

29 March 2017

Financial Markets Policy
Building, Resources and Markets
Ministry of Business, Innovation and Employment
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SUBMISSION: Consultation paper – New Financial Advice Regime
The draft Financial Services Legislation Amendment Bill and proposed transitional arrangements ('Consultation Paper')

1. This submission is made on behalf of me and three other Authorised Financial Advisers who are contractors to my company.
2. I have been a self-employed financial adviser for over 40 years after completing a Commerce degree from Victoria University of Wellington.
3. I was the first New Zealander to hold both the Chartered Life Underwriter (CLU) and Certified Financial Planner (CFP) designations.
4. My colleagues and I “jumped through the hoops” to become Authorised Financial Advisers (AFAs) when the new regime commenced.
5. In preparation for and since the new regime, my company, my AFA colleagues and I have spent a considerable sum of money, and hundreds of hours, on additional education, compliance, registration and regulatory requirements in order to be able to practise as Authorised Financial Advisers.

6. Admittedly, there has been a lot of public confusion over AFA, RFA and QFE advisers. However this could be remedied with some “tweaking” and without the Government and MBIE proposing wholesale changes yet again.
7. We believe you should retain the AFA designation.
8. You should also retain the rules around how one becomes “authorised”.
9. You should have specialties within the AFA designation, and these would be listed on one’s Disclosure Statement. For example, if a financial adviser wished to advise on mortgages, she would complete the core Level 5 subjects plus the ones relating to mortgages. She would be an AFA, competent to advise on mortgages.

A Fire & General broker would be an AFA competent to advise on general insurance.

A Life broker would be an AFA competent to advise on Life, Trauma, Total & Permanent Disablement, Income Protection and Medical insurances.

The four AFAs in our firm would be qualified and competent to advise on Life insurance and investments, and would have those areas listed on their Disclosure Statements.

10. AFAs would continue to comply with the requirements of the Code Committee established under the FAA.
11. Existing Registered Financial Advisers could elect to complete the various relevant units of the Level 5 qualification within some time frame, and thereby become Authorised Financial Advisers able to advise in these particular areas and complying with the Code of Conduct.
12. QFE advisers should become “provider representatives” as the Code Committee has recommended or perhaps “product provider representatives” or “agents”.

13. Your proposed designation of “financial advice representative” is a very poor one. It would appear that you are pandering to the banks’ lobbying. Your proposal will not improve customer understanding; it will further confuse. The public won’t see any difference between a “financial adviser” and a “financial advice representative”. The titles are too similar and do not reflect the additional education and regulatory compliance requirements of the first one.
14. Under your proposal, a bank teller or insurance company employee selling only their employer’s products would be a “financial advice representative”. “Financial advice representatives” are there to sell the products of the company they work for. As another submission has noted, these employees look for clients to fit the in-house product. This is in contrast to independent Authorised Financial Advisers who seek market –wide products to fit their client’s needs.
15. A better solution is as I have suggested. Retain the “Authorised Financial Adviser” designation and have the institutional employees who currently are QFE advisers or RFAs, renamed “provider representatives” or “product provider representatives” or even “agents”.
16. Existing RFAs and QFE advisers (if they are not AFAs already) could become AFAs after completing the appropriate educational requirements. Simple! (This model is what is in place and works well in the UK.)

These provider representatives who have then qualified to become AFAs along with existing AFAs working for a QFE, would still need to be differentiated from independent AFAs by noting their provider representative status too. For example, Jane Doe AFA, Provider Representative for ABC Bank, or Jane Doe AFA, Agent of ABC Bank.

17. Ideally, and as is required in the UK, you would not actually sanction anyone to provide financial advice unless they were properly qualified. So even a “provider representative” should have external financial advice qualifications.

However, we are realists knowing the banks would kick up too much of a fuss to allow you to do this.

So in this case, a bank officer (a current QFE adviser) or an existing RFA would be differentiated from AFAs by the following example: Henry Jones, Product Provider Representative / Provider Representative / Agent of XYZ Corporation.

18. New Zealand has been built on the back of SMEs. In blatant defiance of this, it would appear that you have been well lobbied by the big institutions so that financial advice in future will predominantly be provided only by big companies (in particular, the Australian owned banks whose employees will be less qualified, educated and experienced than you have planned). I hope this is not the Ministry's intention, but it will be the result if your proposed regime is instituted.
19. As in the UK, you could actually recognise the difference between "tied" financial advisers (provider representatives) and independent financial advisers. Here is an excerpt from Wikipedia:

"Independent Financial Advisers or IFAs are professionals who offer independent advice on financial matters to their clients and recommend suitable financial products from the *whole of the market*. The term was developed to reflect a United Kingdom (UK) regulatory position and has a specific UK meaning, although it has been adopted in other parts of the world, such as Hong Kong.

The term "Independent Financial Adviser" was coined to describe the advisers working independently for their clients rather than representing an insurance company, bank or bancassurer. At the time (1988) the UK government was introducing the polarisation regime which forced advisers to either be tied to a single insurer or product provider or to be an **independent practitioner**. The term is commonly used in the United Kingdom where IFAs are regulated by the Financial Conduct Authority (FCA) and must meet strict qualification and competence requirements ."

20. You do give an example (April's story) on page 46 of a one person company "work[ing] with the FMA" to gain a full licence before 28 February 2021, when the transitional licensing period ends.

What does "working with the FMA ..." mean and what does it mean in particular for a small firm like mine with one AFA employee, three AFA contractors, plus six other employees?

21. My intention is to gain a full licence for my firm but I am trusting that it will not be onerous, expensive and time consuming. The current regime is already onerous, expensive and time consuming, without the introduction of further regulatory requirements, especially for small companies. I can only imagine that more regulation and the application process for a full licence will be easy “stuff” for big companies, but really prohibitive for small firms like ours.

22. Under Possible Complementary options on page 49, I support option 2: Demonstrating Competence through an Assessment Process, but in any event, you should be granting a time exemption until February 2026 for existing AFAs who are already complying with the Code of Conduct.

23. Conclusion

Many thanks for the opportunity to make a submission.

Yours faithfully

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