

Saturn Portfolio Management Ltd Submission to MBIE on Financial Advisor Act Review

26 February 2016

Introduction

Saturn Portfolio Management Ltd (Saturn) is providing this submission. Saturn Portfolio Management's Head Office is Unit(s) 4 & 5, Shed 24, Princes Wharf, 143 Quay Street, Auckland 1010.

Saturn is a national financial advisor business that commenced in 1988, and employs 9 AFAs in Auckland and Christchurch. The email contact(s) are John McConnell, General Manager at j.mcconnell@saturnportfolio.co.nz, and Craig Stobo, Chairman, at Redacted

Answers to Questions

1. Yes.

2. While consumers may be confused with financial advice options, it is also inefficient for providers who have to spend resources understanding what silo they are working in and on the costs of compliance. The enforcement pathways and costs of the current regime are also unclear for both consumers and providers.

3. Saturn believes that option 3 is the most effective option, but with an important difference. In addition to a clear separation of providers into either 'expert financial advisors' and everybody else e.g. "salespeople" Saturn would like to pursue a regulatory regime that mimics the legal and accounting profession-i.e. legislation and a high quality professional body.

The reason why we support this is clarity of the service provided to clients and the absence of any conflict of interest real or perceived. Expert Financial Advisors are only paid cash by clients. Salespeople may be paid by clients directly or indirectly through product features such as commissions/trails etc.

4. The costs under option three are the adjustment costs for providers to the new regime; a reduction in regulatory risk for some providers who do not choose to be expert financial advisors; some more regulatory costs for expert financial advisors; consumers will benefit from understanding who can sell financial advice, and who is selling products/services; consumers will have choices between paying directly for advice, or buying products and services and paying indirectly via their features.

5. No.

6. The distinction is not understood by the public, so it won't be missed when it's gone. Changing the distinction to expert financial advice and other/salespeople will be much less complex. The new regime will have to make it clear how to access the approved licensed expert financial advisors. Membership of a legislated professional body (like the Law Society and ICANZ) seems to be a good start.

7. We are not sure if you can define what high risk services are. They could be sold by salespeople or expert financial advisors. It is important that expert financial advisors retain the ability to offer the products and services that they believe meet the needs of the client, and have no conflict of interest in providing them.

8. We need to understand the mechanics better under option 3. If all clients of expert financial advisors are retail and subject to the new regime, but some clients can opt in to be wholesale and not be subject to the regime then it just becomes a greater focus on the definition of wholesale.

For other/salespeople the distinction is irrelevant.

9. We do not believe that there should be any ethical or entry differences between providing expert financial advice directly or via a platform.

10. Requirements should not differ.

11. Yes. Let businesses innovate under the framework we propose.

12. This obligation is required under the expert financial advisor model. Consumers' interests can only be put first if the provider is only paid by the client. Monitoring and enforcement regimes could be adapted from the legal and accounting professions.

13. Best way is to only allow the provision of advice by expert financial advisors, who have a legislated professional structure who only get paid directly by clients. Everything else includes sales of product and services.

The obligation of salespeople is sales.

14. Don't ban it, perhaps make it mandatory to be transparent, but make it very clear that expert financial advisors don't have conflicted remuneration.

15. Not sure if you need to regulate for competency if there is a professional body in place who is charged with this. Conversely having a professionally based industry will attract new professionals.

16. Yes, but for expert financial advisors. Requirements should start with the AFA model. All else are salespeople with no entry requirements.

17. Saturn believes that individual licensing such as AFA works best, such as occurs in the legal and accounting professions. Businesses can be grouped to support these individuals.

18. Saturn would like to follow the accounting or legal professional body examples.

19. The best way is to ask the client, but always document the process.

20. Yes

21. This is produced now during the advice process.

22. Not to our knowledge but there is potential for variable outcomes.

23. Should be one mechanism under a professional industry structure as discussed.

24. Not necessarily mandatory, but needs to be disclosed in the case of expert financial advisors.

25. Promulgation of membership of a professional body would be one way to get the names of licensed expert financial advisors, supported by Government references to the industry professional body.

26. Financial advice can only be provided by individually licensed Expert Financial Advisors who belong to the industry professional body.

27. Yes. It is very confusing. Need to understand if it is still retained under option 3 with individually licensed expert financial advisors under a professional industry body.

28. There should be no exemptions so there is complete clarity.

29. Don't have any comment here beyond consumer protection laws.

30. Saturn believes that there is an opportunity to provide more advice to non-residents. Regulation on this matter is currently not clear. Saturn also understands that there may also be some circumstances where foreign jurisdictions prevent non-residents from receiving NZ/foreign based advice. However, we would urge the Government to ensure that at least NZ-based expert financial advisors can explicitly provide advice to residents and non-residents alike, provided that non-residents receive it on the same basis as residents.

31. No, provided it does not compromise the proposed option 3 model.

32. Options 1 and 2 seem only limited variances on the status quo, which don't address the barriers raised.

33. Option three should shift to individually licensed expert advisors (e.g. AFA) only plus a legislated professional industry body. No QFEs, no RFAs.

34. See 33.

35. See 33.

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