

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?

Yes

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

Yes. Banks are relative newcomers to the life insurance industry. Their philosophy seems to be very much sales driven, with products that are in almost all cases inferior to those available through insurance companies. This comment is supported by a substantial amount of anecdotal evidence from RFAs, and from data supplied by Quality Product Research Ltd, an Auckland based company specialising in the comparison of life insurance products. These inferior products act as a barrier because once bank customers are signed up, they believe they have proper coverage and don't need to seek further advice. Bank staff have comparatively little experience in providing comprehensive advice on insurance. Insurance is very much a second tier service for the banks rather than a mainstream service.

In contrast, the life insurance sector in NZ can trace its origins back to 1849, when the first insurance policy was issued by AMP in Wellington. Ever since then insurance companies have continually improved and fine-tuned their product lines. This process continues today.

The banking sector is a very large and extremely well organised lobby group. Collectively the banks have three to four times as many "advisers" as the rest of the industry put together and so it is only natural that MBIE would carefully consider their views. However, in our opinion it is critical to the functioning of an efficient insurance market that the banks' advice to MBIE not be given undue weight, particularly in view of the fact that their products are inferior and their advisers less well trained and less experienced in insurance than other advisers. The fact the banks continue to offer inferior products is an indication of what could happen if they were allowed to dominate.

Chapter 4 – Discrete elements

1. Which options will be most effective in achieving the desired outcomes and why?
All sections would be effective and we believe all sections should be addressed:
Section 4.2 Robo-advice is happening and should be subject to the same controls as personal advice.
Section 4.3 All financial advisers should be required to place consumer's interest first; there should be clarification of the difference between sales and advice; RFAs should be required to disclose commission and benefits in the same way that AFAs are required to do.
Section 4.4: Yes, agree
Section 4.5: Yes, all good points
Section 4.6: Yes, good idea, but the longer a document is, the less likely people are to read it, so less is more. A good format might be a summary page at the front followed by detailed pages.
Section 4.7: Well worth reviewing these schemes
Section 4.8: Very good ideas
2. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?
Consumers are unlikely to suffer extra costs. There would be extra costs for RFAs and their businesses through the education needed to bring themselves up to the required standard
3. Are there any other viable options? If so, please provide details.
Not that we can suggest

4.1 Restrictions on who can provide certain advice

4. What implications would removing the distinction between class and personalised advice have on access to advice?
None that we know of as long as advisers had completed competency requirements through education and training appropriate to the products they were offering.
5. Should high-risk services be restricted to certain advisers? Why or why not?
Yes, through the licensing process you suggest under Section 5.3
6. 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, we don't believe so, in fact the effect should be positive because the well-heeled client would almost certainly be pleased to sign a form to that effect.

4.2 Advice through technological channels

7. What ethical and other entry requirements should apply to advice platforms?
The same as for a live adviser offering the same services. We favour your Option 2
8. How, if at all, should requirements differ between traditional and online financial advice?

No difference between the two.

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

Yes, we believe so.

4.3 Ethical and client-care obligations

10. 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?

Options 2 and 3 are our choices here. Option 4 – banning or restricting conflicted remuneration, while “flavour of the month” in some quarters, is not a meaningful issue in our view, as long as advisers (all advisers) disclose it up front. NZ consumers are not silly. They know there are incentives in almost all industries to encourage the successful marketing of products and services and our industry should be no different. In our view virtually 100% of clients will not care in the slightest about the adviser's remuneration, but they should know about it up front from the adviser so it is out in the open.

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

Sales people should be defined as those who can only offer the products provided by their QFE. They should be required to disclose to their clients up front that they are restricted to recommending certain products only.

Financial advisers should be defined as those able to offer product lines from at least two different providers, and preferably more. It's very important in our view that if advisers are under a QFE and the QFE incentivises them to use the QFE's products (as often happens) then they should be designated as sales people.

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

This question applies mainly to the insurance market. While some up front remuneration may seem substantial, remember that the adviser, particularly if new to the industry but often if not so new, needs to make presentations to several prospective clients in order to obtain one successful outcome. This means there are significant marketing and administrative costs to the adviser associated with obtaining one successful outcome and the adviser needs to be compensated somehow for this.

If commission rates were forcibly reduced, advisers would need to be compensated by the insurance company for their marketing and administration costs. The outcome for the client would be unchanged, and the outcome for the insurance company would be unchanged. The only change would be that part of the adviser's remuneration would be called by a different name.

Our view is that as long as insurance companies can afford to, and are willing to, pay higher remuneration, it could be successfully argued that the market is operating efficiently.

4.4 Competency obligations

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

While we are in favour of raising standards, we fear that if the transition isn't handled properly then we will lose many more senior and highly experienced RFAs from our industry. We can ill afford to lose this depth of knowledge and expertise.

These advisers may understandably take the view: "Well look, we've been doing this for xx years, producing large volumes of high quality business that stays on the books year after year, our clients love us to bits, we've never had a single complaint against us, and if that's not good enough for you then we'll just go and do something else." We don't believe this is an exaggeration of the effect a draconian transition period would have. We believe however that there does need to be a transition to higher education levels and, handled sensitively, it would be positive. We suggest a five year transition.

2. 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?

For advisers new to the industry, we believe that in every case there should be a designated course or courses of study they are required to complete before being eligible to operate as an adviser. NZCFS Level 5 is an example of what might be required.

4.5 Tools for ensuring compliance with the ethical and competency requirements

3. 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?

We agree with your "Licensing Model" in Package 3 on page 49 that all financial advisers and all adviser entities should be licensed.

