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| Feedback form**: Proposed exemption to facilitate personalised robo-advice** | |
| Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with ‘Proposed exemption to facilitate personalised robo-advice: [your organisation’s name]’ in the subject line. Thank you.  **Submissions close on 19 July 2017.** | |
| Date: 19 July 2017 Number of pages: 5  Name of submitter: Tim Grafton  Company or entity: Insurance Council of New Zealand  Organisation type: General Insurance Industry Representative Organisation  Contact name (if different): Tim Grafton  Contact email and phone: [tim@icnz.org.nz](mailto:tim@icnz.org.nz) or 04-495-8001 | |
| **Question or**  **paragraph number** | **Response** |
| *You don’t need to quote from the consultation document if you note the paragraph or question number*. | |
| (1) | We are generally supportive of the exemption proposal. This is because we believe there are benefits for consumers and providers of advisory services such as access to more customer-friendly and convenient services, lower cost operations for providers, greater competition in the form of an additional channel for the delivery of advice as well as overall efficiency gains.  We also believe that regulators should support innovations that have demonstrable benefits and not present barriers such as through inaction. The proposal places checks and balances by applying limits and conditions which seem generally to be appropriate to guard against the risks posed to consumer harm and reputational damage to the insurance sector.  In general, public policy should endeavor to create technology-agnostic regulatory oversight that maintains a high level of consumer protection and that ensures market participants have the flexibility to react, adapt and innovate to improve products and services, and/or meet shifting consumer expectations. |
| (2) | Yes, we are operating in a world of fast-moving technological change which will require public policy and regulatory activity to be light on its feet. Legislative change is too slow to effect change. This has been recognised in many other areas by providing for regulatory instruments that do not require law change. |
| (3) | This is a commercial issue and we are not in the market, so our comment here has a caveat.  However, we would observe that robo-advice will reduce costs for providers, so the medium and possibly even the short-term gain for providers would likely outweigh the regulatory costs. We agree with the FMA’s analysis that having to incorporate a human AFA into the robo-advice process would defeat the purpose of these cost savings.  We support the need for terms and conditions to be applied for the reasons given in (1) above, so provision should not be without cost.  In terms of costs borne, we note FMA is largely funded through levies provided by entities and individual advisers registered with FMA. We believe that regulatory measures should be competitive-neutral. Unless we have misunderstood the proposal, it does appear to us that owners of robo-advice services would be able to enter the market without bearing any cost to fund the FMA. This would put them at a competitive advantage, so we would propose such entrants being required to contribute toward the FMAs costs or else be excluded from the exemption. |
| (4) | We support the class exemption approach as proposed to lighten the regulatory burden. |
| (5) | As noted earlier at point (3), we are concerned about the costs that new entrants not already registered as a financial service provider or licensed with the FMA do not have to carry.  We also have a concern that new entrants and registered financial advisers (‘RFAs’) using the exemption to offer robo-advice services have a greater potential to cause consumer and industry reputational harm. Our reason is both cultural and standard-based. QFE advisers and AFAs have had minimum standards for years, and have had to develop a culture of adherence to those standards with close FMA oversight. New entrants and RFAs have not had to meet the same standards and develop that culture over the same period. Culture especially cannot be transplanted overnight and is far more important and effective as a regulator than passive standard setting and box ticking. We propose, to address this risk, that the class exemption only applies to existing QFE advisers and AFAs, and that any new entrants or RFAs must be individually authorized and exempted by FMA so that FMA can be directly satisfied, on application, that the risk posed by that new entrant or RFA is acceptable. |
| (6) | If no exemption is granted, then there is a serious risk that consumers and the sector will not benefit from readily available technology. Insurer’s role is to support consumers to manage their risks; regulators’ role is to support an efficient, effective and robust insurance market that consumers have confidence in. Regulators can do just that by ensuring consumers receive the benefits and minimize the harms from the action of providers in the market. |
| (7) | Across many sectors, there is a generation of people who access most if not all their services through on-line platforms. This is largely due to the speed and convenience these platforms provide. Robo-advice an enhancement of service delivery to consumers. If this channel of advice is not open to consumers until legislation is passed, then it will effectively lock some people out of the advisory market because they do not seek services through other channels. This would seem to be counter to the thrust of what many government and private sector initiatives are currently attempting to do – raise levels of financial capability. |
| (8) | N/A. As an industry representative organization, we are not a financial advisory body. |
