

# How to have your say

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## 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](mailto: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](mailto: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](http://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 in general
2. Is there evidence of other major barriers not captured in the Options Paper? If so, please explain.  
Compliance regime deterring new advisers entering industry and leading some to limit advice or service offering reducing availability of advice to consumers.

### Chapter 4 – Discrete elements

3. Which options will be most effective in achieving the desired outcomes and why?  
Changes to help consumers find advisers, improved disclosure requirements, remove class advice to 'information only' or group personalised advice,
4. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?  
Consumers – less complexity, advisers and businesses – reduced compliance and need to charge fees, more willingness to provide certain services
5. Are there any other viable options? If so, please provide details.  
Enter text here.

#### 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?  
Less access to generic advice, increased need for personalised advice but could be limited supply from advisers reluctant to work in that space

7. Should high-risk services be restricted to certain advisers? Why or why not?  
Yes, specialised training may be needed
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?  
Not sure

#### 4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?  
Same ethical requirements as Advisers, entry requirements standard disclosure and client understanding of limitations
10. How, if at all, should requirements differ between traditional and online financial advice?  
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?  
Education and promotion of need to seek personalised advice

#### 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?  
Same requirements for AFA, RFA, QFE advisers
13. What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?  
Disclosure
14. If there was a ban or restriction on conflicted remuneration who and what should it cover?  
Overseas trips and any soft dollar incentives – we are aware of advisers recommending particular providers in order to qualify for overseas travel incentives, regardless of what is best for clients.

#### 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?  
Specific education requirements for complex products eg complex investments ,
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

#### 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?

Small businesses may be at a disadvantage due to increased costs and economies of scale

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

Unsure

#### 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 and online

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

Definitely

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

Stop assuming remuneration leads the advice provided, remuneration disclosure is only useful if the costs of being in business are also included!

#### 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?

Everything constant

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

Yes

#### 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)?

Industry with Government explaining licensing meanings and purpose

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

Remove RFA and QFE advisers,

#### 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, in particular real estate agents marketing 'investment' properties which may influence clients to direct funds away from regulated investment products on which they receive advice from an AFA into a risky leveraged investment. Accountants provide insurance advice exposing clients to risk but are not responsible for the advice provided.

### **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?

Unsure

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

Unsure

### **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?

Hard to comment on costs, benefits are improving current regulations but unsure how licencing businesses helps the consumer?

33. How effective is each package in addressing the barriers described in Chapter 3?

Not sure what is actually being achieved by licencing financial adviser businesses?

34. What changes could be made to any of the packages to improve how its elements work together?

Package 2 starting point but small businesses may struggle with additional compliance costs that may be required. Hard to say until more detail is available.

35. Can you suggest any alternative packages of options that might work more effectively?

No

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

## Demographics

1. Name:  
Ross Frater, Core Advice Ltd FSP 61801
2. Contact details:  
Redacted
3. Are you providing this submission:  
 As an individual  
 On behalf of an organisation  
3 employees including 2 AFAs
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- 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.
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