



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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Discussion paper

Disclosure requirements in the new financial advice regime

April 2018

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The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in this document by 5pm on **Friday, 25 May 2018**.

Your submission may respond to any or all of these issues. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please use the submission template provided at: <http://www.mbie.govt.nz/info-services/business/business-law/financial-advisers/review-of-financial-advisers-act-2008/regulations-to-support-the-financial-services-legislation-amendment-bill/consultation-on-disclosure-requirements>. This will help us to collate submissions and ensure that your views are fully considered. Please also include your name and (if applicable) the name of your organisation in your submission.

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- By mailing your submission to:

Financial Markets Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

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List of Acronyms

AFA	Authorised Financial Adviser
DIMS	Discretionary Investment Management Service
FA Act	Financial Advisers Act 2008
FADC	Financial Advisers Disciplinary Committee
FMA	Financial Markets Authority
FMC Act	Financial Markets Conduct Act 2013
FSP Act	Financial Service Providers (Registration and Dispute Resolution) Act 2008
FSPR	Financial Service Providers Register
MBIE	Ministry of Business, Innovation and Employment
QFE	Qualifying Financial Entity
RFA	Registered Financial Adviser

1 Introduction and context

1. Disclosure obligations require certain information to be provided to consumers to help them make informed financial decisions.
2. This paper discusses what disclosure obligations should apply to individuals and firms who give financial advice. Disclosure can be used to help consumers choose where to obtain financial advice and understand what they can expect to receive, by providing information about the services that the consumer can access. It can also be used to give important information about the individual or firm and can improve transparency of conflicts of interest and other factors that have the potential to influence the advice that consumers receive.

Current disclosure requirements

3. The Financial Advisers Act 2008 (**FA Act**) and regulations set out the disclosure obligations of financial advisers and Qualifying Financial Entities (**QFEs**) (e.g. banks). All financial advisers and QFEs are required to disclose certain information about their firm and the nature of services they provide prior to providing a personalised service to a retail client.¹ Authorised Financial Advisers (**AFAs**) (e.g. investment advisers) are also required to disclose more detailed information on the nature of services they provide, indicate how many providers' products they are able to advise on, detail all other conflicts of interest and give relevant information regarding their competency and conduct obligations.
4. Registered Financial Advisers (**RFAs**) (e.g. mortgage advisers) are subject to more limited requirements. Disclosure statements for RFAs include a short summary of the type of advice they can provide. RFAs are not required to disclose details of any conflicts of interest or the number of providers on whose products they can give financial advice. For example, a RFA insurance adviser is not required to disclose how many insurers he or she is able to consider when recommending an insurance product to a consumer.

Review of the Financial Advisers Act

5. The Ministry of Business, Innovation and Employment (**MBIE**) recently completed a statutory review of the FA Act. As part of this review, we heard from a wide range of stakeholders about disclosure including individual advisers, professional associations, financial product providers and consumer advocates.
6. We also undertook consumer testing and held a series of workshops with financial advisers who dealt with mortgages, investments and insurance products to discuss issues with the current requirements and options to provide with the information they need.
7. During this consultation we identified several issues with the current disclosure requirements:

¹ The FA Act distinguishes between retail clients and wholesale clients. A wholesale client is typically someone who does not require the same level of protections as a retail client due to their knowledge of financial products or their level of investment.

- a. There is a lack of transparency of some factors that can influence financial advice, including commissions and other incentives, as well as the limitations of the advice (e.g. the number of providers whose products the individual or firm can advise on).
 - b. The different disclosure requirements can lead to confusion, resulting in consumers making incorrect assumptions about the services an adviser can provide, or the factors that might influence their advice.
 - c. The information disclosed by RFAs and QFEs, and in an AFA's Primary Disclosure Statement is often at such a high level that consumers do not receive information that they may require, and there is little to differentiate different advisers.
 - d. Consumers tend to perceive disclosure as important, but disclosure may fail to address clients' needs by not being specific to their circumstances.
 - e. It is difficult for consumers to understand the disclosure they receive, in part because of the reliance on written disclosure and the legalistic terminology used.
 - f. AFA's Secondary Disclosure Statements are often long and complicated, making them difficult for consumers to interpret.
 - g. As it may take some time for consumers to go through the advice process, some information may not be provided too early, or too late, in the process for consumers to make an informed decision.
8. We also heard that consumers receive a significant amount of paperwork when meeting financial advisers (e.g. terms of engagement, applications forms). This can reduce the overall effectiveness of disclosure as a means of providing consumers with the information that they need to make an informed decision.

Reforms to financial advice legislation

9. Following the review of the FA Act, the Government decided to overhaul the laws governing financial advice. The Financial Services Legislation Amendment Bill (**Bill**) was introduced to Parliament in August 2017 and is intended to improve the availability and quality of financial advice in New Zealand. In parallel with the Bill's passage through Parliament, MBIE is developing regulations that will set the disclosure regulations in the new regime. In addition, a Code Working Group appointed by the Minister of Commerce and Consumer Affairs is developing a Code of Conduct, which will apply to everyone in the new financial advice regime.
10. The Bill removes many of the categories that exist in the current regime, including the different types of advisers and businesses, and different categories of products. The Bill also removes the distinction between class and personalised advice. The Bill will allow consumers to access financial advice in a range of ways and through a range of different channels, including in-person, online and over the phone.
11. Some individuals and firms will be able to give advice on certain products (e.g. mortgages or insurance), while others will be able provide comprehensive planning services. Some will be able to consider products from a wide range of product providers, while others will have a more limited range of providers and some will only be able to consider those of the business they are employed by.

Purpose of this discussion paper and context

12. The purpose of this document is to seek feedback on what the new disclosure requirements for financial advice should be. This feedback will help MBIE develop regulations that will set out what information must be provided to clients in the new regime. The Code of Conduct that is being developed may also set additional requirements for the provision of information to retail clients. We intend to undertake further consultation with industry and consumers during 2018 as we continue to develop the disclosure regulations.
13. The document is structured in three main sections as outlined below. We welcome your feedback in response to the specific questions or any other relevant information that you wish to provide.

Part 1: Introduction	Chapter 1: Introduction and context Chapter 2: Objectives
Part 2: Proposed disclosure requirements	Chapter 3: Summary of proposed requirements Chapter 4: The timing and form of disclosure Chapter 5: What should be disclosed
Part 3: Additional options	Chapter 6: Additional options

2 Objectives

14. The primary objective of the regulation of financial advice is to promote the confident and informed participation of businesses, investors and consumers in financial markets. Disclosure can help contribute to this objective by overcoming information asymmetries and improving transparency of, and confidence in, financial advice.
15. A range of factors can reduce the effectiveness of disclosure, including behavioural biases, low levels of financial capability and the timing or presentation of information to consumers. In order to be effective, we think the disclosure regime should seek to achieve the objectives below:

Objective 1 – provide consumers with the key information they need

16. Consumers should have access to the information that will enable them to make an informed decision about whether to seek advice from a particular financial advice provider, and whether to follow their financial advice. This includes relevant information about the financial advice provider, the individual financial adviser or nominated representative, as well as information about the financial advice that they provide.

