

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?

In our view the barriers are over stated.

The listed barriers in the paper are not prevalent in the all parts of the financial services market. The barriers are a major issue for consumers who are served by RFAs, as RFAs are not required to make any sort of disclosure on commission or conflict of interest, and there are no training requirements. For other customers who deal with AFAs or QFEs the barriers are not prevalent.

2. Is there evidence of other major barriers not captured in the Options Paper? If so, please explain.

Another barrier is the actual level of general financial literacy in New Zealand. While making things clearer and simplifying elements will help, increasing financial literacy will also improve the position for customers.

Chapter 4 – Discrete elements

3. Which options will be most effective in achieving the desired outcomes and why?

We believe a number of the options will be effective. In terms of the most effective we have selected:

4.3 Ethical and client care obligations would add effective and cost efficient benefits that would be applied directly to the customer – which should improve trust and confidence.

4.2 Advice through technical channels would also improve access to information and a wider range of topics and could reduce costs as people can find more information for themselves.

4.1 The removal of restrictions on who can provide advice will help advisers have better and more suitable conversations that will be beneficial to customers across all product variations and levels.

4. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?

There will be clear benefits for customers if various options are applied to RFAs . The regulations of RFAs is the vulnerability in the current FAA regime which needs to be addressed.

5. Are there any other viable options? If so, please provide details.
No

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?
As a QFE, we believe this would be positive as we will be able to have better conversations across all products. The current distinction inhibits a proper conversation. We still need to ask personal questions to ensure that whatever product is being sold is suitable, so by default we are personalising the discussion. The current lack of consumer understanding about this distinction adds confusion as customers don't understand why we can't explain elements in a way that is meaningful or 'personal' to the customer
7. Should high-risk services be restricted to certain advisers? Why or why not?
Yes - those people need the right level of qualification/experience and knowledge to be able to deal in that space, just as in any industry. When dealing with increasing areas of risk exposure for a customer the advisers competency to be able to deal with the level of complexity should be matched. A method of scaling or tiering risk is needed to be able to match the level of qualification/experience.
Product categorisation is a straightforward way to differentiate the higher risk services.
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?
No comment

4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?
That its build is suitable for purpose / warranted / supported by the business or AFA who produces it, therefore the ethical and client care obligations apply to any 'results/opinions' derived via the advice platform.
The platforms should comply with the regulatory regime, and should be delivered from a reputable business with requisite governance.
10. How, if at all, should requirements differ between traditional and online financial advice?
Generally they shouldn't be different, the current regimes which applies to all financial advice supports this. Any new legislation detailing requirements for robo / online advice channels will need a level of flexibility due to on-going technological change.
Robo advice shouldn't be standalone. The consumer should always be able to discuss the results/recommendations with a person if they wish. However a customer should be able to use and have confidence in any robo advice tool in its own right to complete an application.
11. Are the options suggested in this chapter sufficient to enable innovation in the adviser industry? What other changes might need to be made?
Yes the options suggested would enable innovation

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?

Already there are legal obligations on businesses to put the customer first and these are covered off by many pieces of legislation, for example FMCA, FTA, CCCFA, CGA. Some protections to the consumer should be offered if recommending 'replacement' for existing life insurance which should be considered in this section. But as we do not deal in replacement life insurance we can't comment further.

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

We support the submission from ICNZ on this question

The sale v advice distinction needs to be carefully handled so as not to lead to assumptions that a product via a sale is not as good as via advice. Sales should not be seen as an inferior channel and should not be just about the execution of a transaction. Personal considerations are part of the decision making process by the customer for the product in question. Also sales would still need to meet customer suitability needs.

Sales could be where there is a direct manufacturer selling a product or a product bundle but that doesn't contain comparisons to other manufacturers' products or a mix of products for different suppliers. Advice would be a review of multiple suppliers' offerings and/or product mix.

Salespeople should have the current obligations which exist under the FMCA, FTA, CCCFA, & CGA.

