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Submission to Code Working Group

Regarding

The Code of Professional Conduct for Financial Advice Services

Consultation Paper

30 April 2018

**I do not wish my name to be published regarding this submission as I have made what I consider to be some insensitive remarks as part of my submission. They were however relevant and needed to be made in the context. They are not confidential as such.**

Preamble; Having been governed by Mark 1 and Mark 2 of The Code of Professional Conduct for Authorised Financial Advisers since 2011 my understanding is that a new code is being considered because the current code only applies to the approximately 2000 AFAs in this country and now there is a need to bring in institutions( commonly known as VIOs), Roboadvice and RFAs.

I am a member of SIFA and support the submission from SIFA Incorporated. I also thought it important that my individual voice was heard so this will be a short summary of what I believe personally but in no way diminishes my belief in the appropriateness of SIFA's submission.

## **What is the role of the Code Working Group?**

It is possible to become so involved in the possible ramifications, that an existing code that largely works well for the very few who are governed by it, is thrown out in favour of something that doesn't work well at all.

Having been part of the "regime" since 2011 I have "distanced my thinking" from the manufacturers of products, the fund managers, the financial markets. I believe you need to keep that distance, however fragile it appears. It doesn't mean that I don't have "relationships" with fund managers and product manufacturers but it does mean I can't trust what they say and must instead work through a rigorous process. This, I believe, is what we are striving for but we haven't recognised it happening. It is an evolutionary process.

So the one code cannot fulfil all the regards the CWG has listed.

Simply, I don't believe you can have a Mark 3 of The Code of Professional Conduct For Financial Advice Services and include all AFAs, RFAs, VIOs and Roboadvice. It simply creates confusion to call selling advice.

Having said that, and taking the "distanced thinking" above, I do believe that good advice can recommend the purchase of a product or products. Advice should mean the giver of advice takes responsibility for what happens as the result of the client taking that advice or in some way is part of the end result. Selling isn't a process. It is an action.

## **Good Advice Outcomes**

I believe that Code Standard 1/Principle 1 should not be watered down and could in fact read "A financial adviser must act in the clients best interests." However, I think that when you talk about good outcomes you, in fact, mean "The client should be able to rely on the advice to give them certainty." Simply, no surprises. Good advice points out that this is the range of outcomes you can get if you do or do not do this action.

Principle 2 lacks understanding as in many cases the client doesn't have what I would call a basic knowledge and in so many cases advice includes how to use multiple bank accounts to manage their financial lives. There are also vast numbers of people who believe the KiwiSaver provider can lose all their money. Is the legislation just for those who have 100s of thousands of dollars to invest?

I would reiterate that I don't believe the adviser delivering personalised advice and the robot or institution delivering a possible solution can be governed by the same principles.

## **Ethical Behaviour**

I don't believe you can legislate for values based ethics but I do believe that an aspirational code is the way to go and the framework for ethical behaviour standards is a good start. Once again the beginning of an evolutionary cycle.

The most useful thing a group of us have done is form our own ethics group for discussions around issues. The peer group would seem to me to be the best "educational" tool because values need to be formed as opposed to being preached.

Once again manufacturers and VIOs (non- individuals ) need their own separate code.

Who wouldn't agree with a requirement to act with honesty, fairness and integrity?

### **Keeping Clients Data Confidential**

This is paramount and it concerns me that we are even thinking about sharing anonymised bulk customer data. I am very concerned with the amount of "travel" customer documents do now in the guise of say an AML/CFT audit.

There are considerable costs around keeping this confidentiality now and also dilemmas (is that cloud safe? Should I email or courier this information) . It is important to understand that an insurance policy may be 15 or 20 years old when it becomes a claim and all original paperwork, including the application with health questionnaire form part of the contract the claim is based on. Someone needs to advocate for the client at claim time and have all the information to do so. So information may need to be kept for an indefinite period of time.

### **The Future, Educational Standards and competence, knowledge and skill**

I believe where the current system has let the client down is that the bureaucracy has overtaken the original intention (and left some of us wondering if the original intention was client centric ) as we see the increasing regulation around things that don't help the clients at all ie AML/CFT, FATCA, CRS, AEOI and furthermore, may impact their privacy. Compliance with all the bureaucracy involves taking training courses and there is a limit to the time and money an individual can expend on training each year.

The education of an adviser who deals with people would need to include psychology(to understand and empathise), philosophy (for the ethics and values), English literature (to understand the long term implications of the contracts) accountancy (to read and find the "fish hooks" in the funds balance sheets and annual statements) and the list goes on. No one has designed this diploma yet (obviously post grad)

So obviously there needs to be a now (level 5 ) and a 5 or 10 year plan. And as the experience is important and the financial adviser life is not for everyone who tries it, why not design it like the accountants do where study for CA is alongside a work based " apprenticeship".

In the 10 year plan there could be a degree requirement, with a work based post grad diploma so that wide ranging degree qualified individuals could become financial advisers.