Objective 2 – provide consumers with the right information at the right time

17. Information provided to consumers should be provided when the information is relevant and meaningful to the client's current situation. This will assist the consumer in making an informed financial decision.

Objective 3 – provide information in a way that is accessible for consumers

18. Disclosure that is succinct, simple and uses plain English is more likely to be understood by consumers.² Consumers are less likely to understand disclosure that is lengthy, complicated and uses jargon. In order to ensure that consumers are able to understand the information provided, it should be clear, concise and presented in such a way that it is readily understood.

Objective 4 – provide consumers with effective disclosure, regardless of the channel used

19. Consumers can now access financial advice through a range of different channels (including online) and easily access information from a range of sources. We think that consumers should be able to access accurate information about the firms and individuals who give financial advice, regardless of how they choose to obtain financial advice. To ensure that disclosure is equally effective through different channels, the regulations should apply equally to all channels used and not prevent innovative ways of providing the information effectively.

Objective 5 – not impose unnecessary compliance costs on industry

20. The requirements should look to minimise the impact on the industry while ensuring that consumers can access the information that they need.

1

Do you agree with the objectives that we have identified? Are there any further objectives that the disclosure requirements should seek to achieve?

² Financial Product Disclosure: Insights from Behavioural Economics, MBIE, 2015.

<http://www.mbie.govt.nz/publications-research/publications/economic-development/2015-occasional-papers/Financial%20product%20disclosure%20insights%20from%20behavioural%20economics.pdf>

3 Summary of Proposals

21. This section provides a summary of the information that we propose be disclosed, and the points in the financial advice process when it should be disclosed. Rather than specifying how information should be provided, we propose that the regulations set out what information needs to be disclosed at certain points in the financial advice process, but provide flexibility in terms of precisely how this information is provided. Annex 1 includes some case studies to illustrate how information might be disclosed under our proposals.

Information we propose should be publicly available to help a retail client when searching for financial advice

22. We propose that the regulations require financial advice providers to make the following general information publicly available (e.g. on a website if the financial advice provider has one) or available on request:
 - a. details about their **licence**
 - b. the **conduct and client care duties that they are subject to**
 - c. information about their **complaints process** and the details of **the dispute resolution scheme** of which they are a member
 - d. a general description of the limitations in the **nature and scope of the advice** that can be given
 - e. whether they charge a **fee** for giving financial advice
 - f. whether they pay or receive **commissions and other incentives**, and whether there are any **conflicts of interest**, which could materially influence the advice that they can give.

Information we propose should be disclosed when the nature and scope of the financial advice is known

23. We propose that the regulations require the following information to be disclosed to retail clients by the point at which the nature and scope of the financial advice is known (e.g. once it is apparent that a client would like advice regarding KiwiSaver):
 - a. information relating to any relevant **disciplinary history** of the individual giving advice or their employer
 - b. details regarding the **nature and the scope of the financial advice** that the individual or firm will provide, including the providers whose products they will consider
 - c. details of any particular material **commissions or incentives** that they, or their employer, might receive and details of any particular material **conflicts of interest**
 - d. a reasonable estimate of the **fees**, and the basis on which they are charged
 - e. any relevant **insolvency or bankruptcy history** of the financial advice provider or financial adviser.

Information we propose should be disclosed when making a recommendation

24. We propose that the regulations require the firm or individual giving financial advice to a retail client to provide the following information when making a recommendation (i.e. at the point of giving financial advice):
 - a. confirm if there have been any **material changes to the nature and scope of the advice** (e.g. if only a limited number of the products available to the person giving advice were considered)
 - b. confirm the particular material **commissions or incentives** that will apply and any particular material **conflicts of interests**
 - c. confirm the extent of any **additional expenses** that the client might incur (e.g. repaying clawback commissions).

Additional points of disclosure

25. We also propose that the regulations require additional information to be provided by anyone who gives regulated financial advice to a retail client at the following points:
 - a. details of the relevant **dispute resolution scheme at the time a complaint is received**
 - b. inform a client if there is a **charge** for the financial advice, and the basis on which it is charged, **before a client incurs a fee.**

4 The timing and form of disclosure

26. As noted above, the existing disclosure requirements under the FA Act require prescribed disclosure statements to be completed and provided to consumers.
27. The disclosure requirements for financial products and services under the Financial Markets Conduct Act 2013 (**FMC Act**) follow a similar approach, using prescribed forms to make it easier for consumers to compare common factors such as fees, returns and risk profiles across different financial products and services.

A prescriptive approach can reduce the effectiveness of disclosure

28. A prescriptive approach can provide certainty to the industry and can create documents that make it easier for consumers to compare similar products or services. However, given the variety of ways that consumers can access advice in the new regime and the diverse range of activities captured by the definition of financial advice, we are concerned that a similar approach may cause undue compliance costs (e.g. in instances when relatively straight-forward financial advice is being provided), and may lead to a tick-box approach to disclosure.³ It may also reduce the effectiveness of disclosure by generating long and overly-complicated disclosure statements that include information that is not relevant to the client's circumstances.⁴ Consumers also prioritise information differently⁵, making it difficult to design a universal disclosure statement that would meet different consumers' needs.

We propose that the regulations provide flexibility

29. Rather than specifying how information should be provided, we propose that the regulations set out what information needs to be disclosed at certain points in the financial advice process, but provide flexibility in terms of precisely how this information is provided. For example, rather than requiring a financial advice provider to disclose to a retail client all of the fees that they charge, they will be required to advise the client of the fees that are likely to be applicable to the client.
30. We think that this will allow consumers to access information that is relevant to their particular situation at the right point in the financial advice process while avoiding information overload, allowing them to make more informed decisions.
31. We think that the approach outlined below will give the industry flexibility for how it provides information to consumers, recognising that those giving advice will understand when information would be relevant and helpful to consumers. This will enable the effective disclosure of information regardless of the channel of advice that the client chooses to receive, without imposing undue compliance costs on the industry. This should

³ In the United Kingdom, the Financial Conduct Authority (**FCA**) announced in October 2016 that it was amending its disclosure requirements for insurance, home finance and investment firms. The FCA found that the previous approach, which relied on prescribed templates, resulted in a tick-box approach to disclosure and may have restricted effective communication with consumers.

