

STUART + CARLYON

Financial advisers for your lifetime goals

Review of the FAA

Submission

17 July 2015

This submission is from Susanna Stuart and Deborah Carlyon of Stuart + Carlyon Ltd, PO Box 137-154, Parnell, Auckland. We are independent financial advisers and formed our company in December 2004 after 10 years of employment in the same field at PricewaterhouseCoopers in Auckland. We have worked as financial advisers since 1986 and 1988 respectively and are members of IFA and are both diploma qualified CFP practitioners.

We provide tailored financial solutions for clients with a range of needs. Our services are broad and often involve liaising with accountants and solicitors. We charge fees only, do not accept commissions and we are not tied to any investment product provider.

Particular Consultation questions

Our starting point is represented by questions 3 and 13 as the basis of much of the confusion and misunderstanding of the Financial Advisers Act. We have indicated the other questions at the end of our comments.

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

The definitions under the Act are currently flawed. Financial advice is defined as the provision of advice in regard to buying or selling a product with no reference to suitability whereas an Investment Planning Service includes the requirement to consider the client's financial situation, needs and objectives. We consider these complete misnomers. In all professions, advice equals suitability yet there is no requirement for this in the Act definition. We have found that consumers coming to us for financial advice want **independent advice** that addresses their issues or needs in the context of their situation. Advice should be centred around the clients' life and financial goals. Having different classes and types of advisers is very confusing for the public. Furthermore, calling such a narrow service such as buying and selling investment products "financial advice", implies "advice" whereas it is most likely product sales.

We believe the following will clarify the terminology: (Q 37)

1. **Financial Advice** (involves the financial planning process as prescribed by the CFP designation) Financial advice will cover any one or all of the client's financial situation, namely Cash/Debt Analysis, Risk analysis, Estate/Asset planning, tax planning, retirement planning, investment advice including the investment planning service. We liken this to the generalist doctor approach and it should be fee based.
2. **Financial product sales** – eg. KiwiSaver products, insurance policies, mortgages, where commissions and/or incentives are involved. (Q36)

So for us we provide full financial advice and our specialty is implementing investment solutions, namely an investment planning service but if the advice included recommendation for insurance products to meet a need we refer the client to an insurance broker (Financial product sales) and if the advice leads to client needing an up to date Will, we refer the client to their solicitor and so on. Our engagement letter outlines the Scope of Work and here we can limit services if the client doesn't require insurance or has Wills etc organized. However, we do not provide advice without considering their financial situation.

Consumers expect that an adviser will consider their personal situation so there should be only one type of adviser, AFA, under the FAA and subject to the Code, putting the client first. The designation RFA should be removed and level 5 minimum standards and secondary disclosure should apply to all advisers known as AFAs. RFAs and QFEs who currently provide a service akin to product sales and who don't want to be AFAs should be licenced under the FMCA. This licencing move has already taken place for DIMs so there is precedent for such a change.

Financial advice should be fee-based not commission or incentive based. (Q41) Financial advisers should be professional, putting the client first, similar to solicitors and accountants. Commission takers should be treated as "sales" people. All categories should disclose conflict of interest, remuneration and commissions in dollar terms. At present RFAs are not required to disclose how they are remunerated or the amount in dollars if receiving commissions. (Q40). Secondary disclosure should apply to all financial advisers and there should be only one type of adviser subject to the same minimum standards.

We believe an Authorised Financial Adviser should charge fees only, not commissions, to leave no doubt the advice is in the client's best interest and independent. The advice may not involve a product at all e.g. the advice may be to repay one's mortgage. Can the commission – based AFA provide financial adviser services in this situation?

For independent financial advice to be dispensed, current criteria for AFA designation is woefully inadequate – anyone can study and pass the criteria but practical experience should be mandatory. Practical experience under supervision is a feature of all professional services such as lawyers, chartered accountants and doctors. Authorised Financial Advisers should all undergo similar training/mentoring. A graduate of the current Level 5 qualification would not be sufficiently competent or experienced to deal with complex issues associated with our client base. At least an adviser with a CFP designation will have undertaken a tertiary diploma and 2 years of mentoring.

For AFAs to be recognized as a profession, we believe the following need to take place:

- RFAs, QFEs need to be renamed as Financial Product Sales or similar and come under the FMCA.
- AFAs provide financial advice and should be tertiary qualified (and CFP?) (Q57) and come under the FAA.
- Consider further qualification if adviser has specialty field eg. Insurance CLU
- Mentoring/practical supervision of at least 2-3 years. (Q57)
- No commissions (including trail) or incentives for Financial Advice. (Q41)

- Commissions (including trail) or incentives or sales targets for Financial Advice to be disclosed for Financial Product Sales.
- Advisers to state the extent and scope of advice so not necessary to provide a full financial plan for a discrete piece of advice. (Q44).
- Code of Professional Conduct for AFAs outlines clear principles regarding AFA’s ethical obligations and code standard one (putting the client first) should be applicable to all advice givers in the financial industry. (Q55 and Q56).
- The FSPR should be expanded to clearly differentiate those providing advice, (their qualifications and experience) and those advisers employed by a QFE providing product information. (Q65, Q76, Q77).

It saddens us that independent financial advisers appear to be dwindling in numbers. We cannot keep up with the demand from consumers searching for advice that is totally unbiased. The industry is dominated by QFEs and organisations where the focus is on managing their own risk so consumers are getting vanilla “advice” that is totally constrained, and not meeting the consumers actual goals and needs (Q42). Furthermore, consumers are lead to believe they are actually receiving advice whereas most often they are being sold products.

As an industry we underestimate the cost of true planning advice as there is no promotion of its value. With increasing compliance costs, advice will become more expensive and independent advice will become less affordable for the majority. (Q 46) The Sorted website is a great resource for many and should be maintained.(Q47).

Finally, compliance in respect of the AML / CFT Act is excessive in its requirements (Q48). The spirit of the Act is “know your client”. As AFAs we do not provide advice without first knowing our client. They complete a comprehensive fact find document, we meet them face to face and gather ID if they are investing. We are regarded as “low risk” for AML / CFT yet we are required to complete annual returns and undertake audits externally, internally and via our independent custodian. This is onerous in terms of time and cost, notwithstanding other compliance requirements under AFA. Perhaps some differentiation between types of businesses and services is required to more closely align actual risk with compliance obligations.

Signed:



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