

**CONSULTATION ON CODE COMMITTEE REVIEW OF THE CODE OF
PROFESSIONAL CONDUCT FOR AUTHORISED FINANCIAL ADVISERS**

AUGUST 2013

Due date for submissions: 6 September 2013

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INTRODUCTION

The purpose of the Financial Advisers Act 2008 is “to promote the sound and efficient delivery of financial advice, and to encourage public confidence in the professionalism and integrity of financial advisers”.

One of the ways the Act achieves this is by requiring all Authorised Financial Advisers (AFAs) to comply with a Code providing minimum standards of professional conduct. A Code Committee for Financial Advisers (the Committee) prepares the Code and has a statutory requirement to review the Code from time to time, and recommend changes to the Code as the Committee thinks fit.

The Code has now been in force since 1 December 2010. With the benefit of a period of experience with the Code in operation, it is timely to consider whether enhancements to certain Code Standards would assist the Code in furthering the regulatory objectives of the Financial Advisers Act. In particular, it is appropriate to consider whether the Code is providing the most effective consumer protection it can offer.

Generally, the Committee is comfortable with the overall approach of the Code as originally approved. The principles-based approach adopted has provided sufficient flexibility for most situations.

The issues identified in our consultation paper reflect, in part, the outcome of the Financial Markets Authority (FMA’s) AFA survey results and its surveillance and monitoring activities, as well as feedback from various consumer groups, industry participants and stakeholders.

The Committee has also revisited certain Code Standards that need review in light of proposed revisions to the qualifications framework, and in light of the Future of Financial Advice reforms in Australia.

For each of the issues identified we have provided a background discussion and a summary of the Committee’s view. In some cases our recommendation is for no change. Where a change is proposed this consultation paper shows both the current and the proposed amended wording for ease of reference.

As part of this review, the Code will also be formally updated to reflect changes in the legislative framework, most significantly changes to the Financial Advisers Act, the replacement of the Securities Commission with the Financial Markets Authority, and the passage of the Financial Markets Conduct Bill. These changes will typically be minor and are not discussed in detail in the consultation paper.

Whilst we have identified particular issues where we feel changes might be warranted, we are open to any other suggested changes that will enhance the standards of professional behaviour expected of an AFA, and the consumer protection provided by the Code.

SUMMARY OF PROPOSED CHANGES

C Minimum standards of ethical behaviour

CS No.	Code Standard description	Recommended change
1	Placing client interests first and acting with integrity	Adding wording to the additional provisions to clarify the paramountcy of Code Standard 1 Amending wording on scope of service
2	Not bringing the financial advisory industry into disrepute	No change
3	Using the term 'independent'	No change
4	Borrowing from or lending to a client	No change
5	Restrictions that apply where AFA is a related person of product provider	To be replaced by a new Code Standard 'Conflicts of interest'

D Minimum standards of client care

CS No.	Code Standard description	Recommended change
6	Behaving professionally	Rewording Code Standard 6(d) to clarify what is intended by reference to a financial product being analysed Removing 6(c) (becomes the focus of the new Code Standard 5 under the ethical behaviour Code Standards)
7	Ensuring retail clients are able to make informed decisions	Adding a specific disclosure obligation for AFAs who are limited in their authorisation
8	Suitability of personalised services for retail clients	No change, but see discussions on suitability and DIMS suitability
9	Explaining the basis of personalised services for retail clients	Adding further detailed comment clarifying the extent of explanation

10	Providing class services for retail clients	No change
11	Complaints process	No change
12	Keeping information about personalised services for retail clients	No change
13	Record retention	Adding wording to clarify obligations when using third party platform providers

E Minimum standards of competence, knowledge, and skills required to provide financial adviser services

CS No.	Code Standard description	Recommended change
14	Overarching competence requirement	Adding wording to emphasise AFAs must meet the competence requirements in effect at the time services are provided
15	Requirement to have adequate knowledge of Code, Act, and laws	No change
16	National Certificate in Financial Services (Financial Advice) (Level 5) requirement and alternative qualifications	Removing the current DIMS relief and adding a new KiwiSaver AFA pathway Updating the Competence Alternatives Schedule

F Minimum standards for continuing professional training

CS No.	Code Standard description	Recommended change
17	Professional development plan requirement	Adding wording to clarify plan must take account of increasing minimum qualifications
18	Undertaking continuing professional training	Changes to the additional provisions to better align requirements with principled approach, enable greater flexibility for completing CPD, and to clarify the definition of structured CPD and who may deliver structured CPD

ISSUES ADDRESSED IN THIS CONSULTATION PAPER

Considerations

In identifying the key areas for review, the Code Committee has considered:

- Feedback from AFAs
- Aspects where the practical application of the Code's requirements has proven to be unclear - for example, where FMA has had to issue clarifying guidance
- The results of FMA monitoring and surveillance
- Feedback from industry and consumer stakeholder groups
- Input and feedback from a variety of other stakeholders since the Code was first gazetted in 2010, including concerns raised as to accessibility of advice
- Key areas of risk for consumers – particularly limited advice and advice to cover particular financial product offerings such as KiwiSaver
- Proposed changes to the qualifications framework and the implications of the competence alternatives eligibility sunset
- Reforms in other jurisdictions, particularly the impact of the Future of Financial Advice reforms in Australia
- Changes required as a result of changes in the legislative framework
- FMA's draft guidance on DIMS, limited personalised advice and communication and record-keeping.

Impact of new qualifications framework

A special consideration is the impact of the proposed new qualifications framework.

Over the next 12-18 months, new requirements for the Level 5 Certificate in Financial Services (which will be renamed the New Zealand Certificate in Financial Services (Level 5) (with strands in Trustee; Insurance – Fire and General; Insurance – Life and Health; Investment; Banking; Financial Advice; Residential Property Lending; Personal Lending)) will be introduced. The new requirements will involve more credits than the existing Level 5 requirements, raising the level of competence, knowledge and skill required to provide financial adviser services.

Without full details of the new framework being finalised, it is not appropriate at this point to consult on specific changes to the Code's competence, knowledge, and skills sections. However, the Committee has identified opportunities to enhance Code Standards in sections E and F with the prospect of future changes in competency requirements in mind. This will ensure existing AFAs are clear that whenever they provide a financial adviser service, they will need to demonstrate they have competence, knowledge and skills that is at least at an equivalent level to that required of a new AFA at the time.

Please note, there is no proposal for existing AFAs to have to sit the new Level 5 qualifications when they become available (subject to standard FMA licence renewal checks).

