



FINANCIAL
SERVICES
INSTITUTE
of Australasia

23 February 2018

By email

eds@parliament.govt.nz

Dear Economic Development, Science and Innovation Committee,

Re: Financial Services Legislation Amendment Bill

FINSIA (the Financial Services Institute of Australasia) welcomes the opportunity to comment on the Financial Services Legislation Amendment Bill (NZ).

Founded in 1886, FINSIA's 8000 members work across the retail and business banking, funds management and superannuation, capital markets, and financial advice sectors.

FINSIA's goal is to raise standards of professionalism across the financial services industry in Australia and New Zealand to raise levels of consumer trust and confidence in the financial system.

As a professional institute we expect our members to abide by the FINSIA Code of Conduct, and to be subject to the judgment of industry peers when its provisions are contravened. FINSIA requires that its members demonstrate an ongoing commitment to ethics and integrity.

FINSIA has long advocated for the raising of professional standards in the financial advice sector, including (for Australian advisers) degree qualification, and completion of a national exam to define professional eligibility. This reform program is being led by the Financial Adviser Standards and Ethics Authority (FASEA).

Given this background, FINSIA generally supports the Bill's reforms as they are underpinned by the development of a code of conduct that will define minimum standards of competence and conduct in the provision of financial advice.

Consumer interests first

Financial advice is under-utilised by consumers in New Zealand. This also applies in Australia, with the Australian Securities and Investments Commission (ASIC) estimating that between 60 and 80 per cent of adult Australians are unadvised.¹ This is an area of ongoing concern for policy makers because of the increasing complexity of financial products, and the rising expectation that Australians be actively involved in retirement

¹ ASIC (2010), 'Rep 224: Access to financial advice in Australia', <<http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-224-access-to-financial-advice-in-australia/>>.

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saving. Similarly, the Financial Markets Authority (FMA) has reported that only 0.3 per cent of people in KiwiSaver receive personalised advice about their investments.

The consumer first approach in the Bill should facilitate greater consumer confidence in financial advice. Removing the restriction that advice is provided by a natural person (discussed below) should increase consumer access to advice.

FINSIA supports the proposal that advisers give information to clients as to the number of products and product providers they have considered in making an investment recommendation. Supporting regulation should provide guidance to advisers on the appropriate form of disclosure for this purpose.

As with the provision of roboadvice, investment products sold by banks should come with a consumer warning that a product is fit for purpose and meets the minimum requirements of the investment product type.

Approach to licensing

While the approach to licensing — centred on the firm — is supported by a code of conduct applying to individuals, FINSIA makes the following observations on the Bill's approach to licensing:

- > The principles of professional liability and standard of care originate with individual educational attainment and qualifications, behaviours, and commitment to ethical practice. Licensing firms rather than individuals (for the highest category of advice) appears to be inconsistent with this goal.
- > Current Australian reforms being implemented by FASEA have an increased focus on individual regulation in standards of education and competence, which has come about because of limitations in the entity approach to regulation delivering poor consumer outcomes.

Code of conduct and disciplinary measures

FINSIA supports the maintenance of disciplinary measures for financial advisers. FINSIA notes the importance of visibility of these processes, and that consumers can readily access information about advisers that have been suspended or have had conditions imposed on their practice.

Wholesale and retail clients

FINSIA supports the alignment of the definition of 'wholesale client' with the FMC Act.

Technology neutral approach and roboadvice

FINSIA recognises that it is timely to expand the definition of financial advice to account for the development of roboadvice tools.

Roboadvice has the potential to expand access to financial advice at scale, allowing more consumers an active role in their financial wellbeing by raising engagement.

Notwithstanding these advantages, any limitations in roboadvice approaches should be clearly communicated to consumers. For example, roboadvice may be inadequate to address estate planning issues, or may not have the degree of personalisation available from a professional financial adviser considering the number and quality of inputs about an investors circumstances that are considered. FINSIA suggests that this should be covered by the supporting regulations for this Bill.

Future policy development

FINSIA welcomes the opportunity to contribute to further policy development in this area.

Please refer any future enquiries to Caroline Falshaw A Fin, Head of Industry Affairs and Policy: c.falshaw@finsia.com

With kind regards,

A handwritten signature in black ink, appearing to read "Chris Whitehead". The signature is fluid and cursive, with a large loop at the end.

Chris Whitehead F Fin

CEO and Managing Director