

# 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](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.

## Permission to reproduce

The copyright owner authorises reproduction of this work, in whole or in part, as long as no charge is being made for the supply of copies, and the integrity and attribution of the work as a publication of MBIE is not interfered with in any way.

## Chapter 3 – Barriers to achieving the outcomes

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

I believe that consumers do not understand the difference between an authorised advisor/or registered advisor/or QFE. As I am only selling insurance most people understand what a broker does. They believe that they shop around for the best deal for the consumer. I do believe that we should not be pulled together with financial advisers who give financial advice. A mortgage broker gives advice on mortgages and an insurance advisor gives advice on insurance. If when selling insurance why can't we use the term insurance broker just like a mortgage broker does. I believe that the standard for RFAs is adequate with the amount of training that we are required to do. I believe that we get lumbered and are tarred with the same brush as financial advisers where I have no intention of being a financial adviser.

Because I only give advice on insurance it is sometimes hard to see where the line would be when having the client's interest is 1st for example. If a person has a policy that only covers them for Pharmac funded drugs and they have had this policy for 10 years. I come along and show them an option that would give them access to having both MedSafe approved drugs as well as Pharmac funded drugs but during the changeover they were to incur some exclusions, which they did not have on their policy previously. The only way you could know if you are giving them good advice or bad advice would be at the point of claim. This could be argued that I had my own interest by dispute resolution scheme. As modern medicine advances the insurance policies will also need to change so it is natural that there will be some churning as a document becomes older and has not kept up-to-date with these advancements.

When it comes to barriers on the limitation of class advice and personalised advice I think a lot of people do not care where they get advice from which is quite sad. I believe the legislation that has been introduced to distinguish between personalised, class retail or wholesale types of advice, most people wouldn't have a clue nor do they care what they're getting into. If a person gets something free through their work it's free. The person who wants to get advice is prepared to sit down with you and is happy to work with you to get an outcome that they are happy with. They don't care if you're an AFA, RFA or QFE. People don't care that you get paid a commission from the insurance company. The amount should not have to be disclosed just as any other retailer does not have to disclose their margins when you purchase something from them. When running a business you are entitled to make a living. I personally have never placed insurance based on commission. It's all about the client's needs.

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

Enter text here.

## Chapter 4 – Discrete elements

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

Enter text here.

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

Enter text here.

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?

Enter text here.

7. Should high-risk services be restricted to certain advisers? Why or why not?

Yes investments need to go to AFA's and insurance needs go to Insurance Advisers (RFA's). Dealing with investments is a very different market as you are protecting people's life savings in a lot of cases. Insurance is offering a solution should the unforeseen happen so that the people who are affected are given some form of a solution to help them through a difficult time. Advisers need to be specialists in their chosen field.

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?

Enter text here.

## 4.2 Advice through technological channels

9. What ethical and other entry requirements should apply to advice platforms?  
Option 2 - A hybrid regulatory model for financial advisers.  
People run the risk of purchasing a product that is not suitable for them. As I do not do investments and only do insurance most people do not understand their disclosure obligations unless it is explained to them. They also run the risk of purchasing an incorrect product such as an Accidental Death product where they could purchase a product that would cover them for illness as well as an Accidental Death. I find this area very risky for the consumer.
10. How, if at all, should requirements differ between traditional and online financial advice?  
By having an online service I believe the consumer is unaware that they are taking a greater risk in purchasing an inappropriate product where consumers are very price driven and not product driven. In order to get people to purchase online they also offer rebates on their 1st year of premiums. This type of advertising engages people who are more price driven. This area should be more regulated.
11. Are the options suggested in this chapter sufficient to enable innovation in the adviser industry? What other changes might need to be made?  
I believe Option2 the hybrid model allows enough scope.

