of entities (where applicable) as opposed to individuals, whilst still ensuring the same level of consumer protections.

48. What impact has the AntiMoney Laundering and Countering Finance of Terrorism Act had on compliance costs for advisers? How could these costs be minimised?

No comment

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 expect this will lead to an increased demand for financial advice.

The regime needs to facilitate greater access to financial advice, including new models of advice, such as robo advice, as well as easier access to specialist advice or single product advice.

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?

No comment

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 we think this is likely to increase. There is also the potential for international providers of robo advice to seek to offer services into New Zealand.

52. How beneficial are the current arrangements for transTasman mutual recognition of qualifications? Should further arrangements be considered?

No comment

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

We expect this will have a significant impact on the market for financial advice. We note that these are already gaining traction overseas and we expect that this will have a greater role to play in New Zealand in future (as per our response to question 1 above). We consider that the regime needs to be “future proofed” and therefore able to meet the likely demand for this model of advice.

Although there will need to be careful controls in relation to the provision of this type of advice it has the potential to facilitate broader access to financial advice in a cost effective manner. There is a general trend for consumers to seek to do more online and it is likely that this will simply continue in future. Given that there are already a number of providers of automated online advice overseas it seems likely that this will also become prevalent in New Zealand (either by New Zealand based providers or existing operators overseas) and therefore the appropriate policy response is to seek to put some measures in place now to facilitate its use in a regulated manner.

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

Have a regime which permits the use of new technologies and methods of providing advice. We need to embrace it.

Principles based approach to regulation allows greater flexibility in application. New Zealand should take advantage of its small size which should ideally allow it to be nimble in responding to new market developments relative to other international jurisdictions.

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

No comment

56. Should the same or similar ethical standards apply to all types of financial advisers?



Yes similar ethical standards should apply.

57. What is an appropriate minimum qualification level for AFAs?

These should be set by the industry. The feedback we have received suggests the qualification and accreditation requirements for AFAs are too low, if anything. Steps need to be taken to address the existing supply constraints in this area.

The regime should also facilitate access to (and supply of) specialist advice.

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?

Yes, logically RFAs should be required to meet a minimum qualification relevant to the area they specialise in. This would be consistent with the approach applied to AFAs. There currently appears to be a big gap between the requirements of RFAs and AFAs and this would be a step to reduce that gap.

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

No comment

60. How effective have professional bodies been at fostering professionalism among advisers?

We consider that there could be a greater role for professional bodies to play, similar to other professions.

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

We consider that this is an option worth closely considering. This is the approach taken with other professions (e.g. medical, accountancy and legal) and has the potential to reduce the burden on the regulator (FMA) and to further empower the industry. A strong professional body (or bodies) that had a role to play in regulation of the industry would make membership of that body desirable. On the other hand, a requirement to be licensed (for example) might be viewed simply as a compliance obligation.

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?

There is greater scope for the regulation of entities, which has the potential to reduce the compliance burden on the industry. For example, AFAs who are employed by a regulated entity should be able to benefit from the systems, controls and processes of that entity. There will often be a high degree of reputational risk for an entity employing AFAs such that the systems and controls in place will be very strong. In cases where they are not, appropriate action can be taken against the entity.

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 regime appears to be facilitating the provision of limited types of information, in particular product sales information. The regulation of entities in this context potentially results in disparity of treatment with other parts of the regime where individuals are regulated but are also employed by corporate entities.

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

Although the goals appear valid we would be interested to understand whether the FSP register is serving the purpose of acting as a useful source of information for the public (consumers) when making decisions about financial services e.g. selecting a financial adviser. It seems unlikely the public would be using the register in this manner.

We can see the benefits the register is able to provide in relation to regulation of financial service providers.

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

We think the register will remain useful in relation to regulating financial service providers (even if it is not used as a tool by the public for making informed decisions about financial services) but that to do so it will need to contain accurate information.

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

We think these goals are valid and that dispute resolution schemes provide an important consumer protection.

67. What goals do you consider should be more or less important in reviewing the dispute resolution regime?

These goals appear to be equally important but we query whether the register is currently useful in terms of helping the public make informed decisions.

68. Does the FMA need any other tools to encourage compliance with financial service provider (FSP) registration? If so, what tools would be appropriate?

There should be some controls in place to pro-actively check the accuracy of the details on the FSP register and to be able to take steps against a party where these details are shown to be inaccurate or misleading (including deregistration).

69. What changes, if any, to the minimum registration requirements should be considered?

No comment.

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

This seems appropriate.

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

No comment

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

No 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?

No comment

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?

No comment

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

No comment

76. What features or information would make the Register more useful for consumers?

We query whether it is realistic for the register in its current form to be effective and useful for consumers. In its current form it seems more useful as a regulatory tool.

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

Yes

78. 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?

We note there has been speculation on this issue recently and we understand that FMA has taken action to remove registration details in some cases. We consider that misuse is an issue and that this needs to be controlled if the register is to be effective. It will not be used if its details are unreliable.



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?

No comment

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

