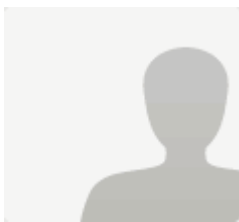


#30



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, the three goals are sensible.

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

Access to advice is critical. Pathways need to be clear and accessible for all consumers. The regulatory response has to be measured and reflective of the potential risks and benefits to consumers - and balanced against the risks and costs to advisers and suppliers of providing products and services.

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?

It is okay. If all participants follow the spirit of the code, then the distinction is fine.

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?

It is clumsy and mis-understood. Consumers don't understand it and not do they appreciate the differences. It needs to be clear and succinct for all parties - and in particular the consumer. This not to say that a class service is not useful - particularly if the consumer or clients wants to limit the information that they provide you. The code should apply across all spheres of advice - and remain principles based. If you are following and upholding the code, then business practices will change to reflect a principled basis, rather than a way to limit information or relevance.

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

Yes. Absolutely. I agree with the submissions provided by the PAA and SHARE on this matter.

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?

Competence should be key. The risk of a person being underinsured, or not insured at all, and becoming disabled at a young age, has a far more significant long term financial implication than whether they should be in a balance fund, or a growth fund for KiwiSaver. And yet, one is category 2, and the other is category 1. Or, a complex business structure which requires key person cover and shareholder protection will require greater competence than a person borrowing \$200,000 and seeking to protect themselves through life insurance. Cat 1 and 2 is far too blunt an instrument. Competence from advisers in these areas is key. And nor should there be a carve out for QFE advisers.

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?

No. But I think too much focus and energy has gone into this area. Key again is competence - not whether they are an AFA, or a RFA, or indeed a person who is part of a QFE. And suitable disclosure of what restrictions there are on the service, products, or advice being given.

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

These ought to be determined by the Code of Conduct. This should be defined in the FAA Act. It would make life easier for all participants - and make things simpler for the client/consumer.

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

Yes. There needs to be consistency for all parties - not just AFA or RFA. Otherwise, suppliers/institutions (as well as other participants) will find a method of circumventing the spirit of the code.

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

Consistency. And if there is to be change (which clearly there is a move toward this), then an implementation phase that is not over onerous or restrictive on participants. RFA's do great work - it's important the apparent risks of the differences are not overly stated when the timeframe for change is worked on.

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

The cost of establishing the ABS was time, energy and effort. Whilst it was for a regulatory purpose, it has proven itself to be useful internal planning tool! I think to maintain them is not too onerous now - though perhaps given the AFA returns that are now done annually, I think that the focus should be more on these, than the ABS.

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?

No. I support the PAA submission.

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?

For the type of business i operate, I support the new DIMS regs.

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?

No comment.

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

Clients over tired of continuous disclosure, but accept it due to the relationship that they have with me. They understand the importance of it - though as I have said to FAA and MBIE, there is a degree of disclosure fatigue from clients. Streamlining of this, and more emphasis on the Code, would be helpful. Clients appreciate that they are aware of processes designed to mitigate conflict of interest, and are aware of how I am remunerated.

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

Yes. Happy to assist and to work through some practicalities.

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

The Code is under-rated - and I think the principle of it are very very important. It would be good for more emphasis to be placed on this.

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

The composition has been somewhat top heavy with institutions - and I'd like there to be a broader representation there. And perhaps some emphasis on advice areas too. And perhaps the Code could move a little more sideways from the FMA, who provides secretariat services to the Code Committee - particularly if the Code is given more prominence.

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

Thankfully it has been under-utilised - which should be celebrated!

Q21: Should the jurisdiction of this Committee be expanded?

Only if the risk to the consumers warrant it. And to be careful that we don't have multiple layers of policing - for a price that will be borne by consumers, advisers and the institutions. Simplicity is sensible.

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?

Absolutely. Completely endorse the PAA submission on this.

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

As above.

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

No. There is too great a difference in the requirements when dealing with the public and they don't appreciate the distinctions. There should be better disclosure.

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

Again, support PAA submission.

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

No submission

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

No submission

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

No submission

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

No submission

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

No submission

Q31: Should any changes to these requirements be considered?

No submission

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

No submission

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

Yes. And I believe they have done a good job of trying to address many of the problems that have led from the Finance Company collapses. They have contributed to the growing confidence of NZers to the financial markets.

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

More useful as FMA has gained confidence and understanding of the sectors and areas that guidance is being provided on. Also support the PAA submission in this area.

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.

Simplicity. And providing an over-arching sense of confidence with the public in financial service providers. It is easy to undermine. Harder to provide confidence - in any sector. Look how many bad lawyers there are. Very few. But what is the tone? Yes, the distinction between RFA and AFA is one aspect - but the key aspects are diligence, skill and care. Being an AFA doesn't suddenly mean you have these aspects. And nor does being an RFA mean you don't! Too much emphasis has been placed on this. The distinction between advice and information is more important - and suitability is critical.

