

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.

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Introduction

Asteron Life Limited (“Asteron”) is a licensed life insurer. Asteron’s life insurance products are distributed and sold predominantly by independent financial advisers (“IFA”), that is, advisers or intermediaries who are not tied to Asteron or members of the Asteron QFE. Asteron also sells insurance products through a direct sale channel through AA Life Limited which is a joint venture with the New Zealand Automobile Association.

Asteron has a QFE through which employees of AA Life as nominated representatives sell AA Life branded Asteron insurance products. IFAs who distribute Asteron’s products are not members of Asteron’s QFE.

Asteron believes consumers benefit from receiving appropriate advice from IFAs and further believes that QFE advisers are not always best placed to offer consumers that independent advice.

Asteron no longer offers investment products for sale to the public.

Asteron has seen a submission prepared by the Life Insurance Forum of New Zealand and largely supports the points made in that submission. The comments in this submission also incorporate views of AA Life Limited. In addition, this submission has been discussed with and shared with AA Insurance, which is also a member of the Suncorp group of companies that Asteron is a part of.

Chapter 3 – Barriers to achieving the outcomes

1. Do you agree with the barriers outlined in the Options Paper? If not, why not?

We largely agree.

The implementation of the FAA has, arguably, led to less choice for consumers as advisers are more likely to be aligned with a large provider – for example a bank or provider’s QFE. It is debatable whether the FAA has been effective at ensuring advisers are effectively disclosing actual or potential conflicts of interests. There is significant evidence suggesting that certain types of advice, e.g. more complicated advice, are not being offered. There seems to be a tendency to view insurance as unsophisticated due to the category 1/category 2 distinction and it is our view that this is not the case for many TPD, IP and Life products. Advice complication is unusual in the life insurance sector and is not necessarily related to value and therefore the ability of the customer to pay. Advice can be complicated by health status, family situation, and employment status all of which cut across socio-economic lines. Our view is that Independent Financial Advisers (“IFAs”) are often best placed to provide complete impartial advice. However, as expanded on below, we also feel that there is a need for more limited advice or sales only advice to be made available to consumers.

Another major barrier is the ability to offer consumers advice in the format they would like.

Many consumers do not wish, or are not able to afford, to take advice from a traditional adviser and the industry would benefit from a clearer ability to support sales or advice via technological solutions. We note however that robo-advice should be carefully defined. There are many ideas in the market regarding what constitutes robo-advice, from the use of computer algorithms to make investment decision to simple life insurance calculators. Any decision to permit robo-advice needs to be considered very carefully and appropriate parameters considered by the industry. Our view is that robo-advice should be defined as being limited to a technology solution which delivers independent personalised advice. All other technology solutions are mere facilitators and there should be no limitation on a manufacturer, IFA or sales person making appropriate use of technological aids they take responsibility for using.

2. Is there evidence of other major barriers not captured in the Options Paper? If so, please explain.

In addition to the above comments, we believe that the cost of advice is a further potential barrier and this is evidenced by the underinsurance issue and reliance on ACC that has been identified in New Zealand. This barrier may be partially overcome by changes discussed in the Options Paper but may also require more innovative solutions. We also have a concern that the increased regulation proposed in many of the options will lead to increased costs which will inevitably be passed onto consumers and has the potential to reduce consumer choice in the market (see our later comments).

As stated, there is a significant problem with under-insurance in the NZ life insurance market: approximately 65% of New Zealanders have a life insurance product, whereas 95% have a car, home or contents policy. There is a paradox here: arguably the financial consequences of early death result in a greater burden on a person's family than the loss of a car. While this is partly a result of ACC, we strongly believe there is a distinct market in New Zealand of consumers who want limited advice which is not being provided in the current regulatory environment. Advisers are either providing a full advice service or limiting their service to 'class advice' or 'execution only'. There is a gap for 'sales' with some limited advice where an adviser (or salesperson) is able to provide elements of limited advice to assist a customer in making a purchase decision. Having a limited amount of life insurance is better than having none. Asteron direct sales brand, AA Life's average annual life insurance premium is c.\$550, which is approximately one-third of the typical annual premium of a life insurance product sold through an intermediary.