An additional limited consultation dealing specifically with the qualification changes and transition arrangements is expected to occur later in 2014 once the new requirements for the Level 5 Certificate in Financial Services have been finalised.

Issues for consultation

Based on the considerations outlined above, the Committee is seeking your feedback on recommendations relating to the issues summarised below. A discussion of each issue, the Committee's view and the recommended action (with proposed changes to Code Standard wording highlighted) can be found on the page or pages identified in the summary table below.

Code section C: Minimum standards of ethical behaviour

Page (s)	Topic
9 -10	Issues related to placing the interests of clients first <ul style="list-style-type: none"> ○ Clarifying Code Standard 1 as an absolute standard ○ The definitions - 'Best interests' vs 'Client first'
11-12	Scope of service, particularly the risk of AFAs communicating an unduly restricted scope of service
13-15	Issues relating to conflicts of interest <ul style="list-style-type: none"> ● Proposed new Code Standard 5 given the current standard's limited application and the absence of a dedicated standalone conflict of interest Code Standard ● The approach to conflicted remuneration in light of Australian reforms

Code section D: Minimum standards of client care

Page (s)	Topic
16-17	Professional behaviour, in particular issues around the interpretation and practical application of Code Standard 6 (d)
18-19	Issues around the requirement to ensure clients are able to make informed decisions in particular circumstances: <ul style="list-style-type: none"> ● KiwiSaver ● Scope of Discretionary Investment Management Service
20-21	Suitability <ul style="list-style-type: none"> ● Options to address issues in relation to limited scope of advice ● Clarity around suitability requirements for ongoing DIMS service
22-23	Basis for advice, in particular the amount of paperwork for limited personalised services
24-25	Retention of information when using third party platform providers

Code section E: Minimum standards of competence, knowledge, and skills required to provide financial adviser services

Page (s)	Topic
26	Requirements for existing AFAs when the new Level 5 certificate is in place
27	DIMS competency Standard Set C relief
28-29	The need for a tailored competence path for KiwiSaver
30-31	Competence alternatives schedule changes required when changes to qualifications framework and eligibility sunset come into effect

Code section F: Minimum standards for continuing professional training

Page (s)	Topic
32	Professional development plan requirements – how to enable an increase in standards over time
33-35	CPD requirements and level of prescription of the current approach

Issues not covered in this paper

The Committee welcomes general comments on any issues not covered in this paper, as provided for in the submission template form.

DETAILS OF ISSUES AND RECOMMENDED CHANGES

Code section C: Minimum standards of ethical behaviour

Placing the interests of clients first

Clarifying the absolute standard

The obligation to place the interests of the client first and act with integrity (Code Standard 1), as an ethical behaviour standard, is stated to apply to all activities of an AFA, and was intended to be a ‘first amongst equals’ Code Standard in that it provided an absolute standard that is always in play, irrespective of the application of any other Code Standard. It has been suggested that observing the requirements of relief or disclosure mechanisms under other Code Standards provides relief from Code Standard 1. It has also been queried whether there is any presumption that a failure to comply with the requirements of any other Code Standard will result in Code Standard 1 being breached, or whether something more is required to give rise to a breach here.

Code Committee view

The Committee proposes to clarify the paramountcy of Code Standard 1, by adding additional wording to the end of the first paragraph of the detailed commentary. This change reinforces that Code Standard 1 is number one for a reason. Where other Code Standards appear to offer other requirements, an AFA should always refer back to the ‘spirit’ of the Code expressed by this Code Standard. Many of the other Code Standards can be categorised as examples of the application of Code Standard 1. They should be applied to client circumstances, always guided by the ‘client first’ standard.

Recommended change

Current: Code Standard 1 – Additional provisions	Proposed: Code Standard 1 – Additional provisions
<p>This Code Standard applies to any activity of an AFA that relates to the AFA's <i>financial adviser services</i>.</p>	<p>This Code Standard applies to any activity of an AFA that relates to the AFA's <i>financial adviser services</i>. The obligation to place the interests of the <i>client</i> first and act with integrity applies irrespective of the application and effect of any other Code Standard. A failure to comply with the requirement of any other Code Standard will usually result in an AFA having also failed to comply with this Code Standard.</p>

Question(s) for submitters

Question 1: Do you agree that adding additional wording is desirable to clarify the absolute application of this Code Standard?

Question 2: Do you agree with the proposed wording?

Placing the interests of clients first

'Best interests' vs 'Client first'

During development of the Code, alternative client interest definitions such as 'best interests' or 'benefit of the client' were considered. Some submitters raised concerns 'client first' was too colloquial and imprecise. The Committee disagreed and, with the addition of a 'reasonableness' qualification, maintained the 'client first' definition.

However the alternative to placing the clients' interests first that is in force in Australia is for advisers to act in the 'best interests' of clients.

Code Committee view

The Committee believes that the 'client first' standard provides greater clarity in its application. It is a more effective approach than incorporating a 'best interests' of the client standard. The latter is not very clear in its meaning in an advisory setting, nor is it necessary when there is a suitability requirement and an overarching standard of placing the client first.

Recommended change

No change proposed.

Scope of service

Risk of unduly restricting communicated scope of service

Code Standard 1 provides relief for AFAs so that they are only required to advise clients in relation to financial products or matters that are within their communicated scope of service, with express relief from needing to consider or provide financial adviser services in relation to other financial products or matters outside of that scope.

Recent case law has held that advisers may be found to be negligent where they have failed to at least alert the client to the fact that there might be other suitable investments that were outside of their scope of service.

In Australia, changes to their regulatory guidance note RG175, include a requirement for licensees to demonstrate that they have considered financial products which are not on the licensee's approved product list, and may need to refer clients to other advisers for advice on products that are out of scope. Is there a risk of AFAs unduly restricting their communicated scope of service?

Code Committee view

Code Standard 1 allows AFAs flexibility to appropriately define their scope of service. The Committee believes that the combination of the client care standards should ensure that AFAs' ability to limit their scope of service does not undermine the consumer protection provided by the Code. In particular, the requirement to ensure suitability (CS8), and ensure clients are able to make informed decisions (CS7), mean no clarification is required. The Committee does not believe it is appropriate to place an express obligation on advisers to consider the relative merits of financial products that are outside their specified scope of service. The existing obligations placed on AFAs under the Code are sufficient to require them to identify types of alternative financial products that might be suitable, where relevant.

