

# 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 <b>E.RUYS &amp; CO LTD</b>
ii.	Please provide your contact details <b>Trevor DODUNSKI, 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)  <b>We are a Third generation Fire &amp; General Insurance Brokerage. The business has been in operation since 1981 when established. We are and have been members of the Insurance Industry Body (now IBANZ) since becoming an Independant Brokerage. We are also members of NZbrokers a collaborative of Fire &amp; General Insurance brokerages throughout New Zealand.</b>  <b>We handle Fire &amp; General Insurance Business (Commercial Business &amp; Domestic Business eg house/contents/vehicles/boats). We have approx 1,500 clients/ 3500 policies for retail clients.</b>
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 – Not applicable</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?  <b>We support the theme of ‘good advice outcomes’ principles for our clients. This is the basis of our business and conduct with our clients anyway. Why we maintain and are members of quality organisations that assist in good business administration practices that protect and support our clients. Our retails Fire &amp; General business domestic is high volume annual renewable policies with remuneration percentage average under 20% commission on our book of business.</b>  <b>Over regulation on business practice for Insurance Brokerages such as our business, has potential to add significant costs to the business. This cost would need to be passed on to clients. If not recovered financial pressure could result in business disappearing, clients being left with no personal options and only robo internet advice.</b>

B.	Are there any further principles that should be included, or existing principles that should be removed? <b>No not applicable</b>
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## Ethical behaviour

Act with honesty, fairness and integrity

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

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. <b>No. Our business through membership of quality organisations already adhere and comply with the ethical standards as membership requirement. Why more, there are then too many variances and over regulation.</b>
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? <b>Allow our membership organisation (eg IBANZ) to develop and control the ethical standards for FAP's in the industry and control and administer this through membership.</b>

Manage and fully disclose conflicts of interest

F.	Should the Code include a minimum standard on conflicts of interest in addition to the legislation? <b>This aspect is covered through current code of conduct requirements with our organisation memberships which are our guide to conflicts should they arise. I don't believe it requires another level in the code additional to the bill.</b>
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## 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><b>Yes agree</b></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><b>No not necessary. The objective of the legislation need to remain clear, its already provided for so why repeat/duplicate this will potential confuse matters.</b></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><b>? No comment</b></p>
J.	<p>Do you agree that the Code should cover the various aspects of maintaining client confidentiality discussed in this paper?</p> <p><b>Current privacy laws apply, why duplicate and over regulate the code.</b></p>
K.	<p>Are there other aspects of maintaining client confidentiality to consider?</p> <p><b>No.</b></p>

## 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><b>Yes we support good ethical standards, but it has to be appropriate to the business and the services support and advise we give to our clients. Regulation does not enhance or protect clients in my opinion. We act and transact business with our clients and demand of our business transaction with our clients to standard. We should be able to determine for ourselves the ethical standards in this daily process.</b></p> <p><b>If we cannot do that, we shouldn't be in business, but more over should regulation and adherence to the imposed standards adds costs to our business, we have to pass those costs on. Should that impact business and business be lost it will be the clients ultimate loss. Where will they be able to turn to for personalised advice &amp; support for their insurance.</b></p>
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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><b>No. This should be up to the business how and when displayed for made available. It should be voluntary to the business.</b></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><b>No. This is why we have membership of quality organisations. We attain and maintain standards for our organisation. Regulation doesn't bring culture to an organisation. Leadership is developed with (thats why we have been in business for over 30yrs) but is assisted and supported by education and scholarships from our organisations we are members of. We maintain ongoing Professional development annually. This doesn't need mandatory standards and regulation.</b></p>
O.	<p>Do you propose other additional standards of ethical behaviour that should apply to Financial Advice Providers?</p> <p><b>NO</b></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> <p><b>Yes provided it is at economic and affordable levels to our business to attain/maintain.</b></p>
Q.	<p>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.</p> <p><b>Yes agree needs to be appropriate to the role though. But yes should be mandatory.</b></p>
R.	<p>Should there be a requirement for ongoing refresher training on ethics?</p> <p><b>Yes if its mandatory. This can be addressed through Continuing Professional development through our the industry. We already have this though providers such as IBANZ &amp; IQ COLLEGE.</b></p>

