

Submission to the Options Paper for the Review of the Financial Advisers Act 2008

From: Redacted

and

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Executive Summary

The key areas we will focus on in this submission are listed below with the relevant questions in brackets, answered in question number order, within the body of this submission:

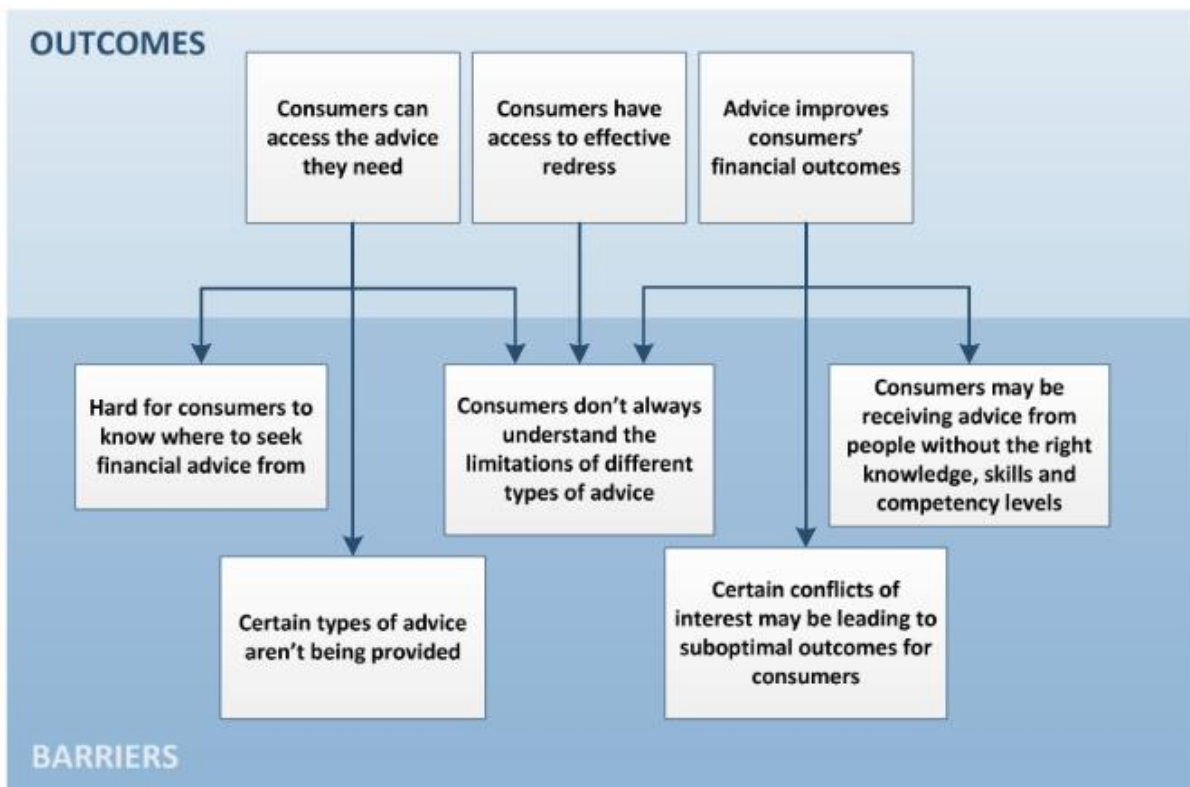
Chapter 3, 4 & 5

The following are our answers to the questions that are relevant to the sections of the options Paper review we are providing our submission on:

Chapter 3 – Barriers to achieving the outcomes

Questions

- 1 Do you agree with the barriers outlined below? If not, why not? [yes](#)



- 2 Is there evidence of other major barriers not captured here? If so, please explain.
[Barrier: Limited & readily available consumer education that caters for all sectors of society.](#)

Barrier: Many in the industry do not view educational requirements as necessary
Barrier: The industry is not attracting enough new recruits from the tertiary sector.