| (9) | The limits and conditions seem appropriate. We are particularly supportive of having exemption conditions align with the Code Standard.  However, we note some of the exemption conditions provide lower standards than are currently required for QFE advisers and AFAs. Aligning with point 5 above, in our view financial advisers adhering to existing standards should not be able to lower their standards by providing advice through a different distribution channel. We also appreciate the increase in standards for new entrants and RFAs that will likely not have been subject to those standards or that regulatory culture before. FMA will need to take greater care to ensure the risk of making this jump is not too great for new entrants and RFAs to ensure the standards and levels of compliance and protections offered to consumers do not differ between these adviser populations.  With this in mind, we propose that QFE advisers and AFAs are subject to a class exemption, but that RFAs and new market entrants should have to individually apply for exemption to FMA. This way, FMA can be better satisfied as to the nature and extent of the risk posed to the customer through a more hands-on assessment. We believe there needs to be a proactive approach to fostering good industry standards, rather than a passive box-ticking exercise which could lead to poorer consumer outcomes. A proactive approach for those entities who have had less to do directly with FMA in the past (RFAs and new entrants) would lead to better consumer outcomes.  We note the European Commission’s core principles on regulatory approaches are technology-neutral (ensuring the same activity is regulated in the same way regardless of how it is delivered), proportional (reflecting business model, size, systemic significance, complexity and cross-border activity) and integrity- enhancing (promote market transparency for consumer benefit without creating unwarranted risk (e.g. market abuse). |
| (10) | N/A. We are not a business providing robo-advice. |
| (11) | N/A. We are only submitting with respect to general insurance advise as proposed by the FMA. |
| (12) | We support that all general insurance products should be considered for exemption. |
| (13) | N/A. We have no view on whether Personal Insurance products should be included as our submission focuses solely on general insurance products. |
| (14) | We disagree with a value cap or limit on duration to general Insurance products. On duration, general insurance products are almost always provided on an annual renewal basis with liberal cancellation provisions for the customer. This makes general insurance unlike many of the investment and savings products that are being considered for exemption.  We also note placing limits would unduly prohibit the provisions of advice to areas of the market that are already underserved and in need of greater accessibility at low cost for consumers, particularly house insurance and small-medium business insurance. |
| (15) | N/A. |
| (16) | N/A to general insurance. |
| (17) | Yes. Standardization will lead to clearer guidance and better compliance which is important at this stage of development of this market. It will reduce the risk of misperception and misinterpretation by providers. |
| (18) | Yes. Aside of the basic disclosure statement above, providers should have flexibility to experiment with the most effective way to disclosure the required information to consumers. Effective disclosure has been a difficult topic for many years as we understand there are limitations on consumers reading and fully understanding what is disclosed to them by financial service providers. Allowing the market through enhanced technology to experiment and find the most effective way to disclose information for consumer to acknowledge and understand will lead to more informed consumers and better market outcomes. |
| (19) | Yes, and this could be a simple tick-box confirmation which does not place onerous conditions on provider nor a barrier to use for consumers. |
| (20) | The aspects where we have reservations are noted above at (5) and (9). |
| (21) | No. |
| (22) | See (5) and (9) above. |
| (23) | The conditions should be applied consistently regardless of the size and scale of the advice offered. If this is not the case, then the applications of conduct requirements become subjective and this is not a desirable outcome.  All consumers should expect the same standards of conduct regardless of the provider they are receiving advice from. |
| (24) | Only as set out at (5) and (9) above. |
| (25) | Yes, any guidance on the application of a new product would be helpful to ensure compliance. |
| (26) | Yes, that would be helpful for consumers to have an assurance about the products available to them. This is especially necessary because robo-advice can be provided across borders beyond the FMA’s jurisdiction. New Zealand consumers need to know that they can have confidence that providers are regulated and accountable to authorities in New Zealand and this would be a means of ensuring that distinction occurs.  We note that some of our members seek to protect the anonymity of the robo-advice platform for commercial reasons to maintain a competitive advantage. We suggest this could be handled by not publishing the list of providers active in the market until immediately after they have launched their product publicly. |
| (27) | The term robo-advice is somewhat misleading and particularly so for the public given the stereotypical view of what a robot is. It connotes something like a cyborg with humanoid features. This may convey to members of the public capabilities enhanced by science fiction that far exceed what these digital or automated services can provide. So, alternative terminology would be more appropriate. |
| (28) | The cross-border issues raised in (26) is one that the FMA needs to apply more thought to across all its activities as digitalised product offerings become increasingly prevalent. It suggests the need for regulators to engage with their counterparts as well as the industry to inform a path forward.  Holistic and transparent regulatory changes need to occur across jurisdictions that will create environments that are conducive to innovation, and that are proportionate, minimally intrusive and applied evenly to all market participants to foster competition and collaboration. |
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| **Feedback summary** – *if you wish to highlight anything in particular* | |
| **Please note:** Feedback received is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act. | |
| **Thank you for your feedback – we appreciate your time and input.** | |