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**From:** Mark Lynch **S 9 (2) (a)**  
**Sent:** 30 April 2018 14:28  
**To:** code secretariat  
**Subject:** Submission to Code Working Group

Hi,

I have read the proposals for the changes to the Financial Advisers Act. Rather than reply to each specific proposal mentioned, I have restricted my comments to those that I feel are important and relevant.

First, a brief background. I am aged 57, an RFA and have been in financial services most of my working life. I worked for a NZ bank for 18 years and have been working as an insurance adviser since 2003, with an 18 month break in 2012/13. I was previously an AFA and have the Level 5 Certificate.

From 2006 to 2012 I was an AMP adviser. Whilst AMP did allow advisers to sell product other than AMP product, there was a distinct financial disincentive to do so, so I was effectively a tied adviser. This is why I left in 2012. Due to a family terminal illness, I sold my AMP book in 2012 and left the industry.

I returned in 2014 as an independent financial adviser, as an RFA. I work alone. As I did from 2006, I started with zero clients. I have never bought a client base, preferring to obtain clients one at a time.

I deal with 5 different insurers. I believe that this is probably about the maximum that I can deal with as a one-man band.

My philosophy is quite simple: Do the right thing by the client, every time, and I will get paid well for my time. Sometimes I just have to walk away, because I cannot improve the client's situation. I have never moved a client from one insurer to another where the client has obtained less favourable terms.

### **Commissions**

The commission model, whilst imperfect, works for me and for my clients. I have tried to introduce a fee for service model, but I have found a distinct resistance from clients, even when they can see the savings that they can make. It is not helped that each insurer has a different discount model for fee options, with some still paying renewal commission and some not. I am happy with the commission model, but I agree that there should be more disclosure around commissions and conflicts of interest. When I was an AFA, I found the primary and secondary disclosure statements confusing for clients, so I would urge you to avoid making disclosure difficult for the client to understand. I have no problem with disclosing my commission, provided that I can also disclose to the client what I will be doing for that commission, eg; offering an annual face-to-face review, chasing up any arrears, actively working with them as they age to ensure that they can retain their cover for as long as possible and of course claims.

Where I have a major problem in the industry in regards to commission is blatant churn and advisers treating renewal or service commission as a right, with no expectation that they will provide any service.

In regards to churn, my definition of churn is moving an existing client to another provider, often so that the adviser receives another upfront commission. In 15 years, I have only ever moved one client from one insurer to another. This was an AMP client, at a time when AMP's premiums were well out of step with the rest of the market. My client had been approached by another broker and was on the point of leaving, so I did move him to another insurer. In my view, the Business Replacement Advise form is a joke. I've seen advisers write absolute garbage on these forms, eg; "the client finds the existing adviser too pushy". This has nothing to do with the quality of the new provider. I've also seen situations where advisers have churned clients, with the client obtaining lesser terms than they previously had. The FMA is toothless and the insurers pay lip service to the whole churn debate. They all say that they are against churn, but only when the policy is being moved away from them. They remain strangely mute when a policy is being moved TO them.

I would like to see a cap on upfront commission for churned policies, but the problem is how do you identify this?

The second problem is service commission. I regularly come across clients who have not seen or heard from their “adviser” for 5 or 7 years, yet the adviser is receiving an ongoing commission. I have one client who has had a health policy in place for 20 years. She had no idea that a portion of her premium was still going to her original adviser, as she has not heard from them in 20 years. Insurers have contracts with advisers and the insurers say that they cannot break those contracts. So if I come across a client who has not heard from the adviser for a long time, I can either purchase the renewal commission stream, move the client to another policy or service the client for free. Given my personal ethics, I will only move the client to a different policy if I can obtain better terms. A case in point was a client who had a 175% health loading with one insurer and I was able to reduce that to 100% with another insurer. However, her partner has health issues and I cannot get him better terms, so I am currently servicing him for free. He has not heard from the originating adviser for 7 years. I have approached the adviser, but the going rate for the purchase of policies is about 4 times the service renewal. Taking tax into account, paying 4 times means that it will be around 5 ½ years before I break even on the purchase. My issue is why should the client not have the option as to who receives the service commission? I know of no other industry where the client is treated this way. If I want to change accountants, my previous accountant doesn’t still get paid.

There should be a minimum service standard set for the industry, and I don’t mean just a quarterly newsletter and a card on your birthday. Clients should be told that they have a right to an annual review and the servicing commission that the adviser is receiving should be disclosed. The client should also have the right to appoint another adviser, if desired, with an automatic transfer of servicing commission. This would go a long way to solving both the issue of churn and the appalling lack of service in the industry.

