The Association

Submission on the Financial Advisers Act Review

22 July 2015

The Association is an organisation representing AMP Adviser Businesses and AMP Advisers, with its chief responsibility being to represent the interests of its members in their relationship with AMP, other AMP distribution channels and other industry participants. An Advisers' Association has now been in place and working with AMP since 1921.

The introduction and implementation of the FAA has improved the quality of professionalism and delivery of advice to consumers in New Zealand. There are, as always, many ways to build on the progress made so far whilst ensuring that un-intended outcomes are avoided.

The Association would welcome the opportunity to discuss our submission in more detail with the regulators.

We have provided answers to most of the 82 questions provided in the submission discussion document. We would particularly highlight the following areas as key points:

Professionalism and Quality of Advice delivery from Advisers

Access to quality advice is essential to create a stable market place for consumers and we believe there is adequate competition in New Zealand. Advice delivery is about how the consumers' needs are identified and appropriate solutions implemented to achieve the desired outcome for consumers.

Regulation plays its part by setting a framework of expectations and standards that a consumer can reasonably expect. It also should ensure that access to that advice is not overly complicated and costly to deliver for advisers. For something to be 'advice' it must be 'personalised' - most stakeholders are happy to see 'class' advice stay, but would like it to stop being called advice.

It is widely understood that insurance is as complicated as investment, and therefore when giving full personalised advice on it, all Advisers should be following the AFA Code and meeting those standards.

Consistent Adviser Standards

There needs to be a consistent and clear approach to adviser titles within New Zealand. Consumers are clearly unsure what the various descriptions of "Advisers" means and what level of qualified standing an AFA, QFE or RFA adviser holds. Whatever kind of adviser you are you should be subject to the same standards if you are selling the same product type with the same kind of advice. QFE advisers, RFAs, AFAs - if it's the same product, then it should be the same standards.

Commission

We do not support the notion that fee's replacing commission will improve the access to advice nor the quality of advice given.

The act makes an allowance for commissions. When auditing cases, advice and recommendations are reviewed by the FMA. Where they are not found to be aligned to the consumers' needs or in their best interests, there are consequences for that Adviser.

The issue of commission needs to be addressed at a supplier / manufacturing level. The soft dollar or Incentives/Inducements to sway Advisers recommendations that may not be in the best interest of the consumer is often at the heart of the matter. The concept of churn is not a widespread market place issue and therefore does not warrant a widespread solution. It does however require more focus on those advisers changing consumers Insurers for no discernible benefit to the consumer.

Submission Questions

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

Yes. These goals are laudable. Promoting these outcomes will encourage more consumers to seek advice and that they ultimately get better advice. By setting a high standard, the legislation improves the likelihood of achieving the goals. There is a concern about the folly of wanting A and getting B.

The goals must be delivered in a commercially viable manner for Advisers. Onerous regulation will drive Advisers from the market and restrict entry of new Advisers. There should also be consistent approach and level of requirement for all those offering Advice.

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

Promoting the sound and efficient delivery of services is the priority as this will improve consumer confidence as well as access to this advice.

Regulation should be simple for all parties concerned and it should give advisers the flexibility to advise in the client's best interests. It should be delivered in a way that does not add undue costs to the parties involved.

Regulation should give comfort and certainty to all parties. It should apply the same Ethical and professional standards across all Advisers and Entities.

Regulation should not put roadblocks in front of advisers doing what they do best, which is offer good advice.

Regulation should not focus solely on tertiary qualifications as the panacea for lifting the bar for Advisers quality of advice.

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

No - To simply say 'acquire or dispose' of a financial product is deemed financial advice is pretty broad especially given the different and vast array of products. Giving an opinion is not necessarily financial advice if it is not telling a person how to act or to influence their behaviour.

There is some concern as to why excluding property from the definition of financial advice. Property purchases in NZ are often used to form a significant part of a consumer's retirement planning and investment portfolio. Ill formed advice can be very costly to consumers. This should be allowed for in the definition.