We comment further below in our analysis of the options.

Chapter 4 – Discrete elements

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

In general, we favour options which simplify the provision of advice for consumers including the removal of the distinction between class and personalised advice and the distinction between category 1 and 2 products. This must however be combined with ethical and competency obligations on advisers. However we favour a more light-handed regulatory approach to these obligations rather than options that impose unreasonable regulatory burdens on small businesses and individual advisers. In particular, while we believe that all employers ought to be fully accountable for the actions of its employees, this is balanced by the knowledge that an entity licencing model requiring any sized entity to comply with a QFE-style licence will introduce unreasonable burdens on small adviser businesses. Further, we note the difficulties experienced in the Australian entity licencing model to protect the interests of consumers and the relatively recent introduction of a dual licencing regime for both entities and individuals. We agree with options that will align and simplify disclosure requirements.

We also favour a clear distinction between sales and advice although we are of the view the distinction as set out in the options paper needs to be further explored. We believe 'financial advice' should be limited to situations where an appropriately qualified adviser is providing a consumer with choice driven advice requiring an objective assessment of the comparative benefits of the financial products being discussed with that consumer and full disclosure of any limitations on the products the adviser is able or willing to discuss. This advice could be limited where that is what the consumer requires and the limits are clearly disclosed.. Sales only should be permitted by employees or QFE advisers and be limited to products manufactured or distributed exclusively by their employer or QFE and be subject to appropriate disclosure requirements (see our further comments in response to question 13). However, in addition to the simple sales processes discussed in the Options paper, salespersons should also be able to provide limited advice to consumers in relation to the products being sold. This is particularly relevant in our direct business - we find that most AA Life's customers' requirements are straightforward. Nevertheless AA Life's sales process does incorporate important elements of advice. For example, it uses standard questions and a calculator to advise customers what cover level they should consider. AA Life also takes account of a customers' budget. In determining which product (for example life, funeral or accidental death) to suggest, AA Life asks customers what they are seeking to protect against or alleviate. Customers find this advice helpful in making their decision.

The majority of consumers who contact AA Life (and similar direct sales channels) require information and limited advice about AA Life's products, cover levels and price. They are aware that when they contact AA Life, they will be offered AA Life branded products.

This is not, however, the sort of advice that consumers require protection from in terms of the FAA. AA Life (through the Asteron QFE) has put considerable effort into implementing and complying with the FAA, but we are unconvinced of any benefit to consumers. Where a salesperson acts for an individual financial service provider, we agree that the employer should assume responsibility for individual salesperson's conduct and be held accountable for their actions. However, legislation outside the FAA already provides this safeguard. For example, significant consumer protection is already provided by the Fair Trading Act, Consumer Guarantees Act, Privacy Act, Human Rights Act and Credit Contracts and Consumer Finance Act. Consequently, there is no compelling reason why direct sales with limited advice (as discussed above) should be covered by the FAA.

See our further comments in our analysis of the packages proposed.

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

While increased regulation and licensing (section 4.4, option 4, section 4.5 option 1) on its face is beneficial for consumers, this will significantly increase compliance costs, particularly for independent financial advisers. We believe such an approach would result in many IFAs looking to join established QFEs which would significantly reduce choice for consumers as QFE advisers move towards only offering 'their' QFE products. We strongly believe the advice provided to consumers is of better quality when there are a significant number of truly independent advisers able to service that part of the market.

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

Options that more directly focus on the underinsurance problem, including potential tax incentives for consumers and or advisers to encourage insurance. The current proposals around the tax treatment of income protection insurance are disappointing in this regard.

As noted in our answer to 3 above, we also think that further consideration should be given to carving out limited financial advice, where consumers are already offered adequate protection.

