

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.

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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?
It is difficult to argue substantively for or against the barriers based solely on the data presented.
From experience in dealing with consumers, there is clearly confusion with “where and who” can give what types of advice, which requires attention.
2. Is there evidence of other major barriers not captured in the Options Paper? If so, please explain.
If one was to look deeper, we would find deeper issues which often start with a low level of financial literacy supported by an attitudinal “she’ll be right or the State will look after us” approach by many consumers. If the issue of financial literacy was addressed as one of the key barriers at an educational level, this may well improve the whole consumer experience in dealing with financial life skills.

Chapter 4 – Discrete elements

3. Which options will be most effective in achieving the desired outcomes and why?
Package 3 provides the most comprehensive attempt to address the barriers identified, with both options 1 & 2 limited in the outcomes being desired and in some cases adding even further complications and confusion to the “advice process” by introducing terms such as “expert financial planner”.
Package 3 does attempt to standardise a simple advice model, based upon competency and ethical obligations. Unfortunately it retains one core confusion with regard to the FAA as to what is “advice” and who is providing advice versus who is selling products or services.
4. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?
There were no figures provided within the Options Paper as to anticipate costs with either of the outcomes and thus it is difficult to provide any commentary as the cost and benefits and how these will address the barriers being identified. Based upon Camelot’s experience, clearly

there is a cost to raise competency standards with 9 Certified Financial Planners, 3 Chartered Life Underwriters and 1 Chartered Accountant. We believe however this cost to be an investment in professionalism and towards raising best practice standards in the engagement of financial services with the consumer.

5. Are there any other viable options? If so, please provide details.

We believe that the definition of advice within the FAA leads to confusion itself. Not all advice results in a product being delivered as the end solution, albeit a large percentage of the solutions sought are product focused. It is our belief that “advisers’ operating under the FAA should be those who are in the business of given “advice” to the consumer not those that are employed to “sell” products. There is provision for salespeople to deliver “products” to the consumer, on behalf of an employer, within the FMCA regulations. Rather than providing some level of distinction between “advice” and “sales” within the FAA, we see greater merit in removing the “sales” process and people and re-aligning them with the FMCA.

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?

There are situations where class advice may be appropriate in situations of client engagement such as seminars, group benefit packages etc... Such advice delivery should be a function of Adviser accreditation and competency rather than product definition.

7. Should high-risk services be restricted to certain advisers? Why or why not?

At the core of the advice process, “advice” should be competency based eg an adviser needs to meet minimum competency standards within the “advice” area being given. Within a business such as Camelot we have self-regulated with an adviser accreditation programme which requires higher levels of training and ongoing competency standards to be met within the disciplines of risk, investment, mortgages etc...This is no different to other professions providing consumers with similar outcomes to that experienced if they were to engage with the law, accounting or medical professions.

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?

If an industry framework of Adviser accreditation and competency were to be implemented, the need to distinguish and provide for differing rules between wholesale and retail may be largely mitigated?

4.2 Advice through technological channels

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

There should be one set of rules to govern the “advice” process irrelevant of the delivery mechanism.

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

Do not understand why the requirements should be different. Again, there should be one set of rules to govern the “advice” process irrelevant of the delivery mechanism.

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

Technology platforms that allow for an inter-active engagement between the consumer and adviser at a cost-effective level would be highly desirable, particularly for younger consumers who are in the early stages of their wealth accumulation phase and may not warrant a high-cost

adviser advice channel.

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?

Not clear on why there is a need to extend the obligation to place the "clients interest first". This provides absolute clarity and if there is any potential for the advice to be conflicted with this outcome, then full disclosure and transparency needs to be included.

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

As mentioned previously we would like to see a separation between product that is provided under a "sales" process and product that is delivered as part of an "advice" process. The former should be distinguished under the FMCA providing the "fit for purpose" definition and the latter under the FAA, where the "clients interest is first and foremost"

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

Within the context of the Options Paper there is minimal information or hard data to gauge the implication of conflicted remuneration in the product or service outcomes experienced by the consumer. At Camelot we offer a range of engagement options and our research suggests that the consumer is relatively indifferent as to the remuneration mechanism.

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?

What other "profession" exists where education and competency standards are not core to the establishment of the "profession" itself. As discussed previously, Camelot has already implemented a programme of accreditation and competency.

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?

Yes, all adviser should be subject to minimum standards. The current National Certificate Level 5 applied to AFA's could form the basis of the minimum standard with higher level papers such as diploma level for more complex advice solutions/products.

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?

Camelot supports an entity licensing regime. As an employer with 32 Advisers, Camelot clients would have an expectation that the business owners retain a high level of accountability in the provision of "advisory" services being promoted. The Advisers, by way of their employment contract, have obligations to Camelot in the process and manner by which they deliver advice to the clients of Camelot and consumer at large. This is not to say that Advisers should not meet minimum educational and competency standards established by either a "licensed

professional body” or the “Government Regulator”.