The Committee supports the view that it may be appropriate, in some circumstances, for an adviser to communicate to their client that their scope of service is restricted to a particular product, or to a particular type of product or products (such as KiwiSaver) or does not extend to particular types of service (such as advice on trusts or wills). Advisers, industry groups and other stakeholders have identified that the current AFA requirements might actually be a barrier, in some circumstances, for consumers to seek and pay for competent and professional advice on KiwiSaver. However, the Committee also believes that it is inappropriate, and contrary to consumers' interests, that advisers might seek to use this Standard to exclude a consideration of other 'matters' from their scope.

On balance, the Committee also considers it desirable to highlight the fact that all scopes of service, no matter how restricted, must still be sufficient to ensure the client's interests are promoted.

Recommended change

Current: Code Standard 1: Additional provisions

Proposed: Code Standard 1: Additional provisions

An AFA is required to advise a *client* only in relation to *financial products* or matters that are within the scope of the AFA's *financial adviser services*, as advised to the *client in writing*. An AFA is not required to consider or provide *financial adviser services* in relation to *financial products* or matters that are not within that scope in order to comply with this **Code Standard**.

An AFA is required to advise a *client* only in relation to *financial products* ~~or matters~~ and is only required to provide services that are within the scope of the AFA's *financial adviser services*, as advised to the *client in writing*. An AFA is not required to consider or provide *financial adviser services* in relation to *financial products* ~~or matters~~ that are not within that scope in order to comply with this **Code Standard**.

However, when providing *personalised services*, an AFA's scope of service must ensure that those services promote the interests of the *client*.

Question(s) for submitters

Question 3: Do you agree with this approach?

Conflicts of interest

Proposed new Code Standard 5

Code Standard 5 prohibits financial advice being given to a retail client in relation to financial products that are not offered to the public if the AFA is related to the product provider. This Code Standard is expressly stated to be very limited in its application. It is likely to be even further limited under the Financial Markets Conduct Bill. The Committee has considered whether it should be replaced by an alternative standard to provide a more generic conflict of interest ethical behaviour Code Standard.

Code Committee view

The Committee considers Code Standard 5 should be deleted due to its increasingly limited application. Replacing it with an explicit 'conflicts of interest' Code Standard would make the requirement to address the risks of improper influences caused by conflicts of interest clearer. The proposed wording of the headline Code Standard reflects the existing wording from Code Standard 6 (c), so the headline requirement is not new, but is given greater prominence and with greater clarity provided over the principles involved in transparently managing a conflict of interest.

The Committee's recommended change to Code Standard 1 (clarifying the paramountcy of the client first obligation) also addresses perceived risks of improper influences, and the proposed Code Standard 5 should refer to the overarching requirement to meet client first obligations.

Recommended change

Current: Code Standard 5	Proposed: Code Standard 5
<p>An <i>Authorised Financial Adviser</i> must not provide <i>financial advice</i> to a <i>retail client</i> in relation to a <i>financial product</i> that is not offered to the public if the <i>Authorised Financial Adviser</i> is a <i>related person</i> of the <i>product provider</i> of that <i>financial product</i>.</p> <p>This Code Standard does not apply:</p> <ul style="list-style-type: none">(a) if the <i>client</i> is a <i>related person</i> of the <i>AFA</i>, or is a <i>related person</i> of the <i>AFA's</i> employer or <i>principal</i>; or(b) if the <i>AFA</i> is satisfied on reasonable grounds that the <i>AFA's financial advice</i> is appropriate for the <i>client</i> and, before the <i>client</i> makes a decision in relation to the <i>financial product</i> to which the <i>financial advice</i> relates, the <i>AFA</i> provides to the <i>client</i> in writing:<ul style="list-style-type: none">(i) an explanation of the <i>AFA's</i>	<p>An <i>Authorised Financial Adviser</i> must transparently manage any conflicts of interest that may arise when providing a <i>financial adviser service</i>.</p> <p>Transparency requires an <i>AFA</i> to identify, and clearly and effectively communicate to the <i>client</i>, all material interests the <i>AFA</i> or a <i>related person</i> may have. An interest is regarded as material for this purpose if a reasonable person in the position of the <i>client</i> would consider an <i>AFA's financial adviser services</i> might be influenced by the interest.</p> <p>Effectively communicating a conflict requires</p>

<p>relationship with the <i>product provider</i> of the <i>financial product</i>, the risks of the <i>financial product</i>, and details of how the <i>AFA</i> manages any conflict of interest arising as a result of that relationship; and (ii) a recommendation that the <i>client</i> takes <i>financial advice</i> from another <i>AFA</i> who is not a <i>related person</i> of the <i>product provider</i>.</p> <p>The purpose of this Code Standard is to protect the interests of <i>retail clients</i> in the rare situations where a <i>retail client</i> may hold, or lawfully be offered the opportunity to acquire, a <i>financial product</i> that is not <i>offered to the public</i>. Accordingly, this Code Standard is very limited in its application. It does not enable an <i>AFA</i> to provide <i>financial advice</i> to a <i>retail client</i> in relation to the acquisition of a <i>financial product</i> that is not able to be lawfully offered to the <i>client</i>.</p>	<p>an <i>AFA</i> to take reasonable steps to ensure the <i>client</i> understands the full extent of the <i>AFA's</i> interest, and the measures the <i>AFA</i> has in place to manage any risk of improper influence the interest creates.</p> <p>Managing a conflict of interest requires an <i>AFA</i> to ensure that the interests of the <i>client</i> are still placed first, notwithstanding the conflict of interest.</p>
<p>Current Code Standard 6 (c)</p>	<p>Current Code Standard 6 (c)</p>
<p>When providing <i>financial adviser services</i> to a <i>client</i>, an <i>AFA</i> must:</p> <p>....</p> <p>(c) transparently manage any conflicts of interest that may arise in providing the services</p>	<p>To be deleted.</p>

Question(s) for submitters

Question 4: Do you agree with replacing the existing Code Standard 5 with a broader-based obligation in relation to conflicts of interest?

Question 5: Do you agree with the proposed wording of new Code Standard 5?

Conflicted remuneration

Banning conflicted remuneration

With Australian reforms in this area having extended to banning the receipt of conflicted remuneration by financial advisers, the Committee has considered whether it would be appropriate to place further limitations on the ways in which AFAs can be remunerated.

Code Committee view

The Committee's view is that seeking to impose any form of ban or limitation on particular types of AFA remuneration would be outside the jurisdiction of the Code. Placing ethical behaviour and/or client care obligations around what happens where conflicted remuneration is received is as far as the Code should extend.

