

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.

There is a huge barrier not looked at which relates to how consumers perceive value in financial advice. Some confuse cost of advice with usefulness, others with who provides it. For instance some advice I have come across from accountants has been particularly poor and has placed the clients interests in jeopardy, yet the client perceived it as of value as it came from an accountant. Others believe that bank staff really do know about insurance when they are simply selling bank products of an often inferior nature, and cancelling much higher rates products in the course of the transaction, but the client perceives the value as it comes from a bank.

Chapter 4 – Discrete elements

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

Only discrete licencing of individuals giving advice, and restricting that to areas of competence as identified in the NZ Cert of Financial Services papers.

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

Each adviser (the person giving advice) is limited to the cost of providing cover to the level and subjects they wish to deal in. Coupled with a complaints regime that disciplines those giving advice poorly or in areas where they lack competence. I realise this will have a huge impact on QFE advisers but it will curb the 'teller giving advice' problem that consumers are facing now.

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

All advisers be registered and level 5 NZ cert in Fin Services as a base level, with authorisation for the category of product/ service they wish to provide and have shown competence by

exam.

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?
It can only end up providing better advice. One level across the board and individual competencies. Then whoever gives advice is qualified and therefore the advice should be good
7. Should high-risk services be restricted to certain advisers? Why or why not?
As above with the appropriate competency qualification.
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?
How the hell is a client supposed to know that with any degree of confidence

4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?
Same as above . Written by qual people and peer reviewed. Behind the platform is someone taking responsibility for the advice.
10. How, if at all, should requirements differ between traditional and online financial advice?
It shouldnt
11. Are the options suggested in this chapter sufficient to enable innovation in the adviser industry? What other changes might need to be made?
No.

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?
It should be extended to everyone who gives advice.
13. What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?
There isn't really a practical way. Consumers will have real trouble differentiating between the two. An even playing field will have all at the same level of competence. Once again this impacts QFE's the most, but the reality is that the problems of poor advice and reaching sales targets to achieve bonuses etc are found here.
14. If there was a ban or restriction on conflicted remuneration who and what should it cover?
All advisers. If the client is put first in all cases then there should be no conflict.

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 Cert in Fin Services should be the basic entry. Prior that adviser's must work under the direct supervision and authority of a qualified person who in turn takes responsibility for that persons conduct.

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. NZ Cert in Fin Services

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?

Stupid idea. Each adviser is licenced and responsible for his/her conduct. Entities don't need to be licensed but must be responsible as well for the conduct of advisers they employ, which in turn will encourage them to set responsible goals and provide adequate supervision of staff, lest they too face a harsh punishment.

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

I believe we need one ombudsmen type of regulatory body, a licensing body and a peer review type panel of 'jurors' to hear complaints against people in the same area of the industry.

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?

One level of adviser with competency in the area of expertise sought.

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

Yes

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

Actually I don't believe remuneration is a problem. I discuss this with my clients who don't really care. There is a free market at play and people will expect to pay more from larger firms than non aligned advisers.

4.7 Dispute resolution

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

I don't know but I suspect it is confusing for consumers. We used to have one entity, the ombudsmen. It wasn't broken but it got fixed anyway.

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?

Enter text here.

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

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)?
Combination of all three spearheaded by the government
26. What terminology do you think would be more meaningful to consumers?
KISS keep it really simple

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.
Yes. There is huge risk from pseudo professionals ie Accountants and lawyers giving insurance or investment advice. I have no problem with them giving advice if they have a level 5 NZ Cert in Financial Services with the appropriate competency qualifications. However they generally don't and their advice is outdated and largely incorrect. Anecdotally I have had Accountants recommend that life and trauma insurance is not needed as 'there seems to be enough money in the system to get by' even though the client had a huge mortgage and was facing a large drought. That is not good financial advice.

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?
Click here to enter text.
30. How can we better facilitate the export of New Zealand financial advice?
Enter text here.

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?

Enter text here.

Chapter 5 – Potential packages of options

32. What are the costs and benefits of the packages of options described in this chapter?
Enter text here.
33. How effective is each package in addressing the barriers described in Chapter 3?
Enter text here.
34. What changes could be made to any of the packages to improve how its elements work together?
Enter text here.
35. Can you suggest any alternative packages of options that might work more effectively?
See previous comments. Cost should not be a barrier to a level playing field

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

Demographics

1. Name:
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2. Contact details:
Hartfs@xtra.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.