Chapter 4 – Discrete elements

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

We support the idea of 2 tiers

Tier 1. Limited registration:

We think that a minimum educational requirement should be in place for any person providing Risk Management Advice, selling Insurance products or recommending the purchase of a single financial product e.g. car finance

For example: A minimum number of hours e.g, 10 hours to be completed over a year which must include a minimum of 5 hours over 2 years on Ethical and Legal topics. There must be collated evidence that regular and approved professional development has been undertaken covering:

- Advice process
- Conflicts
- Ethical requirements and dilemmas
- Applicable legislation including common law

Within a designated time frame these requirements lifting to a level 5 qualification and being phased in so that, across the whole of this sector, the standards and expectations are lifted.

4 Tier 2: Provisional and Full registration:

People providing Financial (Wealth) Investment advice have higher initial requirements and then ongoing professional development requirements.

That is they must have a 'level 7' or above qualification approved as suitable and related to their field of work.

That there is a 2 year Provisional registration system for people in this category before they are awarded full registration.

Approved Professional development

5 CPD Requirement for ongoing education are enforced All CPD requirements must include a minimum of 5 hours over 2 years of an Ethical and Legislation topic.

6 Consumers confused about identifying if an organisation is being properly audited. The information needs to be readily available and transparent to consumers. (Similar to a schools Education Review Office (ERO) report)

7 Fully registered with a regular renewal process every 3 years. Renewal will include auditing of advice and CPD hours.

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

Not sure

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

Not sure except that any options should be designed to lift standards and provide a better service to consumers.

4.1 Restrictions on who can provide certain advice

- 10 What implications would removing the distinction between class and personalised advice have on access to advice?
It would make the playing field more even and create consistency for consumers
- 11 Should high-risk services be restricted to certain advisers? Why or why not?
Yes. These advisers need to have higher qualifications.
This would lead to increased confidence for consumers and lift the status of the profession.
- 12 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. Potentially these advisers are dealing with higher risk clients and they should have adequate qualifications and be audited effectively.

4.2 Advice through technological channels

- 13 What ethical and other entry requirements should apply to advice platforms?
Challenging to understand how to make this work effectively.
- Evidence that the platform meets industry requirements and has taken due care with algorithms. Methodology of algorithms is documented and tested.
 - Evidence of an effective testing regime to ensure the platform continues to meet the standards.
 - Processes/systems to ensure that the consumer understands the information used in the analysis.
 - Data protection policies and processes are appropriate (standards to be identified).
- 14 How, if at all, should requirements differ between traditional and online financial advice?
For 'complex' 'higher risk' advice 'meetings' with an adviser before the financial advice is implemented should be required. Meetings could be online and recorded as evidence.
- 15 Are the options suggested sufficient to enable innovation in the adviser industry? What other changes might need to be made?
Yes..we only want good quality innovation.

4.3 Ethical and client-care obligations

- 16 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 think that there is a duty of care to provide Client education resources. We like the concept that has been introduced by the real estate industry to provide clients with standardised information about their rights etc. and explaining key concepts. The information must be discussed, explained and signed by the client that they have received and understood the information.

This would be given to clients before any advice is commenced.

Audit process could include interviews with clients

- 17 What would be some practical ways of distinguishing 'sales' and 'advice'? What obligations should salespeople have?

Don't like this way of distinguishing advice by the role of the person as this is confusing for consumers. It would be far better to use terminology for the type of advice and that is easily understood by a consumer. E.g. Complex advice v Single product sales. Or Complex advice v Limited advice

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

Company perks provided by the investment or insurance product companies that are excessive. The UK has introduced some relevant laws regarding this aspect.

4.4 Competency obligations

- 19 How can competency requirements be designed to lift capability, without becoming an undue barrier to entry and continuation in the profession?

Lifting the requirements may actually create more interest in this profession as at the moment most school leavers do not consider it an option because of its low status "the insurance salesman syndrome".

Some other ideas:

Stepped pathways that recognise field based experience.

Grand parenting options for those acting as an adviser.

Approval of related degrees so that advisers with other degree qualification can have entry to a one year post graduate qualification that is either field based and delivered through distance education.