Other options that we would like to see explored:

- Potential to link Kiwisaver to insurance other than through bank channels combined with a limit or cap on insurance related fees to avoid fears expressed in the past regarding erosion of a consumer's savings pool.
- A portion of government contributions for Kiwisaver being directed towards payment of income protection or life cover in a manner similar to Australia.
- Stronger self/market regulation in industry through a stronger professional body, perhaps akin to lawyers/accountants professional bodies.

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?

We favour the removal of this distinction in combination with a 'sales only' service – see our above comments. The distinction has caused significant confusion in the public and, we believe, led to advisers not providing 'best practice' advice to consumers. Removal of the distinction, coupled with more clearly defined ethical obligations and greater disclosure will assist to alleviate that issue.

Increasing the viability of limited advice sales will increase consumer access to insurance products to consumers where disposable income is particularly stressed.
7. Should high-risk services be restricted to certain advisers? Why or why not?

We believe it is important that advisers do not attempt to give advice which they are not qualified to give. However the definition of what "high risk" means is situational - TPD, IP and Life Products can be high risk for some clients, while at the same time their superannuation position could be relatively simple and exposure to complex wealth products could be minimal. In each case the adviser giving the advice needs to be appropriately skilled, credentialised and experienced to give that advice - the current categories and hierarchy of advisers does not reflect the underlying risk in all circumstances.

We believe that ultimately advisers should be required to satisfy the market that they are qualified to provide certain advice and will not exceed the level of their qualification. For example, consumers wishing to invest in a complex derivative product will seek evidence (in the form of qualifications, experience, referrals) the adviser is qualified to advise on that product without needing to 'label' the adviser. We accept that it will probably take some time to get to that stage of maturity without specific regulation, which could be a shorter term solution i.e. provide that advisers may not exceed their level of expertise.
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?

We do not think that there are significant issues in the current wholesale/retail distinction and do not think it requires changing. Consumers who are 'wholesale investors' generally are more aware of the issues and risks of advice and do not require the level of protection afforded to retail consumers.

4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?

Providers of technological advice platforms need to be subject to regulation in New Zealand. We agree that permitting robo-advice has the potential to support the provision of more affordable advice to a larger range of consumers and we support legislative change to allow

financial service providers to keep pace with changing technology. We re-iterate our earlier comments regarding the need to carefully define what is meant by robo-advice.

However, there are risks associated with this and we would not favour any adviser being able to offer advice through technological channels. Therefore we support only licensed entities being permitted to offer this service and those entities should be subject to licencing conditions requiring clear disclosure – particularly of the limits of the advice – ethical obligations to ensure advice is suitable (although not necessarily in the ‘best’ interest of consumers as this will be difficult to determine in such channels) and oversight of a regulatory body requiring compliance with prescribed standards including regular testing and attestations of compliance.

10. How, if at all, should requirements differ between traditional and online financial advice?

See above. The focus for advice through technological channels should be on the advice being suitable for the type of client using the service and provision of adequate and clear information as to the limits of the advice. In our experience, through our direct channel, there is a large market in New Zealand for limited, but more cost effective, advice. Consumers are prepared to largely make their own decisions in many matters e.g. the amount of insurance required without requiring full needs analysis.

11. Are the options suggested in this chapter sufficient to enable innovation in the adviser industry? What other changes might need to be made?

As noted above, we believe innovation is the key to addressing the affordability issue. By accepting that many consumers do not want or do not need to pay for ‘full advice’ and facilitating this, then advisers and product providers will be encouraged to innovate to fill that gap either using traditional or technological channels. At present, the legislation tends to push advisers to offer all or nothing advice which is reflected in the products and services, and remuneration structures, offered by providers such as Asteron.

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?

We agree that all financial advice services should come with an ethical obligation. The difficulty is what is meant by putting consumer’s interests first? How is this different from present obligations? We believe the key is that the advice meets the customer’s expectations – a customer may not necessarily want or be able to afford ‘the best’ product for them and this must be provided for. We accept there can be difficulties in determining the appropriate approach when customers don’t know what they want or where their wishes are clearly inappropriate and the duty of advisers in these situations needs to be explored further.

