



#11

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

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

adviser integrity, knowledge, experience, ie soft skills as clients seek a long term relationship with advisers. This is difficult to match up with the goals, however it is the key

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

types of advice is based on product which is the wrong way around. It needs to be based on the type of advice and is there a conflict of interest. ie bank employees only offering bank products versus an independent adviser advising on a clients goals and objectives with independent investment strategies. big issue with definition of independent advice. eg make it fee based advisers who have no ties to any financial institutions, fund managers etc Many clients are looking for independent financial advice, not product

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?

The wholesale definition needs to be clarified. recommend any individual, joint or trust client is retail. wholesale applies to institutions. at present it is confusing, takes time and is not relevant or beneficial to clients. it does not work

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?

there needs to be a distinction between personalised and class advice. eg an AFA can give personalised advice as long as it is not restricted to the products of a financial institution or bank. Class advice is not advice so should be changed to class information, ie no advice, so more of a sales roles without advice.

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

it is more about process than products, eg a financial plan and planning process is about a clients goals and objectives. advisers who only sell ie class information providers still need competency and knowledge, just like an AFA so I would have only one set of requirements, ie AFA.

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?

no, as above. good 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?

RFA is confusing and some people including lawyers think that a RFA is above an AFA. RFA needs to be deleted, and only have AFA and class info providers

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

all advisers need to have the same level of accountability

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

RFAs need to disclose that they are only selling the QFEs products. also need to disclose trail commissions on legacy products that they can no longer sell. also have to advise that they are not offering better alternative products from other product suppliers.

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

ok with the ABS questions. there should not be a cost as the information must help the FMA monitor more effectively and keep FMA costs lower. Costs is a real concern and is a real disincentive to be an adviser. it is a major anger point about all the time and cost of regulation.

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

no as above

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. it does however attempt to use worthwhile definitions rather than product definitions. happy with IPS. more thought needs to be given to financial advice, especially if it is only eg selling a banks own kiwisaver

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?

all our investment recommendation are authorised in writing by our clients first, so this does not apply to our business. for stock brokers this would be different and i am not familiar with the broker rules about this

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?

we do not offer DIMs as the rules and cost are too high and onerous. DIMs is regulation gone wrong, very onerous and heavy handed. it is a major flaw in the rules

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

works ok

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

works ok

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

No. get rid of the lawyers and replace them with advisers. the lack of advisers on the Code Committee is a disgrace and makes the code too academic and not related to what we do.

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

as above. no lawyers or bureaucrats, more advisers so that its recommendations are relevant!

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

dont know, haven't heard much about how it operates. I guess in principle yes

Q21: Should the jurisdiction of this Committee be expanded?

should include RFAs, class advisers, QFE conflicted advisers

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,

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

legacy product trail commissions on products that QFE advisers can no longer sell must be disclosed. Also any cross subsidising of advisers remuneration

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

no as above. QFEs must have the same level of transparency, competence, qualifications and designations as non QFE advisers. a level and transparent playing field.

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

as above

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

brokers provide advice on buying and selling shares, bonds etc, so need to have financial advice processes and designations.

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

working ok

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

working ok

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

not sure

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

absolutely. should have been mandatory when the FAA came into effect, and would have caught out David Ross.

Q31: Should any changes to these requirements be considered?

as above

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

lawyers and accountants should not have an exemption. for example i had a potential client who we did a financial plan for with a diversified investment strategy who decided to invest in a residential rental property on the advice of their accountant . the accountant who would get the associated accounting work had a clear conflict of interest and self motivation.

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

as far as i know

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

quite good and helpful

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.

remove RFA. only have AFA and Class information providers

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?

there needs to be distinction between independent(not unbiased as that doesn't mean anything) and tied products

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?

as previously stated

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

all advisers should have the same level of disclosure especially of conflicts of interest including QFE advisers including cross subsidies

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

working ok. remember it is about the client adviser relationship and trust that is formed(or not) at a first meeting. disclosure is only secondary to that.

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!!! level playing field

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?

we have always been fee based until kiwi saver came along. all our fees are disclosed and transparent and we do not accept brokerages or commissions except for KS. our view is that all advisers should be fees based including QFEs, RFAs etc

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)?

not sure

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

make QFEs, banks , financial institutions offer a range of investent products, not just their own, as they look at maximisng shareholder value at the expense of cleints who are not recieving independent advice

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

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?

currently confusing and clearly not working for cleints

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

the big issue is time and costs. the more time on compliance the less time for clients. the more the cost of compliance, the less time we have for clenins with lesser amounts to invest, so a lot of potential clients are being locked out of receiving advice. AML-CFT is very onerous and time consuming, ie non productive. i am no longer doing pro bono work

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

CPD is too onerous and needs to be reduced. why do AFAs have to do more CPD than lawyers and accountants.

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?

Crippling in terms of time and detail required. it is a real disincentive to be an adviser and i deeply resent it. non productive and takes away for focusing on client relationship. simplify especially for trusts, trustees, beneficiary etc. if a trust has an independent trustee who is a lawyer or accountant with a higher duty of care, why do we need to double up on ID etc. it is a killer and now we have FACTA etc.

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?

Kiwis have to be prepared to pay for independent financial advice for both accumulation and de cumulation. advice has to be fee based an independent based on their retirement goals and objectives

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?

the new act is an opportunity to tidy up the mess that is the FAA.

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

yes and not sure

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

not sure. don't see the need for Tasmania recognition as Australian advisers are more about tax advise for compulsory schemes. very different to NZ

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

perhaps. however people still want relationships with advisers based on FMA survey findings. regulation must make a level playing field for all players including oversea and robo type advcie

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

overseas websites ahve to be NZ and FMA , FAA etc compliant or else be closed down. also how do they work from a tax jurisdiction basis?

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

REDACTED . no amount of regulation, CPD etc will eliminate crooks. however the new rules appear to make it harder for crooks, so in effect it is bebenficial

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 with the demographic make up of advisers the baby boomer advisers have started to retire. this will only increase in the next 5-7 years. be care full that the barriers to entry for new advisers mean less advisers coming in, therefore many existing Cleint are going to be left with out an adviser.

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?

level 5

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

not relevant, especially a Austral; has compulsory superannuation

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

very good i am a member of the IFA

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

yes they need to be part of the process. however there tneeds to be one body, not several

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?

regulate advisers as individuals, especially QFEs

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?

no, too many of undisclosed conflicts of interest. same level of disclosure as AFAs required

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?

yes

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

all goals are good. register must be up to date

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

yes

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

we are members of ISO. however we also subsidize the Government dispute resolution scheme which is not necessary. delete the govt scheme and reduce cost for advisers as a double up is unfair

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?

working ok for AFAs

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

working ok

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

as far as i know

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

as far as i know

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

as far as i know

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?

as mentioned close not sure the default scheme

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?

not sure

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

PI should be compulsory

PAGE 6: Key FSP Act questions for the review

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

if independent

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

not really

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?

yesdont know

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?

dont know

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

nuetral

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

not sure

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

is it an issue? be careful not to create an environment that inadvertently encourages vexatious claims. be careful that it doesn't restrict access to advice as an intended outcome, ie advisers are more risk averse and selective in choosing which clients to take on and leaving others requiring financial advice stranded

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:

Steve Lawton AFA, CFP, , New Zealand Financial Planning Wellington

Q84: Please provide your contact details:

18(d)

Q85: Are you providing this submission:

-
- As an 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?

Respondent skipped this question

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
-