

# **FSPA & FAA** **A Practical Guide**

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# Workplace Savings NZ

Te māngai penapena ā-mahi



- The new regulatory environment
  - FSPA (registration)
  - FAA (financial advice)
- Scenarios

- To establish a public register of financial service providers to enable
  - public access to information
  - registrar & other regulators to regulate FSPs
- To prohibit certain people
- To conform with FATF (AML)

- Those providing a financial service includes
  - Financial adviser service
  - Broking service eg investment managers, fund administrators
  - Issuers, promoters, managers, trustees of securities to the public eg
    - o superannuation schemes & Kiwisaver

## Who must register?

- Investment consultants
- Incorporated bodies
- Unincorporated bodies
- Trustees

- Those NOT providing a financial service s7(2)j
  - An employer providing access to employer-sponsored super or Kiwisaver to employees
- Those not ordinarily resident in NZ or without a place of business in NZ

- Join an approved Dispute Resolution Scheme or the Reserve Scheme
- Register on-line at the Companies Office
  - [www.fspr.govt.nz](http://www.fspr.govt.nz)
  - from 16 August 2010

<u>Event</u>	<u>Date</u>
FSP Register opens	16 August
FSPs must be registered (except financial advisers)	1 December
FSP Act fully in force (financial advisers must be registered)	1 April

- To promote sound & efficient delivery of financial adviser (& broking) services
- To encourage public confidence in the professionalism & integrity of the FA (and broking) industry

- Disclosure



- Competence



"You seem to have the qualifications  
we're looking for in an accountant"

- **Accountability**



"YOU KEEP OUTLIVING YOUR OLD-AGE RETIREMENT SAVINGS!"

- Personalised vs class
- Investment advice
- Retail clients vs wholesale

- Category 1 products
  - KiwiSaver & superannuation
- QFEs
  - issuer or promoter
  - shared frontline regulatory responsibility
- Consumer protection

- Provide a *financial adviser service* defined as (s9)
  - Financial advice OR
  - Investment planning service OR
  - Discretionary investment management service
- Provide a *broking service* (s77B)
  - not sharebroking

- s13: incidental to ordinary course of business
- s14: other exemptions
  - s14g: employer providing relevant service to employee in connection with a financial product made available through the employee's workplace
  - s14o: providers of documents required by law
- s19: class service providers
- s20: advice provided to wholesale clients

## Scenario 1a: Consultants

- Doris is an investment consultant with ABC Investment Consultants. She is not an AFA. She has been asked by the trustees of the Basil Brush Superannuation Scheme to attend a meeting of prospective scheme members to talk about how well the scheme's investments have performed. Is she able to do this? Are there any restrictions on what she can say?

## Scenario 1b: Consultants

- What if Jim who is impressed by the presentation asks whether he should join the scheme?

## Scenario 2a: Independent trustees

- Marcus is an independent trustee of the Basil Brush Superannuation Scheme. He is not an AFA. He receives a call from Herbert who is a member of the scheme who wants to know whether he should switch from a growth fund to a conservative fund. What, if anything, is he able to say to Herbert?

## Scenario 2b: Employer trustees

- Jessica is a director and chief executive of Basil Brush Limited and a trustee of the Basil Brush Superannuation Scheme. She is not an AFA. Sid a stiff bristle tester in the yard broom department asks whether he should join the scheme. What can she tell him? What if Sid wants to know the benefits of the Basil Brush Superannuation Scheme as opposed to a KiwiSaver scheme?

## Scenario 2c: Employee trustees

- Terry is an accountant for Basil Brush Limited and is also a trustee of the Basil Brush Superannuation Scheme. He is not an AFA. Judy, an accounts clerk who works for him, wants to know whether she should join the scheme. What can Terry tell her?

