

14 May 2008

Clerk of the Committee
Finance & Expenditure Committee
Select Committee Office
Room 10.04, Bowen House
Parliament Buildings
WELLINGTON

To the Chair of the Select Committee,

ASFONZ Submission on the proposed changes to the Financial Advisers Bill

We wish to submit the attached in respect of the Financial Adviser Bill released on 19 February 2008.

ASFONZ is an independent, national, not-for-profit membership organisation founded in 1969. Its current membership comprises around 100 major workplace superannuation schemes and around 50 organisations and individuals representing the various product and service providers for workplace superannuation.

The mission of ASFONZ is to promote workplace superannuation in New Zealand.

ASFONZ seeks to achieve that mission through:

- 1 **Advocacy** – being the recognised voice for all employers and trustees involved in workplace superannuation, through:
 - (a) advocating legislative and public policy initiatives beneficial to the industry;
 - (b) making submissions and commentary on existing legislative and public policy initiatives;
 - (c) issuing regular press releases and other public commentary on matters of wider concern or interest to members; and
 - (d) staying in regular contact with responsible Ministers, regulatory and industry bodies, the Retirement Commissioner and Government Departments to project, promote and advance members' interests.
- 2 **Education** – promoting trustee, employer and member education through dedicated training programmes, newsletters and special interest seminars.
- 3 **Networking** – providing trustees, employers and service providers involved in workplace superannuation with a regular forum for sharing ideas and information on industry matters.

Contact: Bruce Kerr, Executive Director, ASFONZ

Thank you for the opportunity to make this submission.

Yours sincerely



John Melville
Chairman



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ASFONZ
(The Association of Superannuation Funds of New Zealand)

Submission to the

Finance and Expenditure Select Committee

on the

Proposed Changes To The
Financial Advisers Bill
("the Bill")

May 2008

Background

ASFONZ supports the objective of the Bill as summarised in the material published in connection with the proposed changes to the Bill.

As we have stated in our earlier submission on the Bill, ASFONZ's interests do not generally cover financial advisers and the giving of financial advice. However, there is one aspect of the Bill that has been of concern to ASFONZ and that is the position of:

- trustees of superannuation schemes; and
- of employers who offer superannuation scheme membership to their employees, and their representatives,

and whether or not they should ordinarily be considered to be part of the advice process.

ASFONZ has previously submitted that we believe that this group of people should not generally be included in the definition of a financial adviser (unless they are in the business of giving financial advice).

The ASFONZ submission

In the circumstances, the ASFONZ submission on the Proposed Changes to the Bill is very short, and relates only to questions 1, 2 and 3 of the questions posed.

1. We agree with the occupational approach to the regulation of financial advisers.
2. We believe that the definition of financial adviser included in the proposed changes to the Bill could usefully make the position of employers and their representatives more certain in relation to workplace financial arrangements.
3. We believe that clarity and certainty are essential as an employer, or the employers' representatives, could frequently be in a position of commenting or providing guidance to employees in some way or other on KiwiSaver or superannuation scheme arrangements or other financial products offered to employees through the workplace, and this could lead to them being caught under the "regularly providing" leg of the definition.
 - 3.1. Falling within the definition would place an additional compliance burden on employers potentially resulting in them withdrawing the product in question from the workplace.

The risk of falling within the definition may result in a reluctance on the part of employers to provide adequate assistance to employees in relation to workplace savings arrangements, potentially resulting in a lower take up rate by employees. Such an outcome would be contrary to one of the key objectives of KiwiSaver, being promotion of the use of the workplace to increase employee savings levels.

- 3.2. ASFONZ submits that the required clarity and certainty would be achieved by, for example, adding:

"For the avoidance of doubt, guidance provided by an employer whose primary business is not the provision of financial advice, or by an employee of that employer, to any employee of the employer in relation to any financial products made available to the employee through the workplace does not amount to the provision of financial advice for the purposes of this definition."

The End