

Code Working Group
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand



By email: code.secretariat@mbie.govt.nz

Cigna Life Insurance New Zealand Limited Submission on the Code of Professional Conduct for Financial Advice Services– October 2018

Thank you for the opportunity to submit on the Code of Professional Conduct for Financial Advice Services (“Code”).

Cigna Life Insurance New Zealand Limited (“Cigna”) is a leading provider of life, funeral, income protection, accidental death, serious illness and travel insurance. As such, we fully endorse the developing of New Zealand’s Code and subsequent consultation by the Code Working Group to advocate fair, efficient and transparent outcomes related to financial advice.

From Cigna’s perspective, the Code provides a valuable opportunity to simplify understanding of the minimum standards of professional conduct that must be maintained by those who give regulated financial advice, in conjunction with the wider financial advice regime. Cigna acknowledges that the Code is designed to promote good conduct, rather than compliance – an issue of great significance to financial services at present, in light of recent shortcomings that have been uncovered across the industry.

Given the importance of trust within the financial advice industry for all New Zealanders, there is an inherent need to appropriately regulate the provision of financial advice and surrounding conduct. The initiative to minimise complexity surrounding financial advice and the way it is delivered through a principles-based code is something that Cigna views positively- as is the Code’s strong moral standards designed to protect consumers.

Cigna has been working closely with the Financial Services Council (“FSC”) and the Insurance Council of New Zealand (“ICNZ”) throughout the drafting of their individual submissions on the Code. We broadly support the submissions made by the FSC and the ICNZ and have contributed to both, throughout the drafting process. In addition, we would like to make the following key points:

Code Standard 1– Treat clients fairly and act in their interests

Overall, Cigna is in agreement with Code Standard 1 on treating clients fairly. While we support the high level duty it imposes, we would like to make a few points:

- The reference in this Code Standard to “act in client’s interests” varies slightly from the proposed reference at Section 431J the Financial Markets Conduct Act (“FMC Act”) to “give priority to the client’s interests”- the difference in interpretation here can be confusing. Further, the commentary of Code Standard 1 does not refer to “acting in client’s interests” but mentions promoting the interests of clients. For

clarity, we suggest that, if possible, one consistent phrase be used with regard to client's interests- to minimise confusion and further simplify consumers' understanding- allows for closer alignment across all parts of the financial advice regime.

- Consistent or unified phrasing supports the notion that the Code is part of a wider regulatory regime for financial advice; and allows for clearer understanding that financial advice obligations do not exist in isolation, but extend across other areas of the regime e.g. FMC Act and FMC Regulations.

Code Standard 2 – Act with integrity

Cigna broadly agrees with Code Standard 2 and its proposed commentary around integrity while delivering financial advice but would like to add:

- Explicit acknowledgement within this Code Standard, of trust as a core principle of paramount importance. Trust underpins financial advice in New Zealand, protecting consumers as well as preserving the relationship between consumers and financial advisers and should be emphasised in this Code Standard, alongside integrity.

Code Standard 3 – Manage conflicts of interests

Overall, Cigna agrees with Code Standard 3 and proposed commentary around managing conflicts of interest but would like to suggest:

- Replacing the word “avoid” with another word such as “mitigate” or “reduce”. Mitigating a conflict of interest is inherently more feasible than avoiding one. Use of the word “avoid” implies that conflicts of interest are an impediment, when in reality they are likely to arise often but can sometimes be managed or mitigated effectively; rather than avoided.

Code Standard 4 - Take reasonable steps to ensure that the client understands the financial advice

Cigna agrees with Code Standard 4 but would like to raise the following points:

- Suggest that the accompanying replacement business example be removed as it is very specific and detracts from the proposed intent of the standard and commentary.
- Further clarification around how this Code Standard would apply depending on whether the nature and scope of financial advice was explicit or implicit would be helpful.
- Further commentary around how this Code Standard would apply in situations where financial advice is provided through non-personalised platforms e.g. pamphlets, online etc. would be welcomed.