Placing the proposed new 'conflicts of interest' Code Standard in the ethical behaviour section, provides a clearer emphasis on the high level professional standard an AFA must meet in the event that conflicted remuneration is received. It reinforces that managing conflicts of interest requires more than just adequate disclosure.

Recommended change

No change proposed, but see proposed new 'conflicts of interest' Code Standard 5.

Code section D: Minimum standards of client care

Professional behaviour

Misinterpretation of Code Standard 6 (d)

Code Standard 6(d) has inadvertently given rise to much debate as to what was intended by reference to a financial product being 'analysed'. The requirement for analysis has been misinterpreted as imposing a default obligation to obtain independent third party analysis (in the stockbroker sense of the word) of any opportunity being recommended to a client. FMA guidance released in relation to this issue has assisted to clarify this confusion, but conservative advice and vested interests in this area are still distorting the message.

Code Committee view

The intended focus of Code Standard 6 (d) was to ensure AFAs had a reasonable basis for making any recommendations.

The restriction imposed in the original wording ensured that the onus was clearly placed on the AFA to demonstrate reasonableness of any recommendation made, as intended. However the practice of applying the restriction so as to prohibit recommendations of financial products that had not been formally analysed by third parties was not intended, and in the Committee's view is an undesirable constraint on our capital markets.

The Committee proposes rewording Code Standard 6(d) so as to limit recommendations being made in relation to financial products to those that have been assessed or reviewed by the AFA to a level that provides the AFA with a reasonable basis for such recommendation or, where the AFA does not feel he or she has sufficient competence or capacity to directly undertake that to an adequate level, by another person if it is reasonable in all the circumstances for the AFA to rely upon that other person's assessment or review.

This change spells out the intended application of the restriction by clarifying where third party assessment is required, and avoiding any implication that formal third party analysis is essential in every case.

Recommended change

Current: Code Standard 6 (d) (Additional provision)	Proposed: Code Standard 6 (d)* (Additional provision)
<p>When providing <i>financial adviser services</i> to a <i>client</i>, an <i>AFA</i> must:</p> <p>...</p> <p>(d) make recommendations only in relation to <i>financial products</i> that have been analysed by the <i>AFA</i> to a level that provides a reasonable basis for any such recommendation, or analysed by another <i>person</i> upon whose analysis it is reasonable, in all the circumstances, for the <i>AFA</i> to rely.</p>	<p>When providing <i>financial adviser services</i> to a <i>client</i>, an <i>AFA</i> must:</p> <p>...</p> <p>(d) make recommendations only in relation to <i>financial products</i> that have been assessed or reviewed by the <i>AFA</i> to a level that provides the AFA with a reasonable basis for any such recommendation or, where the AFA does not have sufficient competence or capacity to undertake such an assessment or review to an adequate level, by another person if it is reasonable in all the circumstances for the AFA to rely upon that other person's assessment or review.</p>

*Note: if Code Standard 6 (c) becomes a new Code Standard 5 (see discussion on 'conflicts of interest' above), this additional provision will become new Code Standard 6 (c).

Question(s) for submitters

Question 6: Do you agree it is desirable to clarify the provision?

Question 7: If you agree it is desirable to clarify Code Standard 6 (d), do you agree with the proposed new wording? In particular, please comment on whether the ability to rely on a third party's assessment or review should only arise where the AFA lacks competence or capacity to carry out the task direct, as currently proposed.

Informed decisions

KiwiSaver

For many New Zealanders, KiwiSaver will be their first investment and will impact their future financial security. Given KiwiSaver's importance to consumer confidence in the financial system and for the New Zealand economy more broadly, FMA has made KiwiSaver a priority in its compliance focus. In 2012, FMA released specific guidance on KiwiSaver sales and distribution.

To support this focus, the Committee is proposing a specific KiwiSaver adviser pathway in the standards of competence, knowledge, and skills section of the Code. If this proceeds, the limitation on affected AFA's authorisation will be material. The Committee has therefore considered whether a specific disclosure obligation should be added at Code Standard 7 for AFAs who are limited in their authorisation to advising upon KiwiSaver only.

Code Committee view

The Committee notes that arguably, this is a Financial Advisers (Disclosure) Regulations issue. However, Code Standard 7 provides opportunity for any limitation on an AFA's authorisation to be expressly brought to the attention of any client before they act upon any financial advice provided, within the AFA's client care obligations. The Committee proposes adding the wording 'or authorisation' to Code Standard 7 to ensure this limitation is brought to a client's attention as part of an AFA's client care obligations. Addressed in this way the obligation ensures any limitations beyond just KiwiSaver restrictions are identified, over and above relying on prescribed disclosure.

Recommended change

Current: Code Standard 7 – Additional provisions	Proposed: Code Standard 7 – Additional provisions
<p>The information an <i>AFA</i> may be required to provide a <i>retail client</i> under this Code Standard includes (but is not limited to) information about any limits on the scope of the <i>AFA's financial adviser services</i>, the <i>AFA's</i> qualifications to provide those services, the fees the <i>client</i> must pay, the <i>benefits</i> the <i>AFA</i> or any <i>related person</i> of the <i>AFA</i> will or may receive, and any conflicts of interest the <i>AFA</i> may have, in relation to the <i>AFA's financial adviser services</i> provided to the <i>client</i>.</p>	<p>The information an <i>AFA</i> may be required to provide a <i>retail client</i> under this Code Standard includes (but is not limited to) information about any limits on the scope of the <i>AFA's financial adviser services</i> or authorisation, the <i>AFA's</i> qualifications to provide those services, the fees the <i>client</i> must pay, the <i>benefits</i> the <i>AFA</i> or any <i>related person</i> of the <i>AFA</i> will or may receive, and any conflicts of interest the <i>AFA</i> may have, in relation to the <i>AFA's financial adviser services</i> provided to the <i>client</i>.</p>

Question(s) for submitters

Question 8: Do you agree with this approach?

Informed decisions

Scope of Discretionary Investment Management Service

In early 2013, FMA conducted a thematic monitoring project focused on the approximately 1,300 AFAs authorised to provide Discretionary Investment Management Services (DIMS) – an investment arrangement under which an adviser makes buy-sell decisions in respect of a portfolio of investments, without referring to the client for each transaction. The review found that not all client agreements or investment mandates provided or presented information in a clear, concise and effective way, as required by Code Standards 7 and 9. For example, asset allocations were not well identified. Regulations have since been proposed in relation to DIMS and custody arrangements.

