



SUBMISSION ON THE

**Ministry of Business, Innovation
and Employment**

ON THE

**Review of the *Financial Advisers
Act 2008* ('FAA') and the *Financial
Service Providers (Registration and
Dispute Resolution) Act 2008*
(**'FSPA'**)**

BY

**QBE INSURANCE (INTERNATIONAL) LIMITED
(**'QBE'**)**

Dated 4 July 2015

INTRODUCTION

1. This is a submission by QBE Insurance (International) Limited (“QBE”) in response to the Issues Paper issued by the Ministry Business, Innovation and Employment (‘MBIE’).
2. QBE welcomes the opportunity to make a submission on the Issues Paper.

General

3. This submission follows the numbering of the questions raised by MBIE as set out in grey boxes throughout the Issues Paper. In addition QBE is a member of the Insurance Council of New Zealand (‘ICNZ’) and we support the submission made by the ICNZ on behalf of its members in respect of this Issues Paper. This submission either reinforces key points raised in the ICNZ or raises additional points relevant to QBE.

SPECIFIC COMMENTS

Question 3:

A clearer distinction should be made between sales and advice functions, such that all information provided by a product provider as part of a sales process would not constitute “financial advice” but rather be dealt with as sales information. Consumers are generally aware when dealing with a product provider that they will receive “sales advice” on the products being sold, and would not expect an independent assessment to be conducted on the appropriateness of that product, compared to other products in the market. Sales staff employed by product providers could be subject to a requirement to make a limited disclosure to this effect (including that they may earn commissions on sales, for example).

Question 6:

Broadly, we understand the rationale for the differing requirements, however this results in the categorisation of financial advisers which is difficult for consumers to understand and differentiate. For example, the requirement to disclose a commission only applying to authorised financial advisors seems inconsistent and, we expect, not well understood by consumers. For example, non-life insurance is a category 2 product, and therefore disclosure of commission payments depends on whether personalised advice is provided by an AFA, RFA or QFE adviser, which does not seem to be aligned with the intention behind the legislation of consumer protection. In our view, requirements should be based on the products and/or advice given, rather than the type of adviser, to allow consumers a complete picture of the products and advisers they are deciding between.

Question 22:

The limited public transparency does not undermine the public confidence and understanding of the QFE regime. The information set out in the ABS is relevant to enabling the Financial Markets Authority to understand whether the relevant entity has appropriate systems, procedures and policies in place to self-regulate its affairs under the financial advisor regime. It is not information that would otherwise appropriately be disclosed in the context of providing a financial advisor service.

Question 28:

Disclosure requirements should be implemented, requiring, as a minimum, disclosure of any remuneration, not just limited to commission, received by brokers. This would be consistent with the requirements on authorised financial advisors and for consumer protection reasons.

Question 29:

Insurance brokers should be required to comply with the broker requirements in the FAA, rather than the Insurance Intermediaries Act 1994 (which allows insurance intermediaries to benefit from investing client funds for a period before transferring the funds to the insurer).

This would then make those brokers subject to any regulations issued around disclosure requirements (refer also question 28).

Question 41:

QBE does not have an issue with brokers charging a commission or fee, however, there needs to be clear and full disclosure to the insured (in the case of insurance products) of all remuneration (including commission, any override or volume based commission, fees, policy administration fees etc.) that a broker receives from the product provider. E.g. the disclosure of commissions in a broad range of, say, 10% - 30% would be too vague.

Question 62:

Our view is that it is appropriate for the QFE to be responsible for the conduct of individual advisers who are employed by that QFE.

Question 63:

In our view the requirement to update the advisor business statement (**ABS**) every year and include this with the annual report to the Financial Markets Authority is unduly burdensome, and could be replaced by a requirement to only provide the ABS upon material changes being made to the QFE.

Question 74:

Our view is that the \$200,000 jurisdictional limit on the claims able to be heard by a dispute resolution scheme is appropriate. As indicated by the Insurance Council of New Zealand (**ICNZ**) in the previous round of submissions conducted by MBIE relating to the claim limit in the context of property insurance disputes, it is not the limit of the dispute resolution schemes' jurisdiction that is causing the delay in these claims being dealt with, rather it relates to the technical complexity of these cases and the evidence required. These requirements would not be circumvented if a claim were dealt with in a scheme. We submit that claims of an amount above \$200,000 are more appropriately heard in the courts, where there is an established body of precedent able to be relied upon by both complainants and respondents, and there are rights of appeal.

Question 75:

We submit that most insurers maintain a reserving system which would enable them to pay claims where relevant, and are otherwise subject to capital requirements under the prudential licencing requirements imposed by the Reserve Bank.

Question 80:

Our view is that the availability of multiple dispute resolution schemes assists in ensuring a competitive, market-driven approach is taken by the schemes, and should be supported.

Thank you for providing QBE with the opportunity to submit. If you have any questions you can contact [18\(d\)](#) We look forward to hearing the outcome of the submission and the next stage of this review.

Yours sincerely

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