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?

The notion of sales in financial services has become a bad thing. However, selling has been in financial services since there were financial products. People don't naturally want to think about what happens if they get sick, old, or infirm, or die too early. People don't naturally want to pay people to sit them down and ask them to get out their favourite black hat and to put it on... So, they sell the benefits of how they would feel with the knowledge if something did happen they or their family, or business, would be financially okay. It is hard work. It is also hard work encouraging people to not spend all their money now, but rather to save some of it for later in life - to defer enjoyment now, for later... So, if you are able to make people sit down and think about these matters, you have probably needed to sell - yourself primarily. And then financial products that can be a solution to issues raised. It does take people with tenacity, perseverance and patience to make good advisers. Selling is in all professions - whether it be a six minute chargeable unit, or a 10 minute consultation with a doctor. All can be unbiased. Conflicts of interest and sources of revenue should be disclosed - and it should be a level playing field. For all. Not just RFAs or AFAs. But also for QFEs and their advisers.

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?

From advice, there may or may not be a sale of a financial product. If there is no sale, has there been no advice? If there is a sale, does this mean that somehow there is a distinction between two processes? Provision of information is important - though it's critical for consumers to understand that the provision of information does not necessarily constitute advice. And if there is an advice, and a sale is made, but no commission is taken, is this advice somehow better than if there was the same process, with the same advice, though commission was taken? I simply provide these matters for discussion for I fear that remuneration is not the key, rather it is the conduct, and if the code standards are followed, particularly 1, 5, 6 and 7, then the importance of 'sales', information provision and 'advice' is lessened. Indeed, I believe it is not relevant - if a suitable framework, such as the Code, is used by all participants.

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

Yes, They provide explanation of commission revenue and potential conflicts of interest. However, it is not a level playing field as not all participants have to provide this information. RFAs and QFEs should also provide the same information to clients/consumers.

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

Simplify. Dual disclosure is confusing. There is starting to be disclosure fatigue from clients - not that they don't understand the importance - nor are they dismissive - but clients have gone through significant change to in the way they interact with advisers and providers - and they are getting tired of the change. People enjoy stability.

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. See above. Again, Code being applied to all would certainly assist here.

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. Access to advice is critical. People need advice. Revenue to a practice through the payment of commissions is a suitable way of structuring a business. For advisers who have provided advice to two to three generations of clients, and often on a commission basis only, this advice has not been any less relevant because there may have been, or continues to be revenue paid to the adviser. Long term relationships can be based on revenue

from commission, from fees, or a combination of both. One does not take precedence over the other, not does it constitute better advice is there is a commission paid, or vice versa. Rather suitability of advice is key. As is the skill, diligence and knowledge of the person (or entity) providing the advice. Commission can lead to inappropriate behaviour. This is not solely adviser centric. It can also afflict QFEs. The majority of advisers receive the majority of their revenue from commission, If there is adequate disclosure of conflicts of interest, and sufficient emphasis on the code, the method of remuneration become secondary to the nature of the conduct and the advice and services being provided. I can't frankly see any benefit in banning commission. Frankly, I can see though the benefits of widening the disclosure regime and the application of the Code of Professional Conduct.

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)?

I think it is getting there. Advisers are more aware of their requirements. There is greater emphasis on L&D and professional bodies and private training organisations are providing relevant and useful courses to advisers. Groups are also providing guidelines and standards for their members to aspire to, or indeed meet, to retain membership. The market is deciding. I don't believe this requires additional regulation.

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

I don't believe there is any matter to consider with competition between advisers. A level playing field though would be good - particularly regarding AFA's providing advice on Cat 2 products - the process and disclosure they are required to undertake means the cost of doing business in this area is greater than that needed to be borne by an RFA competitor - or indeed, a QFE.

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?

Yes. As emphasised throughout much of this submission, I think more could be done to use the principled based Code of Professional Conduct and apply it to all FSPs. I support the PAA submission here.

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?

Competence, knowledge and skill are key, rather than specific category of advice type. Consumers don't really appreciate the differences. The categories can distort the advice and information provided.

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

There is that difficult word 'independent'.... There are certainly less advisers giving personalised advice than there were 5 years ago. Is the public better off for this? I would contend probably not. There is simply more people getting information rather than advice, and there is less distinction in the market than there was. There are significant barriers to entry - and these are on-going.

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

Yes, Simplify and reduce the regulatory impact costs. Reduce the replication of information provided to clients and to the regulators. The risk based approach is sensible.

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?

It has been a considerable imposition. AFAs are not able to certify. And there seems to be multiple parties doing the same level of checking for AML/CFT. Surely it could be managed centrally - such as Real Me? Whilst people understand there is a 'cost' to being part of the international community, there is a lot of time and administrative workload that goes in to maintaining regulatory requirements in this area. And it is not particularly rewarding for staff or advisers to do - they would sooner be doing work that provides a greater sense of purpose and benefit to clients.

