



DECEMBER 2025

# Regulatory Impact Statement

## Financial Markets Conduct (Financial Advice – UK Pension Transfers) Exemption Notice 2025

This document is for financial advisers in the United Kingdom providing advice on a transfer or withdrawal from a UK safeguarded benefit pension, and for individuals in New Zealand with a UK safeguarded benefit pension. It discusses an exemption that allows UK financial advisers to provide advice to individuals in New Zealand about transferring safeguarded benefit pensions, subject to certain conditions.

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# Contents

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<b>Executive summary</b>	<b>3</b>
Exemption granted	3
<b>Background and issue</b>	<b>4</b>
UK pensions and required advice	4
Compliance burden and its consequences	4
<b>Objectives</b>	<b>5</b>
<b>Options and impact analysis</b>	<b>6</b>
Summary of options against objectives	9
<b>Consultation</b>	<b>11</b>
<b>Conclusion and selected option</b>	<b>13</b>
<b>Schedule – Exemption requirements and conditions</b>	<b>14</b>
Exemption for Financial Advice – UK Pension Transfers	14

# Executive summary

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This Regulatory Impact Statement (RIS) discusses an exemption that provides relief from some of the requirements under Part 6 of the Financial Markets Conduct Act 2013 (FMC Act) for United Kingdom financial advisers providing financial advice to clients in New Zealand on UK law aspects of the transfer of funds in a UK pension scheme with safeguarded benefits.

This RIS summarises the problem the Financial Markets Authority – Te Mana Tātai Hokohoko (FMA) is seeking to address, our objectives, the options and their associated impacts, and the consultation process we undertook before deciding to grant the exemption.

Our analysis of whether to grant the exemption was based on the statutory test that applies to use of the FMA's exemption powers. We must be satisfied that the exemption would promote one or more of the purposes of the FMC Act. We must also be satisfied that the extent of the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.

## Exemption granted

After careful consideration of both regulatory and non-regulatory impacts, we decided to grant a five-year class exemption for UK financial advisers who provide required advice to individuals in New Zealand on transfers of safeguarded benefit pensions with a cash equivalent transfer value of over £30,000, subject to the terms and conditions listed in the Schedule.

# Background and issue

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## UK pensions and required advice

Individuals residing in New Zealand may be a member of a UK pension with safeguarded benefits. Safeguarded benefits are defined in legislation as pension benefits that are not money purchase or cash balance benefits. This includes pension schemes with defined benefits, or guaranteed annuity rates or guaranteed annuity options (collectively referred to as ‘safeguarded benefit pension’ in this paper).

If the cash equivalent transfer value of the safeguarded benefit pension is over £30,000, UK law mandates the pension holder take “appropriate independent advice” (required advice) from a Financial Conduct Authority (FCA) authorised financial adviser or firm to understand the potential risks of any proposed transfer. The pension holder cannot transfer funds without receiving required advice.

UK financial advisers and the financial advice they provide are regulated by the FCA.

These advisers receive training, must hold specific qualifications, must adhere to specific duties and obligations, and must continue their professional development to maintain competence to have authorisation from the FCA to advise pension holders on potential transfers.

The UK financial advice regime seeks to achieve similar aims and provide consumer protections that are broadly comparable to the New Zealand financial advice regime.

The FMA’s relationship with the FCA involves information sharing and co-operation arrangements that will allow the FMA to seek assistance if enforcement issues arise.

## Compliance burden and its consequences

Should a UK adviser provide the required advice to a client in New Zealand, it is a “financial advice service” under Part 6 of the FMC Act. The UK adviser would have to comply with the New Zealand financial advice regime, be licensed by the FMA, meet disclosure requirements, and adhere to code of conduct obligations under the FMC Act. The UK adviser would be subject to dual regulation under both the FCA and the FMA in respect of the required advice.

It is vital that pension holders in New Zealand have access to the required advice on transferring a UK pension scheme with safeguarded benefits. However, the costs of compliance with the New Zealand financial advice regime and resulting dual regulation discourage UK firms from being licensed in New Zealand to provide the advice. Currently, there are no UK advisers licensed by the FMA to provide advice on the transfer of safeguarded benefit pensions in New Zealand.

Without access to the required advice, safeguarded benefit pension holders cannot make a transfer.