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?

Yes but the distinction itself merely highlights that 'wholesale' clients don't necessarily need an adviser as they can work things out for themselves OR contract an Adviser should they choose to.

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?

No - personalised advice is "advice" and class advice is information.

The distinction should be made between advice and information. In reality class advice is information for a group of people. Personalised advice should also be able to have limitations around the amount of detail an Adviser needs to know about a client, given that an Adviser can often create a service without necessarily knowing everything about a client.

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

No. There should be an advice standard, irrespective of product.

The issue is not that the requirements are solely based on complexity of product. The real issue is that this distinction of product creates an unlevelled playing field for Advisers and the level of work they need to complete and disclosure.

It would be more appropriate to say that all Advisers of a certain product need to have the same requirements, irrespective of whether they are an AFA, RFA, or QFE.

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?

No. Clients do not understand the difference between RFA, QFE and AFA. They want help with their goals and objectives and/or implementing a product that meets their requirements. We believe there are more recent General Insurance (GI) Professional Indemnity claims than Investment Claims yet GI is deemed a low risk product and investments are deemed high risk. The potential cost to a client of, for example, commercial general insurance issues could be very high.

An immediate improvement would be to remove the differing requirements at Adviser status of AFA, RFA, QFE and regulate that all Advisers have the same requirements of advice and disclosure for that particular product.

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?

No – “Registered” implies they have gone through some sort of vetting process, “financial adviser” implies they have completed a robust and formal qualification.

Remove “Adviser” from the title or make all those carrying the designation “Adviser” obligated under the Code of Professional Conduct.

Registered should mean registered, in effect, RFA's and AFAs are all "registered advisers" and there needs to be a greater distinction in regard to the services an Adviser can offer.

Consumers do not have any understanding of what the name means or what advice they can give.

Call them what they are e.g. ‘Insurance’ or’ Mortgage & Insurance’ should be in the name.

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

No. To deliver consumer confidence, anyone carrying the “Adviser” designation and/or providing financial advice (accountants, lawyers, real estate agents, trustees) must be required to adhere to the Code of Professional Conduct.

The issue is that it is virtually impossible for the FMA to monitor in the first place, given the resources they have. Perhaps starting with the conduct code sets a baseline.

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

One disclosure standard across all. The same rules must apply to everyone. Why fragment disclosure and make it hard for the FMA to manage. Simply this process and either bring other Advisers up to that standard of AFA or reduce requirements on AFA.

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

Yes. There is no perceived monitoring of RFA's with anecdotal evidence of advice being offered without any consideration of consumers' needs or goals.

Very little seems to have changed for RFA since legislation who can continue to give low quality documented advice, not disclose earnings and in essence this legislation has given RFA the ability to create higher income due to the fact that the process and requirements are at a lower standard than other advisers who are under a higher standard of documentation/disclosure and process.

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

No. Provide a standardised template format (like an investment Statement or Product Disclosure Statement) so that there is a common standard. Also, why require an ABS if it does not have to be lodged anywhere. Either require it and have it lodged with FSPR or don't require it.

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, a Consumer will not understand the differences between the two.

Yes, changes need to be made. Bring it back to how any distinction will assist the client with the advice they are seeking.

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?

Provided they operate under Code Standard 1, some degree of discretion is required when a client provides an instruction and the adviser then has to generate paperwork that is not in the client's best interests.

Discretion on an investment portfolio should be covered off as class DIMs i.e. changing one managed fund for another in the same asset class. Discretion in terms of a non-investment based decision on behalf of a client i.e. client wants to withdraw $10K should come down to common sense and a simple file note /email.

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?

Absolutely yes. There are low-risk DIMS activity that assist the client that is vastly different from running a managed fund.

The issues paper appears to be confusing model portfolios with fund management.

