

Code of Professional Conduct for Financial Advice Services

Submission - NZ Financial Services Group / Loan Market

Submissions close Monday 30 April 2018

Please send submissions to:

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.

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. 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 Malcolm Scott - NZ Financial Services Group Limited / Loan Market
ii.	Please provide your contact details S 9 (2) (a)
iii.	<p>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)</p> <p>NZ Financial Services Group (NZFSG) is a Head Group with a membership of almost 1100 advisers. In 2017 our members settled \$12.8 billion in new loans and \$16.9 million in issued risk insurance annual premiums.</p> <p>We rank as the predominant Head Group for mortgage advisers. Our membership is made up of mortgage and insurance advisers. Most would be RFAs however we also have AFAs in our membership. Some members would offer KiwiSaver advice.</p> <p>Loan Market is our branded offering with 120 advisers operating under this banner. We are part of the wider Loan Market group in Australasia.</p> <p>This submission contains the personal opinions of several senior managers within NZ Financial Services Group. Although we have sought feedback from a limited number of our membership, it does not represent the opinion of all members. There will be a diverse range of opinions within our membership and some members may choose to provide their own submission.</p>
iv.	<p>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)</p> <p>No confidential information.</p>

Principles for drafting the Code

<i>Share your views</i>	
A.	<p>What comments do you have regarding the overarching theme of “good advice outcomes” and the underlying principles?</p> <p>We are supportive of the overarching theme and underlying principles. We appreciate the challenge the CWG has in drafting a code that covers a diverse range of distribution channels for financial advice.</p>

B.	<p>Are there any further principles that should be included, or existing principles that should be removed?</p> <p>The Code will focus on good advice outcomes for retail clients (Principle 2). Wholesale clients are exempt. The definition of a Wholesale Investor (Client) within the FMCA under clause 39 (meaning of large) refers to (among other things) net assets exceeding \$5 million. It is conceivable that a “mum and dad” investor in rental properties may easily meet the definition of large and be exempt from the proposed regulations. This would result in advisers not having to comply with the Code in giving advice to these potentially unsophisticated investors. For example mortgage advice regarding the acquisition of a new rental property or refinance of existing properties would be exempt. We do not believe this is the intention. As an alternative the FMCA should have a higher level for the meaning of large.</p> <p>Principle 3 states the Code will be drafted in a clear, concise and effective manner. We feel that the introduction of new terminology around financial planning vs product advice, and aggregated competence, knowledge and skill introduces ambiguity and difficulty in measuring compliance (especially as previous ambiguous terminology around product category and class advice have been removed).</p> <p>We recommend that if the definition of Financial Planning is to be used, it is only in relation to Investment products excluding KiwiSaver.</p> <p>We recommend as an alternative that there be no reference to Financial Planning / Product Advice, and instead that competence in giving advice be determined by qualifications attained (see answer to TT).</p> <p>Advice in relation to KiwiSaver could be given by insurance and mortgage advisers provided they are competent to give this advice. This will allow more KiwiSaver investors to obtain good advice on appropriate funds for their life situation.</p>
----	---

Ethical behaviour

Act with honesty, fairness and integrity

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

Keep the commitments you make to your client

D.	<p>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.</p>
----	--

	<p>Yes – We are an expanding multi-cultural society and business values we adhere to as a matter of course may not be recognised by newer immigrants. Basic ethics conveyed in everyday language are important.</p> <p>A Code of Ethics could address generic issues such as:</p> <ul style="list-style-type: none"> - Never commit (sign) on behalf of a client without their knowledge. - Always act politely in dealings with clients. - Ensure all client electronic data is stored securely and password protected. - Do what you say you will do. <p>Rather than put the onus on FAPs to produce their own Code of Ethics we recommend that basic ethics be incorporated into the Code of Professional Conduct. This will ensure consistency and transparency. It will also mean there are no additional compliance costs that an FAP has to bear in this area.</p>
E.	<p>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?</p> <p>Do what you say you will do.</p>

Manage and fully disclose conflicts of interest

F.	<p>Should the Code include a minimum standard on conflicts of interest in addition to the legislation?</p> <p>Hard to set a minimum standard as this will vary between types of financial advice. For instance a mortgage broker can't be a real estate agent (conflict is that they could put an inappropriate loan in place to receive real estate commission).</p> <p>Any inclusion would need to be in generic terms.</p>
----	---