We suggest some form of standard disclosure could be required in any advice letter provided by an adviser to consumers making it clear what limitations may have influenced any recommendation or decision. For example, a needs analysis should include a financial assessment noting affordability is a key driver if that is a reason for choosing one product over another.

13. What would be some practical ways of distinguishing ‘sales’ and ‘advice’? What obligations should salespeople have?

In practice, we think this distinction will be relatively easy to make. We do not think a person selling a product necessarily puts consumers’ interests first even if there is a duty to ensure the product is suitable. A salesperson (as opposed to a person providing advice) should be required to provide disclosure (verbal and written) to that effect including a statement setting out the extent of the service they are providing.

As noted above, we think advice (albeit limited in nature) forms an important part of many direct sales processes. We believe that the distinction that makes the most sense to consumers, and that would best protect their interests, is between independent advice and non-independent advice .i.e. independent advice is that provided by an entity with access to an array of different products from different providers; non-independent advice is that provided by an entity about their own products or under exclusive or 'tied' distribution arrangements.

Consumers will have protection from being mis-sold products in other consumer protection legislation as noted above.

14. If there was a ban or restriction on conflicted remuneration who and what should it cover?

We do not favour a ban or restriction on conflicted remuneration. It is too difficult to enforce and will end up costing consumers. In addition, there are issues in identifying so called soft commissions and other benefits. For example, how is additional training, assistance with meeting compliance obligations and other benefits received by some QFE advisers treated? Our view is that these benefits can significantly influence advisers' sales practices in conflict with the interests of consumers.

We recognise that additional training/development is important in the industry and suggest consideration be given to providing some form of tax incentive for advisers that complete approved training/development.

We acknowledge that there is an issue with replacement life insurance when a consumer is provided with no material advantage by switching policies. We think the onus should be on advisers rather than manufacturers to justify replacement business. Involving manufacturers will be time-consuming and will not benefit consumers. There will need to be some oversight of advisers' justification and this is a matter for further industry discussion. We do not agree with the submission by the Life Insurance Forum of New Zealand that monitoring and approval of the process should be conducted at product manufacturer level.

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?

Ideally, the market would lift capability and consumers would gravitate to competent advisers with the skills to provide the type of advice being requested. This would require a much stronger professional body with the ability to take enforcement steps against advisers who act outside their areas of competence. We recognise this is a longer term solution and probably not feasible in the short term. A short term solution is to enforce minimum entry requirements and mandatory CPD as set out in options 1, 3 and 4 in section 4.4 of the paper. However we have reservations in relation to the licensing requirements – see discussion below.

There is an obvious benefit in providers and industry bodies being more active in assisting advisers to comply with the proposed requirements, however such assistance comes with the danger that it is viewed as a benefit provided by product providers and is provided on the basis (express or implied) that it is in return for sales. For this reason, further discussion is needed on this issue and perhaps it would be preferable to permit only independent bodies to provide such assistance. We favour compulsory training for advisers on all products that they are advising on.

All financial advisers who offer choice-driven advice to consumers (as opposed to limited advice

combined with sales) should be required to acquire and display a uniform standard of competency in their chosen area(s) of practice. All such financial advisers should also be required to follow an approved process including, but not limited to, client relationship explanation, client discovery, needs analysis, critical analysis of product options, recommendation analysis, and implementation.

All persons who provide advice including limited advice with sales (the model discussed above) should be required to comply with a Code of Ethical Conduct although the scope of this will need to be considered in conjunction with the proposed carving out of the limited advice model from the FAA (and reliance on other consumer protection legislation).

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. We suggest some form of basic qualification (client servicing skills/the law) for all advisers and additional credentialisation for more complex products or situations (see above comments).

An alternative is to require qualification to be a member of a professional body (managed by that body) as in other jurisdictions such as the United Kingdom and the United States. Over time the professional body becomes recognised in the market place as a sign of a qualified adviser. Again care is needed, and probably government funding to ensure the professional body is not aligned to a provider or providers.