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

No. There is too much that the client does not read. There should be a single document, no more than two pages, with prescribed headings similar to an Investment Statement of PDS so that all Disclosure Statements follow an identical format.

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

Yes. Format Template and short. The consumer just needs to know key information.

The ability for an Adviser to direct a client to a disclosure document on a website would reduce the cost and necessity for printing. Alternatively a client viewing an electronic version and then signing off in a Needs Analysis document or file note that they have reviewed this document with their Adviser.

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

As well as any other alternative that may be implemented.

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

No but you could consider greater representation at Adviser level.

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

With only 7 cases it's hard to Quantify. Again, how will any other mechanism work any better?

21. Should the jurisdiction of this Committee be expanded?

If RFA status is retained as is – YES

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?

Rather than undermine, it simply does nothing to reassure and in fact probably sends an incorrect assurance. Commercial interests will mean that most QFE's find a way to appear to placate consumers and meet disclosure rules while promoting their own interests. This is of course expected from a commercial concern, it's more that disclosure will not always be made plain and simple.

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

Yes - This ties in with uniformity of disclosure across the industry and to remove this conflict QFE and product providers should be at arm's length both systemically and commercially so that the product provider cannot unduly influence behaviours to the detriment of the Adviser and client.

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

They are useful when explained carefully to consumers clearly.

Disclosure documents protect the adviser and the consumer. The respective of adviser classification, or disclosure should be at the same level and this may mean removing the complexity from AFA disclosure.

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

Refer to the same question and answer is the same as per AFA.

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

Does this refer to share brokers or general insurance brokers?

They can be improved by putting in the same duties of care/responsibilities and process

At the moment you could assume that a number of brokers get out of jail by saying they are giving information only.

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

YES - as long as they are held in a trust account or by a 3rd party custodian.

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

If this refers to stockbrokers or sharebrokers then yes.

Create a level disclosure programme across all brokers/advisers irrespective of what you designate them.

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

The cost could be an unnecessary burden on “insurance intermediaries" that do not hold client funds - the current act has not regulated upfront disclosure for brokers

The benefit is that all participants at this level, irrespective of designation have the same obligations imposed and it would prevent small independent insurance broker firms misappropriating client insurance premiums or funds.

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

No. This feels a little bit like the professional trustee obligations and that did not help all of the investors who lost their money in regard to the collapse of many financial organisations and 2007/2008.

Without adequate oversight and reporting the people who want to cut corners will continue to do so.

31. Should any changes to these requirements be considered?

No response

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

No. These occupations should be held to the same level of skill and conduct requirement as Advisers. They may not have the depth of knowledge to offer anything close to the quality advice offered by Advisers. It should be noted that they hold a trusted position in many clients’ lives and are rarely challenged.

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

Yes the FMA though needs to remember that it is also equally responsible for growing consumer confidence in the industry as well as monitoring and enforcement of industry participants.

The powers seem appropriate, it is the behaviour and actions of the FMA representatives that will tell the story over time.

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

Fine. Perhaps more regular updates on their activities, findings and learnings to guide Advisers on best practice.

It would also be useful to know where the FMA finds examples of “too much complexity and documentation provided that is not in the client's/adviser’s interest and has been generated by the Adviser to ensure the adviser is “above the regulation Baseline”.

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.

RFA designation should go. One title and then in categories the Adviser can work within.

If you are giving advice on investments, mortgages and Risk including health you should be an AFA.

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?

Let's bear in mind that the term "financial adviser" is still largely an internal industry one. The general public would equally associate the services of a broker, banker, lawyer, accountant, insurance agent as being *"financial adviser"* services.

What is wrong with selling a product? The issue is surely more to do with what process was undertaken prior to that, and why is the definition of financial advice solely determined by how many product choices are available.