<https://www.fca.org.uk/publication/policy/ps16-23.pdf>

⁴ Financial Product Disclosure: Insights from Behavioural Economics, MBIE, 2015.

⁵ Consumer testing undertaken by Colmar Brunton found that consumers prioritise information differently, depending on a number of factors including the individual's own confidence in making financial decisions. [<http://www.mbie.govt.nz/info-services/business/business-law/financial-advisers/review-of-financial-advisers-act-2008/pdf-document-library/understanding-new-zealanders-disclosure-information-needs.pdf>].

also increase the likelihood of consumers engaging with, and understanding the information they receive, and will ensure that they receive information that is relevant to them.

Chapter 5 sets out the information we propose consumers receive when they get regulated financial advice.

The timing of disclosure

Publicly available information to help a consumer searching for financial advice

32. To help consumers when seeking financial advice we propose that the regulations require financial advice providers disclose general information about themselves and the financial advice they can give. We propose that the regulations require this general information to be publicly available (e.g. if a financial advice provider has a website, information should be prominently displayed there) or made available on request. We propose that the regulations prescribe what information is to be disclosed in the general publically available information but will not set the form for how this information must be disclosed. For example, the regulations might not require that a separate disclosure statement be available online, but might require the general information to be prominently displayed and easily accessible on the website.
33. This will ensure that consumers are able to access information about the financial advice provider and the financial advice they can provide.

Information to help a consumer decide whether to obtain financial advice from an individual or business

34. Consumers want disclosure to be provided upfront as this will allow them to have an open discussion about the information provided. However, it may be difficult to prescribe precisely when this should occur in different situations. We therefore propose that the disclosure regulations require certain information to be provided to retail clients by the point at which the nature and scope of the financial advice is known (e.g. once it is apparent that a client would like advice regarding KiwiSaver).
35. Providing certain information at this point in the advice process will help them decide whether or not to proceed with the financial advice. This will ensure that the information provided is relevant to their particular situation, making it easier for consumers to understand. This will also benefit the industry, which will not be required to produce long and complicated disclosure documents that include information that is not relevant to the consumer.

The Bill requires anyone who gives regulated financial advice to a retail client to take reasonable steps to ensure the client understands the nature and scope of the advice being given. The disclosure regulations may go some way to satisfying this duty but may not be all that those giving financial advice are required to do.

Information to help a consumer decide whether to follow the advice given to them

36. We propose that the regulations require the disclosure of further information when making a recommendation or giving an opinion about acquiring or disposing of a financial product (i.e. the point at which financial advice is given under the Bill). This will help consumers decide whether or not to follow the financial advice that has been given to them. For example, a financial adviser might have previously disclosed that they are able to consider mortgages from a range of different banks, but might only contact the client's existing bank.

2	What are your views on the proposal that information be disclosed to consumers at different points in the advice process?
3	Will this approach improve the effectiveness of disclosure by increasing consumers' engagement and understanding of the information they receive? Why or why not?
4	Should those giving advice be required to tell consumers that they can access general information about the provider or refer to this general information in advertising material?

The form of disclosure

37. We think that providing flexibility to the industry in terms of how and precisely when information should be disclosed will help consumers to make more confident and informed decisions. However, a lack of certainty about what must be disclosed might lead to the industry taking a risk-averse approach in which all information is disclosed, even if it is of little relevance to the consumer, leading to information overload.
38. To maintain flexibility, while providing some certainty to the industry, we propose that the regulations set clear requirements regarding the information that needs to be disclosed, and include presentation requirements intended to ensure that information is disclosed in such a way that is consistent with the objectives outlined on page 10. The Code of Conduct may also set some requirements for how information is given to clients.
39. For example, the regulations might require that information provided to retail clients must be clear, concise and effective. The regulations might also include specific requirements such as word limits, or the use of plain-English, or that set particular requirements apply when disclosure is provided in writing (or digitally).

Liability for presentational requirements

40. The FMC Act currently includes presentational requirements (e.g. that information is presented in a clear, concise, and effective manner) relating to the information disclosed in a Product Disclosure Statements (**PDS**) for the issue of a financial product, or a Service Disclosure Statements (**SDS**) for Discretionary Investment Management Service (**DIMS**) or intermediary services. A contravention of presentational requirements for a PDS can result in FMA stop orders, while a contravention of the presentational requirements for a SDS can result in civil liability. We are considering what the consequence of contravening presentational requirements for financial advice disclosure should be.⁶

We also seek feedback on whether the regulations should be more prescriptive for the disclosure of commissions (page 20-21), and whether they should include additional requirements when advice is provided through different channels (e.g. via a robo-advice platform) (page 24).

5	If the regulations were to provide flexibility on the form and timing of disclosure, how can they be drafted in such a way to provide certainty to the industry of what is required?
6	Should a person who contravenes the presentational requirements under the proposal be subject to civil liability or should it be dealt with by an FMA stop order or similar regulatory response?

⁶ Under the Bill, financial advice providers may be civilly liable for a contravention of the duties relating to disclosure (i.e. the duty to make available prescribed information and the prohibition from making false or misleading statements, or omitting information that is required to be disclosed).

5 What information do consumers require?

41. The following section provides a summary of the information we think should be disclosed by financial advice providers, financial advisers and nominated representatives when giving regulated financial advice (including investment planning) to retail clients. Generally, we think that the information provided should relate to the person giving the financial advice. For example:
- if advice is given via a robo-advice platform, the information disclosed should relate to the financial advice provider and the advice that can be given by robo-advice platform
 - if advice is given via a financial adviser or a nominated representative, the information disclosed should relate to the financial advice provider and the advice that can be given by the individual financial adviser or nominated representative.

Please note that we have provided case studies from pages 28-31 that illustrate how this information might be disclosed in a range of different scenarios.

Information that promotes confidence among consumers

42. There are certain aspects of the new regulatory regime which may promote confidence in financial advice among consumers, including licensing, the conduct and client care duties and the dispute resolution mechanism. Some consumers may be unaware of these factors and may be reluctant to seek financial advice as a result. Providing consumers with this information is likely to increase their confidence and encourage them to obtain financial advice.⁷

Licensing information

43. During consumer testing, we heard that licensing provides assurances to consumers that the financial advice is subject to a certain level of regulation and oversight. Disclosing information about the licence may become increasingly important as advice becomes more readily available online. It will provide assurances that the consumer is dealing with a regulated person and will help to differentiate licensed financial advice providers from those who are not (e.g. an offshore robo-advice platform that is not licensed in New Zealand).

