

# 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
2. Is there evidence of other major barriers not captured in the Options Paper? If so, please explain.  
Yes – many customers only want limited advice. Sometimes they do not want to disclose their full financial situation to a stranger, or there is one issue they want advice on and they do not want to look at the ‘big picture’ at that time.

## Chapter 4 – Discrete elements

3. Which options will be most effective in achieving the desired outcomes and why?  
Option 3
4. What would the costs and benefits be of the various options for different participants (consumers, financial advisers, businesses)?  
Benefits could include more consumer confidence and understanding of where to go for advice and the quality of that advice; Cost to advisers to upskill - may result in higher cost to consumers but I am not sure if this has happened over the past 5 years despite AFAs spending significant time and money to achieve that designation;
5. Are there any other viable options? If so, please provide details.  
No comment.

### 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?

Simpler for the consumer. The narrative or conversation will cover this off – if the customer refuses to disclose information then the adviser can only give limited advice and this would be acknowledged on both sides.

7. Should high-risk services be restricted to certain advisers? Why or why not?  
Advisers should give advice according to their competency.
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?  
No comment

## 4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?  
FMA checklist; regular FMA scrutiny; NZ entities only.
10. How, if at all, should requirements differ between traditional and online financial advice?  
Should be similar
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 comment

## 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?  
Put consumers' interests first, or sign off if that does not apply e.g. a salesperson in which case the advice would be 'appropriate' and/or the most cost effective product or service available to that customer by that particular company.
13. What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?  
To put the customer's needs before their own remuneration.
14. If there was a ban or restriction on conflicted remuneration who and what should it cover?  
Any remuneration should be disclosed and it should apply to all sales.

## 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?  
This is a hard one, as we do not have enough financial advisers at the moment and the current requirements may deter mature people qualified in related fields e.g. accountants who may be interested. Current CPD requirements are reasonable, and new entrants could become qualified by working for approved organisations, without completing degrees.

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?

I believe there should be a distinction between current advisers and new advisers coming in between now and say 2020. Beyond that, minimum entry should be a relevant degree or related degree and post grad diploma.

#### 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?

No comment

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

No comment

#### 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?

Not all consumers access information online, so you will need a combination of the three.

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?

Either a dollar figure or a percentage – what is appropriate to their situation only, not all possible variations.

#### 4.7 Dispute resolution

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

No comment

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, but no further comment as I am not familiar with all the processes of the different schemes.

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

I have been paying for this for over 20 years and have never had a claim, and I wonder how

useful it would be if I were to try to claim? Perhaps if all providers had to have it, then there would be more competition and better products would be available which would actually be helpful to advisers should they needed to make a claim.

#### 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)?

Government/FMA. The current situation of trying to find an AFA from the FMA website is confusing – you have to hop onto other websites e.g. IFA or PAA and go from there. The FMA should provide a map of the country that the customer can click on, plus a search tool so the customer can load in name and get all the information they need including contact details, website etc. The FMA does provide a list of 1864 current AFAs – but this is sorted alphabetically by first name from AARON to ZRINKA and is no help at all to consumers. It is a bit disheartening that we have put so much time, money and effort into becoming AFAs, with little reward or support at the end of it with the result that our numbers are shrinking.

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

Investment adviser/insurance adviser/financial adviser (all qualified) and financial salesperson (selling product).

#### 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 comment

##### ***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.

No comment

##### ***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?

No comment

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

No comment

##### ***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 comment

## Chapter 5 – Potential packages of options

32. What are the costs and benefits of the packages of options described in this chapter?

Option 3 would have the most benefits.

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

Option 3 would be the most effective.

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

Access to limited advice.

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?

No comment

37. What option or combination of options do you prefer and why? What are the costs and benefits?

No Comment

38. What are the potential risks and unintended consequences of the options above? How could these be mitigated?

No Comment

39. Would limiting public access to parts of the FSPR help reduce misuse?

No comment

## Demographics

1. Name:

Shelley Hanna

2. Contact details:

Redacted

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.