An opportunity exists to add a specific obligation at Code Standard 7 for an AFA to disclose in summary and in plain English the structure and operation of the personalised DIMS provided, including identification of any related parties who might be involved, the custodial arrangements in place, and the extent or limitation on the AFA's discretionary powers and the ongoing fee arrangements.

Code Committee view

On balance, the Committee considers no changes are necessary. The desired disclosures are implicit within the current Code Standards, and key areas of concern are likely to be addressed in the new regulations.

Recommended change

No change proposed

Suitability

Opt-out mechanism

The policy goal of balancing a higher quality of advice to New Zealand investors with maintaining access to financial advice for all investors is of growing importance, especially with the introduction of KwiSaver and share floats targeting 'mum and dad' investors. One approach is to allow AFAs and investors to agree to the provision of limited personalised advice under a limited scope of service. The Committee has considered whether the current suitability opt-out mechanism, and the current response required of AFAs when a client declines to provide information, provide an appropriate balance, or whether further direction in relation to limited personalised services would be beneficial.

Code Committee view

The Committee has considered the option of introducing additional wording to clarify obligations in particular limited circumstances. Options considered have included:

1. Wording spelling out the specific requirements where a client requests a limited scope of service, requiring an AFA to be satisfied that a limited scope is appropriate as well as providing protections where a client's circumstances are too complex for a limited scope of service to be appropriate.
2. Limiting the AFA's obligation to being satisfied the advice provided will promote the client's interests in situations where there is only a single financial product involved and the client circumstances are not complex.
3. Providing express relief for an AFA to revert to providing financial adviser services for an existing client on a class basis, where they are providing a single product, the client's needs are not complex, and the client has expressly asked for advice on a class basis.

On balance, the Committee believes the opt-out mechanism and response to a client declining to provide information, as currently documented at Code Standard 8, provides an appropriate balance in recognising the freedom of clients to select the level of service they require, whilst minimising the risk of an inappropriate degree of loss of the consumer protection intended to be provided by Code Standard 8.

Recommended change

No change

Question(s) for submitters

Question 9: Do you agree with this approach?

Question 10: If adding additional wording would be beneficial which of the alternative approaches outlined above would you support?

Question 11: Is there any other approach you would like the Committee to consider?

Suitability

Discretionary Investment Management Service suitability

AFA's have asked whether the Code provides sufficient clarity about situations where, once a DIMS has been set up, an AFA has offered or attempted to gain an up-to date understanding of the client's financial situation and goals, but for whatever reason has been unable to do so. Should the AFA be given relief if the DIMS portfolio continues to be managed in accordance with the client's last known situation?

Code Committee view

The Committee believes there is already sufficient protection in the Code Standards. These would require an AFA in this situation to continue working to the agreed existing mandate, provide regular reporting and demonstrate they have taken reasonable steps to gain an up-to-date understanding of the client's financial situation.

Recommended change

No change proposed

Basis for advice

Paperwork for scaled or very limited personalised services

FMA's 2012 survey of AFAs revealed many advisers were completing what they considered an unhelpful level of additional paperwork to simply 'cover all the bases'. Some advisers have expressed concern that the paperwork is not helping clients, is adding to the costs of providing advice services, and clients often have no interest in reading it. The paperwork required is considered to be contrary to the objective of building consumer confidence in the financial advisory industry, and is impacting on the accessibility of advice.

The draft FMA Guidance Note: Client Communications and Record Keeping states that Code Standard 9 requires AFAs to provide an explanation as to why a particular proposal is suitable for the client, when explaining the basis on which the AFA's services are provided. In some situations, such an explanation may be required under Code Standard 7, but including that aspect as an automatic part of the explanation of the basis on which services are provided may add further to the concerns over excessive paperwork.

Code Committee view

The Committee acknowledges concerns that an excessive amount of paperwork appears to be being generated solely to evidence compliance with Code Standard 9 (and Code Standard 8) without benefiting the client. The issue is of particular relevance where limited personalised services are provided. The Committee proposes introducing further detailed comment to Code Standard 9 clarifying that the extent of the explanation required under CS9 is influenced by the scope of the service communicated to the client, and to clarify that explaining the basis on which services are provided does not automatically include an explanation of their suitability.

Recommended change

Current: Code Standard 9 – Additional provisions	Proposed: Code Standard 9 – Additional provisions
The extent of any explanation required under this Code Standard is determined by what a <i>retail client</i> would reasonably require for the purpose of deciding whether to follow any advice or guidance provided by the <i>AFA</i> .	The extent of any explanation required under this Code Standard is determined by what a <i>retail client</i> would reasonably require for the purpose of deciding whether to follow any advice or guidance provided by the <i>AFA</i> . In particular, the extent of explanation required is influenced by the scope of the <i>AFA's</i> services communicated to the <i>client</i> , and the complexity of the <i>client's</i> circumstances and the <i>financial adviser services</i> involved. An <i>AFA</i>

is not required to provide the *client* with an explanation as to why any particular recommendation is considered to be suitable for the *client* in order to comply with this **Code Standard**, unless such an explanation is requested by the *client*.

Question(s) for submitters

Question 12: Do you agree that there is a problem with excessive paperwork being generated?

Question 13: Does the proposed wording provide sufficient consumer protection whilst enabling AFAs to provide cost effective advice where the scope of service is limited?

Question 14: If not, what further changes do you think would be beneficial?

Retention of information

Use of third party DIMS platform

Code Standard 13 places an absolute obligation on AFAs to ensure records are kept for 7 years, with relief provided where it is appropriate for the AFA to arrange for a third-party to undertake that obligation. At present, relief is limited to employers and business transferees. Concerns have been raised that this limited relief results in inefficiencies and practical difficulties for AFAs using the services of a platform provider.

Code Committee view

The Committee proposes expanding Code Standard 13 to clarify the extent to which an AFA will be held accountable for the retention and/or retrievability of information where a third party DIMS or portfolio administration service platform provider is utilised. The proposed change will treat obligations in relation to platform providers in a similar fashion to employers.

