

How to have your say

Submissions process

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the questions raised in this document.

- Submissions on the questions in Part 3 of this paper (relating to the Financial Service Providers Register) are due by **5pm on Friday 29 January 2016**.
- Submissions on the questions in Part 1 and Part 2 of this paper are due by **5pm on Friday 26 February 2016**.

Your submission may respond to any or all of these questions. We also encourage your input on any other relevant work. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please include your name, or the name of your organisation, and contact details. You can make your submission:

- By filling out the submission template online.
- By attaching your submission as a Microsoft Word attachment and sending to faareview@mbie.govt.nz.
- By mailing your submission to:

Financial Markets Policy
Ministry of Business, Innovation & Employment
PO Box 3705
Wellington
New Zealand

Please direct any questions that you have in relation to the submissions process to:

faareview@mbie.govt.nz.

Use of information

The information provided in submissions will be used to inform MBIE's policy development process, and will inform advice to Ministers on the operation of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

We may contact submitters directly if we require clarification of any matters in submissions.

Submissions are subject to the Official Information Act 1982. MBIE intends to upload PDF copies of submissions received to MBIE's website at www.mbie.govt.nz and will do so in accordance with that Act.

Please set out clearly with your submission if you have any objection to the release of any information in the submission, and in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information under that Act.

If your submission contains any confidential information, please indicate this on the front of the submission, mark it clearly in the text, and provide a separate version excluding the relevant information for publication on our website.

MBIE reserves the right to withhold information that may be considered offensive or defamatory.

The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review.

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Chapter 3 – Barriers to achieving the outcomes

1. Do you agree with the barriers outlined in the Options Paper? If not, why not?
Enter text here.
2. Is there evidence of other major barriers not captured in the Options Paper? If so, please explain.
Enter text here.

Chapter 4 – Discrete elements

3. Which options will be most effective in achieving the desired outcomes and why?
Enter text here.
4. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?
Enter text here.
5. Are there any other viable options? If so, please provide details.
Enter text here.

4.1 Restrictions on who can provide certain advice

6. What implications would removing the distinction between class and personalised advice have on access to advice?
Enter text here.
7. Should high-risk services be restricted to certain advisers? Why or why not?
Enter text here.

8. Would requiring a client to 'opt-in' to being a wholesale investor have negative implications on advisers? If so, how could this be mitigated?

Enter text here.

4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?

Enter text here.

10. How, if at all, should requirements differ between traditional and online financial advice?

Enter text here.

11. Are the options suggested in this chapter sufficient to enable innovation in the adviser industry? What other changes might need to be made?

Enter text here.

4.3 Ethical and client-care obligations

12. If the ethical obligation to put the consumers' interests first was extended, what would the right obligation be? How could this be monitored and enforced?

Enter text here.

13. What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?

Enter text here.

14. If there was a ban or restriction on conflicted remuneration who and what should it cover?

Enter text here.

4.4 Competency obligations

15. How can competency requirements be designed to lift capability, without becoming an undue barrier to entry and continuation in the profession?

Enter text here.

16. Should all advisers be subject to minimum entry requirements (Option 1)? What should those requirements include? If not, how should requirements differ for different types of advisers?

Enter text here.

4.5 Tools for ensuring compliance with the ethical and competency requirements

17. What are the benefits and costs of shifting to an entity licensing model whereby the business is accountable for meeting obligations (Option 1)? If some individual advisers are also licensed (Option 2), what specific obligations should these advisers be

accountable for?
Enter text here.

18. What suggestions do you have for the roles of different industry and regulatory bodies?
Enter text here.

4.6 Disclosure

19. What do you think is the most effective way to disclose information to consumers (e.g. written, verbal, online) to help them make more effective decisions?
Enter text here.
20. Would a common disclosure document for all advisers work in practice?
Enter text here.
21. How could remuneration details be disclosed in a way that would be meaningful to consumers yet relatively simple for advisers to produce?
Enter text here.