We propose that the regulations require:

- financial advice providers to include details about their licence issued by the FMA in their general publicly available information

⁷ FAA Review: Consumer testing, Colmar Brunton, 2017 <http://www.mbie.govt.nz/info-services/business/business-law/financial-advisers/review-of-financial-advisers-act-2008/pdf-document-library/understanding-new-zealanders-disclosure-information-needs.pdf>.

- the firm or individual giving regulated financial advice to a retail client to provide information about the licence, or that of the person who has engaged them, by the point at which the nature and scope of the financial advice is known.

Conduct and client care obligations

44. As introduced, the Bill imposes conduct and client care duties on financial advice providers, financial advisers and nominated representatives to meet standards of competence, to give priority to client's interests and to comply with the code of conduct. Making consumers aware of the existence of these duties may improve consumers' confidence in those giving financial advice and may also help them understand the level of service that they should expect to receive when getting advice.
45. While we think that consumers would benefit from knowing that those giving financial advice are required to meet a standard of competence, we do not think that requiring specific qualifications to be disclosed would necessarily benefit consumers. As all who provide advice will be subject to the same duty to be competent, their qualifications are of less relevance. Further, those who have attained higher qualifications than are required by the Code of Conduct will not be prohibited from advising clients of this.

We propose that the regulations require:

- financial advice providers to reference the conduct and client care duties that they are subject to in their general publicly available information
- the firm or individual giving regulated financial advice to a retail client to provide information regarding the conduct and client duties that they are subject to when making a recommendation.

Complaints process and dispute resolution membership

46. During the review of the FA Act we found that there was a lack of awareness among consumers of their right to access redress through the approved dispute resolution schemes.⁸ One of the possible factors behind this might be that consumers are not informed of their right to access redress when this information is relevant to them (i.e. at the point when they have a complaint about the financial service provider).
47. To promote awareness and confidence among consumers it is important that consumers understand that they have access to free dispute resolution through the relevant scheme and that they are informed of this when it is most relevant to them.

We propose that the regulations require this information to be disclosed at three points:

- financial advice providers and financial advisers⁹ to include details of their complaints process and the details of the dispute resolution scheme of which they are a member in their general publicly available information

⁸ A consumer questionnaire released in 2015 found that 42% of respondents were not aware of the dispute resolution schemes. <http://www.mbie.govt.nz/info-services/business/business-law/financial-advisers/review-of-financial-advisers-act-2008/pdf-document-library/Summary%20of%20Consumer%20Brochure%20responses.pdf>

⁹ Financial advisers are required to be registered on the FSPR under the FSP Act. However, Part 2 clause 85 of the Bill provides an exemption from the requirement to be a member of an approved dispute resolution scheme, if the financial advice provider on whose behalf they give advice is a member of an approved scheme.

- the firm or individual giving regulated financial advice to a retail client to provide details of their complaints process and relevant dispute resolution scheme when making a recommendation
- the firm or individual giving regulated financial advice to a retail client to provide details of the relevant dispute resolution scheme at the time a complaint is received.

7	Do you agree that information relating to the licence, duties and complaints process should be made available to consumers?
8	Do you think that the regulations should provide prescribed text for the disclosure of these pieces of information?
9	Should consumers be informed of their ability to access a free dispute resolution service when making a complaint? Should this apply to all financial service providers who provide services to retail clients (in which case it might be implemented via the scheme rules rather than in regulations under the Bill)?

Information about the financial advice

48. We think consumers need particular information in order to make an informed decision about whether the financial advice meets their needs. Further, those giving financial advice might be influenced by a number of factors that can impact the advice that clients receive, including limitations, commissions and conflicts of interest. If not correctly managed, these factors can result in poor quality advice being given to clients that is not in their interests.¹⁰
49. The Bill imposes conduct and client care duties as outlined on page 17, and a duty to take reasonable steps to ensure a client understands the nature and scope of the advice given. In addition to these duties, we think that improving the transparency of the factors that might impact financial advice through disclosure will help consumers to better understand the nature of the service that will be provided. This will give consumers an opportunity to consider the impact of these factors, and understand how they have been managed by the person giving financial advice.

Limitations in the nature and scope of the advice

50. Financial advice may be limited in terms of the types of advice that the financial advice provider, financial adviser or nominated representative is able to give (e.g. holistic investment planning or advice about a specific financial issue), the types of products that they are able to deal with (e.g. insurance or investments), or the product providers whose products they can give advice on (e.g. their own product, or a range of product provider's products).
51. During consultation we also heard that some advisers are incentivised or obliged to send a certain amount of business to a particular provider (e.g. through a contractual arrangement with a product provider), despite having agency agreements with multiple providers. A recent report by the Australian Securities & Investments Commission (ASIC)

¹⁰ For example, work undertaken by the FMA shows a strong link between high upfront commissions and the likelihood of a life insurance policy being replaced, which could result in a consumer losing coverage. FMA, *Replacing life insurance – who benefits?*, June 2016. <https://fma.govt.nz/assets/Reports/160322-Insurance-churn-2016.pdf>

has raised similar concerns about advice given by large institutions in Australia.¹¹ Such incentives or arrangements could impact the extent of the market that is actually considered in practice.

52. We think it is important that consumers have a clear understanding of the type of service that the individual or firm giving advice can provide and the extent of the market that may be actively considered. For example, a financial advice provider might be able to give advice on a range of products, but an individual engaged by the provider might only deal with one of these products. In these instances, we think that the consumer would benefit from knowing what the individual they are dealing with may provide, rather than what the business as a whole can do.
53. Understanding these limitations will help consumers make informed decisions about seeking advice from a particular provider or individual, and understand what they can and cannot get from the financial advice provider or individual.

We propose that the regulations require:

- financial advice providers to detail the types of financial advice they can provide, the types of products they are able to deal with, and the providers whose products they can consider in their general publicly available information
- the firm or individual giving regulated financial advice to a retail client to confirm any limitations in the nature and scope of the financial advice that will be provided by the point at which the nature and scope of the financial advice is known
- the firm or individual giving regulated financial advice to a retail client to disclose if there have been any material changes to the nature and scope of the advice (e.g. if only a limited number of the available products were considered) when making a recommendation.

10

Do you agree with the proposal in relation to the disclosure of nature and scope of advice, as set out above? Why or why not?

11

How can the regulations ensure that consumers receive an accurate indication of the extent of the market that can (and will) be considered?