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?

While we favour some form of licensing of individual advisers or entities, it should not be as extensive as the current QFE model for smaller adviser businesses. Our view is this will be too expensive for smaller adviser businesses and lead to most advisers joining an established QFE which will essentially remove any notion of independence in the market with the result that advisers will inevitably favour 'their' QFEs products (irrespective of ethical obligations) when providing advice to consumers.

Asteron strongly believes that IFA are critical for providing appropriate advice to a range of consumers. If all entities were required to be licensed in a manner akin to the current QFE model, then any provider that is not a QFE will likely need to provide full QFE services at a significant cost (ultimately passed onto the consumer). We acknowledge there will be an argument from entities such as banks and other financial service providers that they have already invested in a QFE structure and they are therefore entitled to benefit from such investment. However this, in our view, first ignores what is best for consumers, particularly in providing truly independent advice and secondly, disadvantages providers who for strategic or other reason, did not set up a QFE originally. When the FAA was originally passed in 2008 it was clear that there was no requirement to use a QFE structure and there are clear benefits in not doing so for consumers. It is not fair (or in consumer's interest) for the government to now effectively make QFE's mandatory through the 'back door'.

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

See above discussion on assistance that could be provided by truly independent industry

bodies. Regulatory bodies could then oversee the industry bodies' activities.

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?

For face to face advice, we believe that consumers would benefit from requiring simple disclosure verbally. We acknowledge that written disclosure is often not read. A simple verbal disclosure in plain English setting out the extent of advice being provided followed by more extensive (but still simplified and standardised) disclosure is preferred. For different delivery methods e.g. telephone, online, disclosure will need to differ. We support disclosure being included in any written advice provided to a consumer.

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

Yes we believe it could be made to work in practice. All advisers should be required to disclose details of remuneration as well as their status (depending on the final decisions regarding potential status of advisers).

In terms of direct sales/limited advice model discussed above, we suggest that the current telephone disclosure requirements should be reviewed: currently, consumers do not understand or pay much attention to these statements. Verbal/ telephone disclosure statements need to be short, relevant, and credible and make sense to consumers. We would be very concerned about the credibility and customer experience generated by a disclosure statement which required salespersons to say anything to the effect that '...we are not required to act in your interests'. A simple statement declaring that we have not provided independent advice and suggesting the customer do so if they feel it is appropriate would be sufficient. As long as there is an adequate 'free look' or 'cooling-off' period, a detailed written disclosure statement can be provided to customers after they have purchased a product.

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

We think that it is the fact of commission and other benefits received that is important rather than the details so, for example, all advisers should disclose (at a high level) the commission they receive from product providers. Given the variations with volume bonuses etc., this could be a range rather than exact figures.

4.7 Dispute resolution

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

We are not aware of any such evidence.

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. The schemes would benefit from consistent processes.

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

We believe all financial advisers providing full financial advice should be required to hold professional indemnity insurance. Consumers using advisers under the limited advice/sales model discussed will receive protection offered by the QFE or employer of the salesperson.

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)?

We don't currently have a view. We suggest further research is required on how consumers currently 'find' advisers. We suspect that actually advisers 'find' consumers through networks etc. This means there is a large percentage of the population that do not have advice (as they are unattractive for advisers) and there needs to be some incentive to provide advice to those consumers.

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

Much of the FAA terminology is confusing and as discussed in the paper and in this submission should be clarified e.g. AFA/RFA/QFE adviser, category 1 vs category 2, class advice etc.

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. We think these definitions are adequate. If a separate 'sales only' or 'limited advice' process is implemented, the definitions may need to be amended to reflect this.

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.

Not to our knowledge.

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?

We believe the proposal to clarify the definition of robo-advice and to provide for sales only will facilitate international financial advice to New Zealanders through the internet. However any provider will need to be registered to ensure appropriate oversight. We do not support overseas individuals being able to provide financial advice to New Zealanders in New Zealand without being subject to New Zealand laws.