Do no harm to the client or the profession

G.	<p>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.</p> <p>Agree</p>
H.	<p>Is an additional minimum standard on doing no harm to the client necessary? If so, what standard do you propose?</p> <p>No – covered by other aspects of the Code.</p>

Keep your client's data confidential

I.	<p>In which situations, if any, should the retention, use or sharing of anonymised bulk customer data be subject to Code standards?</p> <p>Confidentiality should be covered by the Privacy Act.</p>
----	---

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.	Do you agree that the Code should require the Financial Advice Provider to document and maintain its “ethical processes”? No. This should be incorporated within the Code of Professional Conduct to ensure consistency and transparency.
M.	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? No - see previous comments.
N.	Should Financial Advice Providers also be subject to additional standards in respect of leadership and culture? If so, how should these be framed? This should be part of the FAP licence application to the FMA. The FMA has published some good guidelines on this subject - https://fma.govt.nz/assets/Guidance/170202-A-guide-to-the-FMAs-view-of-conduct.pdf Don't over complicate the Code if it can make reference to other material available.
O.	Do you propose other additional standards of ethical behaviour that should apply to Financial Advice Providers? No

Ethics training

P.	Do you agree that Financial Advice Providers should be required to meet standards relating to ethics training? If not, please state your reasoning. No – there will be enough hurdles for FAPs to jump over without introducing this. Training on ethics could form part of the licence application and ongoing retention of the licence.
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.	<p>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.</p> <p>Yes – but as part of licencing.</p>
----	--

Compliance functions

T.	<p>Should there be a requirement for explicit sign-off on the soundness of financial advice provided directly by a Financial Advice Provider?</p> <p>Not within the Code. This question seems to be in relation to robo advice or advice that follows a prescribed format. It would be difficult for all robo advice to be signed off in relation to all clients. Likewise it would be difficult for a Head Group like NZFSG to sign off on advice given by every member to every client.</p> <p>The advice process or system used by a FAP should be part of the licence application and subject to audit by the FAP, and the FMA in the case of ad hoc audits or client complaints.</p>
U.	<p>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.</p> <p>Yes – but unsure of what you mean by framework. Presumably a referral to a complaints officer or independent expert. Perhaps the Disputes Resolution Services could offer independent advice/resolution of such issues?</p>
V.	<p>Should this extend further into an internal audit obligation, having in place processes to systematically test for and detect violations of ethical behaviour?</p> <p>Yes but not sure how this would be measured. For instance we may need to look at trends in the placement of business by an adviser to detect if insurance new business is following the insurer offering soft dollar incentives. Violations may be hard to prove as the client may benefit from a “churn.”</p> <p>Standard audit processes required by FAPs should pick up blatant unethical behaviour eg forging or cutting and pasting client signatures. However it is very difficult to pick up practices such as an insurance adviser telling a client they don’t need to disclose a medical condition on an insurance application form. There must also be some onus on the client (buyer beware) if the client suspects the adviser is acting unethically. Regulations are not going to stop a FA who is intent on acting deceitfully.</p>
W.	Are there any potential compliance costs for small and/or large Financial Advice

Providers that need to be considered?

Yes if there is a requirement for ethics training as this would come at a cost. If ethical complaints had to be referred to an independent third party there would be a cost to this.

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.

Yes in principal but there are unethical practices that we would never be able to pick up on. Examples are:

- **Employment related issues – eg an adviser dismisses an employee without following correct processes.**
- **An adviser sexually harassing a client.**
- **An adviser telling a client not to disclose a medical condition on an application form, or telling a client not to disclose a current loan in a loan application, or to misrepresent income or expenses when applying for a loan.**

Sometimes it is difficult to determine whether a practice is unethical. For example there is some commentary around mortgage advisers “selling” a larger loan than the client needs to maximise commission. However this may be in the client’s interest if there is a line of credit required.

Equally there is an ethical obligation on the client to disclose all information.

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?

The Code should include a Code of Ethics as previously suggested. The consumer could be provided with a copy of this industry wide Code of Ethics as part of disclosure requirements.