Costs to the client

54. We think that consumers should be aware of any fees that a financial advice provider charges for the advice they give. This information will help a consumer decide whether to seek advice from a particular provider, whether to proceed through the advice process, and whether to follow the advice given to them.
55. Consumers should also be informed of any expenses that they might be required to pay in the event of a cancellation, including any clawback commissions that the adviser might request that the client pay.
56. We would also like feedback on whether the disclosure regulations should require that information is provided regarding the fees consumers would be required to pay if they

¹¹ ASIC reviewed the advice practices of five of the largest banking and financial services institutions in Australia. The review found that these institutions were more likely to advise clients to acquire in-house products than external products, despite external products comprising 79 per cent of their approved product lists. ASIC, *Financial advice: Vertically integrated institutions and conflicts of interest*, January 2018. <http://download.asic.gov.au/media/4632718/rep-562-published-24-january-2018.pdf>

follow the advice (e.g. fund management fees or insurance premiums), or for those giving advice to notify the client where they can find such information.

We propose that the regulations require:

- financial advice providers to state if they charge a fee for giving financial advice in their general publicly available information
- the firm or individual giving regulated financial advice to a retail client to disclose if they charge for their financial advice, and the basis on which any fees are charged, by the point at which the nature and scope of the financial advice is known
- the firm or individual giving regulated financial advice to a retail client to provide a reasonable estimate of the fees, and the basis on which the fees are charged, before the client incurs a fee (including when making a recommendation)
- the firm or individual giving regulated financial advice to a retail client to disclose the extent of any additional expenses that they might incur when making a recommendation (e.g. if the client cancels an insurance policy within a specified period, the client may be required to reimburse the provider or individual for the portion of commission that is subject to a clawback).

12	Do you agree with the proposal relating to disclosure of costs to clients, as set out above? Why or why not?
13	What role, if any, should the disclosure regulations play in ensuring that consumers are aware of the other fees that they might be charged should they follow the advice (e.g. bank fees, insurance premiums, management fees)?

Commission payments and other incentives

57. Many people who give financial advice receive commissions, soft commissions or other incentives paid by financial product providers, and some have sales or performance targets set by employers. These incentives may cause a conflict between the interests of the client and the person giving financial advice.
58. The Bill requires anyone who gives regulated financial advice to give priority to a retail client's interests. In addition, we think that consumers will benefit from being aware of these commissions and incentives. Having this information will help consumers decide whether to seek advice from a particular person and may lead to a conversation about how these conflicts are managed. Some consumers may wish to seek advice from someone who is not subject to these incentives. It will also help consumers when considering whether to follow the advice given to them.¹²
59. To reduce the likelihood of disclosure becoming overly complex, we think that only those commissions and incentives which might be perceived to materially influence the financial advice should be disclosed.

We propose that the regulations require:

- financial advice providers to state if they pay commissions or incentives to individuals they engage, or if they, or the individuals who they engage to give financial advice, receive

¹² 79% of respondents to a consumer questionnaire said that commissions and other conflicts of interest had an impact on their level of trust and confidence in financial advisers. <http://www.mbie.govt.nz/info-services/business/business-law/financial-advisers/review-of-financial-advisers-act-2008/pdf-document-library/Summary%20of%20Consumer%20Brochure%20responses.pdf>

commissions or incentives from product providers in their general publicly available information

- the firm or individual giving regulated financial advice to a retail client to provide further details regarding the particular commissions or incentives that they, or their employer, might receive by the point at which the nature and scope of the financial advice is known
- the firm or individual giving regulated financial advice to a retail client to disclose the particular commissions or incentives that will apply when making a recommendation.

14

Do you agree that commissions and other incentives should be disclosed in more general terms early, followed by more detailed disclosure later in the advice process?

15

If the regulations were to include a materiality threshold that would determine the commissions and incentives that needed to be disclosed, what would an appropriate threshold be?

How to disclose commissions and other incentives

60. As outlined above, we propose that those giving advice be required to disclose that they receive commissions and other incentives. It is proposed that this would be disclosed in general terms early in the process, and be followed by more detailed information about the relevant incentives later in the advice process.
61. During the review of the FA Act we heard concerns about the lack of transparency of these incentives, and their potential impact on the financial advice. We are considering whether the regulations should be more prescriptive regarding the disclosure of commissions and other incentives to ensure that consumers are able to interpret the information that they receive when the nature and scope of the financial advice is known.

Option 1: Require a comparison of commission rates

62. Under this option, anyone who gives advice would be required to provide retail clients with a comparison of the commissions and other incentives they could earn from the relevant product providers once the nature and scope of the advice is known. For example, a general insurance adviser might provide a consumer with a table of the insurance providers whose products will be considered, which sets out the relevant commissions and other incentives paid by each provider.
63. This would make it easy for consumers to understand the relative value of the incentives (e.g. if one provider pays a significantly larger commission than another).

Option 2: Require the disclosure of commissions and incentives in dollar terms

64. Under this option, which is not mutually exclusive to Option 2, anyone who gives advice would be required to disclose the commissions and other incentives that they may stand to receive in dollar terms.
65. This would produce disclosure of commissions that is easier for consumers to understand but may result in unintended consequences if consumers choose not to get financial advice if they perceive the amount of commission to be excessive. It may also lead to delays in the advice process as it could be relatively difficult to calculate in some instances (e.g. if someone stood to receive mixture of up-front and trail commissions paid over the term of a mortgage).

Option 3: Principles-based approach

66. Under this option, the regulations would not prescribe how commissions and other incentives are disclosed (this would be consistent with the proposals discussed throughout this paper). Rather, the regulations would provide principles for their disclosure. This option would put the onus on the industry to determine the best means of disclosing commissions and other incentives in a way that is consistent with the regulations.

16 Is it necessary for the disclosure regulations to be prescriptive regarding the disclosure of commissions and other incentives? If so, why?

17 Which of the above options do you prefer? What are these costs and benefits of the options?

Other conflicts of interest and affiliations

67. We think that consumers should also be informed of any relevant conflicts of interests, which could be perceived to materially influence the financial advice that they receive. This could include any financial interest, relationship or other affiliation that the financial advice provider, financial adviser or nominated representative has that could be perceived to influence the financial advice they give.¹³ For example, this could include a situation where a financial adviser recommends that a retail client acquire shares in a company that the financial adviser holds a financial interest in.

We propose that the regulations require:

- financial advice providers to provide in their general publicly available information details of any conflicts of interest, which could materially influence the advice they can give
- the firm or individual giving regulated financial advice to a retail client to provide further details regarding the particular conflicts of interest by the point at which the nature and scope of the financial advice is known
- the firm or individual giving regulated financial advice to a retail client to disclose the particular conflicts of interest that apply when they make their recommendation.

18 Do you agree that those giving financial advice should be required to disclose all relevant potential conflicts of interest?