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?

Perhaps there could be differing standards of advice to reflect the value of the invested funds? There needs to be greater advice in the KiwiSaver space, and it often should be personalised. Greater public awareness should continue - and if it is made compulsory, I fear that there will be further muddling around with the regulations pertaining to advice and remuneration around KiwiSaver. Many advisers have provided advice in this area as a

long term value proposition, receiving .2% of the FUM. Essentially a loss leader on the expectation that as account balances grow, so does their revenue, to provide remuneration for the time spent in the past establishing KiwiSaver for clients. If this was to be changed, the impact would be substantial on advisers - and I am not sure the clients would benefit from this.

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?

No comment.

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

Probably. People are increasingly mobile. Though advisers are also better at now saying that they can't provide advice in that area (unless they have specific competence). It's a shame that it is not possible for an existing client of a NZ insurer to be able to increase their life cover while they are absent from NZ. This specifically increases the risk to clients through being inadequately insured - and only being able to increase it if they sign the application while present in NZ.

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

See above.

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

There will always be change. A certain segment will want to continue to deal face to face. It's important that the provision of advice, whether in person, or online, still maintains a level playing field for competence and disclosure. Multiple distribution of product and advice is a reality. Provide emphasis on a code of professional conduct and potential issues will be minimised - and ensure that if the product is being provided to a NZ resident in NZ, then it is following the NZ regulations, not those of the country where the product or service is being originated from.

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

Maintain flexibility and simplicity.

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

Yes. I believe ethical behaviour has always been present though. Of course there have been exceptions. There always will be. Ethics are important and emphasis on ethic is critical. It is pleasing to note how few cases has been in front of the disciplinary committee since it was created.

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 is sensible.

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?

Yes.

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

Let's focus on getting NZ right first. I have little time for suggesting that a degree qualification is necessary to be an AFA at this time - as is occurring in Australia. They have a different environment from NZ. Thankfully our regulations are simpler and it's unnecessary to think that a degree qualification is necessary (at this time).

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

Of course I have somewhat of a conflict of interest in responding to this (I was Chair from 2008 to 2013), however I would say that the PAA has done very effective work in encouraging members to undertake L&D, to

have a professional development plan, and to think about where there may be gaps. It has made a considerable investment in this area, and is continuing to do so. It has also worked closely with suppliers, groups and other professional bodies to provide clear pathways for learning.

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

Yes. Professional bodies have much to offer. They can provide advice and practical ground up experience and practical ideas - and have a close feel for advisers, consumers, and suppliers. It's a privileged position.

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?

I think the current structure, where the adviser is regulated, is sensible. If there are multiple channels that an adviser may operate in, then flexibility around the businesses they represent (if in the same financial service) is prudent - particularly as a way to reduce the replication of costs.

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?

As a proportion of revenue, I would contend that the regulatory compliance cost have been just as high (if not higher) in AFA and RFA businesses than it has been in probably all QFE businesses. Relativity of cost is important to remember.

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?

I don't believe that there has been widespread understanding of this amongst the public.

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

Ease of access for the public and consistency and relevancy of information available.

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

I support the PAA submission.

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

Ease for all parties. And ensuring fairness.

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?

No comment

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

No Comment

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

No comment

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

No comment

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

No comment

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?

Competition is usually good!

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?

No. Its about ease of access and fairness to both parties. I fear if the limits increase further, it brings in additional complications which will likely reduce both these - as well as timeliness.

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

Professional liability insurance in NZ is not compulsory. Whilst many agreements with providers require advisers to retain the cover, this is not always enforced. Professional liability programmes, like that offered by the PAA, has a partnership with the professional body, the insurer and the insured. Much effort has been made over the years to protect the excellent claims record of the PAA programme by encouraging people to attend seminars, online learning, workshops and roadshows, to educate and enhance advisers' understanding of their professional and ethical obligations. This leads to knowledge, competence and skill - and therefore a reduced likelihood of a claim being upheld. This benefits everyone - including the consumer.

PAGE 6: Key FSP Act questions for the review

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

Consistency of information and provide an outline of the scope of the services that a FSP is able to provide.

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

Yes. Again though noting earlier comments in my submission that qualification does not always equal competence. I would suggest attainment of CPD is more important.

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?

It seems to be so.

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?

No comment

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

I like the proactive nature of my dispute resolution scheme. They are there at the top of the cliff - building a fence and ensuring that no one gets to the cliff face. This is sensible. Helping find resolution before anyone gets to the bottom of the cliff is best.

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

No comment

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

I think some emphasis should be made that the majority of advisers have probably never had a dispute or notification. Most advisers are doing a great job. Hopefully their client's will never need to utilise the scheme that their adviser FSP is part of.

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:

Peter Leitch. Owner and director of City Brokers Leitch Ltd (trading as SHARE)

Q84: Please provide your contact details:

18(d)

Q85: Are you providing this submission: 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? 1-5

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