## 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?  
To exercise care diligence and skill and must not engage in misleading or deceptive conduct. You are either honest or you are not. Unfortunately when you deal with insurance you do not have the hindsight of what a claim might be so you can give it all the care diligence and skill that you like but hindsight is a wonderful thing. If a client should have purchased product B instead of product A you are always going to get it wrong. I believe the AFA standard in this area is too high and it should be brought down to a RFA's level. I believe the best way you monitor this is by auditing a company's process before it becomes a problem. Also by examining company contracts with providers that want a % of business in order to have an agency.
13. What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?  
Consumers always have the right to say no. I have 5 potential risks that I can cover medical, loss of time products such as income protection, trauma cover, total and permanent disability and life cover. Most people take 3 out of the 5 if they can afford it and some will only take 2 and others tell me they only want one. Even though I have talked to them about all 5 products and can show them the benefits, it usually comes down to running cover to a budget. It doesn't matter how good a salesperson/adviser I am if the person doesn't have the money to purchase what they should have they have to compromise on cover and take some risk themselves. Unfortunately we do not know what the claim is going to be hence the consumer has the chance of buying an inappropriate product. Commission is not the problem more a person's budget. Unfortunately advisers don't like being called salespeople but there is no distinction as it usually comes down to budget not sales ability.

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

People deserve to get paid for their efforts and companies who offer innovative products should also be supported. Taking away soft dollar items such as trips/ conferences is very bad for the industry as a lot of motivation and growth comes from these events where you get the chance to spend time with other like-minded professional advisers. Like in all industries those who go the extra mile have more success than those who don't work hard.

#### 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?

As a risk advisor I believe going to product launches should be considered as CBD credits as it is a way to keep up with the industry innovations. Some providers are asking us to complete their examines to make sure that our knowledge is up to standard in order to give advice about their products. Classroom environments also need to be more accessible for South Island advisers as not everyone learns by just reading.

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've been in risk insurance now for many years and find the industry is always training and retraining. To increase it anymore I don't believe would add any more value other than the above suggestions.

#### 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?

1B - greater role for industry bodies may give greater clarity for advisers

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

More transparent and take into consideration financial advisers/insurance advisers/mortgage brokers should all be treated differently and had different legislation put upon them.

#### 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 with a photograph of adviser

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

No tailor for each industry – Financial, Insurance and mortgages.

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

It is my understanding that RFA's are not obligated to disclose remuneration however I do make my clients aware that I am paid a commission and I've never had a complaint. Clients are not prepared to pay a fee for service to get advice on insurance. If they did it would be a very minimal fee, they do not categorise us in the same category as a lawyer or an accountant who charges out per hour/minute. When the Xerox man arrives to sell you a new photocopier does he tell you if he is on a salary or commission and if he sells this machine to you his company is giving him a trip to New York?

#### 4.7 Dispute resolution

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

Cannot comment as I am happy with the option and the choice that I was able to make, however I would like the cap of \$200,000 increased as I believe it is way out of line for the Consumer's needs. Also I strongly believe there should be a cost for a consumer to complain rather than clog the system with minor complaints that take up an adviser's time and expense.

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

#### 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)?

Most people take very little interest whether you are an RFA or AFA. If people wish to research it they can easily find this information on the government's current websites.

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

I believe a more relevant way of getting the message across is telling people what you have been trained in that would give your more relevant experience. Example I've been in the life insurance industry for the last 15 years and I specialise in areas such as medical, income protection, trauma cover, total and permanent disability cover and life cover. Option 2 sounds more meaningful work with consumers and advisers to identify the use of terminology. Most people understand the word insurance broker far more than insurance adviser.

## 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'?

This is fine for financial advisers but cannot work for Insurance Advisers.

### 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.

Lawyers and accountants should be a great referral source for insurance advisers but it is not the case as they do not take much interest in the client's needs should the unexpected happen. I believe that they should take more responsibility in their care diligence and skills for their clients in this area.

### 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?

I think the word broker is widely used by the general public to describe insurance broker or a mortgage broker where they represent more than one supplier and shop around for the best deal. When it comes to a financial adviser the general public generally do not look at him as a broker. It would be great to re-introduce this word "broker" to the insurance industry again as people do relate to it and they understand the service that you offer very quickly.

## 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?  
All packages suggested are flawed. There should be more consultation with the industry bodies for an improvement that they could get from their members.
35. Can you suggest any alternative packages of options that might work more effectively?  
Let people be specialists in the area that they are competent in e.g. Insurance = insurance, Financial Advice go to a Financial Adviser.

## 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:  
Tim Lethlean of Delray Group
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: