

**PROPOSED MINIMUM STANDARDS OF
COMPETENCE, KNOWLEDGE AND SKILLS FOR
AUTHORISED FINANCIAL ADVISERS**

23 October 2009

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1. INTRODUCTION

What proposed standards must AFAs meet?

AFAs will need to satisfy minimum standards of competence, knowledge and skills specified in the Code. It is proposed that:

- if an AFA wishes to **provide financial adviser services on an unrestricted basis**, he or she must meet the proposed minimum standards set out in **Table A** in Part 3 of this Consultation Paper; or
- if an AFA wishes to **provide financial adviser services only to wholesale financial service providers**, he or she must fulfil the proposed minimum standards set out in **Table B** in Part 3 of this Consultation Paper.

The Code must also specify minimum standards of ethical behaviour and client care, and provide for continuing professional training. Future consultation papers will relate to these aspects.

What is the timeframe for attaining these proposed standards?

The Securities Commission has indicated to the Committee that its provisional timing expectations are that:

- a draft Code is to be prepared by the Code Committee by early 2010; and
- following this, the Code is to be approved by the Commissioner for Financial Advisers and then by the responsible Minister.

In determining the date on which the Code comes into effect, regard will be had to the time needed for financial advisers to comply with the minimum standards of competence, knowledge and skills. The Commissioner for Financial Advisers will determine the date on which the Code is to come into force.

Terms used

Act	the Financial Advisers Act 2008.
AFA	<p>an authorised financial adviser under the Act, being an individual who is:</p> <ul style="list-style-type: none"> • registered under the Financial Service Providers (Registration and Dispute Resolution) Act 2008; and • authorised by the Securities Commission under the Act.
Code	the code to be made under the Act providing minimum standards of professional conduct for AFAs.
Code Committee	the committee appointed under the Act to prepare a draft Code.
Financial adviser service	financial advice, making an investment transaction, or providing a financial planning service (as defined in the Act).
Registered financial service provider	a person who is registered under the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

2. THIS CONSULTATION PAPER

Outline

This Consultation Paper includes:

- *proposed* minimum standards of competence, knowledge and skills for AFAs (Part 3 of this Consultation Paper); and
- information on:
 - the *proposed* National Certificate in Financial Services (Financial Advice) (Level 5) (revised version as described in Part 4 of this Consultation Paper); and
 - the *proposed* sets of unit standards within the National Certificate (Part 4 of this Consultation Paper); and
 - the *proposed* training and assessment (Part 4 of this Consultation Paper); and
- information on how to provide submissions and feedback in relation to the proposed standards which must be received by **5.00pm 13 November 2009** (Part 5 of this Consultation Paper); and
- background information about –
 - the Code which is to be made providing minimum standards of professional conduct for AFAs (including in relation to competence, knowledge and skills – Part 6 of this Consultation Paper); and
 - the Code Committee’s process for preparing a draft Code (Part 6 of this Consultation Paper).

Activities and classes not covered in this Consultation Paper

Foreign-regulated advisers

This Consultation Paper does not cover the competence, knowledge and skills requirements for foreign-regulated advisers who seek to provide financial adviser services in New Zealand. The Code Committee is liaising with the Securities Commission on the recognition of foreign advisers and may consult further on standards for foreign-regulated advisers in a future round of consultation. The Code Committee welcomes any preliminary feedback on this issue.

Investment transactions

The regulation under the Act of persons performing a financial adviser service extends to people who make investment transactions. As announced by the Minister of Commerce on 13 October 2009, the Ministry of Economic Development is conducting targeted consultation on the regulation of investment transactions. Accordingly, the Code Committee makes no proposals at this stage for minimum standards of competence, knowledge and skills applying only to individuals who may require authorisation by virtue of being involved only in investment transaction activities.

3. PROPOSED MINIMUM STANDARDS OF COMPETENCE, KNOWLEDGE AND SKILLS

Table A

	IT IS PROPOSED THAT, TO OFFER UNRESTRICTED FINANCIAL ADVISER SERVICES, AN AFA MUST:
Either	<ul style="list-style-type: none"> ○ have attained the National Certificate in Financial Services (Financial Advice) (Level 5) (revised version as described in Part 4 of this Consultation Paper);
OR	<ul style="list-style-type: none"> ○ have: <ul style="list-style-type: none"> ➤ a graduate Diploma in Business Studies (Personal Financial Planning) Massey; or ➤ a graduate Diploma in Business Studies (Personal Risk Management) Massey; or ➤ a postgraduate Diploma in Personal Financial Planning Waikato; and ○ have attained Standard Sets B and C (as described in Part 4 of this Consultation Paper);
OR	<ul style="list-style-type: none"> ○ have: <ul style="list-style-type: none"> ➤ a graduate Diploma in Business Studies (Personal Financial Planning) Massey; or ➤ a graduate Diploma in Business Studies (Personal Risk Management) Massey; or ➤ a postgraduate Diploma in Personal Financial Planning Waikato; and ○ be: <ul style="list-style-type: none"> ➤ a certified financial planner¹; or ➤ a chartered life underwriter²; and ○ be able to demonstrate a two-year period of mentoring where assessment of practice has occurred; and ○ have attained Standard Set B (as described in Part 4 of this Consultation Paper);

¹ For more information on certified financial planners see www.ifa.org.nz.

² For more information on chartered life underwriters see www.ifa.org.nz.

