

#53

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Q1 Overall, do you agree or disagree with [standard 1] and proposed commentary? **Respondent skipped this question**

Q2 Please provide any comments on [standard 1] and the proposed commentary. **Respondent skipped this question**

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Q3 Overall, do you agree or disagree with [standard 2] and proposed commentary? **Respondent skipped this question**

Q4 Please provide any comments on [standard 2] and the proposed commentary. **Respondent skipped this question**

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Q5 Overall, do you agree or disagree with [standard 3] and proposed commentary? **Respondent skipped this question**

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Q6 Please provide any comments on [standard 3] and the proposed commentary.

Standard 3 – Conflicts of Interest

1. Standard 3 says that a person who gives financial advice must have arrangements in place to manage conflicts of interest, including arrangements to:

1.1 Where practicable, avoid conflicts of interests

1.2 Identify conflicts of interests

1.3 Ensure that conflicts of interests are controlled in accordance with the requirements of the FMC Act. Section 431J of the FMC Act requires that, where there is a conflict of interest, priority must be given to the client's interests by taking all reasonable steps to ensure that the advice is not materially influenced by other interests.

1.4 Adequately disclose conflicts of interests to clients

2. Issues will arise regarding what types of conflict need to be disclosed to clients. Potential conflicts include where an insurance broker/financial adviser:

2.1 Has an associated premium funding company which allows clients to fund the premium payment over time.

2.2 Has different brokerage rates with different insurers for specific products, with a higher brokerage rate leading to a potential conflict of interest.

2.3 Has staff incentivised to sell particular insurance products.

3. Following the release this week of the Financial Markets Authority and Reserve Bank of New Zealand joint report, it may be that staff incentives no longer can exist. But does this disclosure requirement require an insurance broker/financial adviser to disclose all the different brokerage rates for a specific type of insurance product e.g. home insurance, motor vehicle insurance or whatever? This would be a time-consuming exercise. Disclosing a premium funding arrangement would be less time-consuming but some guidance as to what does, and does not, need to be disclosed to a client to avoid a potential conflict would be of considerable assistance.

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Q7 Overall, do you agree or disagree with [standard 4] and proposed commentary?

Respondent skipped this question

Q8 Please provide any comments on [standard 4] and the proposed commentary.

Apparent contradiction in Standards 4 and 5

4. The way the draft Financial Advice Code currently reads, there appears to be a contradiction in the standard of advice required to comply with Standard 4 and the standard of advice required to comply with Standard 5.

5. The Example given for Standard 4 is based on a financial adviser advising on the replacement of an existing life insurance policy with a new policy that provides similar benefits to the existing policy. The Example says “Beth, a financial adviser, recommends that a client replace an existing life insurance policy with a new policy that provides similar benefits to the existing one. The nature and scope of the financial advice given by Beth excludes a comparison between the existing and new policy. Beth therefore explains to the client that there are some situations that are covered under the existing policy (including specific benefits, premiums applicable now and in the future, health events or life events) that may not be covered under the new policy, and conditions that may apply because of the replacement (such as a requirement for underwriting, loading as a result of the change in health circumstances, and any stand down periods).”

6. However, the Commentary on Standard 5 says “If the nature and scope of the financial advice includes an actual or implied comparison between two or more financial advice products, the financial advice should be based on an assessment and comparison of each product. This includes for example, where an existing product held by the client is replaced by a new product which provides similar features or benefits.”

7. The Example for Standard 4 says that a comparison between two financial products does not need to be given when one life insurance policy is replaced by another. However the Commentary on Standard 5 says that in the event advice is given in relation to two products, then advice should be given based on a comparison of each product – surely this must (or at least, ought to) include the circumstances outlined in the Standard 4 Example where advice has been given to replace an existing life insurance product with a new life insurance product with similar benefits?

8. The Commentary provided for Standard 4 also says that clients should be able to make informed decisions about financial advice including whether to act on the financial advice given. It is unclear how a client can make an informed decision whether to act on the financial advice if, when faced with replacing one product with another, a comparison of the new and old policy is not given.

9. Of course the Example for Standard 4 expressly says that the nature and the scope of advice given excludes a comparison between the existing and new policy, but goes on to say that the financial adviser explains to the client that there are situations under the existing policy that may not be covered under the new policy and additional conditions that may apply because of the replacement. This appears to be a comparison of the existing and new policy referred to in the Commentary to Standard 5.

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Q9 Overall, do you agree or disagree with [standard 5] and proposed commentary?

Respondent skipped this question

Q10 Please provide any comments on [standard 5] and the proposed commentary.

Please see comments for Standard 4

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Q11 Overall, do you agree or disagree with [standard 6] and proposed commentary?

Respondent skipped this question

Q12 Please provide any comments on [standard 6] and the proposed commentary. **Respondent skipped this question**

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Q13 Overall, do you agree or disagree with [standard 7] and proposed commentary? **Respondent skipped this question**

Q14 Please provide any comments on [standard 7] and the proposed commentary. **Respondent skipped this question**

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Q15 Overall, do you agree or disagree with [standard 8] and proposed commentary? **Respondent skipped this question**

Q16 Please provide any comments on [standard 8] and the proposed commentary. **Respondent skipped this question**

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Q17 Overall, do you agree or disagree with [standard 9] and proposed commentary? **Respondent skipped this question**

Q18 Please provide any comments on [standard 9] and the proposed commentary. **Respondent skipped this question**

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Q19 Overall, do you agree or disagree with [standard 10] and proposed commentary? **Respondent skipped this question**

Q20 Please provide any comments on [standard 10] and the proposed commentary. **Respondent skipped this question**

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Q21 Overall, do you agree or disagree with [standard 11] and proposed commentary? **Respondent skipped this question**

Q22 Please provide any comments on [standard 11] and the proposed commentary. **Respondent skipped this question**

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Code Working Group - Online Submission Form

Q23 Overall, do you agree or disagree with [standard 12] and proposed commentary?

Respondent skipped this question

Q24 Please provide any comments on [standard 12] and the proposed commentary.

Respondent skipped this question

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Q25 Is there anything missing from the draft Code?

Respondent skipped this question

Q26 If you answered yes, what is missing?

Respondent skipped this question

Q27 Do you have any feedback on the examples, or suggestions on other examples that should be included in the draft Code?

Please see comments under Standards 4 and 5

Q28 Is there anything else you want to say?

Respondent skipped this question

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Q29 Name

Criag Langstone

Q30 Your role or professional title

Partner

Q31 Individual or organisational submission

This is a submission on behalf of an organisation (eg employer)

Q32 If you give financial advice...

I am not an AFA, RFA or QFE adviser

Q33 My organisation or I give the following types of advice...

Respondent skipped this question

Q34 Organisation Name

Fee Langstone

Q35 Type of organisation

Law firm

Q36 Size of organisation

Medium firm (10-50 staff)

Q37 If there are other things we should know about you or your business that would provide context to your answers, please provide details below.

We provide advice to insurance brokers who fall within the ambit of the code

Q38 Please indicate whether your submission contains any information that is confidential or whether you do not wish your name or any other personal information to be included in a summary of submissions.

N/A

Q39 Please provide your contact details (email and/or phone number) This is the only question that requires an answer. This information would not be released publicly. We may get in touch with you in order to help us understand particular points from your submission.

s 9(2)(a)

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