## 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><b>No, why add potential costs through regulating for such instances. Any resolution or problems solutions should be allowed to be developed by the individual businesses.</b></p>
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## 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><b>If such practices are imposed on the business/advisor under the act this will definitely lead to difficulties with compliance, and hence additional unnecessary costs. We already face difficulty sometimes with lag times and return of documentation with time frames. Especially with NZ Post. Fire &amp; General insurance business we deal in is absolutely chalk &amp; cheese to Financial and investment products.</b></p> <p><b>If it becomes a regulation requirement it will add to costs to a client and imposition to a client for a level of business (Fire &amp; general Insurance) which I believe is totally unnecessary.</b></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><b>No, not necessary. It does not need this aspect addressed within a code that should be focusing on making business transactions easier.</b></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><b>No not at all necessary. This is only going to add costs to the business and is something that does NOT need to be addressed/included into the code. Any additional auditing costs would only lead to costs being passed on to a client. The potential additional costs would have significant impact on a small business such as ours.</b></p>
W.	<p>Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?</p> <p><b>Any costs through legislation changes always have a disproportionate cost effect on smaller business such as ours. Is it the bills intention to continue to add costs to transactional business such as Fire &amp; General and it is financially uneconomical to continue business. What it has the potential of doing is hindering and closing smaller retail business due to added costs therefore leaving clients with little or no other choice than large firms or with robo internet advice. Sad.</b></p>

## Responsibility for the whole advice process

X.	<p>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.</p> <p><b>We support and adhere to good ethical standards. But we should be able to administer and allow our Association (IBANZ) monitor as is currently the situation with our Fire &amp; General Industry.</b></p> <p><b>It is over regulation, and this bill is trying to implement and impose of standards of compliance ethical behaviour onto small business that is totally unnecessary. It is just seeing cost adding to cost for a portion of the industry that it is not required. We deal with Fire &amp; general product and is annually renewable. It is not vulnerable to the 'churning' of clients business as in the life or financial investment sector.</b></p>
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## Reinforcing good ethical behaviour

Y.	<p>What principle or mechanism do you propose the Code could include to reinforce good ethical behaviour on a day-to-day basis?</p> <p><b>Dont believe it is necessary for the Fire &amp; General sector ( as in answer above)</b></p>
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## Conduct and client care

### Advice situations

<b>Share your views</b>	
Z.	<p>Are there other delivery methods that should be considered when testing our thinking?</p> <p><b>There's always different methods. Nothing to add here?</b></p>

### 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><b>I repeat this bill is not considering the impact of business such as ours that deal in Fire &amp; General business with large volumes of annual renewable policies. It is impracticable and will add compliance costs and possibility of clients not actually getting Professional advice. Strange when legislation is looking to protect and enforce client care and conduct.</b></p>
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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><b>We have high volume of client transaction for our small business. Current wording would not be suitable to this.</b></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><b>We have high volume of client transaction for our small business. Current wording would not be suitable to this.</b></p>
DD.	<p>Are there any potential compliance costs for small and/or large Financial Advice Providers that need to be considered?</p> <p><b>We are Fire &amp; general Brokers, we handle simple annual renewal risk product for clients. Our company supports the care and attention to clients needs but ...</b></p> <p><b>The commission remuneration is lower percentage on an annual basis for Fire &amp; General business placements, eg \$150 on an average dwelling. Therefore it stands to reason if compliance costs increase recovery has to be made therefore increased costs on clients.</b></p>
EE.	<p>Are there any additional matters that should be addressed in the advice-giving standards? Those listed above? Others?</p> <p><b>The bill is approaching this with methods and standards to establish principles for an industry that is broad spectrum. This approach potentially has a greater effect on Fire &amp; General business that our business annually renewal based with our clients.</b></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><b>NO</b></p>
GG.	<p>Should the Code include guidance material to help determine what needs to be considered when designing an advice process?</p> <p><b>YES. If the code is adopted of course there needs direction for participants practicing in this line of business.</b></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><b>As the Fire &amp; General industry sector is varied the code should not prescribe the process for when advise and type given. The circumstances and the requirements of clients seeking the advice of a Fire &amp; General Broker can be wide and varied and dependant to the particular needs at that time, and it can vary year to year for that same client!</b></p>
II.	<p>Should any of the key aspects that we have listed above be removed? If so, why?</p> <p><b>Our business remuneration is low for the Fire &amp; General Brokers as the products are yearly renewable. This is in stark contrast to the Life and Investment Brokers.</b></p>

	<b>We adhere and support client care standards for the industry but I believe the standards to our Industry Body IBANZ are appropriate.</b>
JJ.	Are there any situations in which an advice process need not be followed? <b>Fire &amp; General in wide and varied. There cannot be a hard and fast or advise requirement set to a code, but the advice must be relevant and quality to the needs of a client.</b>

