

29 February 2016

Financial Markets Policy
Ministry of Business, Innovation and Employment

Emailed to: faareview@mbie.govt.nz

To Whom It May Concern,

TOWER submission on the Options paper

1. Thank you for the opportunity to submit on this options paper. We have contributed to the Insurance Council of New Zealand (ICNZ) submission, and while we support the majority of that submission, there are some additional perspectives we can provide due to our status as a Qualifying Financial Entity (QFE) under the current Financial Advisers Act 2008 (FAA) regime. As a QFE, we take front line compliance responsibility for the professional conduct and competence of our advisers.
2. TOWER Limited is an NZX listed company and its subsidiary TOWER Insurance Limited (TOWER) is a licenced insurer. We are a significant insurer in New Zealand and offer general insurance products across domestic and small business markets in both New Zealand and the Pacific Islands. We have been in business since 1869.

Support of QFE model

3. We find that the current QFE structure works well in ensuring that licenced entities are encouraging the right knowledge and behaviours in their staff and put the interests of customers' first. Like other QFEs, we have governance and compliance arrangements in place to ensure that our employees, contractors and any nominated representatives operate professionally and meet their ongoing obligations, as well as the obligations of the TOWER QFE Group.
4. We have processes in place to support the compliance of our QFE advisers including:
 - **Adviser Recruitment** – we have a centralised and consistent approach to the recruitment of QFE advisers.
 - **Adviser Training** – education and training for QFE advisers in regard to product and FAA compliance is delivered by our Training team.
 - **Quality Assurance** – we have comprehensive and regular monitoring of recorded telephone interactions with customers for sales roles. This is conducted by our Quality Assurance team.

5. We find the QFE regime to be an efficient compliance mechanism, encouraging ongoing communication between the FMA and QFEs. We submit that this is beneficial to all participants in the financial services industry – consumers, QFEs and the FMA.

4.1 Restrictions on who can provide certain advice

6. As a QFE, we are neutral on whether there should be a distinction between a personalised service and a class service (option 1 on page 22 of Options paper). Our advisers are able to provide advice on TOWER's range of products and ensure that they sell suitable products to members of the public that contact TOWER. We consider that they may give a personalised service, and encourage our staff to have conversations with customers to draw out relevant details and ensure that an appropriate product is offered.
7. Regarding Option 2 on page 22, we would not support the removal of the distinction between product categories. We do not believe that compliance obligations should be raised for those companies such as TOWER that only sell simple category 2 products, compared to the complex investment products in category 1.

4.2 Advice through technological channels

8. We support the proposal in the options paper that financial advice should be allowed to be provided online by a licensed entity, such as a QFE (option 1). In our view, this is preferable to option 2 ("hybrid regulatory model"), which would add complexity to the current regime. Please refer to the comments made in our submission dated 22 July 2015 (paragraphs 10-13). For ease of reference, they are copied below.
 10. *We submit that the FAA in its current form will potentially hinder the development of innovation and technology in insurance markets. Only a person can give advice currently, not a computer, and a company can only give class advice. We believe that the FAA needs to be future proofed, so that a company can give advice through technology.*
 11. *The fundamental principles of digital user experience design are to create online experiences which are useful, usable, efficient, effective, predictable and desirable. In a financial services and insurance context this includes helping people to make decisions about products and services that suit their needs. The current digital standard practice across most industries is to provide customers with content and information about the different types of products or services on offer. Providing this information creates effort for consumers and puts the onus on the individual to research, understand, interpret and make a decision on the product or service that is most appropriate for them.*
 12. *We believe there are two potential future digital considerations: firstly, automated rules based decision tools/assistants. An improved user experience (in addition to providing full product/service information) would be to create rules based decision tools or assistants which would ask customers a series of questions about their situation and preferences in order to narrow down product/service choices and provide recommendations. In doing this, we would be able to provide consistent rules based advice that is able to be personalised, rather than necessarily class advice as would be permitted at present. Offering these online tools/assistants would provide support to consumers giving them the confidence to choose*

products/services in an efficient, effective and predictable way. It would also reduce the risk of consumers making a poor choice of product/service due to a lack of understanding or knowledge.