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.	<p>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).</p> <p>We do not have any issues in principal with current client care standards applying across the spectrum of financial advice delivery.</p>
BB.	<p>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.)</p> <p>No comment</p>
CC.	<p>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)?</p> <p>Some reference to replacement business being transacted only after investigation demonstrating that there are benefits to the client.</p>
DD.	<p>Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?</p> <p>No</p>
EE.	<p>Are there any additional matters that should be addressed in the advice-giving standards? Those listed above? Others?</p> <p>Replacement business.</p> <p>Ongoing service as necessary to ensure the product/plan remains relevant, and that a client’s changing financial circumstances are taken into account. It is difficult to stipulate the frequency of service calls as this will vary.</p> <p>The sale of a business should be addressed to ensure that clients receive ongoing service. There should be the opportunity for a client to opt out if they do not want to be serviced by the purchasing FA or FAP.</p>

Advice process

FF.	<p>Do you think there are any other components that should be included in the design considerations of an advice process?</p> <p>No – the advice process should be tailored to the recipient. Does there need to be consideration of those clients where English is a second language or not easily understood? If a statement of advice is written in another language what are the audit implications of this?</p>
GG.	<p>Should the Code include guidance material to help determine what needs to be considered when designing an advice process?</p> <p>No – there are too many different scenarios (product complexity/ multiple product recommendations / varying financial literacy amongst clients)</p>
HH.	<p>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?</p> <p>We believe that the current Six Step Process is fundamentally correct and can be applied in multiple situations. There are many FAs who have successfully used this over the last few years.</p>
II.	<p>Should any of the key aspects that we have listed above be removed? If so, why?</p> <p>No</p>
JJ.	<p>Are there any situations in which an advice process need not be followed?</p> <p>If the client chooses to opt out – selects limited advice. However care needs to be taken to ensure advisers do not prompt a client to do this.</p>

Personalised suitability

KK.	<p>What comments do you have about a proposed minimum standard on personalised suitability analysis? What are your views on the example above?</p> <p>There needs to be some form of analysis that can demonstrate how the adviser determined the presentation of the advice was suitable for the client’s circumstances. This could be achieved by a simple questionnaire to determine the client’s appetite for advice and financial literacy. Personality types can also come into play. Does the client want a detailed report or an executive summary? Do they want to make their own decision or follow what others in a similar situation do?</p> <p>We agree that we do not want over compliance producing reports that nobody reads or understands. This is counterproductive to the objective of making financial advice available in an understandable way to more New Zealanders.</p>
-----	---

Organisational standards

<p>LL.</p>	<p>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?</p> <p>Documented Organisational Standards should apply and form part of the licence application. The extent of these would differ depending on the size of the FAP. It would need to be a working document that evolved as different advice circumstances arose.</p> <p>Examples might be as follows;</p> <p>General</p> <ul style="list-style-type: none"> - What the FAP's brand stands for - Training of FAs - Continuing professional development of FAPs and staff - Adherence to regulations - Recording and resolution of breaches - Auditing systems - Onboarding selection and systems - Advertising checks - Employment / adviser contracts <p>Mortgage Adviser</p> <ul style="list-style-type: none"> - Mortgage top ups less than \$50k – limited advice - Refixes – limited advice - Purchase of family home- no Trust involvement – Simple Statement of Advice - Purchase of Rental Property in addition to family home – Intermediate Statement of Advice - Purchase of Commercial Property – Comprehensive Statement of Advice <p>Insurance Adviser</p> <ul style="list-style-type: none"> - When a fact find is required - Family Protection – Insurance Profiler - Business Protection – Statement of Advice - Health Insurance only – generic advice / comparison of products
<p>MM</p>	<p>Would implementing these organisational conduct and client care standards create a particular compliance burden for your firm? If yes, please explain why.</p> <p>No – we would be doing it anyway for an organisation of our size. We would adapt the Loan Market Compliance System for Credit Activities used in Australia.</p> <p>We do believe some smaller FAPs may struggle to understand what is required here unless there are specific guidelines.</p>