Recommended change

Current Code Standard 13 – Additional provisions	Proposed Code Standard 13 – Additional provisions
<p>...</p> <p>The records required under this Code Standard may be kept in electronic form, provided the records are readily retrievable.</p> <p>An AFA who is an employee may satisfy the AFA's obligations under this Code Standard by taking reasonable steps to ensure that relevant measures taken by the AFA's employer (or the AFA's previous employer, where applicable) are consistent with the measures contemplated under this Code Standard.</p> <p>Where an AFA transfers the AFA's financial advisory relationship with a <i>client</i> to another <i>financial adviser</i>, the AFA may satisfy the AFA's obligations under this Code Standard by taking reasonable steps to ensure that the other <i>financial adviser</i> keeps the records contemplated under this Code Standard for at least as long as the AFA would otherwise have been required to keep them.</p>	<p>...</p> <p>The records required under this Code Standard may be kept in electronic form, provided the records are readily retrievable.</p> <p>An AFA who is an employee may satisfy the AFA's obligations under this Code Standard by taking reasonable steps to ensure that relevant measures taken by the AFA's employer (or the AFA's previous employer, where applicable) are consistent with the measures contemplated under this Code Standard.</p> <p>An AFA who uses a third party platform to deliver <i>discretionary investment management services</i> or for portfolio administration services may satisfy all or part of the AFA's obligations under this Code Standard by taking reasonable steps to ensure that relevant measures taken by the platform provider are consistent with the measures contemplated under this Code Standard.</p> <p>Where an AFA transfers the AFA's financial</p>

advisory relationship with a *client* to another *financial adviser*, the *AFA* may satisfy the *AFA*'s obligations under this **Code Standard** by taking reasonable steps to ensure that the other *financial adviser* keeps the records contemplated under this **Code Standard** for at least as long as the *AFA* would otherwise have been required to keep them.

Question(s) for submitters

Question 15: Do you agree with this approach?

Code section E: Minimum standards of competence, knowledge, and skills required to provide financial adviser services

Competence, knowledge, and skills to provide service

Requirements for existing AFAs

Once the new Level 5 certificate is in place, the competence, knowledge, and skills an AFA must demonstrate will be at a higher level than that required by AFAs who hold a current Level 5 certificate. This could lead to confusion about the standards an AFA must be demonstrating (ie old or new?).

Code Committee view

The Committee proposes adding wording to Code Standard 14 to clarify that an AFA must demonstrate the competence, knowledge, and skills required at the time they provide that service.

Recommended change

Current: Code Standard 14 – Additional provisions	Proposed: Code Standard 14 – Additional provisions
<p>This Code Standard 14 applies in addition to the requirements of Code Standards 15 and 16 that relate to particular qualifications an <i>AFA</i> must attain.</p> <p>An <i>AFA</i> must be able to demonstrate that the <i>AFA</i> has a reasonable basis for believing that the <i>AFA</i> has the level of competence, knowledge, and skills required by this Code Standard.</p>	<p>This Code Standard 14 applies in addition to the requirements of Code Standards 15 and 16 that relate to particular qualifications an <i>AFA</i> must attain.</p> <p>Irrespective of the <i>AFA</i>'s qualification pathway for attaining <i>AFA</i> status, when providing a <i>financial adviser service</i>, an <i>AFA</i> must be able to demonstrate that the <i>AFA</i> has a reasonable basis for believing that the <i>AFA</i>'s competence, knowledge, and skills are at least equal to the competence, knowledge, and skills required of a person applying to become an <i>AFA</i> at the time the service is provided.</p>

Question(s) for submitters

Question 16: Do you agree with this approach?

DIMS competency

Standard Set C

Currently, provided an AFA satisfies Code Standard 14 an AFA may provide a discretionary investment management service for a client without having attained Unit Standard Set C. The proposed new definition of personalised DIMS under the Financial Markets Conduct Bill legislative reforms and the impending removal of the ability of an AFA to provide DIMS on a class service basis, places greater emphasis on the tailoring of key DIMS components. This means the financial advice competencies demonstrated under Unit Standard Set C are now of greater relevance for AFAs wishing to provide DIMS.

Code Committee view

The Committee proposes removing the current relief. This means new applicants for AFA status seeking authorisation for providing personalised DIMS will need to satisfy Standard Set C. All AFAs who are currently authorised to provide DIMS will need to ensure that their CPD is appropriately constructed to ensure they have or maintain competence in the areas covered by Unit Standard Set C.

Recommended change

Current: Code Standard 16 – Additional provisions	Proposed: Code Standard 16 – Additional provisions
(b) may provide a <i>discretionary investment management service</i> for a <i>client</i> without having attained <i>Unit Standard Set C</i> ; and	(b) may provide a <i>discretionary investment management service</i> for a <i>client</i> without having attained <i>Unit Standard Set C</i>; and

Question(s) for submitters

Question 17: Do you agree with removing this relief from the competence requirements for DIMS?

KiwiSaver

Tailored competence path

If we are to enhance the accessibility of financial advice for retail clients with KiwiSaver investments, a tailored competence pathway is required, recognising that for financial advisers whose only desired exposure to Category 1 products is KiwiSaver, the current content of Unit Standard Set D with the Level 5 Certificate (Financial Advice) is far broader than is necessary. The review of the qualifications framework is considering how to address this, but given the pressing need to increase accessibility there may be opportunities for an interim pathway. This would be via a KiwiSaver certificate to be administered by a training provider approved for this purpose by The Skills Organisation (SKILLS).

Code Committee view

The Committee considers that it would be appropriate to provide for a tailored competence pathway for AFAs whose only exposure to Category 1 product is the provision of financial advice in relation to investing, transferring, or withdrawing from KiwiSaver.

The Committee proposes a further exception to the full requirements of Code Standard 16 to allow financial advice to be provided for a client in relation to acquiring or disposing of a KiwiSaver investment without having attained Unit Standard Set D if the AFA has attained the approved KiwiSaver certificate. Such AFAs will still need to attain Unit Standard Sets A, B, and C and would have a tagged authorisation with an obligation to disclose the limitations on their authorisation, that will flow through to Code Standard 7.

The Committee considers that Unit Standard Sets A, B and C provide an essential level of assurance as to the AFA's competence to deliver financial advice, and do not propose allowing relief from those requirements. The Committee has confidence that the quality assurance systems of SKILLS provide an adequate level of assurance for the ability of approved training entities to grant a KiwiSaver certificate. The Committee considers this option is only appropriate as an interim measure, until a specific KiwiSaver endorsement is finalised as part of the Level 5 Certificate in Financial Services. The Committee anticipates authorisations granted in reliance on this pathway will be tagged so as to require the KiwiSaver endorsement to be attained when available.

Recommended change

Note: Please see discussion on DIMS competency to see why this is proposed to be a new bullet (c)

Current: Code Standard 16	Proposed: Code Standard 16
.... [no current relief for KiwiSaver-only advice] and (c) may provide <i>financial advice</i> in relation to acquiring or disposing or retaining a KiwiSaver investment without having attained Unit Standard Set D if the AFA has attained the <i>KiwiSaver certificate</i> .