1. What suggestions do you have for the roles of different industry and regulatory bodies? Industry bodies, principally the PAA and the IFA, are member-owned and not-for-profit. As such they are likely to remain in existence for an extended period into the future. They are the ideal bodies to be involved in maintaining competency and standards among their members. Their duties could be extended to include non-members as well. They could be required by the FMA to carry out certain duties such as CPD, audits of members' files, and regular training for their members.

Also the Associations would be an ideal resource for consumers looking for an adviser.

4.6 Disclosure

1. 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?

While we believe verbal is not appropriate, online should certainly be an option in this day and age. As mentioned above, people are far more inclined to read a shorter document than a longer one, so we recommend a front page summary followed by pages showing more detailed information. The document could be in hard copy or online. If sent online, a return email from the client stating they have received it should be sufficient record for the adviser to retain.

2. Should all advisers have the same format for disclosure statements?

Yes. It would be annoying for RFAs to begin with because their new disclosure statement would be a lot longer than the existing one, but if it was the same for all advisers then they would soon become accustomed to it.

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

For insurance – as a percentage of the annual premium; for investments – the fee charged plus other remuneration from the provider if appropriate; for mortgages – as a percentage of the mortgage amount.

As mentioned above, the vast majority of clients will not care how much or how little the adviser receives. This whole debate about insurance commission is a red herring fostered by certain elements within the industry who are acting in their own interests. They are not acting in the interests of clients because the amount of commission paid to the adviser makes no difference to the outcome for the client.

4.7 Dispute resolution

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

Not that we are aware of. They all do the same things in much the same way.

3. 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?

We're not sufficiently knowledgeable about this matter to comment. But the existing system seems to work well for everyone.

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

We don't think PI cover should be compulsory but we are strongly of the view that all financial advisers should voluntarily have PI for their own protection.

4.8 Finding an adviser

5. What is the best way to get information to consumers? Who is best placed to provide this information (e.g. Government, industry, consumer groups)?

A combination of these sources – the more, the better. Option 1 is good.

6. What terminology do you think would be more meaningful to consumers?

Re Option 2, we believe all QFE Advisers should in future be required to have the name

of their QFE, and the word “aligned”, in their title. To use your example: ANZ Aligned Adviser. We believe it is most important to distinguish between aligned advisers and non-aligned advisers. Another word that has been used in the past is “tied”, but we sense that most QFEs would not be happy with this term.

4.9 Other elements where no changes are proposed

The definitions of ‘financial adviser’ and ‘financial adviser service’

7. Do you have any comments on the proposal to retain the current definitions of ‘financial adviser’ and ‘financial adviser service’?

Keep them. They are simple, easily understood, and difficult to misconstrue.

Exemptions from the application of the FA Act

8. 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.

We don’t believe so. Their statutory bodies could be held to account if their members ventured into areas they weren’t qualified for.

Territorial scope

9. 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?

We don’t believe so. As far as we know there is no restriction on NZ-based advisers doing business for clients resident in other countries.

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

See our answer to 4.8.5 above. In this day and age, websites are accessed from anywhere.

The regulation of brokers and custodians

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

We’re comfortable with the current system. Some insurance and mortgage advisers call themselves brokers even though they are not directly handling client funds, but we can’t think of any situation where this practice could harm or mislead the consumer, so it is probably best left alone.

Chapter 5 – Potential packages of options

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

We favour Package 3. The only comment we would make, to clarify a matter that isn’t quite clear from your summary on pages 49 and 50, is that in our view it is critically

important for a properly functioning market that RFAs aligned with a QFE are not in any way advantaged in the areas of competency and regulatory requirements compared with non-aligned RFAs. If the non-aligned RFA is required to jump through certain hoops then the RFA aligned with a QFE should be required to jump through exactly the same hoops.

13. How effective is each package in addressing the barriers described in Chapter 3?
As for 12 above.
14. What changes could be made to any of the packages to improve how its elements work together?
As for 12 above.
15. Can you suggest any alternative packages of options that might work more effectively?
As for 12 above.

Chapter 6 – Misuse of the Financial Service Providers Register

16. Do you agree with our assessment of the pros and cons of the options to overcome misuse of the FSPR?
We do not feel sufficiently knowledgeable to comment in depth on this section.
17. What option or combination of options do you prefer and why? What are the costs and benefits?
As for 16 above.
18. What are the potential risks and unintended consequences of the options above? How could these be mitigated?
As for 16 above.
19. Would limiting public access to parts of the FSPR help reduce misuse?
As for 16 above.

Demographics

1. Name:
David Pine, BBS CLU, Business Adviser to the adviser profession through our company Pine Financial (2010) Ltd, see below for more details
2. Contact details:
Redacted
3. Are you providing this submission:
 As an individual
 On behalf of an organisation

David Pine was a financial adviser in Wellington from 1973 to 2010, initially with AMP and later as a non-aligned adviser. His wife Marg Pine worked with him in the business for 12 years. They gave advice on insurance (both life and fire & general), investments, mortgages, and financial planning.

Since 2010 David and Marg have been involved in coaching, mentoring, training, inspiring and motivating financial advisers throughout NZ to be the best they can be.

David has a BBS degree and is a Chartered Life Underwriter (more or less equivalent to today's AFA designation). He is a past National President of the Insurance and Investment Advisers Association which was a predecessor of the Institute of Financial Advisers (IFA). He is a life member of Million Dollar Round Table, an international member-owned association that encourages its members to strive for excellence in the giving of financial advice. David is a life member of the IFA and a member of the Professional Advisers Association (PAA).

David and Marg's Vision Statement (see www.pinefinancial.co.nz) contains the following: "Our long term vision is that by the year 2020 the financial adviser profession will be highly regarded by the NZ public because of the integrity, effectiveness and professionalism displayed by its members, and that it will be viewed in a similar light to the accounting and legal professions."

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: .