Code Standard 5 – Give financial advice that is suitable for the client

Cigna is in support of Code Standard 5 and agrees with the importance of giving financial advice that is suitable for the client. We suggest:

- Some clarity around the phrase ‘strategy underpinning the financial advice’ – or alternatively, a simplification of the phrase to make it easier to understand for consumers.
- Explicit/firm commentary around not giving financial advice if the client in question has not established a need for the product – as the “suitability” requirement will not be fulfilled.
- Acknowledgement within the Code Standard that a client’s circumstances may change/ are likely to change (financially or otherwise) so there is an inherent obligation for the financial adviser to match financial advice to the client’s circumstances, both present and future – as is reasonably foreseeable (e.g. future affordability of the product, a continued need for the product/is it a short-term or long-term need?). Some sort of basic risk assessment would be prudent here.

Code Standard 6 – Protect client information

Cigna believes that the requirements of Code Standard 6 to protect client information against loss and unauthorised access, use, modification or disclosure are already regulated by the Privacy Act. Including them in the Code may result in a duplication which could generate more confusion for consumers, undermining the Code’s purpose and intention.

Code Standard 7 – Resolve complaints

Cigna broadly agrees with Code Standard 7 and recognises that financial advice complaints must be handled fairly, reasonably and consistently but would like to make the following comments:

- Clarity around the wide definition of a “complaint” in this Code Standard would be helpful– is this already covered in the Disclosure Requirements currently being developed by MBIE? If so, is the definition consistent/aligned or are there minor discrepancies to be aware of?
- Suggest there be more emphasis/clarity in the commentary around the importance of having an internal complaints or disputes process in the first instance. Following this, if the matter cannot be resolved after an internal review, further arrangements e.g. prompt acknowledgement of the complaint, information about other options for resolving the complaint, escalation to an independent disputes resolution scheme etc. should be explored.

Code Standard 9 – Have general competence, knowledge and skill

Cigna agrees with Code Standard 9 that competence, knowledge and skill must be clearly demonstrated by all persons giving financial advice to consumers and would like to make some additional comments:

- We are in full support of the current proposed wording that allows entities to demonstrate the standards of competence, knowledge and skill by having

procedures, systems and expertise that are equivalent to the capabilities of an individual who has achieved the Level 5 qualification outcome.

- We believe this option to demonstrate our competence, knowledge and skill through robust procedures, systems and expertise is a flexible and pragmatic approach –one that is well aligned with our current in-house training modules and overall business practices. We feel that the training we deliver internally is sufficient and fit for purpose and remain confident that the quality of financial advice we provide can be further strengthened through improvements to our procedures, systems and expertise (building on our current processes rather than requiring a Level 5 qualification outcome to be achieved).
- Imposing a sole standard that requires all persons delivering financial advice to complete a Level 5 qualification outcome would likely have a negative impact on us as a business. It would be a significant departure from our current sales processes and training- the gravity of the change required and the implications for our contact centre would be significant, both financially and operationally for a minimum consumer benefit.
- Further clarity on regulation of our competence, knowledge and skill (achieved through our robust procedures, systems and expertise) would be appreciated - ensuring that we, as an entity are consistently meeting our obligations under the standard and delivering high level financial advice to consumers.

Code Standard 10 – Keep competence, knowledge and skill up-to-date

Cigna recognises the importance of maintaining competence, knowledge and skills to provide financial advice as expressed in Code Standard 10 but would like to raise the following points:

- Some clarification around requirements for minimum number of hours of continuing professional development.
- Other than regular reviewing of procedures, systems and expertise, confirmation around any reporting guidelines/regulatory frameworks consistent across various industry bodies in place to ensure that we, as an entity are continuing to meet the required standard and maintain our overall capability to provide financial advice.

Conclusion

In conclusion, Cigna broadly supports the Code, recognising that it fulfils the purposes of the financial advice regime well, by ensuring the availability and quality of financial advice for consumers. We thank you again for the opportunity to provide feedback on the Code. If you have any questions, please contact s 9(2)(a) or by emailing

s 9(2)(a)

Yours sincerely,

s 9(2)(a)

s 9(2)(a)

Michael Burrowes
Head of Legal and Risk

Nicolette Luke
Legal Counsel

RELEASED UNDER THE
OFFICIAL INFORMATION ACT