

# Code of Professional Conduct for Financial Advice Services

## Submission Template

*Submissions close Monday 30 April 2018*

Please send submissions to:

[code.secretariat@mbie.govt.nz](mailto:code.secretariat@mbie.govt.nz) or

Code Working Group

c/o Code Secretariat (Poppy Haynes and Max Lin)

Ministry of Business, Innovation & Employment

PO Box 1473

Wellington 6140

New Zealand

## Submissions process

The Code Working Group (CWG) seeks written submissions on the issues raised in this document by **5pm on Monday 30 April 2018**

**We welcome submissions on any or all consultation questions. You are welcome to comment only on the issues most relevant to you.**

Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please direct any questions that you have in relation to the submissions process to [code.secretariat@mbie.govt.nz](mailto:code.secretariat@mbie.govt.nz).

## Use of information

The information provided in submissions will be used to inform the CWG's development of the draft Code. We may contact submitters directly if we require clarification of any matters in submissions.

## Release of information

The CWG intends to upload PDF copies of submissions received to MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). The CWG will consider you to have consented to publication of your submission, unless you clearly specify otherwise in your submission.

If your submission contains any information that is confidential or you otherwise wish us not to publish, please:

- indicate this on the front of the submission, with any confidential information clearly marked within the text
- provide a separate version excluding the relevant information for publication on our website.

Submissions remain subject to request under the Official Information Act 1982. Please set out clearly in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and in particular, which parts you consider should be withheld, together with the reasons for withholding the information. The CWG will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.

## Private information

The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals. Any personal information you supply to the CWG in the course of making a submission will only be used for the purpose of assisting in the development of the draft code. Please clearly indicate in the cover letter or e-mail accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that the CWG may publish.

## Information about you

<i>Share your details</i>	
i.	Please provide your name and (if relevant) the organisation you represent Emerre & Hathaway Insurances Ltd
ii.	Please provide your contact details <b>S 9 (2) (a)</b>
iii.	Please provide any other information about you or your organisation that will help us understand your perspective (e.g. the financial advice situations you have experience with) We have approx. 3000 clients paying approx. \$16m in premiums
iv.	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. (See page 2 of this document) <b>No confidential matters</b>

## Principles for drafting the Code

<i>Share your views</i>	
A.	What comments do you have regarding the overarching theme of “good advice outcomes” and the underlying principles? Support principles but concerned at costs of regulation eg income from some policies may be as little as \$45 with probably \$130 being average
B.	Are there any further principles that should be included, or existing principles that should be removed? No

# Ethical behaviour

Act with honesty, fairness and integrity

<i>Share your views</i>	
C.	Do you agree with a requirement to act with honesty, fairness and integrity? If not, please set out your reasoning.  Yes

Keep the commitments you make to your client

D.	Should minimum standards for ethical behaviour for the provision of financial advice extend beyond strict legal obligations, to include meeting less formal understandings, impressions or expectations that do not necessarily amount to strictly legal obligations? If no, please give reasoning. If yes, please propose how a standard for such commitments might be framed.  No – there is too much variance in respective clients needs / queries
E.	If there was a minimum standard requiring Financial Advice Providers – or Financial Advice Providers in some situations – to have their own code of ethics in addition to the Code, how would you frame the requirement for it to deal with keeping commitments?

Manage and fully disclose conflicts of interest

F.	Should the Code include a minimum standard on conflicts of interest in addition to the legislation?  No already done within each business
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Do no harm to the client or the profession

G.	Do you agree that a person who gives financial advice must not do anything or make an omission that would or would be likely to bring the financial advice profession into disrepute? If not, please set out your reasoning.
H.	Is an additional minimum standard on doing no harm to the client necessary? If so, what standard do you propose?

## Keep your client's data confidential

I.	In which situations, if any, should the retention, use or sharing of anonymised bulk customer data be subject to Code standards?
J.	Do you agree that the Code should cover the various aspects of maintaining client confidentiality discussed in this paper?
K.	Are there other aspects of maintaining client confidentiality to consider?

