

2 May 2018

Code Working Group
c/o Code Secretariat
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140
New Zealand

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

Dear Code Working Group,

CODE OF PROFESSIONAL CONDUCT FOR FINANCIAL ADVICE SERVICES

1. Introduction

- 1.1 Thank you for the invitation to provide feedback on the Code of Professional Conduct for Financial Advice Services ("**Code**") consultation dated 12 March 2018 ("**Consultation**").
- 1.2 We were also grateful for the opportunity to hear more from the Code Working Group ("**CWG**") during the Roadshows and Webinar and look forward to continuing this constructive dialogue.
- 1.3 Sovereign welcomes the introduction of an industry-wide Code and supports the continued focus on access to quality advice to ensure customers are able to make sound financial decisions that protect themselves and their families from adverse future events.
- 1.4 Sovereign has contributed to and endorses the submission of the Financial Services Council ("**FSC**") in response to this Consultation. However, in addition to the FSC submission, we wish to highlight Sovereign's specific responses in relation to the Consultation in Appendix One.

Please do not hesitate to contact us if you wish to discuss any aspect of the above.

Yours faithfully,

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Nicholas Stanhope
Chief Executive Officer
Sovereign Assurance Company Limited

Appendix One – Specific Responses

1. Good Advice Outcomes

- 1.1 Sovereign supports the overarching theme of “good advice outcomes” as the basis of the Code.

2. Honesty, Fairness and Integrity

- 2.1 The advice process may lead to a recommendation to either acquire or dispose of a financial product. As current remuneration models within the financial services industry either directly or indirectly reward the Financial Adviser / Nominated Representative for implementing the advice, potential conflicts of interest may arise that could impair the quality or independence of the advice. As a result, we believe that the requirement to act with “honesty, fairness and integrity” is an essential starting point to delivering the overarching theme of a “good advice outcome”.
- 2.2 We recommend that the definitions of honesty and integrity are expanded to include an explicit reference to “transparency”. We believe that fair disclosure addresses information asymmetries during the advice process and supports informed consumer participation.

3. Ethical Behaviours

- 3.1 We agree that the Code should set minimum ethical standards or guidelines. We believe that a minimum ethical standard supports the objective of maintaining public confidence in the advice industry by increasing the likelihood of achieving the overarching theme of “good advice outcomes”.
- 3.2 Recognising that all relevant stakeholders benefit from public confidence in the advice industry and that operating ethically may affect short-term financial performance from time to time (i.e. by increasing costs or reducing revenue), common ethical standards are necessary to maintain a level playing field across the industry.
- 3.3 We believe that the standards may be framed as a set of core ethical commitments necessary to deliver “good advice outcomes”. For example: a commitment to understanding the customer’s needs; offering advice only where it can reasonably meet the customer’s needs; ensuring that the customer’s interests come first; and taking reasonable steps to remediate cases of poor advice.
- 3.4 We support the flexibility offered to Financial Advice Providers (“FAP”) to develop their own ethical frameworks in line with their values, business model and existing external guidelines.
- 3.5 We also believe that FAPs should have flexibility to determine how they wish to demonstrate ethical behaviour through adequate systems and controls (including education, training, processes and monitoring which may or may not include compliance, audit or similar functions within their respective businesses).

4. **Authorised Financial Advisers Code**

- 4.1 We support the general adoption of the current Authorised Financial Advisers Code client care standards. However, certain improvements could be made in some areas which we highlight below.

5. **Advice-giving standards 9-10 (Personalised Suitability)**

- 5.1 We support the proposal to minimise the risk of over-compliance by allowing the minimum standards to scale according to the scope of advice. For example, minimum standards should not require full personalised advice or a comparison of the wider market offering to be required in situations where a "good advice outcome" can be demonstrated by other means.

6. **Advice-giving standards 9-10 (Business Replacement)**

- 6.1 In situations where a customer is advised to replace a product, we believe that "good advice outcomes" can only be achieved where a business replacement comparison is performed. In these cases, the Financial Adviser needs to understand the customer's circumstances in order to properly assess and explain the risks, costs, and benefits of the proposed replacement. Consequently, we recommend that the CWG considers incorporating appropriate minimum standards in the Code to help address poor business replacement practices, such as those already provided by the Financial Markets Authority ("FMA") guidelines.

7. **Advice-giving standard 11 (Complaints Process)**

- 7.1 We recommend that the current definition of complaint is redrafted to be more aligned with International Organisation for Standardisation ("ISO") guidelines for complaints management in organisations.

8. **Advice-giving standard 13 (Record Retention)**

- 8.1 We recommend that this standard is simplified to a single obligation to support a consistent application across advisers, providers, and platform providers regarding the expectation to retain relevant information for a minimum of seven years from the date that all benefits available to the customer from the financial product have been realised.
- 8.2 For completeness, we do not believe it is necessary for the ethical sections of the Code to duplicate other areas of privacy law.

9. **Organisational Standards**

- 9.1 We welcome the flexibility offered to FAPs to design processes, controls and limitations to deliver good customer outcomes ("**FAP advice processes**").
- 9.2 To improve consistency, certainty and alignment of approach across the industry, we believe that it would be helpful if additional guidance could be developed in connection with the Code to assist FAPs in considering their obligations in relation to:

9.2.1 the extent to which FAP advice processes are expected to be part of the FMA licensing regime; and

9.2.2 guidance to help inform the design of the FAP advice processes including demonstrating the overarching theme of “good advice outcomes”, such as the extent to which it is expected that any specific employee roles within a FAP involved in designing or reviewing the effectiveness of product advice processes achieve Level 5 competence as well as expectations in situations where advisers are advising on a product of more than one FAP.

10. Competence, knowledge and skills

10.1 We recommend the Code includes clear definitions of “product advice” and “financial planning” especially in an insurance context to ensure clarity and consistency of approach across the industry.

10.2 In relation to product advice, we support the use of the New Zealand Certificate in Financial Services (Level 5) (“**Level 5**”) as the benchmark to lift standards across the industry.

10.3 An important consideration is the retention of quality Registered Financial Advisers (“**RFA**”) and ensuring their existing customers are serviced appropriately and can continue to access good quality advice.

10.4 To allow sufficient time for RFAs to achieve Level 5 competence, Sovereign believes that the proposed transition period should be extended from two to three years.

10.5 We support flexibility in the approach of the current Authorised Financial Adviser Code, which allows basic minimum standards to be met by recognising alternate qualifications as equivalent for the purpose of demonstrating competency. In situations where a RFA believes that his or her experience already meets the Level 5 competency, Sovereign also supports other assessment approaches (e.g. equivalent Level 5 face-to-face assessment or “fast-track” exam option) provided it effectively measures the competence, knowledge and skill to the same Level 5 standard, noting that experience in the market alone would not be an effective measure.