The direct channels (e.g. bank staff) would appear to evade a lot of disclosure rules yet be more motivated (i.e. directed by their employer, rewarded for doing so and deemed to have poor performance when not doing so) to push products than other Advisers concerned about servicing ongoing client needs and ensuring a sustainable small business.

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 – Consumers don't really understand the difference.

Sales should be outcomes of considering Advice and Information. Should a consumer opt out and just want to buy then they should be free to make this choice.

A pure Sales position should make the distinction of saying "you have other choices that you are welcome to research – I am only selling you this because it is all I can sell you"

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

Not really that effective - Disclosure requirements for AFA's are wide but consumers are generally not interested in commissions or conflicts of interest due to apathy.

Consumers expect that an Adviser has to make a living. They would generally appear to prefer inbuilt commissions rather than advice fees. Commissions have an important role to play - as they do in many industries that are not under FMA scrutiny.

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

Frankly consumers don't use these to make better decisions. Disclosure requirements are more around regulation and very little around the Adviser and disclosure is merely a starting point to say that an adviser meets certain criteria to be an AFA

Consumers don't make decisions with an Adviser based on disclosure documents it's based on relationships (recent Colmar Brunton survey).

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?

No - it would seem unnecessary as consumers are aware that a commission is payable and they make no distinction between adviser types as this is an industry created situation. We see no distinction between the Adviser types.

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?

Not banned as this drives a fee for service approach which will end many Adviser businesses.

The act makes an allowance for commissions. When auditing cases, advice and recommendations are reviewed by the FMA. Where they are not found to be aligned to the consumers' needs or in their best interests, there are consequences for that Adviser.

The issue of commission needs to be addressed at a supplier / manufacturing level as the issue here is about Incentives/Inducements to sway Advisers recommendations that may not be in the best interest of the consumer.

Advisers do not set commissions or offer inducements – Product Suppliers (PS) set this to drive sales and obtain market share. Much of this business is rewritten from one PS to another.

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)?

Probably although it has created a barrier to new entrant Adviser. By the same token it has removed many who needed to go and prevents many coming in that shouldn't.

Advisers Quality standards could always be improved and constant assessment of this is warranted. Not only to stay up with the changing markets and needs of clients but their quality of advice. There are a wide number of suppliers in all product ranges and too many can be detrimental and hard to stay abreast of their offerings.

Degrees and qualifications alone do not create good Advisers - they are just one part of the package

Leave competition to the marketplace, trying to regulate this often has greater unintended consequences.

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

Leave competition to the marketplace, trying to regulate this often has greater unintended consequences. I'm not sure there needs to be an increase or what it would do for the consumer? Surely the consumer just needs access to quality advice in a timely manner - the issue being that they often don't know what poor advice is until they receive good advice. The focus here needs to be on making sure advice quality is high.

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?

To give advice you have to ask questions, it is reasonable to expect that this process is documented but that in itself doesn't mean the advice is any good.

The code of conduct should also acknowledge that an AFA only needs to know what they need to know and also that an AFA may offer services which are non-investment aligned. In many instances these services can be implemented without the need for completing or obtaining a whole range of irrelevant information. All advice is limited within the context it is asked for. The code and regulation, as anecdotally dumbed down advice and that advisers will not offer educated opinion or directional type advice to a client, given the fact that this advice. There needs to be documented and processed in a specific way, thus taking up the AFA resource without any remuneration.

Client needs analysis and statements of advice are merely tools to ensure a process is documented and that certain steps have been followed. These tools do not necessarily mean the advice is correct.

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?

There is a very large distortion and impact on advice due to the categorisation of types of advice and types of advisers and the regulation imposed across different types.

Consumers are not aware of whether they are receiving quality advice backed up by a robust process or whether the advice is of a low standard with no backup or process.

The introduction of this regulation has allowed this distortion to increase as it has become even more confusing to the consumer.

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

In addition to your bullet points under 157 (these costs are easy to quantify) there is an ongoing daily operating cost of compliance in that the cycle of advice is lengthened due to the complexity of documentation of the advice process which means that advisers do not have the ability to be in front of the clients as often as they would like.