Add to Section H: Definitions schedule

KiwiSaver certificate means a certificate of competence to provide *financial advice* in relation to KiwiSaver, issued by a training provider approved by The Skills Organisation for this purpose.

Question(s) for submitters

Question 18: Do you agree that the Code should recognise an alternative pathway for KiwiSaver only AFAs?

Question 19: If so, do you agree with the terms of the proposed KiwiSaver pathway?

Question 20: Would it be appropriate for groups other than training providers approved by SKILLS to deliver the KiwiSaver certificate. For example, Qualifying Financial Entities (QFEs) may also be appropriate given their regulatory oversight by FMA.

Competence Alternatives Schedule

Changes to qualifications framework and eligibility sunset

The current eligibility sunset rules end on 1 January 2014, meaning a number of alternative qualifications or designations will be removed from the Code for new applicants. In addition references to the NZSE Diploma and Adviserlink Learning Courses are likely to be redundant. Given its internationally recognised status, there are strong arguments supporting the continued recognition of CFA Charterholders.

Code Committee view

Having considered the full range of alternatives currently provided in the Code, and developments in the Level 5 Certificate, the Committee considers it is appropriate from 1 January 2014, to retain the existing alternatives to Unit Standard Set A, and the CFA Charterholder alternative designation to Unit Standard Set D, but all other alternative qualifications and delegations should be removed from section G: Competence Alternatives Schedule. Once the new requirements for the Level 5 Certificate in Financial Services have become available for prospective AFAs to attain, the Committee envisages removing all competence alternatives with the possible exception of the CFA Charterholder designation. The Code is expected to continue to recognise AFAs working towards the current requirements of the Level 5 Certificate (Financial Advice) for a reasonable transition period.

The Committee's view is that so long as authorisation has been maintained, AFAs who first became authorised in reliance upon an alternative that is no longer available to new applicants should continue to be regarded as satisfying minimum competence requirements for ongoing authorisation. With CPD obligations each year set at a level consistent with the prevailing threshold to become an AFA, any potential qualification gap should be addressed.

In addition, whilst it seems unlikely that reliance on a lapsed designation previously attained will be made by any new applicants for authorisation, the Committee has no evidence to discount the possibility. Accordingly the Committee considers it necessary to continue to cater for such applicants, but with their CPD obligations updated to reflect proposed changes to Code Standard 18.

Recommended change

Note: Please see discussion of Code Standard 18 for reasons behind the proposed changes in the first bullet below.

Current Code Standard 16: Competence Alternatives Schedule and additional provisions	Proposed Code Standard 16: Competence Alternatives Schedule and additional provisions
For the purposes of the <i>Competence Alternatives Schedule</i> :	For the purposes of the <i>Competence Alternatives Schedule</i> :

- a designation previously attained that has not been retained at the time an AFA seeks authorisation will still be recognised for the purposes of the Schedule, provided the AFA has completed at least 20 hours CPD in the 12 months immediately before first becoming authorised, including at least 10 hours of structured training as described in Code Standard 18; and
- references to a qualification paper or designation being “subject to the *eligibility sunset*” mean the relevant qualification, paper, or designation must be fully attained at the time the AFA seeks authorisation for the first time, and the qualification, paper, or designation will only be recognised for authorisations that come into effect prior to 1 January 2014.

- a designation previously attained that has not been retained at the time an AFA seeks authorisation will still be recognised for the purposes of the Schedule, provided that in the two CPD periods immediately before first becoming authorised, the AFA has completed no less than 30 hours of structured professional development as described in Code Standard 18; and

Second bullet to be deleted in its entirety and a new paragraph (d) will be added to the list of alternatives within the additional provisions of Code Standard 16 as follows:

However, provided the AFA satisfies Code Standard 14 an AFA:

...

(d) who first became authorised to provide a financial adviser service in reliance upon a competency pathway that is no longer available to new applicants for authorisation will continue to be regarded as satisfying the minimum competence requirements for providing that financial adviser service, provided there has been no break in the AFA’s authorisation and the AFA is able to demonstrate compliance with CPD obligations over the course of the AFA’s authorisation.

Question(s) for submitters

Question 21: Do you agree with this approach?

Code Section F: Minimum standards for continuing professional training

Professional development plan

Enabling increase in standards over time

Given the pending changes in the qualifications framework, existing AFAs will need to ensure their development plans are designed so as to ensure their competence, knowledge, and skills are maintained at a level that is at least equal to any heightened minimum requirements. Note, the Committee does not anticipate imposing a requirement for existing AFAs to sit the enhanced requirements Level 5 certificate once available, but they must be able to demonstrate their competence, knowledge, and skills are at an equivalent level.

Code Committee view

The Committee proposes adding a new additional provision (d) to Code Standard 17. This will reinforce the need for plans to be developed having regard to the minimum level of competence required of an AFA at the start of each CPD period

Recommended change

Current: Code Standard 17 – Additional provisions	Proposed: Code Standard 17 – Additional provisions
<p>An AFA’s professional development plan must:</p> <p>...</p> <p><i>No (d)</i></p>	<p>An AFA’s professional development plan must:</p> <p>...</p> <p>(d) take into account the minimum level of competence, knowledge, and skills an AFA is required to be able to demonstrate to provide that service under Code Standard 16 at the start of the <i>CPD period</i>, with a view to ensuring the AFA’s competence, knowledge, and skills are at least at that level.</p>

Question(s) for submitters

Question 22: Do you agree with the proposed extension to the presented requirements for a professional development plan?

CPD requirements

Prescription of current approach

Relative to other sections of the Code and their additional provisions there has been feedback that the additional provisions setting out the minimum requirements to satisfy Code Standard 18 is an overly prescriptive approach. Comments from advisers indicate that the principle stated in the Code Standards is being undermined by the manner in which the additional provisions are being applied.

There has been considerable debate about the efficacy of the approach taken in Code Standard 18 in differentiating between structured and unstructured training, and how best to define structured training. The Skills Organisation has produced a paper 'In Principle – Good Practice CPD Principles for Providers of Continuing Professional Development to NZ Financial Advisers' that is tabled on the Code Committee's website for ease of reference. The Committee has considered this paper, along with examples of CPD regimes in force in other professions and jurisdictions to help inform it in determining a minimum best practice model for AFAs.

Code Committee view

The Committee feels the additional provisions to the Code Standard should be revised to better support the principles behind the Code Standard and allow a more effective level of flexibility in discharging requirements.