General competence, knowledge and skills

<i>Share your views</i>	
NN.	<p>Do you agree with our interpretation of the meaning of “competence, knowledge, and skills”? If not, why not?</p> <p>Whilst we can understand what you are trying to achieve, we have an issue with the combined expertise concept. This may work for a small FAP operation, however it does create problems for a larger FAP.</p> <p>It puts the onus on us to be able to prove that all of our advisers are operating at Level 5 or above. This means that we would need to introduce our own training and assessment process so that we can measure each individual. Alternatively we would need to have processes so watertight that they may be counter productive to giving good advice – no room for adviser intuition.</p> <p>Our preference is to have an industry standard qualification (such as the NZ Certificate in Financial Services Level 5) as the minimum standard requirement for all FAs rather than the combined expertise approach. This would:</p> <ul style="list-style-type: none"> - create a measurable and transparent standard - provide more comfort for a client that a person dealing with them had the necessary competence - lift the professional image of the industry - attract more career advisers into financial services <p>Experienced advisers we have spoken to are receptive to this provided they do not have to attend courses that go back to basics. Training providers should tailor their courses, measurement of competence accordingly. Alternatively an examination without the need to attend a course could suffice (provided it was NZQA authorised).</p> <p>We believe the 2 year amnesty period is sufficient time to allow those advisers without Level 5 to obtain this, and that the perceived fear of obtaining a qualification at this level is unwarranted.</p> <p>NZFSG and some lenders have required new mortgage advisers to obtain the Residential Property Lending Strand. This means that we have over 150 new members who are already partly qualified.</p> <p>It is interesting to note that the MBIE Discussion Paper on Disclosure Requirements refers to disclosure requirements for the firm or individual giving regulated financial advice. The Code requirements for competency should also relate to the firm or individual giving the advice. If it is an individual dealing with the client personally then that individual should have the required qualification. This includes those individuals giving advice within the vertically integrated organisations.</p>
OO.	<p>Are there other factors, which contribute to combined expertise, 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>No</p>
PP.	<p>What do you think are the advantages of this approach to general competence, knowledge and skills?</p> <p>Retention of many capable RFAs that do not have formal qualifications thus meeting</p>

	<p>the objective of accessible financial advice.</p> <p>Opens up the market to those offering robo advice.</p> <p>Suits smaller FAPs (say 1 principal and 3 advisers) where the principal is intimately involved in and has sign off on the advice process for every client.</p>
QQ.	<p>What do you think are the disadvantages of this approach to general competence, knowledge and skills?</p> <p>Places unpalatable liability onto the larger FAPs should FAs not meet competence knowledge and skill requirements.</p> <p>Places extra costs on the larger FAPs relating to training and assessment of FAs.</p> <p>Can be perceived as a soft approach allowing unqualified advisers to remain in the industry to the detriment of the overall image of professionalism the industry is trying to promote.</p> <p>It does not set a specific benchmark and could result in incompetent advisers remaining in the industry.</p> <p>May create movement of RFAs from one Head Group to another with less stringent requirements.</p>
RR.	<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>Overall we believe it creates more confusion and places unnecessary requirements on FAPs. It makes the Code less understandable to a client who is dealing with an individual adviser rather than a FAP.</p>
SS.	<p>What factors should we consider in determining whether to make the proposed unit standard a renewing obligation?</p> <p>The concept is OK.</p>

Particular competence, knowledge and skills

<i>Share your views</i>	
TT.	<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> <p>This creates confusion and ambiguity. It will also be detrimental to clients. For instance a Financial Adviser may commence providing the client product advice which may morph into financial planning as more is learned about the client. Does the adviser then need to pass the client to another adviser with whom the client has no relationship?</p>

We can see many problems in determining what is product advice and what is financial planning.

Mortgage Advice - Advice on a loan for the family home would presumably be product advice. However would borrowing against the equity in the family home to purchase a rental property be product advice or financial planning (procuring an investment property)? What about a client who has several rental properties and is purchasing another? Or what about farm lending?

Insurance Advice - Presumably the offering of a single product would be product advice. However most insurance advisers would be looking at a suite of products to cover temporary disablement, permanent disablement and death. They would produce a report showing how these products worked in together for the benefit of the client. Would this be financial planning? Presumably business insurance advice around share purchase and key person insurance would be financial planning as the financial accounts of the company would need to be analysed. What about a combination of income protection and mortgage repayment products to maximise claim payments to the client in event of an ACC claim?

We believe that using these definitions is unworkable without significant detail being written into the Code (which would then make it difficult for the average client to interpret).

We also believe that by restricting those on Level 5 (or equivalent) to product advice will reduce the ability to give good advice outcomes to clients.

Our Recommended Approach

The term “Financial Planning” should be restricted to Investment Planning (retirement planning using stocks / bonds / unit trusts or foreign exchange trading) excluding KiwiSaver, or not used at all.