### **Soft Dollar Rewards**

This year I qualified for an overseas trip, but I have declined to attend. Apart from the ethics, I can think of nothing worse than going on holiday with a bunch of insurance brokers, including the big churners. If I do my job well, I’ll earn enough to go on holiday with my wife, a far more appealing prospect. However, there are enough egotists in this industry who thrive on the attention lavished on them by the insurers. The industry may say that offshore trips don’t motivate people, but talk to the BDMs who promote them or try to get a case through underwriting in the last month of the qualifying period and you’ll see a different side. My view is that soft dollar rewards should be banned, but if that does not happen, there should be serious disclosure. And I don’t mean such wording as “should you proceed with this policy, I may qualify for an offshore trip”, but more along the lines of “With one month to go before the end of the financial year, I am very close to qualifying for a trip to Rome with insurer ABC. This is not the primary reason that I have recommended insurer ABC, but you should be aware that I may be rewarded with an overseas trip, should you proceed with my recommendations”.

### **Reporting**

I had 3 years with New Zealand Home Loans prior to joining AMP. I was a salesman with NZHL. AMP has its bad points, but it at least taught me how to be an adviser. As an AFA, I wrote comprehensive insurance reports. As an RFA, I still do the same. However, I regularly come across so-called advice from RFAs that is at best a 2 paragraph email and at worst simply a quote. Any “advice” is verbal and often there is no clear justification for changing a client from one provider to another. A single line on the Business Replacement Advice form is often the only evidence that the adviser has even given any advice as to the benefits and disadvantages of changing policies. The average retail client is uninformed and often confused by the complexities of the industry. As such it is very easy for unscrupulous, greedy or just plain lazy advisers to convince a client to change insurers.

I have to assume that every client I deal with will one day lodge a complaint against me, whether justified or not. I have a documented advice and reporting process so that the client has no doubt as to the benefits or otherwise of my recommendations. I retain all this information and know that should a case be brought against me by a client, I have not only done the best that I can by that client, but I have also protected myself by documenting everything. To me, this should be a minimum standard in the industry.

### **Sales vs Advice**

I am very concerned about the ability of bank staff to be able to sell a bank product without having to justify why they are replacing a significantly better product provided by an insurer. I can go through my complete fact find

process, analysis, written report and implementation, simply to have the policy replaced at a later date with a poorer policy by an uninformed bank teller who has daily sales targets. If the review process is poor in the independent adviser world, in banks it is non-existent. I am not allowed to offer a client an incentive to take out an insurance policy with me, yet a bank can offer a client a discounted interest rate if they take out a bank insurance policy. How is this a level playing field and how does this benefit the consumer? I have yet to see an insurance report from a bank staff member explaining to the client the benefits of a bank policy over that of an insurance company policy, or explaining what benefits the client will be giving up. Likewise, I have never seen a bank staff member explain either verbally or in writing that he/she may benefit by selling the client the bank policy by way of quarterly bonuses or other benefits.

From what I have read of the proposed legislation, it is heavily in favour of banks. I would hope that it is not the Code Working Group's intention is to do away with independent financial advisers and have insurance products being sold solely by the party that creates the products. For all the foibles of the insurance company commission system, it at least gives the consumer a chance of impartial advice. A bank teller flogging an inferior bank-provided product does not.

### **Qualifications**

I am pleased that the RFA/AFA/QFE titles are being disposed of. The general public has no idea what these mean. However, I am concerned with the proposed level of qualifications. I left school at 17 with University Entrance. After 18 years in a bank and 15 years as an insurance adviser, I know far more about finance and insurance than any degree can give me. I agree that there should be a minimum standard to be able to give financial advice on insurance products or mortgages, but if you are looking to go to level 6 and/or a university degree, you will lose a significant portion of the adviser industry.

From my reading of the CWG's recommendations, if I want to give my clients advice, I will have to become degree-qualified. I can possibly get around that by providing execution-only insurance, but clients deal with an adviser because they WANT advice, not just on the product, but on cover levels, on ACC, how ACC works or doesn't work with their income cover, what options they have other than insurance, how income cover waiting periods work, etc. And I work in this industry because I enjoy giving people advice. I would not want to be involved in an industry that does not provide a holistic approach to a client's financial affairs. The CWG seems to think that providing a client with advice on the level of life insurance makes the adviser a financial planner. Nothing could be further from the truth. A 10 year old, armed with a bit of industry knowledge, could work out how much life insurance a client should have, based on certain parameters. A 22 year old university graduate should still be able to do the same calculations, but will he/she understand what questions to ask the client? For me, give me a 57 year old who has seen adversity and understands what the client does not, every day of the week. And I wouldn't give a toss about a degree.

If I have to study for a degree, it will be part-time, should I elect to do so. With all of the legislative non-income producing work ahead of us, I very much doubt that I would study for a degree, as I would have little time to look after clients and earn an income. On a part-time basis, I'd probably become qualified just before my pension cheque is due. The sad reality is that the only safe haven for advisers would be the banks. Do you really want the financial affairs of New Zealanders to be left to the mainly Australian-owned banks, given what we are seeing happen in Australia at this very moment? My ethics would not allow me to go down that route, which would see me exit the industry. How would that help my clients?

I understand why this review is happening and, as detailed above, there are certain aspects of my industry that need changing. But please don't throw the baby out with the bathwater. The future of the finances of New Zealanders depends on you. Do not let them down.

Kind regards,

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A disclosure statement is available free of charge on request.