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**From:** Mike Hayes **S 9 (2) (a)**  
**Sent:** 05 April 2018 15:27  
**To:** code secretariat  
**Subject:** FA Code working group submission

Please accept this email as a formal submission to the code working group.

### **Expertise in Aggregate?**

I am very concerned about the proposal that allows larger corporate bodies to provide financial advice on the basis they are deemed to hold advice in aggregate somewhere within the organization. I understand that this means advice can be delivered by any employee person of the qualified organization. This is a recipe for disaster and carries with it a number of highly likely consumer risks as noted below:

**Evidence to date.** The **multiple Australian banking consumer advice scandals** show that large corporates will always do what they see as being in their favour. They were supposed to have had qualified adviser delivering advice. Yet it still went wrong. Why?

- Because bank employees are incentivized to do what the bank says – or they don't get bonus or put under "performance review" or made redundant.
- There is no moral or fiduciary duty to do what is best for clients.
- There is every incentive to do what is best for themselves and the bank.
- Even in a best case scenario there is a "lost in translation effect" where what is said at back office and what is said in front of client can be markedly different.

**The NZ experience:** That same self-interested banking culture is already playing out in NZ. Banks have been warned by FMA over Kiwisaver switching behavior. Essentially they are getting tellers and service staff to switch a clients kiwisaver with little to no advice on the basis that "client can see account balance on banking app". This is well known and pointed out by multiple industry regulators and participants. Yet it continues and Banks are giving the big finger to the regulators and to the industry of "good advice"

**A second NZ experience** was the rural interest rate swap scandal. The major banks had to settle out of court on this ( millions), but it was all legal. Again, what was being said by frontline sales staff as good advice to borrowers was **because it was only good for the banks and disastrous for the borrower.**

Allowing Banks ( or any large financial institution) to deliver advice without having the requirement of the "adviser" to be suitably qualified:

- is a free pass to engage in sub-standard advice and only increases the risk to consumers.

Allowing any corporate institution this "free Pass" Is diametrically opposed to the overarching objective of the exercise - being improving the trust and confidence of the consumer in the industry

- They consumer sees different classes of adviser where some are qualified and some are not.
- Only repeats the same mistakes we see now in consumers trying to figure out RFA, QFE & AFA branded advisers.
- Any law that is not consistent to all "human" participants is inherently bad law.

Allowing a corporate institution this "free Pass" Is to directly influence the competitive nature of the industry in favour of certain participants.

- It is a direct action that tilts the advice landscape in no absolute terms to that of large institutions.
- That in turn reduces consumer choice.

Cheers

**Mike Hayes AFA**

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**From:** S 9 (2) (a)  
05 April 2018 16:00  
**To:** code secretariat  
**Subject:** FA Code Working group submission

Please accept this email as a formal submission to the code working group.

### **Business models and adviser participation**

I am fully in favour of minimum standards for the delivery of advice by all industry participants. To that end I have submitted a previous submission around the proposal for “expertise in aggregate”.

**This submission** is to examine the nature of the how advice is delivered and to ensure an even playing field for various business models.

The non-corporate model for delivery of financial advice in NZ see a number of smaller financial adviser business’s in the form of either:

- Self-employed individual business units.
- As above but locally aggregated into small offices for sharing of costs or other advice efficiencies.
- As above but aggregated into larger NZ wide dealer groups models that allow for some delivery of standardized service ( office functionality etc) whilst still allowing for individual adviser operating.
- As above but with shareholdings in the aggregate group whilst still retaining client book “service & ownership”

All these business models face commercial pressure from various larger competitors and that is the landscape in which we have chosen to operate. For many clients, that is the advice model to which they feel best served by. Hence why we exist. I understand an overarching objective of regulation is to make financial advice more available to the general public. Presently this is not the case. That is evidenced by:

- Most larger financial institutions having high wealth thresholds to attain personal advice – thereby locking out 90 % of the general public.

**In proposing any regulation** I urge the group to accommodate the variety of service delivery models into the spectrum of regulation and compliance. How we operate and the scale at which we operate is vastly different to what is now a QFE insurance model ( eg AMP) and or a corporate bank employee model.

There is no evidence or correlation to the Quality of advice as compared to the size of the entity providing the advice. ( in fact there is much evidence to show an inverse relationship applies)

Consumer protection is ensured by having appropriately qualified advisers being able to operate in their respective fields, in any business model that best suits how they go about delivering financial advice.

I can only speak from personal experience. I am well qualified and have been an industry adviser for close to 20 years.

- My business model survives in a niche that large corporates and banks do not serve well.
- I deal with mostly small to mid- wealth clients who want personalized advice from a real person ( not 0800 advice).
- I cater to those clients who do not meet the requirements of other financial institutions.
- I provide consumer choice as to how they want to engage with the financial advice world.

Again I would reiterate, Appropriate regulation for quality of advice is fine. But do not regulate smaller nimble business's out of the game in favour of larger corporate entity models. The major loser there would be the client.

Cheers

**Mike Hayes AFA**

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