### 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? <b>Answered as above</b>
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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? <b>Answered again as above. Fire &amp; General commission remuneration structure is quite different and less than other Life / Financial advisors, in arranging reviewing and renewing domestic insurance policies. Fire &amp; General Brokers business is about volume of policies to generate levels of income therefore does not support these proposed standards of personalised suitability.</b>
MM.	Would implementing these organisational conduct and client care standards create a particular compliance burden for your firm? If yes, please explain why. <b>Yes it would. Responses as above. The CWG need to be able to differentiate the services and type of business that Fire &amp; General Brokers do in relation to establishing the code, and the potential of restricting business and choice to clients.</b>

## 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><b>Our Fire &amp; general business conforms and keeps up Professional development requirements each year. We have attained educational qualifications, so we do agree. However if the code is changing standard qualification requirements, then there is a possibility many may fall outside these standards and not be able to give advice, although having many years of experience and knowledge in the industry.</b></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><b>No, answered in previous questions.</b></p>
<p>PP.</p>	<p>What do you think are the advantages of this approach to general competence, knowledge and skills?</p> <p><b>This gives clients confidence that their advisor with those skills will give them sound advice. There has to be allowance and a combination of both formal and informal qualification along with ongoing Professional Developments requirements to ensure the industry does not lose company's and</b></p>
<p>QQ.</p>	<p>What do you think are the disadvantages of this approach to general competence, knowledge and skills?</p> <p><b>There is costs associated to ongoing and education for our business. However is a apprehension that these changes in code and legislation is going to impose added and disproportionate costs to a small Fire &amp; General business like ours. It is also a concern that these standards will impose and detract from firms being able to attract staff.</b></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><b>It is a fear that the proposed standards and code will reduce choice to clients as small Fire &amp; General Brokerages succumb to the financial costs and over regulation requirements to be able to transact business. Clients will be the poorer for it if the only remains are big corporate firms or robo-advice avenues.</b></p>
<p>SS.</p>	<p>What factors should we consider in determining whether to make the proposed unit standard a renewing obligation?</p> <p><b>The setting of standards and compulsion to attain the minimum standards to operate a business ( Fire &amp; General) will add additional compliance costs to our business operation it is inevitable. To impose “requalification’ on business that are and have established and have continually attained Continued Professional Educational standards (through our established industry bodies IBANZ) and can prove to are then exposed to disproportionate extra costs.</b></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><b>Fire &amp; General business is ‘chalk and cheese’ compared to Financial/Life products and the advice pertaining to those products.</b></p> <p><b>This difference needs to be identified and recognised, it cannot be a “one code fits all” scenario.</b></p> <p><b>The costs of compliance to meet this changed code requirements may in the end be minimal if the CWG get it wrong and it destroys a part of the industry (Fire &amp; General) when it didn’t fully understand the difference in grouping all of industry together as one.</b></p>
UU.	<p>How should RFA’s experience be recognised?</p> <p><b>I believe that RFA’s previous qualifications and historic leaning needs to be acknowledged and accepted during the transition period. It then must be maintained with Professional Development continued educational standards.</b></p> <p><b>I accept with legislation change that if Fire &amp; General Businesses should have to demonstrate knowledge and attain Level 5 paper 26360 as being proposed to be able to continue to operate their business.</b></p>
VV.	<p>What do you think are the advantages of this approach to particular competence, knowledge, and skill?</p> <p><b>It sets standards as a minimum, but as stated in UU above it will allow continuance of good sound business continuing to give goods sound advice to their clients and maintenance of Fire &amp; General business alternatives for clients in the market place.</b></p>
WW.	<p>What do you think are the disadvantages of this approach to particular competence, knowledge, and skill?</p> <p><b>The current consultation paper is confusing, if not addressed with the differences as alluded to early in my answers will bring ambiguity to this industry.</b></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><b>I don’t think these outcomes will be achieved. Through this legislation and code envisaged by the CWG will lead ultimately to experience good Fire &amp; general Brokers leaving the industry. Potential of small firms (like ours) leaving the market by selling out to large corporate due to the imposed burdens and compliance costs associated.</b></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><b>I have alluded to this in my answers from TT to XX. My stance and thoughts are aligned as a Fire &amp; General Broker and the requirements thereof to give clients good sound advice. Refer to the previous.</b></p>
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## 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 CWG need to recognise the difference between Fire &amp; General insurance and the Financial/Life market. Over regulation that intends to tighten up one area of a business market will have undue ramifications to consumers of Fire &amp; general products, increased compliance, and potential loss of choice to consumers for Fire &amp; general Insurance that this legislation is not recognising.</p>