19 Are there any additional factors that might influence financial advice that should be disclosed?

20 Should these factors be disclosed alongside information about the conduct and client care duties that financial advice will be subject to (as discussed on page 17)?

Information about the firm or individual giving advice

68. To assist consumers in deciding whether or not to seek financial advice from particular firms or individuals, we think that consumers should receive relevant information about those giving financial advice.

¹³ A Consumer NZ report on the relationship between mortgage advisers and real estate agents highlighted potential conflicts of interest resulting from a relationship between seemingly independent organisations <https://www.consumer.org.nz/articles/mortgage-brokers>

Details of relevant disciplinary history

69. AFAs are currently required to disclose information relating to their disciplinary history as this will help consumers form an opinion on how much confidence to put in the adviser, and whether to seek advice from them.
70. As consumers may receive advice direct from financial advice providers, or through financial advisers and nominated representatives engaged on their behalf, we think that consumers should receive information about relevant disciplinary history of the individual giving advice, or the financial advice provider. This could include whether they have been the subject of disciplinary proceedings, FMA orders, or have relevant criminal convictions (e.g. fraud) or adverse findings made against them by a court or disciplinary tribunal within the past five years (including if they have been found to have contravened a financial advice duty).

We propose that the regulations require:

- the firm or individual giving regulated financial advice to a retail client to disclose information relating to any relevant disciplinary history from the previous five years by the point at which the nature and scope of the financial advice is known.

Recent insolvency or bankruptcy history

71. AFAs are currently required to disclose whether they have been adjudicated bankrupt or admitted to the no asset procedure under Part 5 of the Insolvency Act within the past five years. This information is intended to help consumers determine how much confidence to put in the AFA, and the likelihood that they would receive compensation should they suffer a recoverable loss as a result of the advice.
72. We think that financial advisers and financial advice providers should be required to disclose details of relevant insolvency or bankruptcy issues within four years of the date of discharge.¹⁴ For financial advice providers, who are ultimately accountable for the financial advice, this obligation would apply to the directors of the firm. We do not think that nominated representatives should be required to disclose this information as, unlike financial advisers, they are following the financial advice provider's processes and limitations. Therefore, a nominated representative's recent insolvency or bankruptcy history should not be relevant to how much confidence a consumer should place on the advice.

We propose that the regulations require:

- financial advice providers and financial advisers giving regulated financial advice to a retail client to disclose information relating to any relevant insolvency or bankruptcy issues by the point at which the nature and scope of the financial advice is known.

21 Do you agree with the proposed requirement to disclose information relating to disciplinary history and bankruptcy or insolvency history? Why or why not?

22 Should the disclosure of information relating to disciplinary history and bankruptcy or insolvency history also apply to the directors of a financial advice provider?

¹⁴ Section 449 of the Insolvency Act 2006 requires people who have been adjudicated bankrupt or admitted to the no asset procedure to appear on a public register for four years after the date of discharge. As this information is publicly available for this period, we think that it would be practical to align any disclosure requirements regarding insolvency or bankruptcy with the provisions in the Insolvency Act.

Should financial advice providers also be required to disclose if they have been found to have contravened a financial advice duty?

73. The following table sets out a summary of the proposals:

	Publicly available or on request	When nature and scope of advice is known	When making a recommendation	Other
Licensing information	✓	✓		
Conduct and client care obligations	✓		✓	
Complaints process / dispute resolution membership	✓		✓	✓ Disclose dispute resolution scheme at time complaint received
Limitations on nature and scope of advice	✓ Types of advice available, products that can be dealt with, and providers whose products can be considered	✓ Nature and scope of advice that will be provided, incl. providers whose products will be considered	✓ Confirm if any material changes to nature and scope of advice	
Costs	✓ Whether charge a fee	✓ Estimate of fees and basis on which will be charged	✓ Disclose any additional expenses client may incur (e.g. repay clawback commission)	✓ Provide a reasonable estimate of fees and basis for fees before fee incurred
Commissions and other incentives	✓ Whether pay or receive commissions or other incentives	✓ Details of material commissions or incentives provider or individual might receive	✓ Any particular material commissions or incentives that will apply	
Other conflicts and affiliations	✓ Whether any conflicts of interest which could materially influence advice	✓ Details of potential material conflicts of interest	✓ Any particular material conflicts of interest	
Disciplinary history		✓		
Insolvency or bankruptcy history		✓		

6 Additional options

74. Chapters 4 and 5 of this paper set out our proposals for the information that should be disclosed in relation to financial advice. This chapter seeks your feedback on some potential additional options that could be included in the new disclosure requirements.

A prescribed summary document

75. To help consumers identify the important information that they need to be aware of before obtaining financial advice from a particular individual or a business, we are considering whether the regulations should also include a prescribed summary document. The regulations could provide a prescribed template that would summarise the information that we propose be disclosed by the time the nature and scope of the financial advice is known, and advise consumers of where more information can be found (e.g. the summary document might state that the financial advice provider charges for its advice and include a hyperlink to where a schedule of its fees can be found).
76. This will bring important pieces of information to the attention of consumers, helping them choose someone to give them advice. However, it may be less effective when advice is provided through different channels (i.e. if advice is provided over the phone or via an online robo-advice platform).
77. If the financial advice is given by a financial adviser or nominated representative on behalf of a financial advice provider, the statement should be relevant to the individual giving the advice. For example, a nominated representative or financial adviser engaged by a financial advice provider would need to disclose information that is relevant to what the individual can provide.

24

Do you think that a prescribed template will assist consumers in accessing the information that they require?

25

How could a prescribed template work in situations when advice is not provided in person (i.e. if it is provided over the phone or via an online platform)?

Requirements for disclosure provided through different methods

78. Feedback we have received previously indicates that consumers would like to receive disclosure information through a range of different methods, including verbally, electronically and in writing.¹⁵ The proposals in this discussion document are intended to allow for disclosure to be provided verbally, electronically or in writing. We are considering whether the regulations should set additional requirements when disclosure is provided verbally or electronically. For example, the regulations might require that any verbal disclosure should be supported by written disclosure so that a consumer can refer back to it at a later date.

¹⁵ Respondents to an online questionnaire showed that consumers had mixed preferences in how they would like to receive disclosure. Many favoured verbal disclosure, but noted that this should be backed up by written or electronic disclosure. <http://www.mbie.govt.nz/info-services/business/business-law/financial-advisers/review-of-financial-advisers-act-2008/pdf-document-library/Consumer-Questionnaire-Summary.pdf>

26 Should the regulations allow for disclosure to be provided verbally? Why or why not?

27 If disclosure was provided verbally, should the regulations include any additional requirements?

Requirements for financial advice given through different channels

79. The disclosure requirements discussed throughout this document are intended to be technology neutral. This is intended to ensure that disclosure received is equally effective regardless of how the consumer chooses to access financial advice. However, it may be necessary for the regulations to provide separate requirements that would apply when financial advice is given via a robo-advice platform or over the phone. For example, the regulations might require financial advice providers to disclose how a robo-advice platform works (i.e. that the advice is automatically generated by an algorithm based on information provided by the consumer).

