

# TripleA Advisers Association

## Submission to the Ministry of Business, Innovation & Employment's Issues Paper – Review of the Financial Advisers Act 2008



The TripleA Advisers Association believes there are a number of principle based statements that apply to the bulk of questions posed in the Ministry's Issue Paper and that should guide decision making, policy settings and subsequent regulation.

- Principle 1.** Consumer first. We strongly agree that the needs of the consumer should be first and that their interests are well served by a pool of genuinely independent professional financial advisers.
- Principle 2.** Transparency. We believe that transparency of all incentive payments to advisers whether direct or indirect in nature needs to be a core guiding principal. Commission payments not only include upfront payments but include bonuses, overrider and other incentive payments and these are very confusing and misleading. Given that some of these payments are only made annually, and are based on volume of business submitted, it is impossible for the true quantum of commissions to be accurately disclosed to the consumer. Over rider payments to adviser groups for example are extensively used as a direct incentive to influence adviser's recommendations to the consumer. If the policy focus remains on only upfront commission payments, it may well be an unintended policy consequence that commission payments simply shift to other incentive payments.
- Principle 3.** Clear definition of financial advice. We believe there should be a clear definition of what comprises genuine financial advice, including how this differs from "sales", and that single standards (Code) should apply to all people providing advice including accountants and lawyers for example. They may wish to continue delivering financial advice but if so then the requirements of the Financial Advisers Act and associated regulations, codes of conduct and potentially professional development standards should apply. The current exemption for accountants should be rescinded.
- Principle 4.** A level playing field and one clear standard for all. There is significant confusion for consumers as to the distinction between AFA's, RFA's and QFE's. By simplifying the definitions to Authorised Insurance Adviser, Authorised Investment Adviser it would make it simple and easy for the consumer to understand. Many financial advisers operating as RFA's (and to some lesser extent AFA's) within QFE's avoid a range of regulatory, professional development and regulatory reporting requirements (including the significant associated costs). No other profession, such as lawyers, doctors and accountants utilise the auspices of a corporate entity (QFE's) as a substitute for individual qualifications or accountability. Individual responsibility is the key to the integrity of the Authorised Financial Adviser status.

The principles above apply to most questions posed by the review and have guided the Associations submission. From the Issues Paper we have used the six questions below as specific examples to drill down to greater detail.

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

*Our core belief is that there should be one set of rules that apply to all financial advisers. All advisers should adhere to the FF Act, the Code of Conduct and there should be no distinction between the disclosure requirements. We also believe that the definition 'Financial Adviser' should represent all within the Financial Services sector (not only AFA, RFA or QFE). It is only when that definition is made that general conduct requirements can be measured as appropriate and adequate.*

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

*Our core belief is that there should be one set of rules that apply to all financial advisers. All advisers should adhere to the FF Act, the Code of Conduct and there should be no distinction between the disclosure requirements. **There must be one set of rules for everyone otherwise it promotes differing levels of skill sets and standards causing unnecessary and potential damaging consequences for the consumer.***

*We note also that although it is not mandatory to disclose Professional Indemnity (PI) insurance cover, we believe it is in the interests of the consumer that full disclosure regarding PI Insurance cover should be provided when financial advice is given.*

Question 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?

*We do not support QFE's as we believe that if an adviser is to give truly independent and unbiased advice then individual responsibility is paramount.*

*Control and limitation of product selection by a QFE we believe only enhances possible confusion and conflicts of interest. **QFE's should not play any part in the advice process. They may have a role to play in a pure sales role only but this would have to be very clear and transparent to the consumer.***

*We also believe that a QFE should not provide corporate type cover for individual advisers and they should be taking personal responsibility.*

Question 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.

*Remove any reference to the terms AFA and RFA. **We believe that there should be one base level as a financial adviser with a further description on specific activity (insurance advice, investment advice, mortgage broker, fire and general broker etc).***

*This follows the principles of transparency and client focused service. The aim must be to provide a financial service industry with no confusion regarding names (abbreviations) or higher or lower levels of service provided by participants.*

Question 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?

*The types or levels of payment should be relayed clearly and concisely to the client based on a professional customer focused service (transparency). **We do not believe that the issue here is restricting or banning commissions for financial advice but ensuring that any payments made for that service are appropriate and disclosed with full transparency.***

*We believe the simple upfront commissions and on-going renewal commission, if disclosed should not cause any conflict or confusion to the consumer. What should be removed are any overrider or incentive payments that are not fully transparent and definable at the point of sale. If not removed, any overrider or incentive payments should be clearly visible to regulators and customers alike along with full description and purpose.*

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

*The register should seek to achieve identified goals and those identified goals should reflect all qualifying participants within the Financial Services Industry (also including accountants, solicitors and real estate agents). It should also give a clear and concise description of the participants within the register.*

*We note that listing a participant on the register may influence the general public as to the authenticity of the participant. If that is the case, listing on the register needs to be credible. Promote the Register to the general public as a credible resource for their usage.*