

## **Code of Professional Conduct for Financial Advice Services Consultation**

### **[Standard 1] Treat clients fairly and act in their interests**

- 1. Overall, do you agree or disagree with this standard and proposed commentary?***
- 2. Please provide any comments on this standard and the proposed commentary.***

We are concerned about potential confusion between this standard's wording "act in their interests" and the legislation "give priority to client's interest".

Accept the legislation is essentially addressing conflicts of interest while the Code Standard takes a wider view. The concept of treating clients "fairly" is subjective and the commentary does not explain the concept of acting in a client's interest.

This standard could be easily merged with Standard 2, as was the case in the AFA Code, with the reference to client's interest removed given it is covered off in the legislation.

### **[Standard 2] Act with integrity**

- 3. Overall, do you agree or disagree with this standard and proposed commentary?***
- 4. Please provide any comments on this standard and the proposed commentary.***

As stated previously, consideration should be given to merging Standards 1 and 2.

### **[Standard 3] Manage conflicts of interests**

- 5. Overall, do you agree or disagree with this standard and proposed commentary?***
- 6. Please provide any comments on this standard and the proposed commentary.***

We observe that this Standard and commentary is about *managing conflicts* of interest, not *avoiding* them and yet the first bullet point implies, particularly because it is the first bullet point, that if it is at all practical a conflict should be avoided.

The delivery of advice should not be prevented where a conflict is disclosed in a way that enables the client to make an informed decision and the client still wishes to proceed.

**[Standard 4] Take reasonable steps to ensure that the client understands the financial advice**

***7. Overall, do you agree or disagree with this standard and proposed commentary?***

***8. Please provide any comments on this standard and the proposed commentary.***

The example provided is confusing and should be removed or re-written.

**[Standard 5] Give financial advice that is suitable for the client**

***9. Overall, do you agree or disagree with this standard and proposed commentary?***

***10. Please provide any comments on this standard and the proposed commentary.***

**[Standard 6] Protect client information**

***11. Overall, do you agree or disagree with this standard and proposed commentary?***

***12. Please provide any comments on this standard and the proposed commentary.***

The Standard is actually wider than the principles which apply under the Privacy Act and which only apply to personal information. Client information can include information about an entity which is outside the scope of the Privacy Act. We suggest the standard needs to be qualified to allow the provider to use such information as otherwise agreed with the client.

In regard to the use of “anonymised” data, this should generally be allowed given its importance in business intelligence, analysis and providing client to support.

**[Standard 7] Resolve complaints**

***13. Overall, do you agree or disagree with this standard and proposed commentary?***

***14. Please provide any comments on this standard and the proposed commentary.***

This standard should state the need for an internal complaints process which must be explained to clients and when taking it to the external dispute resolution service is appropriate.

**[Standard 8] Not bring the financial advice industry into disrepute**

***15. Overall, do you agree or disagree with this standard and proposed commentary?***

***16. Please provide any comments on this standard and the proposed commentary.***

The wording here is very vague e.g. what does “confident and informed participation by consumers” mean.

**[Standard 9] Have general competence, knowledge, and skill**

**17. Overall, do you agree or disagree with this standard and proposed commentary?**

**18. Please provide any comments on this standard and the proposed commentary.**

Our concern here is that the Standard states a Nominated Representative (NR) has the capabilities equivalent to an individual Financial Adviser. This is clearly not correct; individual NR do not need to meet the same competence, knowledge, and skill requirements as an individual Financial Adviser.

**[Standard 10] Keep competence, knowledge, and skill up-to-date**

**19. Overall, do you agree or disagree with this standard and proposed commentary?**

**20. Please provide any comments on this standard and the proposed commentary.**

The requirements under this standard lack any benchmark or criteria for what is necessary. There should be a requirement for financial advisers and nominated representatives to create an annual CPD plan, complete a minimum number (15) CPD hours per annum and maintain a CPD log.

CPD must be relevant to the individual's CPD plan, be provided by a qualified educator or relevant subject matter expert, and there must be external verification that the CPD actually occurred.

The current Code for AFAs is an appropriate template for this standard.

**[Standard 11] Have particular competence, knowledge, and skill for designing an investment plan**

**21. Overall, do you agree or disagree with this standard and proposed commentary?**

**22. Please provide any comments on this standard and the proposed commentary.**

**[Standard 12] Have particular competence, knowledge, and skill for other types of financial advice**

**23. Overall, do you agree or disagree with this standard and proposed commentary?**

**24. Please provide any comments on this standard and the proposed commentary.**

Refer to our previous comment; again our concern here is that the Standard states a Nominated Representative (NR) has the capabilities equivalent to an individual Financial Adviser. This is clearly not correct; individual NR do not need to meet the same competence, knowledge, and skill requirements as an individual Financial Adviser.

## **General questions**

### ***25. Is there anything missing from the draft Code?***

Yes, clarity

### ***26. If you answered yes, what is missing?***

Overall we are concerned with a number of Standards where due to the vague wording it will be impossible to determine how to demonstrate compliance. While we do not propose a prescriptive approach to the Code, it is desirable to give some guidance for clarity and to ensure those giving advice and the regulatory have a similar view.

### ***27. Do you have any feedback on the examples, or suggestions on other examples that should be included in the draft Code?***

The current examples are either misleading or are self-evident and add little to the Code other than confusion.

### ***28. Is there anything else you want to say?***

We recognise the difficulty under Part Two of how to acknowledge advisers who have a great deal of experience yet hold no formal qualifications. The long term view will be that everyone offering financial advice should have a qualification particularly if they are to be seen as a “professional”.

Therefore looking to the future the Code should set the Certificate in Financial Services (Level 5) as the minimum. This formal qualification has been developed with input from representatives from across financial services and is quality assured by NZQA. All of which gives consumers comfort that their adviser has the appropriate competence, knowledge and skill to give advice.

However in the short term it would be unfortunate to lose experienced advisers because of the need to sit a benchmark, minimum qualification. It is essential therefore to have a transitional arrangement which is not onerous but is independently verifiable to the NZQA standard.

## **Final questions**

### ***29. What is your name?***

Gary Young

**30. Your role or professional title**

CEO

**31. Is this an individual submission or on behalf of an organisation?**

This is a submission on behalf of the Insurance Brokers Association of New Zealand Inc. (IBANZ)

**32. If you give financial advice, are you an AFA, RFA, QFE adviser or other?**

Not applicable

**33. What types of financial advice do you or your organisation give?**

Neither I nor my organisation give financial advice

**34. What your organisation's name?**

Insurance Brokers Association of New Zealand Inc.

**35. What type of organisation is it? (e.g. bank, dealer group, independent adviser, education provider . . .)**

Industry body

**36. Is your organisation's size small (1–10 staff), medium (10–50 staff) or large (50+ staff)?**

Small

**37. If there are other things we should know about you or your business that would provide context to your answers, please provide details below.**

**38. 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.**

Our submission does not contain confidential information.

**39. Please provide your contact details (email and/or phone number)**

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