For AFAs and some QFE, The jury is in doubt as to whether clients are receiving better outcomes due to the increased documentation. This is driving costs up where Adviser margins are going down, the product providers are putting more cost on to the adviser and the New Zealand public is Fee Averse.

There is also a requirement that an adviser and their entity (e.g. the company) needs to be registered on the financial service providers register and pay the fees, which is a double up as it is not the entity that provides the advice it is the adviser.

Abolishing this double up would be a minor step forward.

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

The main regulatory requirement is the code of conduct which is principle based

A positive move would be for the FMA to provide some benchmarks in regard to the process so that the industry participants do not create overly complex advice cycles and process and documentation which does not help the client.

48. What impact has the Anti-Money Laundering and Countering Finance of Terrorism act had on compliance cost for Advisers? How could these costs me minimised?

It has added significantly to the time taken to action “transactions” for customers. To minimise would require a reduction in the requirements

This legislation has had a large impact and is legislation that potentially could have been more focused rather than broad-based.

The application of the legislation by product providers as confusing and that providers place different roles across the industry and within product classes.

49. What impact do you expect that Kiwisaver decumulation will have on the market for financial advice in New Zealand? Are there any specific changes to regulation needed to specifically promote the availability of Kiwisaver advice?

In about 15-20 years there will be demand as funds will have built up to significant levels.

People who are 65 next year with KiwiSaver will enjoy a nice holiday or new car or put the money on term deposit because the bank said that was best because then they know where it is. There doesn't need to be specific regulation to promote KiwiSaver advice, just advice itself for the baby boomers retiring

For New Zealanders to access financial advice they need to pay the price and New Zealand as a whole needs to treat financial advice as a quality product that is worth paying for just like going to a lawyer or an accountant.

50. What impact do you expect that the introduction of the 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?

Only good changes as it sets the standard if applied fairly across all Advisers and market participants.

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

Not from any organisation that is credible and No.

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

No further arrangements as the current ones are of little benefit already given that it couldn't be achieved given the differing regulatory frameworks of the two countries.

Current trans-Tasman arrangement is yet of benefit for smaller commercial entities and is not supported by our QFE.

Whilst new regulation may allow this to happen the QFE has the ability to not allow it/support the application.

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

It may be something that Millenials will adopt but those generations prior will likely be slow adopters of Robo-advice. Access to information and ease of transaction will remain Technologies main contribution.

Current technologies are allowing the delivery of statements of advice and underwriting biotechnology and also mediums such as Skype for replacing face-to-face positional meetings.

Future technology will help with mass education and certain types of product satisfaction

In some ways this technology may help New Zealand divorce advice from all the other aspects of a process and allow advice to be just that and to be valued appropriately.

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

The only thing I can think of is a requirement that the business is registered in NZ.

The technologies and innovations would be encompassed by broader New Zealand commercial and tax laws.

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

This I believe is somewhat of a self-fulfilling prophecy. When regulation arrived those advisers who saw what was required of AFA's believed they were acting "ethically" and in the best interests of client's already, the term AFA merely gave it a title. There was an initial benefit in removing those who couldn't meet the requirements.

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

Yes - why have any standards if they do not apply to all Advisers. Not holding RFA's to this standard serves only to mislead the consumers who seek advice from these advisers.

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

Increasing education such as university entrance improves a person's technical ability which does not necessarily make a better adviser. To improve the quality of advice and New Zealand participants need to improve through vertical and horizontal learning, whereby vertical learning is about improving the understanding of the adviser and other people and horizontal learning is technical ability when this industry starts to concentrate more on the vertical learning, New Zealand will get better results.

The minimum is sufficient for AFA's. Where there is sophisticated investment advice being offers, increasing the standard to Level 7 is warranted.