- 20 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?

We think that there is 2 tiers related to the type of advice given.

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Within a designated time frame these requirements lifting to a level 5 qualification and being phased in so that, across the whole of this sector, the standards and expectations are lifted.

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24 Fully registered with a regular renewal process every 3 years. Renewal will include auditing of advice and CPD hours.

4.5 Tools for ensuring compliance with the ethical and competency requirements

25 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?

There should be no different standards. Except that an entity model would set the overarching framework for their own internal monitoring systems and the businesses grouped under them. Individual business would still need to have internal monitoring systems in place. No different to H&S regime.

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

It would be important that these roles are not confused. Professional bodies are there to support advisers and lift regulated standards. Regulatory bodies are there to set the standards and ensure compliance.

4.6 Disclosure

- 27 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? *All. The information should be triangulated so that consumers understand the message. Many consumers are disadvantaged with low literacy levels and the complexity of English as a second language. If verbal must be followed up with online or written disclosure.*
- 28 Would a common disclosure document for all advisers work in practice? *Yes to templates and guidelines..but should include additional statements about the individual's educational development and Including a statement about CPD.*
- 29 How could remuneration details be disclosed in a way that would be meaningful to consumers yet relatively simple for advisers to produce? *Why simple? Shouldn't we be aiming for transparency? The problem at the moment is that an insurance company can take advisers on expensive overseas trips and this is not disclosed at all to consumers.*

4.7 Dispute Resolution

- 30 Is there any evidence that the existence of multiple schemes is leading to poor outcomes for consumers? *Not sure but it is evident that it is difficult for consumers to know what to do.*
- 31 Assuming that the multiple scheme model is retained, should there be greater consistency between scheme rules and processes? If so, what particular elements should be consistent? *I don't think there should be a multiple scheme model,*
- 32 Should professional indemnity insurance apply to all financial service providers? *Yes*

4.8 Finding an Adviser

- 33 What is the best way to get information to consumers? Who is best placed to provide this information (e.g. Government, industry, consumer groups)? *Advisers to provide all consumers with a minimum standard information booklet for all advice.*
- 34 What terminology do you think would be more meaningful to consumers? *Fully registered / Provisionally registered / Limited registration*

4.9 Other elements where no changes are proposed

- 35 Do you have any comments on the proposal to retain the current definitions of financial adviser and financial adviser service?

It would be useful to differentiate between Comprehensive Advice and Limited Advice. Limited advice where the consumer is only requesting to have information on one product. We like the Australian approach to this concept. It is very clear and easily understood.

- 36 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.

Yes Sue has had an experience with a bank where she was given the wrong information about a mortgage which could have cost several thousand dollars if she didn't have the knowledge or confidence to raise the issue with the bank 3 months later when the error became apparent. This was a direct result of the person not understanding the mortgage market the products they were selling. Luckily the bank had recorded the conversation and set the matter right without a cost. However, many consumers would have just paid the costs demanded by the bank.

- 37 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?

Ratified agreements with other countries.

- 38 How can we better facilitate the export of New Zealand financial advice?

Ratified agreements in place between countries..

- 39 Do you have any comments on the proposal to retain the current approach to regulating broking and custodial services?

Lawyers and Accountants should not be exempt from the Act. If they are implementing investment or risk service lines then this needs to be more fully audited.

Chapter 5 Potential packages of options

- 40 What are the costs and benefits of the packages of options described below?

Not sure

- 41 How effective is each package in addressing the barriers described in Chapter 3?
- We prefer package 2 with some amendments. It is simpler and clearer and puts the consumer first.

Package 3 does not make it better for consumers given there are no educational standards nor requirements to act in the consumers best interest.

42 What changes could be made to any of the packages to improve how its elements work together?
A clear definition of complex advice services
Change out 'expert' financial adviser to "Provisionally or Fully registered"
Change out Financial adviser to 'Limited registered adviser' (see our previous comments about tiers)

43 Can you suggest any alternative packages of options that might work more effectively?

No except for the changes outlined above to option 2.