



31 October 2017

Financial Markets Authority
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EXTENSION OF FINANCIAL ADVISERS ACT 2008 EXEMPTIONS FOR AUSTRALIAN QUALIFIED ADVISERS AND AUSTRALIAN LICENSEES

This submission is made on behalf of the Code Committee established under the Financial Advisers Act 2008 to develop and maintain a code of professional conduct for authorised financial advisers ('Code').

The Code Committee welcomes the opportunity to comment on the proposed extension of the following two Financial Advisers Act 2008 exemptions that relate to Australian financial advisers:

- Financial Advisers (Australian Licensees) Exemption Notice 2011
- Financial Advisers (Australian Qualified Advisers) Exemption Notice 2016

It is noted that the purpose of the proposal is to allow Australian financial advisers to continue to rely on these exemptions until the legislative changes in the Financial Services Legislative Amendment Bill have been brought into effect.

In relation to the Financial Advisers (Australian Licensee) exemption, the Code Committee believes that the proposed extension is pragmatic in ensuring the on-going availability of personalised advice to retail clients where the client became a client of the licensee in Australia, where regulatory assurances as to the application of appropriate standards of conduct and competency are already in place. The Code Committee is therefore supportive of this proposal and submits that the extension should be on the same terms and conditions until the new law takes effect.

The Code Committee is also supportive of the proposed extension of the Financial Advisers (Australian Qualified Advisers) Exemption Notice 2016, in principle. The Committee however has some recommendations for consideration.

First, the references to 'Standard Set B' and 'the Financial Advisers (Code of Professional Conduct for Authorised Financial Advisers) Notice 2010' in the current Exemption Notice need to be updated to reflect the current version of the Code.

Second, it is recommended that further consideration be given to the fact that some Australian advisers will lack understanding of the relevant New Zealand law and the Code.

The Code Committee notes that as a condition of authorisation, the Financial Markets Authority will require Australian advisers to complete, as part of the continuous professional training in the first year, structured training covering the relevant regulatory obligations of authorised financial advisers. The Code Committee does not believe this provides an adequate level of assurance as to the competence of Australian Qualified Advisers in relation to New Zealand regulatory requirements.

The Code Committee's view is that all Australian Qualified Advisers should be required to first demonstrate their understanding of applicable New Zealand law and the Code before they can be authorised in reliance on their Australian qualifications. This can be achieved with relative ease by requiring them to attain unit 26360 (demonstrate understanding of the legislative framework for authorised financial advisers). Given that this assessment is offered online and takes approximately 60 minutes to complete, we do not consider that this requirement will be unduly onerous for Australian Qualified Advisers to comply with. If an Australian Qualified Adviser is unable to attain the requisite standard through that online test, then there must be a question mark over the appropriateness of allowing that adviser to provide personalised services in New Zealand. Accordingly, the Code Committee does not support a continuation of the existing exemption from Code Standard 15.

We would be happy to meet with you to discuss any of the issues we have raised.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Ireland', written in a cursive style.

David Ireland
Chairman, Code Committee