We believe it is more beneficial to the consumer that the focus be on quality of advice and outcomes rather than qualifications at this point. Though in the future (10 - 15 years) a gradual raising of the minimum (i.e. level 7) would be appropriate.

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 - Level 5 coupled with a degree of competence in terms of experience relevant to the industry.

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

This would be useful if advisers can easily move to another country to advise however at the moment portability of advice is complex, due to each country's legislation around taxation and other issues.

A crucial skill of an Adviser is technical product knowledge which the Professional Bodies cannot provide.

It would also be useful for each country to be able to access adviser details from the country of origin before allowing that adviser to practice in the new country.

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

The professional bodies have offered ongoing education days and promoted specialist speakers from the FMA and other departments. These bodies do tend to focus on technical aspects of the industry rather than focusing on up skilling advisers in areas such as communication, knowing and understanding themselves and other people, the education days they offer do tend to be well run, however, often repetitive due to the focus of the impact of regulation in our industry over the last while.

Participants as a whole do not necessarily share intellectual property and work together.

Professional bodies are also commercially very interested parties in the development of the industry and regulation and would be very keen that all advisers belong to a professional body (preferably theirs) in conjunction with this some QFE/product providers are also keen to see this happen.

The need for independence and choice is important.

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

It would seem logical that a regulator would engage with the industry it is regulating, however, only is a limited capacity.

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?

No - however, monitoring of individuals that sit under QFE's needs to be more robust. The responsibility should lie with the individual, but obligations are only as good as the monitoring of them.

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?

The approach is right but the delivery in terms of consistency is not. Compliance costs for QFE's such as banks appear to be minimal as in effect there is very little advice process, particularly in the area of personal risk and general insurance.

At the other end of the QFE spectrum are those QFE's, that operate a bonafide adviser channel with AFAs and RFA's. These QFE's incur large compliance costs, ongoing registration and external compliance costs as well as the day-to-day operations of monitoring and processing.

The changes that need to be considered are to place all QFEs on the same footing

We believe that at least some if not all QFE's are more aware of their liabilities in terms of Consumer protection, and that these heightened liabilities are real.

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

Yes it is putting the goals into practice and monitoring the results that will matter.

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

Clear concise information with no jargon, one register for all.

Goal 1 - useful info - there needs to be more on this as in the experience, qualifications held and performance of the Adviser and membership of professional bodies.

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

Yes.

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

There should be one dispute resolution scheme operating in NZ.

That the dispute resolution scheme meets client goals and at the same time, it is a cost-effective mechanism for the adviser with realistic outcomes.

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

If Individuals are placed with more responsibility then there should be a register for individuals and a separate register for companies (banks, insurers, fund managers etc.)

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

The register needs to be actively monitored at time of registration, it would appear that the main offenders of late have been people on the register who are from overseas and they have operated in New Zealand for a period of time prior to being removed.

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

Yes.

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

Should be one universal scheme.

The market will dictate the necessity for multiple schemes or not and it may also be relevant that each scheme needs to have its area of expertise and therefore appropriate that it operates in its environment.

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

Yes – however the results of the independent review should be publicised by the FMA and also the individual scheme should send out the results to each of its members without the member having to hunt for the information.

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?

See answer to question 71.

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?

Consideration of limit possible, however would need to know wider ramifications before committing.

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

The requirement that an adviser has appropriate professional indemnity insurance

Other requirements may go against commercial law, particularly where consumers choose to take a course of action with an entity that is not as commercially strong as others in the marketplace should have some weight.

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

Being aware of it would be a start, along with the previous comments on simplify and stream lining.

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?

Yes you shouldn't be able to simply register online, you should have to register with the FMA, who put you on the register.

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?

Yes you shouldn't be able to simply register online, you should have to register with the FMA, who put you on the register.

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

There have been so few cases it is hard to determine a position on this.

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

No.

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

PDS will help with this, along with simplifying disclosure statements.

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