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

We have no comment on this issue.

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?

We have no comment on this aspect of the paper.

Chapter 5 – Potential packages of options

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

Please see our earlier comments for Asteron's views on the costs and benefits of the packages. Each package comes with its own costs, increasing as the packages build on the previous package. We accept that there needs to be some greater regulation to increase the effectiveness of the provision of financial advice in New Zealand and to address the barriers referred to in the option paper. We acknowledge this will add some costs to the industry. However we are wary of adding excessive increased regulation when we believe that the industry is not performing as badly as some commentators have stated and are also cognisant of the fact that advisers have been through significant reform in the relatively recent past. In our view, 5 years is not a long enough time to fully judge the effectiveness of the earlier reforms from the 2008 legislation. Any further reforms should endeavour to minimise costs that will ultimately be passed onto consumers and also strive to ensure an even playing field for all participants in the industry, not just those with the loudest lobbying voices.

The greatest benefits to consumers will come from upskilling the competency of advisers, simplifying some of the more complex parts of the FAA and requiring advisers to put consumer's interests first (although further work needs to be done to determine exactly what is meant by this phrase and limits that may apply).

Our view is that the most significant costs of the proposed reform will be in requiring the licensing of entities and sole traders if the level of licensing is akin to QFE licensing as is suggested. We think some licensing is required but do not see the benefits of that level of licensing which would in our view drive many IFAs to QFEs, therefore reducing effective consumer choice.

We support elements of each package. In summary we support all of packages one and two with the exception of the proposed licensing model which we think requires further examination. We also support, in a limited form, the introduction of a distinction between sales and advice, although again the details of this need to be further explored by the industry. We favour sales persons being able to offer limited advice in relation to products manufactured by their employer or QFE or where an exclusive distribution arrangement is in place and it is clear that the advice is not independent (such as where a customer is in an AA Centre enquiring about an AA Life product), without significant additional compliance requirements as discussed above. However only IFAs or appropriately qualified advisers should be able to offer choice driven advice which requires an objective comparison of various products and disclosure of limits of any such comparison. Such advice will require more comprehensive needs analysis and options analysis.

We think that regulatory and industry bodies need to play a greater role in supporting advisers to meet the proposed new competency and licensing requirements (in whatever form they take). We are concerned that in the absence of strong support, product providers (including Asteron) will step into the gap and provide assistance to advisers. Notwithstanding this will have some benefits to Asteron (which currently does not have a 'tied' adviser force), we strongly believe this is not in the best interest of a sustainable industry that offers truly independent advice to consumers. We believe that, irrespective of safeguards built in to the advice process (e.g. ethical duties) inevitably advisers who are assisted in their compliance obligations by a bank or other product provider will have some express or implied obligations to that bank or product provider and this is not in the best interest of consumers.

We are aware of views in the industry that the packages, particularly 1 and 2 do not go far enough in addressing the perceived problems in the industry. We disagree with those views as

set out above. There seems to be a perception that packages 1 and 2 will not protect consumers when elements of the packages are considered individually. However we think this view fails to consider the incremental effect of all proposed elements together – for example, the obligation to put customers’ interests first is stated to currently apply and be proven to have not worked – however, in the proposals when this obligation is combined with increased regulatory/industry body oversight, increased competency requirements and simplified disclosure, we think the effect will be more positive.

33. How effective is each package in addressing the barriers described in Chapter 3?
See above comments.
34. What changes could be made to any of the packages to improve how its elements work together?
See above comments.
35. Can you suggest any alternative packages of options that might work more effectively?
See above comments.

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?
Asteron has not had any experience of the issues described around the misuse of the FSPR. Accordingly we do not have a strong view on the options identified.
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:
Suncorp Life New Zealand including Asteron Life Limited and AA Life Limited
2. Contact details:
Redacted
3. Are you providing this submission:
 As an individual
 On behalf of an organisation
See introductory comments.

4. Please select if your submission contains confidential information:

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