# Objectives

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In some instances where market participants encounter difficulties complying with the FMC Act regime, exemption relief from a regulatory or disclosure requirement may be appropriate. Any exemptions we grant must promote one or more of the purposes of the FMC Act. Additionally, the extent of the exemption must not be broader than reasonably necessary to address the matters that gave rise to the exemption.

This document provides an analysis of options that were acknowledged in determining the policy decision, considering the regulatory and financial impacts. Assessments were made based on the possible options:

- promoting the confident and informed participation of businesses, investors, and consumers in the financial markets;
- avoiding unnecessary compliance costs; and
- not being broader than reasonably necessary.

We also considered relevant purposes of the financial advice regime:

- Ensuring the availability of financial advice for persons seeking that advice;
- Ensuring the quality of financial advice and financial advice services.

When assessing the possible options against these objectives, we considered the interests of all relevant stakeholders including:

- UK financial advice providers
- Individuals in New Zealand with UK safeguarded benefit pensions
- New Zealand financial advice providers
- New Zealand qualifying recognised overseas pension schemes providers



# Options and impact analysis

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We considered two options:

- a) Option 1 (selected): Exemption for UK financial advisers. The exemption would be limited to the provision of the required advice on safeguarded benefit pension transfers.
- b) Option 2 (not selected): No exemption/status quo – compliance with FMC Act Part 6 obligations.

## **Option 1: Grant exemption to UK financial advisers. The exemption is limited to the provision of offshore advice on safeguarded benefit pension transfers for clients in New Zealand.**

### *Description*

The preferred option is a class exemption in favour of all UK advisers providing required advice to clients in New Zealand on safeguarded benefit pension transfers, as described in the Schedule. Specifically, a UK financial adviser is exempted from the following provisions of the FMC Act in respect of exempt financial advice:

- a) section 388(ba) (which requires a provider of a financial advice service to be licensed):
- b) section 431I (which requires a person giving regulated financial advice to meet certain standards of competence, knowledge, and skill):
- c) section 431J (which requires a person giving regulated financial advice to ensure that the client understands the nature and scope of the advice):
- d) section 431K (which imposes a duty to give priority to a client's interests):
- e) section 431L (which requires a person giving regulated financial advice to exercise care, diligence, and skill):
- f) section 431M (which requires a person giving regulated financial advice to comply with a code of conduct):
- g) section 431O (which requires a person giving regulated financial advice to make prescribed information available).

The exemption would be subject to the conditions described in the Schedule.

### *Impact analysis*

#### **Promotes confident and informed participation in the financial markets**

New Zealanders with safeguarded benefit pensions will have the required advice to confidently participate in the financial markets when considering a transfer from a UK safeguarded benefit pension.

#### **Ensuring the availability of financial advice for persons seeking that advice**

The relief will ensure that individuals in New Zealand have access to the required advice about any proposed withdrawal of funds from their UK safeguarded benefit pensions.

Because the exemption requires the UK financial adviser to provide the required advice directly to the client in New Zealand, the advice should be available to anyone seeking it.

## **Ensuring the quality of financial advice and financial advice services**

The required advice will be quality because it is provided by trained financial advisers in the UK who have specific qualifications to provide advice on pension transfers.

### **Avoids unnecessary compliance costs**

The exemption helps UK financial advisers avoid the cost of being licensed in New Zealand to provide the required advice. They would otherwise be required to be licensed in both the UK and New Zealand, which would be an unnecessary compliance cost.

The relief helps UK financial advisers avoid the cost of applying for an individual exemption to provide the required advice in New Zealand, which would be an alternative compliance option.

The relief also resolves any potential issue around increased insurance costs for UK financial advisers.

### **Not broader than reasonably necessary**

The exemption only applies to UK financial advisers who are providing the required advice to individuals in New Zealand.

## **Option 2: No exemption/Status quo – compliance with FMC Act Part 6 obligations.**

If no exemption were granted, then one (or a combination) of three things may happen:

- a) UK financial advisers may do nothing, and it would not be possible for New Zealanders to get the required advice without traveling to the UK.
- b) UK financial advisers could seek individual exemptions to provide the required advice.
- c) UK financial advisers could apply to be licensed in New Zealand to provide financial advice.

The above options would be poor outcomes for New Zealanders as they would struggle to get the required advice when they want to transfer their safeguarded benefit pension.

It is most likely that UK financial advisers would do nothing. Without UK advisers licensed to provide the required advice, New Zealanders could travel to the UK to get the required advice. There may be individuals who could get the required advice this way, but for most people this would be difficult, and they would not have access to the required advice. We do not think this is a viable solution.

