

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.
Consumers understanding the value of Advice to improve their lives.

Chapter 4 – Discrete elements

3. Which options will be most effective in achieving the desired outcomes and why?
Package 1 – all Advisers must comply with same ethical obligations and disclosure as well as setting a minimum standard of education – level 5 . This includes QFE employees.
4. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?
Only extra training for individuals
5. Are there any other viable options? If so, please provide details.
Salespeople should not be called Advisers or be covered by the FAA Act.

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?
Class Advice should only be allowed as providing information only such as seminars, advertising, initial discussions.
Personalised Advice should be provided by all Financial Advisers.

7. Should high-risk services be restricted to certain advisers? Why or why not?
We don't need any more confusion. Advisers should be only advising on services they are competent to provide, there is no need for special names .

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?
I think you should do away with wholesaler investor, everyone has the choice of accepting advice or ignoring it.

4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?
All Advice Platforms need to meet the same standards as any financial Adviser, ie ethical, disclosure and competency.

10. How, if at all, should requirements differ between traditional and online financial advice?
there should be no difference

11. Are the options suggested in this chapter sufficient to enable innovation in the adviser industry? What other changes might need to be made?
As much as information gathering can be done simply by Robo Advice systems the analysis still needs to have human input to ensure Clients are not just being corralled into promoters product whether it is "fit for purpose for the Client"

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?
The Client needs should always be first, making all Advisers be members of a Professional body with ethical standards, code of Practice, training and disciplinary functions means the industry would be leading improvements rather than lawmakers.

13. What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?
If you can only sell one product or one promoters products you are a salesperson. If you can Advise and recommend more than one product you are a Financial Adviser.

14. If there was a ban or restriction on conflicted remuneration who and what should it cover?
As long as the remuneration/ conflict is disclosed to the Client and they sign to accept it there should be no need for bans or restrictions

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?
The current NZCFS Level 5 should be the minimum requirement with Advisers completing further education to meet competency levels for more complex products

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 NCFE Level 5, then relevant education in areas of expertise

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?

All Financial Advisers need to be Licensed individually regardless of who employs them. The requirements should be aligned to start with what is currently authorised

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

All Financial Advisers should be members of an appropriately licensed Professional Body to ensure competency, ethical standards, training and disciplinary standards.

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?

Written disclosure

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

Yes, as well as Salespeople, how they work, who they work for as well as how they get paid and how their employer gets paid

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

The actual dollar value of the remuneration the Adviser receives plus any his employer or company receives

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?

Yes cover limits and standards should be set

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

No as Disputes resolution has replaced the Courts in most instances to sort out complaints

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)?
The FSPR should provide more information on Advisers and their services
26. What terminology do you think would be more meaningful to consumers?
Financial Adviser – Insurance Adviser, Investment Adviser, Mortgage Adviser

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’?
Yes

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.
Yes anyone giving Financial Advice must be covered by same rules.

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?
Every country has different tax rules and residency rules, it is very complex to provide international financial advice.
30. How can we better facilitate the export of New Zealand financial advice?
you need international qualifications

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?
na

Chapter 5 – Potential packages of options

32. What are the costs and benefits of the packages of options described in this chapter?
Package 3 simplifies Financial Advice from Consumer point of view, levels playing field for all Advisers. Costs no more than existing regime.

33. How effective is each package in addressing the barriers described in Chapter 3?
Package 3 very effective , simple terminology, advice to suit client needs
34. What changes could be made to any of the packages to improve how its elements work together?
All Financial Advisers must have minimum NCF5 Level 5 regardless of employer, same disclosure for all Advisers
35. Can you suggest any alternative packages of options that might work more effectively?
na.

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

Demographics

1. Name:
Move My Pension Ltd
Luke McKenzie
2. Contact details:
31 Balfour Crescent
Hamilton
info@movemypension.co.nz
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.