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

No Comment- Cigna has controls in place to mitigate any possible conflicted remuneration.

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?

No comment – we are a QFE and the competency obligations that that we apply to our adviser are sufficient and these are reported to the FMA annually via the ABS.

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?

Stipulating a minimum entry requirement to cover all adviser types will be difficult given differing levels of training and experience. However an adviser enters the profession there should be required levels of provable competency to process through the levels of complexity when dealing with increasing areas of risk exposure for a customer.

QFE advisers undergo a good deal of training to ensure they are knowledgeable on the products and services available to customers. The ability to become a QFE adviser shouldn't need specific entry requirements as the QFE is responsible to maintain suitable training for its staff on its products.

RFA and AFA training requirements should be tiered/ scaled as the level of risk undertaken by the customer increases.

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?

Entity licencing works well for QFEs at the moment. It enables a large number of advisers to be

registered under the terms and conditions/compliance obligations, as all those advisers are required to follow the same obligations and processes as they are part of a single business model.

If there was a group of Advisers working together in a business it would seem sensible to act under a group licence, with equal requirements, and also equal liability for mistakes, this could also reduce compliance costs

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

No comment

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?

Depends on the channel of engagement and also customer choice of how they want to receive it. Usually verbally is the best, if available.

However whatever channel is used, the priority is that it is understood by the customer, so simplicity needs to be at the forefront of any disclosure changes.

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

Probably not – it would not be possible to have a simple document suitable for all types of advisers, and all products.

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

No comment – we are a QFE where advisers are salaried. If there is no commission there is unlikely to be a conflict of interest so remuneration disclosure in such circumstances is not helpful to customers.

4.7 Dispute resolution

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

No

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?

The jurisdictional limits should be the same for all schemes. This would mean removing the IFSO different limit for Income Protection claims.

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

No – a large company like Cigna who is a QFE has the resources to meet any claim for compensation.

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)?

No comment

26. What terminology do you think would be more meaningful to consumers?
No jargon, customer friendly, and channel neutral – i.e the terminology doesn't drive customers down to 1 type of adviser channel due to the preconceived notions that 1 type of description/terminology used is better than the other.

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'?
No

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.
No

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?
No comment
30. How can we better facilitate the export of New Zealand financial advice?
No 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?
The QFE model works well right now, so we do not believe change is necessary. Any need to change will include unnecessary costs to comply with processes that add no value to the QFE model or for its consumers. Therefore for QFE's option 1 seems to have the best cost/benefit. However we recognise that in the best interests of customers some change needs to occur with regard to streamlining definitions and making terminology consumer friendly, increasing trust and access to quality advice, and removing the lack of regulations/controls on RFAs.
33. How effective is each package in addressing the barriers described in Chapter 3?
see our answer to 35
34. What changes could be made to any of the packages to improve how its elements

work together?
see our answer to 35

35. Can you suggest any alternative packages of options that might work more effectively?
There are some changes that are incorporated into 2&3 that would be beneficial to consumers which deal with issues arising out of the current RFA regime. There are the issues that RFAs are not required to make any sort of disclosure on commission or conflict of interest, and there are no training requirements; 2&3 both have elements that would address these issues.

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?
Submission closed 29 Jan
1. What option or combination of options do you prefer and why? What are the costs and benefits?
Submission closed 29 Jan
1. What are the potential risks and unintended consequences of the options above? How could these be mitigated?
Submission closed 29 Jan
1. Would limiting public access to parts of the FSPR help reduce misuse?
Submission closed 29 Jan

Demographics

1. Name:
Jennie Roscow,
Risk and Compliance Manager
Cigna Life Insurance
2. Contact details:
Redacted
3. Are you providing this submission:
 As an individual
 On behalf of an organisation

Cigna New Zealand is a leading specialist provider of life insurance, funeral insurance, income protection insurance, accidental death insurance, and travel insurance products and services.

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Reason: Enter text here.