13. *The second future digital consideration is sales through digital channels. Alternative digital communication channels such as live chat are becoming more prevalent. The rise of these forms of customer interaction challenges us to continually simplify our communications. Live chat is predominately a support channel in which customers can ask questions in order to clarify or understand online information. It is a way for customers to have personalised support while remaining in the digital/online channel. Live chat agents should have the ability to be able to freely help and support customers with product and service choices online. This is currently possible by having a disclosure statement for consumers prior to the interaction, and we submit that any reform of the legislation considers this sales channel.*

4.3 Ethical and client-care obligations

9. We consider that option 1 (extend ethical requirements to all financial advice services) is already in place for QFEs, so would support this option. QFEs are required to abide by the Code of Conduct for Authorised Financial Advisers, and provide an “If not, why not” comparison as part of the Adviser Business Statement. Code requirement 1 is that “An Authorised Financial Adviser must place the interests of the client first, and must act with integrity”. TOWER makes the statement in its ABS that it “complies through its recruitment, training, supervision, and quality assurance programmes”. We are comfortable meeting this ethical requirement, and believe it is in the interests of consumer protection to extend it to other market participants that are not QFEs or AFAs.
10. We do not support the proposal in the options paper that there be a distinction between sales and advice (option 2). As a QFE, we train our staff to make sure they put the needs of the customers first and only sell appropriate products. The proposal under package 3 that an entity notify customers that “the consumer is being sold a product and that the salesperson is not required to act in their best interest” would be factually incorrect, and would not be acceptable to us as a QFE.
11. Paragraphs 5-6 of our previous submission are relevant to this discussion, and are repeated below for ease of reference.
 5. *We recognise that under the FAA at present, the discussions our sales personnel have with customers and potential customers fall within the definition of financial advice. Therefore, we have chosen to become a QFE, which enables our staff as QFE advisers to have meaningful discussions with customers, understand their insurance needs and ensure a suitable product is offered and sold. We have been a supporter of the QFE regime, and believe it is an efficient mechanism in recognising the efforts of employers such as ourselves to ensure staff are trained, supervised, and monitored.*
 6. *As an employer we want to take responsibility for our staff, in ensuring that they are trained, supervised and monitored to sell the most suitable product to customers. All TOWER’s products are category 2 products.*

12. We consider that option 3 – suitability requirement for sales of financial products, is already in place for QFEs, and would support that. However, we would not support our advisers having to compare the products of other providers. Our staff are trained to understand and provide advice on TOWER products, not the products of other providers.

4.4 Competency obligations

13. While there is merit in the proposed options under this section, we would like QFEs to be able to continue to set appropriate competency levels for their advisers. QFEs are best placed to train their staff and select internal training standards, and we do not believe it is appropriate for external training standards to be set for QFEs and their QFE advisers. Our call centre sales staff are trained in a classroom based environment for two-three weeks, and then carefully monitored in the “Incubation Period” by Team Leaders and senior staff. We conduct quality assurance over our sales calls and listen to a number of sales calls per sales agent per month.

4.5 Tools for ensuring compliance with the ethical and competency requirements

14. We support option 1 (entity licencing) and consider it vital that as an entity we should take responsibility for our advisers. We believe the QFE model is an efficient compliance mechanism however; we do not believe a more intensive licencing process than the current QFE licencing model is required.
15. In general, we do not support option 1B (greater role for industry bodies) as we believe this would add an unnecessary layer of cost and complexity. Additionally not all industry bodies would have the resources to perform this role. We find that a regulatory role would sit counter to the industry representation role that is held by an organisation such as the ICNZ. However, we acknowledge this role may be appropriate for some industry bodies representing individual advisers. Therefore, an opt-in role for industry bodies which wish to perform a similar role to QFEs may be worthy of further consideration.