## Ethical processes in Financial Advice Provider entities

L.	<p>Do you agree that the Code should require the Financial Advice Provider to document and maintain its "ethical processes"?</p> <p>We support this but not at the risk of over costs for applying the code</p> <p>We would renew / arrange over 100 policies per day and all vary in one way or another</p>
M.	<p>Should the Financial Advice Provider be required to have a publicly available corporate code of ethics? Are there particular situations where a corporate code of ethics should be or should not be required?</p> <p>No we already have rules / disclosure matters</p>
N.	<p>Should Financial Advice Providers also be subject to additional standards in respect of leadership and culture? If so, how should these be framed?</p> <p>No – we have a huge sponsorship culture to our local community and via papers / publicity advise the general populace on insurance matters – not just our own clients</p>
O.	<p>Do you propose other additional standards of ethical behaviour that should apply to Financial Advice Providers?</p>

## Ethics training

P.	<p>Do you agree that Financial Advice Providers should be required to meet standards relating to ethics training? If not, please state your reasoning.</p>
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Q.	Should ethics training requirements apply to all officers and employees of a Financial Advice Provider, as appropriate to their role and contribution to the process of financial advice provision? If not, please state your reasoning.
R.	Should there be a requirement for ongoing refresher training on ethics?

## Resolving ethical dilemmas

S.	Do you agree that Financial Advice Providers should be required to have in place, and use, a framework for resolving ethical dilemmas that may arise in giving financial advice? If not, please set out your reasoning.  Not as part of the code – these already exist within our part of the industry
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## Compliance functions

T.	Should there be a requirement for explicit sign-off on the soundness of financial advice provided directly by a Financial Advice Provider?  With the share volume of what a client receives now including what we are required by other Govt depts. – EQC / FENZ / GST it would not be possible or effective
U.	Do you agree that Financial Advice Providers should be required to have in place a compliance function aimed at following up on concerns raised by employees and other stakeholders? If not, please set out your reasoning.  No – too costly and would add nothing to service
V.	Should this extend further into an internal audit obligation, having in place processes to systematically test for and detect violations of ethical behaviour?  No – see U
W.	Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?  Huge costs which will only detract from what bill is about

## Responsibility for the whole advice process

X.	Do you agree that Financial Advice Providers should be required to be able to demonstrate that they meet the standards of ethical behaviour as if the Financial Advice Provider carried out the whole advice process directly itself? If not, please set out your reasoning.
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## Reinforcing good ethical behaviour

Y.	What principle or mechanism do you propose the Code could include to reinforce good ethical behaviour on a day-to-day basis?
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## Conduct and client care

### Advice situations

<i>Share your views</i>	
Z.	Are there other delivery methods that should be considered when testing our thinking?

### Advice-giving standards

AA.	How do the current client care standards work in practice, especially in advice-giving situations not previously covered by the AFA Code? In answering this question, please ignore “scope of advice” (CS-8) and “suitability” (CS-9 and part of CS-10).
BB.	Could any aspect of the current client care standards be worded better? (For example, we are aware that the definition of “complaint” could be improved.)
CC.	Are there any aspects of the current client care standards that could be expanded or clarified (for example, in light of the published findings of the Disciplinary Committee)?
DD.	Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?
EE.	Are there any additional matters that should be addressed in the advice-giving standards? Those listed above? Others?

## Advice process

FF.	Do you think there are any other components that should be included in the design considerations of an advice process?
GG.	Should the Code include guidance material to help determine what needs to be considered when designing an advice process?
HH.	Are there any other important aspects you think should be included in the advice process for all types of financial advice activities under the new regime?
II.	Should any of the key aspects that we have listed above be removed? If so, why? <b>Yes – how can we economically inform every client when we could earn as little as \$18 from them ???? or average around \$140 ????</b>
JJ.	Are there any situations in which an advice process need not be followed?

## Personalised suitability

KK.	What comments do you have about a proposed minimum standard on personalised suitability analysis? What are your views on the example above? Per LL
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## Organisational standards

LL.	What are the practical advantages and disadvantages of including organisational standards as described? What explanatory material or examples could we provide in the Code that might help to make these standards easier to comply with in practice?
MM.	Would implementing these organisational conduct and client care standards create a particular compliance burden for your firm? If yes, please explain why.



## General competence, knowledge and skills

<i>Share your views</i>	
<p>NN.</p>	<p>Do you agree with our interpretation of the meaning of “competence, knowledge, and skills”? If not, why not?</p> <p>Yes but this must be seriously tempered by cost and periods of study needed to achieve</p> <p>We already work far in excess of 40hours a week – to diminish this for the sake of a meaningless qualification will detract from what the Bill is trying achieve and would reduce our community support</p>
<p>OO.</p>	<p>Are there other factors, which contribute to <b>combined expertise</b>, that we have not listed? We are particularly interested in factors that are relevant to financial advice that is given by a Financial Advice Provider directly, including by digital means.</p>
<p>PP.</p>	<p>What do you think are the advantages of this approach to general competence, knowledge and skills?</p>
<p>QQ.</p>	<p>What do you think are the disadvantages of this approach to general competence, knowledge and skills?</p>
<p>RR.</p>	<p>In what ways do you think this proposed standard contributes to, or detracts from, the legislative purposes (for example ensuring the quality and availability of advice, avoiding unnecessary compliance costs, and promoting innovation and flexibility)?</p>
<p>SS.</p>	<p>What factors should we consider in determining whether to make the proposed unit standard a renewing obligation?</p>