It is possible that a UK financial adviser may apply for an individual exemption. However, we have received no applications for individual exemptions from UK financial advisers to provide the required advice and so we are not relying on individual exemptions as a viable option to address this issue. If a small number of financial advisers did choose to pursue an exemption, the result would be limited choice and competition between UK financial advisers.

It is unlikely that a UK financial adviser would opt to become licensed in New Zealand to provide financial advice. If a UK adviser did choose to be licensed, they would be subject to dual regulation and unnecessary compliance costs.

Each of the above options creates a poor outcome for New Zealanders who require the UK advice to transfer their safeguarded benefit pension, and they will not be able to do so if they cannot obtain the required advice.



### *Impact analysis*

With limited or no access to the required advice, this option would not meet the objectives.

#### **Promotes confident and informed participation in the financial markets**

New Zealanders with safeguarded benefit pensions will not have the required advice to confidently participate in the financial markets when considering a transfer from a UK safeguarded benefit pension.

#### **Ensuring the availability of financial advice for persons seeking that advice**

Individuals in New Zealand will probably not have access to the required advice about any proposed withdrawal of funds from their UK safeguarded benefit pensions unless they travel to the UK.

#### **Ensuring the quality of financial advice and financial advice services**

It is unlikely that quality financial advice would be available to New Zealanders with safeguarded benefit pensions.

#### **Avoids unnecessary compliance costs**

UK financial advisers would face the cost of being licensed in New Zealand to provide the required advice. As they would be required to be licensed in both the UK and New Zealand, this would be an unnecessary compliance cost.

Alternatively, UK financial advisers could apply for an individual exemption to provide the required advice in New Zealand. This also has a compliance cost associated with it.

#### **Not broader than reasonably necessary**

Not relevant

## Summary of options against objectives

Objective	Option 1: Exemption - selected option	Option 2: No exemption / Status quo
<b>To promote the confident and informed participation of businesses, investors, and consumers in the financial markets</b>	<p>Allowing relief will enable New Zealand pension holders to be confident and informed because they will have the required advice about their options when considering withdrawing funds from a UK safeguarded benefit pension.</p> <p>✓✓</p>	<p>UK financial advisers will have to be licensed or apply for individual exemptions to provide advice.</p> <p>It is unlikely that many (or any) UK advisers will opt to be licensed or pursue individual exemptions.</p> <p>This option does not promote confident participation of UK financial advisers or New Zealanders in the New Zealand financial markets.</p> <p>✗</p>
<b>Ensuring the availability of financial advice for persons seeking that advice</b>	<p>This relief allows UK financial advisers to provide required advice to individuals in New Zealand so they can make decisions about their pension.</p> <p>Under the exemption, UK advisers will give the required advice directly to the pension holder and not to an intermediary such as a New Zealand financial advice provider.</p> <p>✓✓</p>	<p>It is unlikely the required advice will be available.</p> <p>UK financial advisers will probably not be in a position (either licensed or as per an individual exemption) to provide the required advice to individuals in New Zealand.</p> <p>New Zealanders with UK safeguarded benefit pensions will not have access to the required advice about their pension transfers.</p> <p>✗</p>
<b>Ensuring the quality of financial advice and financial advice services</b>	<p>Through this relief, UK safeguarded benefit pension holders in New Zealand will have access to required advice provided by UK financial advisers.</p> <p>Because UK financial advisers must have specialised training and maintain competence to have permission to provide advice on pension transfers, the required advice is quality.</p> <p>✓✓</p>	<p>Without an exemption there is no guarantee that the required advice will be available.</p> <p>✗</p>

Objective	Option 1: Exemption - selected option	Option 2: No exemption / Status quo
<b>To avoid unnecessary compliance costs</b>	<p>UK advisers are already authorised and regulated by the FCA and they undergo robust training to provide advice on safeguarded benefit pensions, so exempting them from FMC Act Part 6 requirements will prevent them from taking on unnecessary costs of complying with two regulatory regimes.</p> <p>✓✓</p>	<p>UK financial advisers who are licensed in both the UK and New Zealand will face the cost of complying with both regulatory regimes.</p> <p>UK financial advisers who pursue individual exemptions will bear the cost of both the compliance obligations in the UK and the cost of the exemption.</p> <p>✗</p>
<b>Not broader than reasonably necessary</b>	<p>The exemption only applies to UK financial advisers providing required advice on the UK aspects of transferring a safeguarded benefit pension to individuals in New Zealand.</p> <p>✓✓</p>	Not relevant