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

Camelot believes strongly in all advisers being members of a “professional body”. There are arguments for and against a single professional body, however the value of all advisers operating under one standard code of ethics, competency and disciplinary processes has great appeal from a professional stand point. There should be some balance and integration between the “regulatory body” and self-regulation through the “professional body” to represent the interest of the State, Consumer and Adviser participants.

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?

Disclosure ultimately has to be formally documented as a reference point to all parties, thus written disclosure either hard copy or on-line is most effective.

20. Would a common disclosure document for all advisers work in practice?

A common form and template of disclosure would be beneficial, we believe from both an adviser and consumer perspective

21. How could remuneration details be disclosed in a way that would be meaningful to consumers yet relatively simple for advisers to produce?

Camelot discloses fully remuneration to each client currently. The basis of remuneration should be relevant to the service delivery eg if the client is paying an investment fee this should be disclosed as either a fixed amount (if the payment is a fixed amount) or a % of the assets being managed (if the fees are a % of the funds under management).

4.7 Dispute resolution

22. Is there any evidence that the existence of multiple schemes is leading to poor outcomes for consumers?

As an adviser practice we deal with only one scheme, so unable to share any comments

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?

Yes there should be consistency of rules, processes and outcomes.

24. Should professional indemnity insurance apply to all financial service providers?

Yes, purely for the benefit of consumer protection

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)?

All of the above participants can play a role in helping to educate the consumer, including “licensed professional body(s)”. The most effective communication channels would need to be evaluated depending upon the content message being delivered. Clearly technological platforms can provide for cost-effective delivery of collating and making available Adviser

information and advice services.

26. What terminology do you think would be more meaningful to consumers?
One standard definition to start with, either “Financial Adviser” or “Salesperson”
Defined areas of competency for the provision of advice eg Mortgage advice, Insurance advice, Retirement Planning advice, Investment advice etc...

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’?
Happy with the current definitions where they apply to the service delivery to the consumer eg a “salesperson” should not use the financial adviser designation. Would also like to see the definition of “advice” be expanded beyond a “product” based definition.

Exemptions from the application of the FA Act

28. 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.
Minimal first-hand knowledge of the consumers exposed to risk as part of the exemption rules, but can see the potential implications for this advice breaching competency standards. There are documented examples of consumers suffering in this area historically under such practices. Given that other jurisdictions are tightening up in this space, one would assume that there has been greater exposure to problems that have resulted in the Regulator revisiting such practices eg Australia licensing regime.

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?
A large mine-field of issues to consider, one assumes that where the financial advice is based upon the NZ consumer with NZ solutions, the competency standards and consumer protection rules would need to be adhered to whether the adviser was resident or non-resident. Where the products or solutions are domiciled in international jurisdictions, the consumer will need to familiarise themselves with the consumer protection rules of that jurisdiction.
30. How can we better facilitate the export of New Zealand financial advice?
Unable to add constructive comment

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?
No

Chapter 5 – Potential packages of options

32. What are the costs and benefits of the packages of options described in this chapter?
Each of the packages will impose some level of increased cost to the adviser, consumer and market as a whole, but this should not provide a barrier to change. As discussed previously we would favour Package 3, with some adjustments and fully acknowledge this will impose the highest cost of each of the Packages presented. As with all other “professions” there is a cost to “professionalism” and one which the truly “professional adviser” and consumer will accommodate over time. The key will be the transition period and consumer education.
33. How effective is each package in addressing the barriers described in Chapter 3?
Each of the Packages provides for limitations in meeting all of the barriers described in Chapter 3, with Package 3 contributing most to addressing these barriers.
34. What changes could be made to any of the packages to improve how its elements work together?
Will only focus on Package 3, as it has the greatest potential to achieve the original objective of addressing the barriers identified in Chapter 3. As discussed previously, we would recommend removing the “Salesperson” or “Sales Platform” from the FAA altogether, so as to remove confusion between an “advice process” and a “sales process”. Logically the sales process fits more intuitively under the FMCA not the FAA and removes the conflict of when will the consumer be receiving “advice” and when are they subject to “sales”. Within Package 3 there is some commentary regarding competency obligations, which we would see as individual competency requirements in respect to service delivery eg Investment, Risk, Mortgage etc.. – not a one size fits all model.
35. Can you suggest any alternative packages of options that might work more effectively?
Package 3 provides a foundation for developing a sustainable platform with a little more Industry and Regulator refinement.

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?
Unable to add constructive comment
37. What option or combination of options do you prefer and why? What are the costs and benefits?
Unable to add constructive comment
38. What are the potential risks and unintended consequences of the options above? How could these be mitigated?
Unable to add constructive comment
39. Would limiting public access to parts of the FSPR help reduce misuse?
Unable to add constructive comment

Demographics

1. Name:

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2. Contact details: peter.cave@camelotgroup.co.nz

Redacted

3. Are you providing this submission:

As an individual

On behalf of an organisation

Camelot NZ Ltd employs 53 staff, including 14 AFA's; 8 RFA's and 22 support staff operating in 9 locations throughout New Zealand. We provide investment services (\$500M+ funds under advice); personal and group risk services (\$30M+ of insurance annual premium income) and mortgage broking services.

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.