## Particular competence, knowledge and skills

<i>Share your views</i>	
<p>TT.</p>	<p>What are the advantages and disadvantages of our approach of identifying two types of financial advice? What impact would it have on the type of advice you give and on your compliance costs?</p>

UU.	<p>How should RFA's experience be recognised?</p> <p>Previous industry diplomas need to be recognised with a say 10-15 hours a year personal development displayed / possibly for those without qual's – level 5 via IQ College /NZIM etc</p>
VV.	<p>What do you think are the advantages of this approach to particular competence, knowledge, and skill?</p>
WW.	<p>What do you think are the disadvantages of this approach to particular competence, knowledge, and skill?</p>
XX.	<p>In what ways do you think this proposed standard contributes to, or detracts from, the legislative purposes (for example ensuring the quality and availability of advice, avoiding unnecessary compliance costs, and promoting innovation and flexibility)?</p>
YY.	<p>What alterations, if any, would you suggest to the baselines we have nominated: specialist strand for product capability, Level 5 for discipline capability, and relevant degree (or other degree plus Level 6) for planning capability?</p>

## Other comments

<i>Share your views</i>	
ZZ.	<p>Are there any other comments you would like to make to assist us in developing the Code?</p> <p>We are extremely concerned at over regulation and associated costs lessening the excellent service currently provided by our industry – we need to retain our industry people not create a university qualified person with little or no knowledge of what they are advising clients – this would diminish and indeed create the opposite of what the working party is trying to achieve</p>

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**From:** Ray Brott S 9 (2) (a)  
**Sent:** 27 April 2018 14:05  
**To:** code secretariat  
**Subject:** RE: Code of Professional Conduct for Financial Advice Services Submission [UNCLASSIFIED]

**Categories:** Purple Category

Thank you Poppy - I was thinking after sending it if the working party realised the amount of unpaid work we do also - eg preparing quotes / minor policy changes / accountants a/c enquiries / certificates for financial interest - there is a significant amount of time put into these aspect - could you pass this on to please

Many Thanks

Ray Brott  
EMERRE & HATHAWAY  
<http://ehinsurance.co.nz>  
183 Carnarvon Street, GISBORNE . PO Box 1386 . Gisborne . Fax 06 867 3963 . S 9 (2) (a) . Ph 06 867 9811  
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My disclosure statement can be found at <http://ehinsurance.co.nz/wp-content/uploads/2015/09/Disclosure-Statement.pdf>

-----Original Message-----

From: Poppy Haynes [mailto:Poppy.Haynes@mbie.govt.nz] On Behalf Of code secretariat  
Sent: Friday, 27 April 2018 1:01 p.m.  
To: Ray Brott S 9 (2) (a)  
Subject: RE: Code of Professional Conduct for Financial Advice Services Submission [UNCLASSIFIED]

Dear Ray,

Thanks very much for taking the time to make a submission. I will pass it on the Code Working Group.

Kind regards,

Poppy

Poppy Haynes  
SENIOR POLICY ADVISOR | SECRETARIAT TO THE CODE WORKING GROUP Financial Markets Policy | Building,  
Resources and Markets Ministry of Business, Innovation & Employment  
15 Stout Street, Wellington 6011 | PO Box 1473 Wellington 6140

-----Original Message-----

From: Ray Brott [mailto: **S 9 (2) (a)**]  
Sent: Friday, 27 April 2018 12:52 p.m.  
To: code secretariat  
Subject: Code of Professional Conduct for Financial Advice Services Submission

Our submission enclosed - whilst we have not commented on each question we have hopefully given our overall thoughts / concerns

Many thanks

Ray Brott  
EMERRE & HATHAWAY  
<http://ehinsurance.co.nz>

183 Carnarvon Street, GISBORNE . PO Box 1386 . Gisborne . Fax 06 867 3963 . DDI **S 9 (2) (a)** . Ph 06 867 9811  
Freephone 0800 428 429 This electronic message together with any attachments or the contents thereof is confidential. Use of it or any part of it for other than the intended purposes or in amended form without our written approval is at the sole risk of the user. If you are not the intended recipient please notify us immediately and erase the original message and attachments received

My disclosure statement can be found at <http://ehinsurance.co.nz/wp-content/uploads/2015/09/Disclosure-Statement.pdf>

Your message is ready to be sent with the following file or link attachments:

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