

NAVIGATING REGULATION

Financial Services Council.
Growing and protecting the wealth of New Zealanders

2018



This is the sixth message from the Financial Services Council about future changes coming to financial advice regulation. *The FSC's goal is to highlight key things you need to know about the Financial Services Legislation Amendment Bill (FSLAB), its regulations and the Code of Conduct for Financial Advice.*

The FSLAB regime is full steam ahead!

The Parliamentary Select Committee released its report on FSLAB on 31 July. The other dependent areas including the draft Code of Conduct, draft regulations, and licensing requirements had been awaiting clarity on where FSLAB would develop, so those are expected to progress significantly in the next month or two.

What's changed in FSLAB?

There are some material changes recommended by the Select Committee, including:

- A licensed financial advice provider may engage another entity to provide financial advice on its behalf, as well as financial advisers and nominated representatives. This would allow financial advice providers to structure their services more flexibly by outsourcing aspects of their advice service to other companies, not just individuals. The outsourcing provider would, however, remain responsible for the procured advice and for compliance with the duties to prioritise clients' interests etc. This means that an unlicensed adviser business's financial advisers can be engaged indirectly by a licensee.
- The definition of financial advice:
 - now includes advice about switching funds within a managed investment scheme (e.g. KiwiSaver switches), and
 - "planning" may, in future, include things other than investment planning (these can be determined by regulations).
- The exclusion for occupations, including lawyers and accountants, is clarified further. To be exempt, the financial advice must be incidental and given in the ordinary course of that occupation. Otherwise they will need to be licensed.
- It clarifies that nominated representatives have limited discretion when giving financial advice. The licensee must have processes and controls in place to limit the nature and scope of advice given by nominated representatives.

The [Select Committee Report](#), the [Departmental Report](#) from MBIE, and the [updated FSLAB](#) have the full details of the changes.

Likely timeline

We estimate that the potential timeline is

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Nov'18	Dec'18	Apr'19	Oct'19	Nov'21
FSLAB	Code	Trans.	Full	Regime
Passes	Approved	Licensing	Licensing	Fully
		Starts	Starts	In force

This is subject to change and confirmation.

Previous messages in this series

- Message 1, general information and timeline, is available [\[here\]](#).
- Message 2, submitting on the Code Working Group consultation document, is available [\[here\]](#).
- Message 3, MBIE's consultation paper about disclosure, is available [\[here\]](#).
- Message 4, what can I do now (step 1, entity policy statements), is available [\[here\]](#).
- Message 5, more things you can do now (step 2, develop and review your processes), is available [\[here\]](#)