4.7 Dispute resolution

22. Is there any evidence that the existence of multiple schemes is leading to poor outcomes for consumers?
Enter text here.
23. Assuming that the multiple scheme model is retained, should there be greater consistency between dispute resolution scheme rules and processes? If so, what particular elements should be consistent?
Enter text here.
24. Should professional indemnity insurance apply to all financial service providers?
Enter text here.

4.8 Finding an adviser

25. What is the best way to get information to consumers? Who is best placed to provide this information (e.g. Government, industry, consumer groups)?
Enter text here.
26. What terminology do you think would be more meaningful to consumers?
Enter text here.

4.9 Other elements where no changes are proposed

The definitions of 'financial adviser' and 'financial adviser service'

27. Do you have any comments on the proposal to retain the current definitions of 'financial adviser' and 'financial adviser service'?

Enter text here.

Exemptions from the application of the FA Act

Are those currently exempt from the regime posing undue risk to consumers through the provision of financial advice in the normal course of their business? If possible, please provide evidence.

Yes – in my view there is huge risk in terms of lawyers having an exemption. I have a lot of regular contact with lawyers and partners in law firms in particular over 20 plus years. In my wide experience they do not have the insight or educational training in their studies to understand all aspects of financial advice – asset allocation , portfolio management, investment markets , products , businesses , the valuation of equities , all elements of risk. In general I find them extremely naive on such matters and it really is inappropriate for them to receive such an exemption. Business courses / finance courses are not part of a study programme for lawyers who practice law. If you are looking for examples – I suggest you look at the many fraud cases that involve the legal fraternity ; the mismanagement of lawyer's contributory mortgage schemes over many years and the promotion of finance companies/ property syndicates by lawyers. If you visited regional law practices – I am sure you will find marketing brochures in the lobby areas. You are making a mistake to insist on examples to prove the reasons for no exemption as this should be not be a reason to make policy . David Ross received many client referrals from lawyers – this is an important fact.

Put it this way – do you really think financial advisers should have an exemption to provide legal advice/practice law?

- 28.

I have no problems at all with accountants having an exemption. In my experience they invariably understand well business models / companies / risk and all the aspects listed above as they have been trained in the studies on these subjects and with their day to day work. I work with several accounting partners who have a financial planning/AFA qualification – which also greatly assists their understanding.

Territorial scope

29. How can the FA Act better facilitate the provision of international financial advice to New Zealanders, without compromising consumer protection? Are there other changes that may be needed to aid this, beyond the technological options outlined in Chapter 4.2?

[Click here to enter text.](#)

30. How can we better facilitate the export of New Zealand financial advice?

Enter text here.

The regulation of brokers and custodians

31. Do you have any comments on the proposal to retain the current approach to regulating broking and custodial services?

Enter text here.

Chapter 5 – Potential packages of options

32. What are the costs and benefits of the packages of options described in this chapter?

Enter text here.

33. How effective is each package in addressing the barriers described in Chapter 3?

Enter text here.

34. What changes could be made to any of the packages to improve how its elements work together?

Enter text here.

35. Can you suggest any alternative packages of options that might work more effectively?

Enter text here.

Chapter 6 – Misuse of the Financial Service Providers Register

36. Do you agree with our assessment of the pros and cons of the options to overcome misuse of the FSPR?

Enter text here.

37. What option or combination of options do you prefer and why? What are the costs and benefits?

Enter text here.

38. What are the potential risks and unintended consequences of the options above? How could these be mitigated?

Enter text here.

39. Would limiting public access to parts of the FSPR help reduce misuse?

Enter text here.

Demographics

1. Name:

Bryan Shepherd

2. Contact details:

Redacted

3. Are you providing this submission:

As an individual

On behalf of an organisation

(Describe the nature and size of the organisation here)

4. Please select if your submission contains confidential information:

I would like my submission (or specified parts of my submission) to be kept confidential, and attach my reasons for this for consideration by MBIE.

Reason: Enter text here.