Rather than trying to define different types of advice, we recommend that the ability to give advice be linked to qualifications obtained over time. This could work as follows:

- **Investment advice (excluding KiwiSaver) - must be AFA initially with the Investment Strand of the NZ Certificate in Financial Services. Develop L6 Diploma including retirement planning / stocks / bonds / managed funds.**
- **KiwiSaver advice - can be given by anyone who has L5 certificate. Over time introduce a KiwiSaver strand (L5) that new entrants to the industry would require to give KiwiSaver advice.**
- **Mortgage Advice - could be given by all current mortgage advisers for next 2 years after which they would need L5 with residential lending strand to continue. Develop a L6 diploma in mortgage advice including investment / commercial property lending. New entrants to the industry would need this L6 diploma if joining the industry (introduce this requirement in 2 years time).**
- **Insurance Advice - could be given by all current insurance advisers for next 2 years after which they would need L5 to continue. Develop a L6 diploma in insurance advice including business insurance. New entrants to the industry would need this L6 diploma if joining the industry (introduce this requirement in 2 years time).**

We believe a specific L6 diploma would be more relevant than a L7 general commerce degree.

Existing FAs could continue in the industry with L5.

	<p>This would achieve the following:</p> <ul style="list-style-type: none"> - all FAs would have the minimum requirement of L5 after 2 years and could continue in the industry. - new entrants after 3 years would require a Diploma. This gives those wishing to join the industry time to obtain this qualification. - natural attrition of FAs leaving, combined with new ones joining, would over time lift the minimum standard to that of the Diploma. - Existing AFA's could continue to operate as usual. - Bank staff giving financial advice would also be required to have the relevant qualification.
UU.	<p>How should RFA's experience be recognised?</p> <p>Some RFA's are in the older age group and see themselves remaining in the industry for a limited period.</p> <p>A measure based on years in the industry would not work as some with 20+ years may have developed poor habits, and someone with 3 years' experience may have great habits.</p> <p>For RFA's the requirement should be an industry standard qualification (such as the NZ Certificate in Financial Services-Core and Specialist strand) perhaps without the need to do the Advice strand.</p> <p>There will be many RFAs who have already completed the L5 Specialist Strand. NZFSG and a couple of the banks have insisted on this for new mortgage adviser onboardings. Therefore within our membership we would have 150 plus RFA's who would already have the L5 Residential Property Lending Strand.</p>
VV.	<p>What do you think are the advantages of this approach to particular competence, knowledge, and skill?</p> <p>We can see no advantage to introducing these new definitions.</p>
WW	<p>What do you think are the disadvantages of this approach to particular competence, knowledge, and skill?</p> <p>We note that an AFA would automatically be recognised as meeting the minimum standard for financial planning. Conceivably an AFA could be a new entrant to the industry with very little experience.</p> <p>Our recommendations regarding transition to Level 5, and the introduction of a new Diploma for all FAs would remove any anomalies.</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> <p>The proposed standard does not promote 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> <p>We believe that L5 should be the baseline for all advisers across all types of financial advice. This at least gives the public a sense that the industry is lifting the bar and provides consistency and transparency.</p> <p>The introduction of a new Diploma (L6) would create a relevant qualification and would further lift the bar over time for all FAs. If relevant qualification formed part of the disclosure requirements for FAs, then this could encourage those FAs on L5 to obtain the Diploma to remain on par with those who had already obtained the qualification.</p> <p>To introduce Product Advice and Financial Advice requiring different levels of qualification creates confusion and a minefield for the regulators and industry participants in determining what fits where. Any financial adviser acting outside their level of competence would be breaching the Code and would be picked up through the audit process.</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>The Code should be generic covering multiple products and methods of distribution. If it gets into specifics (different requirements for general insurance/life insurance/mortgages/investments) then it will become too complex, difficult for the public to understand, and require more frequent updates.</p> <p>If the Code becomes too specific it will stifle competition and ability to create market advantage through superior processes and systems.</p> <p>The licence application process to the FMA will be where the detail belongs.</p> <p>The Regulators are trying to simplify terminology and are removing references to product types, class advice etc. It would be a backward step to then introduce new terminology/definitions and complexity. The Code will be tested by the FAP audit process, FMA monitoring, and the precedents set by the Disciplinary Committee in its reviews.</p>