28 Should the regulations provide for any additional requirements that would apply when advice is given via a robo-advice platform or over the phone?

29 Do consumers require any additional information when receiving financial advice via an online platform?

Disclosure when replacing a financial product

80. Replacing financial advice products can result in harm for consumers who may be financially worse off or lose coverage (e.g. as a result of pre-existing conditions) as a result of the replacement. Concerns were raised during the review of the FA Act that consumers may be unaware of these risks and that there were not adequate protections for consumers receiving financial advice relating to replacement products.

81. We are considering whether those advising retail clients to replace a financial product should be required to provide a prescribed notification to the client, warning them of the risks of replacing financial products.

30 Should those advising consumers to replace financial products be required to provide a prescribed notification? If so, what should a prescribed notification contain?

31 Should this apply to the financial advice given on the replacement of all financial advice products?

Information to existing financial advice clients

82. We heard from existing financial advisers that the regulations should provide for reduced disclosure requirements when advice is given to existing clients. As existing clients are aware of many of the factors that would otherwise be disclosed, providing some relief might make it easier to provide advice in these situations.

83. This might be appropriate if the nature and scope of the advice is largely unchanged (e.g. if a client of a mortgage adviser wants advice regarding refinancing a mortgage). However, if previously disclosed information has substantially changed, is out of date, or if the nature

and scope of the advice is different (e.g. an existing mortgage client wants advice on KiwiSaver), it might be appropriate that the client receive full disclosure.

32 Should the regulations provide for reduced disclosure requirements for existing clients? If so, in what situations should it apply and what information should consumers receive?

33 Should there be a limit on the length of time that this relief would apply?

Transitional requirements

84. It is intended that the disclosure regulations will be made shortly after the Bill is passed, and come into effect approximately at the same time as the start of the new financial advice regime (i.e. nine months after the Code of Conduct is approved by the Minister of Commerce and Consumer Affairs). Industry participants will therefore have approximately nine months to prepare for the new disclosure requirements.
85. The disclosure regulations in the FA Act also provide requirements for personalised DIMS. Under the Bill, all DIMS will be regulated under the FMC Act meaning that those AFAs authorised to provide DIMS under the FA Act will need to meet the requirements under the FMC Act.
86. We would welcome feedback on whether any further transitional provisions are required in the regulations.

34 Is it necessary for the disclosure regulations to provide a transitional period for the industry to comply with the new requirements beyond this nine-month period?

35 Should the regulations include specific transitional provisions for AFAs authorised to provide personalised DIMS under the FA Act?

Disclosure to wholesale clients

Wholesale clients do not require the same protections as retail clients

87. Wholesale clients are generally large and/or sophisticated clients who do not require or benefit from the same degree of protection and disclosure as retail clients. Wholesale clients are unable to access free dispute resolution, and some of the competency, conduct and client care duties in the Bill do not apply when advice is provided to wholesale clients.
88. While there is no requirement in the FA Act to provide disclosure to wholesale clients, the Code of Conduct for AFAs requires AFAs to ensure that any wholesale client is aware of the consequences of that status.¹⁶ However, the new Code of Conduct will only apply to advice given to retail clients.

¹⁶ Code Standard 6 of the Code of Conduct “When providing *financial adviser services* to a *wholesale client*, an *AFA* must take reasonable steps to ensure the *client* is aware that the *client* is regarded as a *wholesale client* for the purposes of the *Act* and the *Code*, and also is aware of the consequences of that status.”

There may be people who meet the definition of ‘wholesale client’ but should be treated as retail

- 89. During the review of the FA Act, concerns were raised that the wholesale threshold was too low and that people might be deemed wholesale by virtue of meeting the criteria, without understanding the implications of this or due to regulatory arbitrage by advisers.
- 90. In the Bill, the definition of wholesale client aligns with the stricter definition of wholesale investors in the FMC Act to reduce the likelihood of clients being inappropriately categorised as wholesale. The Bill also allows for people to opt out of being a wholesale client by providing a signed notification to that effect. However, this requires clients to understand that this is an option available to them.

Regulations could require those who give advice to provide sufficient information to the client so that they are aware of the consequence of being treated as wholesale

- 91. We are considering whether the disclosure regulations could require anyone who gives financial advice to a wholesale client to provide sufficient information about the consequences of this in some circumstances (e.g. if the client is classed as wholesale by virtue of meeting the investment activity criteria in the FMC Act).
- 92. This is intended to ensure that clients, who come within the definition of wholesale client but need the protections of a retail client, are aware of the circumstances of being treated as wholesale, without imposing undue costs on the industry when dealing with genuine wholesale clients (i.e. a client that is classed as wholesale by virtue of meeting the investment business criteria in the FMC Act ought to be aware of the consequences of being a wholesale client and should not require further information, while a less-sophisticated client might require more information).
- 93. Those who give financial advice will be required to have processes in place to ensure that wholesale clients understand what it means to be categorised as a wholesale client, and that they can choose to opt-out and be treated as a retail client.
- 94. We would welcome feedback on whether the disclosure regulations need to include any disclosure requirements for financial advice given to wholesale clients.

36	Should the regulations require the provision of additional information regarding the wholesale designation in some circumstances? If so, when would it be appropriate for this to take place?
37	Do you have any alternative suggestions for how the regulations could ensure that wholesale clients are aware of what it means to be deemed a wholesale client?

Annex 1 Case Studies

Scenario 1: Robo-advice platform that gives advice on a range of different providers' KiwiSaver funds

Evelyn is a member of a default KiwiSaver fund and wants quick and easy advice on the best fund to choose based on her circumstances and risk appetite. She decides to access KiwiSaviour, a robo-advice platform, which advises on a range of different providers' KiwiSaver funds.

General information on their website

KiwiSaviour would be required to include the following general information on its website:

- That it is licensed by the Financial Markets Authority as a financial advice provider and that it is subject to conduct and client care duties including the Code of Conduct for financial advice.
- That the advice it gives is automatically generated based on the client's response to several questions.
- That it considers financial products from all KiwiSaver providers.
- That it does not charge a fee for this service, but that it receives a referral payment from KiwiSaver providers should a client follow its advice.
- Details of what a client should do in the event of a complaint, and the details of the dispute resolution scheme for which they are a member.