- ✓✓ Meets the policy objectives
- ✓ Partially meets the policy objectives
- ✗ Does not meet the policy objectives

# Consultation

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We undertook a public consultation from April to June 2024 where we proposed that UK financial advisers who provide required advice on transfers of funds from defined benefit pensions to qualifying recognised overseas pension schemes (QROPS) in New Zealand be exempted from certain FMC Act requirements, specifically the following:

- a) to be licensed as a financial advice provider (section 388(ba))
- b) the limitation in section 431F (who can give regulated financial advice to retail clients on behalf of financial advice provider), as they are already registered under UK law
- c) section 431I (duty to meet the standards of competence, knowledge, and skill)
- d) obligation to comply with the code of conduct as required by section 431M
- e) section 431O (duty to make prescribed information available)
- f) 431Q (persons engaging others to give advice must ensure compliance with duties)
- g) 431R (duties of persons who engage nominated representatives)

The proposed conditions recognised the protections offered under UK law and will require UK firms and their employed UK advisers to:

- a) Comply with UK law and FCA regulations
- b) Maintain compliance to provide the required advice, have required training and maintain competence
- c) Maintain procedures that provide assurance of compliance with disclosure, conduct, and other regulatory requirements
- d) Be registered under the Financial Service Providers (Registration and Dispute Resolution) Act 2008
- e) Be a member of a dispute resolution scheme
- f) Submit to non-exclusive jurisdiction of New Zealand courts in respect of the advice provided as per the exemption and appoint an agent for service
- g) Recommend the New Zealand client get advice from a New Zealand financial adviser and get tax advice from both jurisdictions
- h) Provide a written disclosure statement that explains the nature and effect of the exemption
- i) Notify the FMA as soon as practicable of any investigation, enforcement, or disciplinary action taken by FCA or any other overseas regulatory authority against the adviser that could impact or affect its ability to provide the required pension advice.

The feedback generally supported the proposed exemptions and draft conditions for UK advisers providing required advice on transfers of safeguarded benefit pensions.

Submitters were:

- QROPS Industry Group

- Craigs Investment Partners Ltd, investment company
- G3 Financial Freedom Limited, financial planning financial advice provider
- Anthony Harper, law firm

The submitters generally supported the proposed exemptions from sections of Part 6 of the FMC Act and believed the impact would be positive and could provide clients with more choice regarding UK advisers. Additionally, they supported:

- a) even broader exemptions to eliminate any duplication of professional duties or obligations imposed by UK and New Zealand regulators; and
- b) extending the scope to include all defined contribution schemes.

In response to submitter feedback, we considered expanding the exemptions and extending the scope.

We decided to eliminate any duplication of professional duties that overlap between the UK and New Zealand regulatory requirements.

Instead of limited the exemption to the provision of advice about defined benefits pensions, we decided to include all safeguarded benefit schemes. Safeguarded benefits are defined as 'benefits other than – (a) money purchase benefits, and (b) cash balance benefits'.<sup>1</sup> This includes defined benefit pensions along with self-invested personal pensions.

It is in the best interest of New Zealanders to have access to required advice regarding the transfer from safeguarded benefit pensions.

There was feedback that the costs would potentially outweigh the benefits should UK advisers be required to:

- a) register on the Financial Service Providers Register;
- b) belong to an approved dispute resolution scheme; and
- c) appoint a New Zealand agent for service.

We decided to remove these three conditions from the list of proposed conditions.

We agree with submitters that not only is the required advice regulated by the FCA and provided by UK financial advisers who are highly trained, but also that investors can seek redress in the UK should any harm or damage result from taking the UK adviser's recommendation onboard.

Last, we decided UK advisers must send the required advice directly to the client (pension holder) in New Zealand and not to an intermediary such as a New Zealand financial adviser. This change is aimed ensuring the client in New Zealand receives the required advice.

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<sup>1</sup> See section 48(8) of the UK Pension Schemes Act 2015 for the meaning of "safeguarded benefits".

# Conclusion and selected option

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Having carefully considered regulatory and non-regulatory impacts, and feedback provided through consultation, we have decided that Option 1 (grant an exemption to UK financial advisers that is limited to the provision of offshore advice on safeguarded benefit pension transfers for clients in New Zealand) addresses the identified problems and will achieve the objectives of:

- a) Promoting the confident and informed participation of businesses, investors, and consumers in the financial markets;
- b) Ensuring the availability of financial advice for persons seeking that advice;
- c) Ensuring the quality of financial advice and financial advice services;
- d) Avoiding unnecessary compliance costs; and
- e) Not being broader than reasonably necessary.