## Scenario 2d: Union trustees

- Karl is a union official with the Furniture, Manufacturing and Associated Workers Union. He is also a trustee of the Basil Brush Superannuation Scheme. He is not an AFA. Joseph is a member of the union and also a member of the scheme. At a union meeting he asks Karl whether he should transfer from the scheme to a KiwiSaver scheme. He can elect to do so under the scheme rules. What can Karl tell him? What if he just wanted to know how to transfer from the scheme to a KiwiSaver scheme?

## Scenario 3: HR Manager

- Miranda is an HR Manager for Basil Brush Limited and is not an AFA. Michael, a toothbrush technician who works for Basil Brush Limited, asks whether he should join KiwiSaver. What can she tell him? Does it make a difference if the KiwiSaver scheme is not the preferred scheme of the workplace?

- **Scenario 4a: KiwiSaver providers**
- Sebastian is an employee of ABC Financial Services Limited, a KiwiSaver provider and a QFE. Sebastian is not an AFA. Sebastian is asked to present to the senior management of Milk Plus Limited, a large milk producing corporation about the benefits of the ABC KiwiSaver scheme. What is he able to say?

## Scenario 4b: KiwiSaver providers

- Senior management are impressed and invite Sebastian to deliver the same presentation to a group of Milk Plus Limited employees. What is he able to say?

## Scenario 4c: KiwiSaver providers

- If Monty a scientist who works for Milk Plus Limited asks Sebastian specific questions about whether he should join the scheme would Sebastian be able to respond?

## Scenario 5a: Brokers

- Jimmy works for Fund Administration Specialists Limited. As part of his job he receives money from members and allocates money to relevant investment managers. Does Jimmy have any specific obligations? Does his employer, Fund Administration Specialists Limited?

## Scenario 5b: Brokers

- Would the position be different if fund administration specialist limited was a part of a group QFE with ABC Financial Services Limited?

## Scenario 6: Administration Manager

- Kylie works for A1 Administration Services Limited. She is not an AFA. Ronnie, a member of the ABC KiwiSaver Scheme she administers, calls her and asks whether, as she has reached the end payment date, she would be better off remaining in the scheme or withdrawing her accumulations. What can Kylie tell her?

## Scenario 7a: Offshore Investment Manager

- Chuck lives in Boston and works for Beat the Bank Limited, an offshore investment manager. He is not an AFA. Beat the Bank Limited provides investment management services to the ABC KiwiSaver Scheme. ABC Financial Services Limited, the scheme provider, asks Chuck to present a seminar by video link to its financial advisers group on how well the scheme's investments are performing. Are there any restrictions on content?

## Scenario 7b: Offshore Investment Manager

- If ABC Financial Services Limited asks Chuck to present a seminar by video link to members of the ABC KiwiSaver Scheme on how well the scheme's investments are performing. Are there any restrictions on content?

## Scenario 7c: Offshore Investment Manager

- Charles lives in New Zealand and is an agent of Beat the Bank Limited. He is not an AFA. Beat the Bank Limited provides investment management services to ABC KiwiSaver scheme. The scheme provider ABC Financial Services Limited asks Charles to present a seminar to prospective members of the scheme on how well the scheme's investments are performing. Are there any restrictions on content? What if Sam, who is a 60 year old financial analyst, asks Charles whether he should join the scheme?

- Regulation of AFAs & QFEs
  - [www.seccom.govt.nz/afa](http://www.seccom.govt.nz/afa)
  - [www.seccom.govt.nz/qfe](http://www.seccom.govt.nz/qfe)
  - 0508 377 746
- Registration
  - [www.fspr.govt.nz](http://www.fspr.govt.nz)
  - 0508 377 746
- Dispute Resolution Schemes
  - [www.consumeraffairs.govt.nz](http://www.consumeraffairs.govt.nz)
  - 0508 377 746

- Code of Professional Conduct
  - [www.financialadvisercode.govt.nz](http://www.financialadvisercode.govt.nz)
- Training & competence assessments (ETITO)
  - [www.afacompetence.org.nz](http://www.afacompetence.org.nz)
  - 04 931 0007
  - [helpdesk@etito.co.nz](mailto:helpdesk@etito.co.nz)