Recommended change

Current: Code Standard 18 – Additional provisions	Proposed: Code Standard 18 – Additional provisions
<p>An AFA must in each <i>CPD period</i> complete a minimum of 20 hours of professional development relevant to the <i>financial adviser services</i> the AFA provides or intends to provide.</p> <p>That professional development must, in each <i>CPD period</i>, comprise at least 10 hours of structured training.</p> <p>To be structured training, the training must form part of the requirements for a qualification on either the National Qualifications Framework or the national register of quality assured qualifications, or be part of a structured continuing professional development programme managed by a <i>DAO</i>, <i>QFE</i>, or <i>professional body</i>.</p> <p>An AFA must keep appropriate records of any</p>	<p>In order to satisfy this Code Standard, an AFA must complete no less than 30 hours of <i>structured professional development</i> every two <i>CPD periods</i>.</p> <p>In addition to that minimum <i>structured professional development</i> requirement, in each <i>CPD period</i> an AFA must undertake such additional training as is necessary to maintain the AFA's competence at the appropriate level required by this Code Standard or to satisfy the AFA's professional development plan for that <i>CPD period</i>, whether in the form of additional <i>structured professional development</i> or some other form.</p> <p>An AFA must keep appropriate records of any <i>CPD</i> activity completed that is required by this</p>

CPD activity completed that is required by this **Code Standard** in a form suitable for demonstrating compliance with this **Code Standard**. The records contemplated under this **Code Standard** include:

- (a) the name of the *CPD* activity; and
- (b) the date of completion; and
- (c) how many hours of *CPD* it involved; and
- (d) a brief description of the *CPD* content covered by it; and
- (e) whether it constituted structured training; and
- (f) in relation to structured training, relevant third-party verification of the successful completion of that training, such as confirmation by the training provider or by the *AFA's* employer or *principal*.

Code Standard in a form suitable for demonstrating compliance with this **Code Standard**. The records contemplated under this **Code Standard** include:

- (a) the name of the *CPD* activity; and
- (b) the date of completion;
- (c) how many hours of *CPD* it involved; and
- (d) a brief description of the *CPD* content covered by it; and
- ~~(e) whether it constituted structured training; and~~
- ~~(e) in relation to structured training,~~ relevant third-party verification of the successful completion of any *structured professional development*, such as confirmation by the training provider or by the *AFA's* employer or *principal*.

Structured training and TEO to be defined in the Definitions Schedule as follows:

Structured professional development

training that is relevant to the *financial adviser services* the *AFA* provides or intends to provide, that is related to the learning requirements identified in the *AFA's* professional development plan, and either:

- (a) Forms part of the requirements for a qualification on the New Zealand Qualifications Framework or that forms part of the requirements for an equivalent level of overseas qualification; or
- (b) Is provided by a suitably qualified educator or subject matter expert, verified as such by a *professional body*, *TEO* or *QFE*, where participation in the *CPD* is capable of third party verification.

Structured professional development may include training on a class of financial product, but does not include training on a particular provider's *financial product* where that training is provided to promote or assist with selling that financial product.

TEO

has the meaning given by section 159B of the Education Act 1989 which defines organisations that can describe themselves as tertiary education organisations

Question(s) for submitters

Question 23: Do you agree that CPD should be assessed on a rolling two-year basis as opposed to annually?

Question 24: Do you agree with removing the specified minimum hours of unstructured training?

Question 25: Do you agree with the revised definition of structured CPD?

Question 26: Do you agree that requiring 30 hours of structured CPD (however defined) over a two-year period reflects an appropriate minimum level of commitment to CPD?

CODE CHANGES TO ADDRESS REGULATORY REFORMS

As part of this review, the Code will be formally updated to reflect changes in the legislative framework, most significantly changes to the Financial Advisers Act, the replacement of the Securities Commission with the Financial Markets Authority, and the passage of the Financial Markets Conduct Bill. These changes will typically be minor.

INDICATIVE TIMELINE

The timeline is subject to change depending on feedback received, and approval and legislative processes. However indicative key dates are:

Date	Activity
9 Aug	Release of consultation paper
W/c 19 Aug	Meetings Auckland, Wgtn and Chch
W/c 26 Aug and 2 Sept	Webinar and meetings with stakeholder groups, on request
6 Sept	Submissions close
27 Sept	Issues and responses paper and exposure version of updated Code released
11 Oct	Final day to receive feedback on exposure version
Late Oct	Revised Code submitted to FMA for approval
Nov/Dec	Ministerial approval and gazetting
Early 2014	Revised Code comes into force

HOW TO MAKE SUBMISSIONS AND GIVE FEEDBACK

We encourage you to provide your feedback on the proposed changes to the Code of Professional Conduct for Authorised Financial Advisers.

Please use the submission template provided in Appendix A and return it to us by:

- emailing your completed submission to us at consultation@financialadvisercode.govt.nz; or
- posting to us:

Code Committee
C/- Financial Markets Authority
PO Box 106 672
AUCKLAND 1143

You must specify in writing if you require your submission, or part of it, to remain confidential to the Code Committee and the Secretariat, subject to any overriding statutory obligation.

Your submission on this consultation paper must be made by: 5 pm, Friday 6 September 2013.

The Code Committee's website is www.financialadvisercode.govt.nz. All consultation papers and other documents released by the Code Committee can be downloaded from this website.

APPENDIX A – SUBMISSION TEMPLATE

Submission: Code Committee review of the Code of Professional Conduct for Authorised Financial Advisers Consultation Paper

Please use this template and email your submission to [consultation@financialadvisercode.govt.nz]. Alternatively, post your submission to Code Committee, C/- Financial Markets Authority, PO Box 106 672, AUCKLAND 1143. Submissions must be received by 5 pm Friday 6 September 2013.

Submission by:

Person: _____
Company or entity: _____
Organisation type: _____
Contact person: _____
E-mail: _____
Phone: _____
Other contact info: _____
Total pages: _____
Date: _____

For each question please note your comments and suggestion for improvement (if any). If you agree with a proposal and have no further comments, please just note 'agree' in the submission column.

Question number	Submission	Suggestion for improvement (if any)
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Changes not covered in the consultation paper

If you would like to propose changes to any aspect of the Code not covered in the consultation paper, please record your submission in the following table.

Code Standard number or Code section	Proposed change	Rationale for proposed change

Submission summary:

[Complete this if you wish to highlight key points and/or recommendations.]

Confidentiality:

[Please state in writing here, if you wish your submission, or any part of it, to remain confidential to the Code Committee and the Secretariat, subject to any overriding statutory obligation.]