4.6 Disclosure

16. We wish to retain the current standardised QFE disclosure statement, particularly the ability to make QFE disclosure by telephone/IVR. For these reasons we do not support option 1 (all advisers have the same disclosure requirements).
17. Option 2 (Review the information disclosed and form of disclosure to make it more meaningful for consumers) would be acceptable if QFEs were able to continue to use standardised disclosure statements for their staff.
18. Option 3 may add to the cost of maintaining the already underutilised Financial Service Providers Register.

4.7 Dispute resolution

19. We do not see any need to change the status quo, and support the element of choice of dispute resolution provider. We do not believe this would offer any additional benefits for consumers or the industry as a whole. Again our comments from our previous submission are relevant, and are pasted below for ease of reference:

17. *We support competition between dispute resolution services and believe that this contributes to their efficient operation. We do not see any need for the review of this legislation to change the status quo.*
18. *As a QFE, our recorded disclosure statement notifies customers of our membership of the Insurance and Savings Ombudsman scheme on every incoming phone call. This information is also available on our website and in our Complaints brochures. We do not believe that potential customer confusion is a sufficient justification to remove the competitive element and market forces in place between the dispute resolution schemes.*
20. Note, the Insurance and Savings Ombudsman has been renamed the Insurance and Financial Services Ombudsman since that submission was written.

Potential packages of options:

21. We are supportive of package 1 – it is an extension of the current QFE model to other financial service participants. Some elements of package 1 would make the financial advice regime more efficient, e.g. the provision of robo-advice. As previously stated, we believe that QFEs are already required to act in the best interests of consumers, so would support this principle.
22. We would like some clarity on where the QFE model fits into package 2. For example, as a QFE we already ensure that our employees comply with our own internal competency and ethical obligations, but we would not want these to be standardised across all QFEs. We do not believe it is necessary for a licencing model to impose additional compliance obligations on providers of category 2 products over and above those in place under the QFE model.
23. We do not support package 3 – as stated previously, we do not support the distinction between “sales” and “advice”, and don’t support the mandatory notification that “the consumer is being sold a product, and the salesperson is not required to act in the customer’s best interest”. This runs counter to our business model, which enables our staff as QFE advisers to have meaningful discussions with customers, understand their insurance needs and ensure a suitable product is offered and sold.
24. We have been a supporter of the QFE regime, and believe it is an efficient mechanism in recognising the efforts of employers such as ourselves to ensure staff are trained, supervised, and monitored.
25. As an employer we want to take responsibility for our staff, in ensuring that they are trained, supervised and monitored to sell the most suitable product to customers.

Conclusion

26. In summary, we support the retention of the current QFE compliance framework, and the following discrete options:
- We support the proposal that financial advice should be allowed to be provided online by a licensed entity, such as a QFE.

- We support the extension of ethical requirements to all financial advice services, as this is already in place for QFEs and beneficial to consumers.
- We consider that a suitability requirement for sales of financial products is already in place for QFEs, and would support that. However, we do not believe it is appropriate that our advisers should have to compare the products of other providers.
- We would like QFEs to be able to continue to set appropriate competency levels for their advisers.
- We wish to retain the current standardised QFE disclosure statement.
- We support entity licencing, however we would not support a more intensive licencing process than the current QFE licencing model.
- We support the element of choice between dispute resolution providers.
- We are supportive of package 1 – it is an extension of the current QFE model to other financial service participants.

27. We do not support the following options:

- We do not support the removal of the distinction between product categories.
- We do not support a distinction between sales and advice.
- We do not support all advisers having the same disclosure requirements.
- We do not support package 3 or the mandatory notification to consumers.

28. We would like clarity on where the QFE model fits into package 2.

29. Thank you again for the opportunity to submit. Please feel free to contact Megan Bonetti **Redacted** (or 09 369 2154), Robyn Cory-Wright, Risk and Compliance Manager **Redacted** (or 09 985 6164) or myself if you wish to discuss any aspects of this submission.

Yours sincerely,
Redacted

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