Information to be disclosed when the nature and scope of the service is known

Because this advice is based on an algorithm, KiwiSaviour is able to provide information regarding the nature and scope of the service when Evelyn accesses the tool. KiwiSaviour will be required to outline the following information before Evelyn can proceed:

- That it is licensed by the Financial Markets Authority as a financial advice provider.
- That the advice it gives is automatically generated based on the client's response to several questions.
- That it considers financial products from all KiwiSaver providers.
- That it receives a referral payment of \$100 from KiwiSaver providers should a client follow its advice.

Information to be disclosed when the recommendation is made

After Evelyn completes the questionnaire, the tool recommends that Evelyn switch to the GoodFunds growth fund. When making the recommendation, KiwiSaviour must disclose:

- That funds from only two KiwiSaver providers were considered as Evelyn had indicated that she wanted to invest in an ethical KiwiSaver fund.
- That it will receive a referral payment of \$100 from GoodFunds should Evelyn follow KiwiSaviour's advice.
- Details of what Evelyn should do in the event of a complaint, and the details of the dispute resolution scheme for which they are a member.

Scenario 2: Financial advice on personal risk insurance products from a range of providers, given by an individual financial adviser from a small financial advice firm

Sebastian wants to get personal risk insurance for the first time and approaches InsureU, a small financial advice firm that provides advice on personal risk products from a small range of insurance providers.

Emilia is an individual financial adviser employed by InsureU. She arranges a face-to-face meeting with Sebastian to discuss his options.

Standard information on their website

InsureU would provide the following information on its website:

- That it is licensed by the Financial Markets Authority as a financial advice provider and that it is subject to conduct and client care duties including the Code of Conduct for financial advice.
- That it only considers financial products from a select number of insurance providers: Gringotts Life Insurance, Justlife Insurance, EazyLife and OB1insurance.
- That InsureU, and InsureU employees, receive commission payments from insurance providers should a client follow its advice.
- Details of what a client should do in the event of a complaint, and the details of the dispute resolution scheme for which they are a member.

Information to be disclosed when the nature and scope of the service is known

Emilia gathers information about Sebastian's circumstances in order to determine the nature and scope of the service. They discuss the pros and cons of different types of insurance and agree that an income protection policy is the best option.

Before proceeding, Emilia must provide the following information:

- That she is engaged by InsureU, which is licensed by the Financial Markets Authority as a financial advice provider.
- That she does not charge clients for her services as she receives commission payments and other incentives from the organisations whose products she deals with.
- That of the products available to her, Emilia will only consider life insurance products from Gringotts Life Insurance and JustLife Insurance as they are the only two that Emilia deals with who have income protection policies.
- That if Sebastian chooses to take out insurance from Gringotts, Emilia will receive a commission of 200% of the first year premium. If Sebastian chooses to take out insurance from JustLife Emilia will receive a commission of 150% of the first year premium and an annual commission of 5% of the premium.
- That Emilia may receive other financial incentives, which vary throughout the year.

Information to be disclosed when the recommendation is made

Emilia advises that Sebastian take out an income protection policy with Gringotts. When making this recommendation she will outline:

- That she will receive a 200% commission of Sebastian's first year of premiums should he decide to follow her advice.
- That if Emilia writes four more life insurance policies with Gringotts this quarter, she will receive free tickets to the annual conference in Hawaii.
- That Sebastian may be required to pay Emilia for any lost commission should he cancel the policy within the first three years. During this time, Gringotts will clawback the commission payments made to Emilia.
- Details of what a client should do in the event of a complaint, and the details of the dispute resolution scheme for which they are a member.

Scenario 3 - Financial advice given by a bank's nominated representative on the bank's mortgages

Carter meets Nathan, a nominated representative, from Northside Bank to seek advice on the bank's mortgages.

Standard information on their website

Northside Bank would provide the following information on its website:

- That it is licensed by the Financial Markets Authority as a financial advice provider and that it is subject to conduct and client care duties including the Code of Conduct for financial advice.
- That it provides advice on a range of financial products.
- That it can only give advice on Northside Bank home loans and other banking products, KiwiSaver accounts and managed funds. It can also provide advice on life insurance products offered by Gringotts Insurance.
- That it does not charge a fee for advice on its financial products, but it charges ongoing account or management fees for its financial products.
- Its financial advisers and nominated representatives receive financial incentives to give advice on its products. Northside Bank may also receive payments from Gringotts Insurance when providing advice on its products.
- Details of what the client should do in the event of a complaint, and the details of the dispute resolution scheme for which they are a member.

Information to be disclosed when the nature and scope of the service is known

Nathan and Carter have an initial discussion about the type of home loan Carter requires. During this conversation, Nathan must outline:

- That he is engaged by Northside Bank to give financial advice on its mortgages.

- That Northside Bank is a financial advice provider, licensed by the Financial Markets Authority.
- That he will receive incentives from Northside Bank if Carter follows the advice provided.
- That Nathan is only able to consider mortgages offered by Northside Bank.

Information to be disclosed when the recommendation is made

Having found a property, Carter contacts Nathan to confirm the structure of the mortgage. Nathan recommends that Carter use the revolving credit facility and fix the interest rate for 2 years.

When making this recommendation Nathan will outline:

- That if Carter should choose to follow this advice Nathan will receive a bonus payment for securing the business.
- Details of what Carter should do in the event of a complaint, and the details of the dispute resolution scheme for which NorthSide Bank is a member.

Scenario 4 - Financial advice prepared by a research analyst employed by an investment firm

Rory is a retail client of an investment advice firm GaiNZ. Rory has signed up to the Investment Alert Service and receives generic financial advice from GaiNZ following an announcement by Slippers Inc, a company listed on the NZX.

Standard information on their website

Standard information on GaiNZ website includes:

- That it is licensed by the Financial Markets Authority as a financial advice provider and that it is subject to conduct and client care duties including the Code of Conduct for financial advice.
- That it charges for its financial advice and Investment Alert Service. It also charges ongoing management fees for its managed investment funds and discretionary investment management services.
- Details of what the client should do in the event of a complaint, and the details of the dispute resolution scheme for which they are a member.

Information to be disclosed when the recommendation is made

In this instance, the nature and scope of the advice is known at the same point as the advice is given. When GaiNZ send the Investment Alert advice to Rory they would need to include the following information:

- That it is licensed by the Financial Markets Authority as a financial advice provider and that it is subject to conduct and client care duties including the Code of Conduct for financial advice.
- That the advice is based on information regarding Slippers Inc and that it does not take into account your personal circumstances or existing investment portfolio.
- Details of what the client should do in the event of a complaint, and the details of the dispute resolution scheme for which they are a member.