Option 2 (no exemption relief/status quo) would not achieve these objectives. On this basis we have decided to grant an exemption for UK advisers.

The exemption is limited to the provision of offshore advice on safeguarded benefit pension transfers for clients in New Zealand. UK advisers are exempted from certain FMC Act requirements:

- to be licensed as a financial advice provider
- to comply with duties or obligations:
  - where these are considered equivalent to those the UK firm or adviser is already adhering to in the UK; or
  - where the UK firm is unable to comply due to not being licensed in New Zealand; or
  - because compliance would be impracticable due to the nature of the limited advice offered.



# Schedule – Exemption requirements and conditions

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## Exemption for Financial Advice – UK Pension Transfers

The exemption will be available for all authorised UK financial advisers who do not have a place of business in New Zealand to provide the required advice to individuals in New Zealand with safeguarded benefit pensions.

The exemption will apply to exempt financial advice, which is regulated financial advice that:

- a) relates to the withdrawal of safeguarded benefits in a UK pension scheme (for example, so they can be transferred to an equivalent scheme in New Zealand);
- b) is directed only at the UK-based implications of such a withdrawal;
- c) when the cash equivalent transfer value is greater than £30,000;
- d) is given by a UK financial adviser who:
  - (i) is an authorised independent adviser within the meaning of section 48(8) or 51(8) of the Pension Schemes Act 2015;
  - (ii) is listed on the FCA's financial services register as holding a current permission from the FCA to provide advice about pension transfers; and
  - (iii) has no place of business in New Zealand.

The main effect of the exemption is to allow UK financial advisers to provide required financial advice to individuals in New Zealand with UK safeguarded benefit pensions.

A UK financial adviser is exempted from the following provisions of the FMC Act in respect of exempt financial advice:

- a) section 388(ba) (which requires a provider of a financial advice service to be licensed);
- b) section 431I (which requires a person giving regulated financial advice to meet certain standards of competence, knowledge, and skill);
- c) section 431J (which requires a person giving regulated financial advice to ensure that the client understands the nature and scope of the advice);
- d) section 431K (which imposes a duty to give priority to a client's interests);
- e) section 431L (which requires a person giving regulated financial advice to exercise care, diligence, and skill);
- f) section 431M (which requires a person giving regulated financial advice to comply with a code of conduct);
- g) section 431O (which requires a person giving regulated financial advice to make prescribed information available).

The exemptions will be subject to the conditions that:

- a) the UK financial adviser must ensure that it is eligible under UK law to provide the exempt financial advice:
- b) the UK financial adviser must have procedures in place—
  - (i) that give reasonable assurance that the UK financial adviser will comply with all disclosure, conduct, and other applicable UK law requirements in relation to the exempt financial advice as if the advice were provided to a client in the UK; and
  - (ii) for identifying deficiencies in the effectiveness of the procedures referred to in subparagraph (i) and for promptly remedying any deficiencies discovered:
- c) the UK financial adviser must have given a written disclosure statement to the client, before the exempt financial advice is given to the client, that contains statements and information to the following effect:
  - (i) the UK financial adviser is exempt from the requirement to be licensed as a financial advice provider in New Zealand:
  - (ii) the UK financial adviser is authorised as an adviser by the FCA and is regulated by the FCA under UK law, which is different to New Zealand law:
  - (iii) the UK financial adviser can only provide advice that fits within the limits of this exemption notice, and cannot advise on any New Zealand-based implications of a proposed withdrawal:
  - (iv) a recommendation that the client—
    - i. seek advice from a New Zealand licensed financial advice provider about the proposed withdrawal; and
    - ii. seek tax advice about the proposed withdrawal from an appropriate tax adviser in both jurisdictions (the UK and New Zealand):
  - (v) the UK Financial Ombudsman Service can investigate cross-border disputes between consumers and businesses that provide financial services:
  - (vi) the contact details for the UK Financial Ombudsman Service.
- d) the disclosure statement under paragraph (c) must be worded and presented in a clear, concise, and effective manner:
- e) the exempt financial advice must be provided directly to the individual in New Zealand in the form of a written report to the individual's address.

