



MOTOR TRADE ASSOCIATION

Submission to

**Ministry Of Business, Innovation &
Employment**

On

**Options Paper – Review of Financial Advisors
Act 2008 and the Financial Service Providers
(Registration and Dispute Resolution) Act 2008**

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26 February 2016

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26 February 2016

Financial Markets Policy
Ministry of Business, Innovation, and Employment
P O Box 3705
Wellington 6140

Attention: Financial Markets Policy

Submission: Options Paper – Review of FAA 2008 and FSPA 2008

This submission is from:

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Thank you for the opportunity for MTA to provide comment on the draft Responsible Lending Code.

Yours sincerely **Redacted**
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Greig Epps
Industry Relationship Manager

Options Paper Submission

The Motor Trade Association (Inc) (MTA) represents approximately 3,900 businesses within the automotive industry and allied services. We welcome the opportunity to submit on the Options Paper.

Members of our Association operate businesses ranging from motor vehicle dealers, heavy and light general automotive repairers, vehicle importers and distributors, vehicle entry and in service inspection services, transport services including rental cars, vehicle recovery, agricultural equipment and service stations.

Our motor vehicle dealer members include new and used vehicle traders, and motorcycle traders. In those sectors, MTA represents approximately 600 motor vehicle trader members.

Based on their business activities (described below), motor vehicle traders currently qualify for exemption from the FAA and FSPA as per the provisions of Section 13 of the FAA.

However, MTA is concerned that the Options Paper and the preceding FAA Review in 2015 have made no mention of the exemption. The proposals included in the Options Paper risk bringing motor vehicle industry participants under the compliance requirements of the FAA. As we read the Options Paper, changes to participant qualification requirements, declaration of services, and revision of financial adviser classifications and titles, may apply to the motor vehicle retailing industry. It is unclear whether those outcomes are deliberate, or simply an unintended consequence.

It is appropriate to recap on why the FAA and FSPA should not apply to the retail motor industry.

Motor vehicle dealers do not offer investment services or advice. They simply sell motor vehicles and as an incidental part of that business they assist buyers to access finance to support the purchase of the vehicle. Dealers also actively promote and sell credit related insurance products and vehicle related insurance products. The arrangement of finance and sale of insurances facilitates the sale of motor vehicles and is an incidental part of the motor vehicle selling business. They are not the primary activity.

To avoid any scope for confusion, MTA recommends the retail motor vehicle industry be expressly exempted from FAA coverage in Regulations as contemplated within clause 13 (4) of the FAA. Specifically, "Regulations may declare a class of service provided in the course of a class of business to be incidental, or that a class of business is not a financial service for the purposes of subsection (1)."

The process of organising credit for the buyer and the sale of vehicle or credit related insurance products are subject to the provisions of the recently revised Credit Contracts and Consumer Finance Act and the related Responsible Lending Code. Responsibility for the enforcement of the CCCFA and RLC provisions rests with the Commerce Commission. So clearly the motor vehicle retailing industry already has substantial control mechanisms in place. The FAA and FSPA currently have no relevance to the motor vehicle retailing industry, and it would serve no useful purpose by bringing them into play.

Most finance companies that our dealers work with are likely to be either members of the Financial Services Federation (FSF) or the Banking industry. Those two organisations have member compliance standards and control mechanisms.

Because of the close working arrangements existing between vehicle retailers and the finance industry MTA liaises regularly with the FSF. We use this occasion to express our support for the submission made by FSF in respect of the Options Paper.