OR	<ul style="list-style-type: none"> ○ be a chartered financial analyst (CFA)³; and ○ have attained Standard Sets B and C (as described in Part 4 of this Consultation Paper);
OR	<ul style="list-style-type: none"> ○ be a chartered accountant; and ○ have attained: <ul style="list-style-type: none"> ➤ Standard Sets B and D (as described in Part 4 of this Consultation Paper); and ➤ unit standards 25650, 25651 and 25652 (as described in Part 4 of this Consultation Paper);
OR	<ul style="list-style-type: none"> ○ have an NZX Diploma⁴; and ○ have attained Standard Sets B, C and D (as described in Part 4 of this Consultation Paper);
OR	<ul style="list-style-type: none"> ○ be an NZX Member; and ○ have attained Standard Sets B, C and D (as described in Part 4 of this Consultation Paper);
OR	<ul style="list-style-type: none"> ○ have an NZX Diploma⁵; and ○ be an NZX Member; and ○ have attained Standard Set B (as described in Part 4 of this Consultation Paper);
OR	<ul style="list-style-type: none"> ○ be a certified financial planner who has been deemed certified on the basis of long standing experience; and ○ have attained Standard Sets A, B and D (as described in Part 4 of this Consultation Paper).

Table B

	IT IS PROPOSED THAT, TO PROVIDE FINANCIAL ADVISER SERVICES ONLY TO WHOLESALE REGISTERED FINANCIAL SERVICE PROVIDERS, AN AFA MUST:
	<ul style="list-style-type: none"> ○ have attained Standard Set B (as described in Part 4 of this Consultation Paper).

³ For more information on chartered financial analysts (CFAs) see www.cfasociety.org.nz.

⁴ For more information on the NZX Diploma see www.nzx.com.

⁵ For more information on the NZX Diploma see www.nzx.com.

4. PROPOSED NATIONAL CERTIFICATE IN FINANCIAL SERVICES – FINANCIAL ADVICE (LEVEL 5)

Proposed National Certificate in Financial Services – Financial Advice (Level 5)

ETITO is the industry training organisation for financial services under the Industry Training Act 1992. It is proposed that ETITO revise the current National Certificate in Financial Services (Financial Advice) (Level 5) in order that it contain four groups of unit standards, the details of which are set out below:

- Standard Set A: Core knowledge⁶ – 3 unit standards; and
- Standard Set B: Capstone⁷ knowledge of the Code – 1 unit standard; and
- Standard Set C: Capstone professional practice – 4 unit standards; and
- Standard Set D: Specialist standards⁸ – 2 investment advice, or 2 insurance advice, unit standards.

Proposed standard set	Description	Proposed unit standards required
Standard Set A	Core Knowledge	<ul style="list-style-type: none"> ○ Unit 24755: Demonstrate knowledge of the industry and apply professional practice in a financial services organisation. ○ Unit 25642: Demonstrate understanding of relationships between economic environments, financial markets and their participants. ○ Unit 25643: Demonstrate an understanding of the stages of financial advice and the products used by financial advisers.
Standard Set B	Capstone Knowledge	<ul style="list-style-type: none"> ○ New unit standard to be developed. This will be based around knowledge of the Code.
Standard Set C	Capstone Professional Practice	<ul style="list-style-type: none"> ○ Unit 25650: Demonstrate the steps in the financial advice process relating to client relationships and gathering information. ○ Unit 25651: Demonstrate the steps in the financial advice process relating to the development and presentation of recommendations. ○ Unit 25652: Demonstrate the steps in the financial advice process relating to the implementation and review process. ○ Unit 25653: Apply requirements of regulations, professional practice standards and operational guidelines as a financial adviser.

⁶ *Core Knowledge Standards* deal with underpinning knowledge and theory of the financial services industry.

⁷ *Capstones* are units that require a broad overview of material covered in the rest of the Certificate.

⁸ *Specialist Standards* deal with the knowledge and skills associated with specialist areas in financial advice. There are two proposed areas of speciality: investment or insurance. It is proposed that only one area of speciality is required to achieve the qualification.

Standard Set D	Specialist Standards	<ul style="list-style-type: none"> ○ Unit 25648: Demonstrate understanding of investment concepts used by financial advisers (to be reviewed). ○ Unit 25649: Apply principles of investment advice (to be reviewed). <p>OR</p> <ul style="list-style-type: none"> ○ Unit 25644: Demonstrate understanding of insurance structures, principles, products and risk principles used by financial advisers; <p>AND</p> <ul style="list-style-type: none"> ○ Unit 25645: Demonstrate understanding of the life insurance market and life insurance; <p>OR</p> <ul style="list-style-type: none"> ○ Unit 25646: Demonstrate understanding of the health insurance market and health insurance; <p>OR</p> <ul style="list-style-type: none"> ○ Unit 25647: Demonstrate understanding of fire and general insurance market and fire and general insurance.
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If you would like more information on any unit standard, a full text version is available at <http://www.nzqa.govt.nz>. Click on the left panel “search for” and you will be able to search for the unit standard by entering the unit standard number.

Review of two existing unit standards and the development of a new capstone unit standard

In light of the proposed standards ETITO has, at the request of the Committee, commenced a review of two existing unit standards on investment advice (25648 and 25649).

It is also proposed that an extra capstone unit specifically relating to knowledge of the Code will be developed by ETITO as part of the National Certificate (Standard Set B).

Training

The Code Committee recognises that many financial advisers:

- will have been working in the industry for a long time; and
- may be able to demonstrate their competence without purchasing training.

Whether a financial adviser requires training to meet the requirements of a proposed unit standard would depend on his or her level of experience, prior learning and competence.

Any NZQA-accredited training organisation would be able to provide **training** for all of the standard sets A, B, C and D. More information about training is available on ETITO's website at www.etito.co.nz.

Assessment

Financial advisers would need to be **assessed** against any unit standards that they are required to attain as set out above.

Assessment is a process of evaluating evidence produced by a financial adviser against the performance that is required by the unit standard. Forms of evidence commonly used include:

- examination; and / or
- evidence from the workplace (such as client files); and / or
- an interview with an assessor.

Assessment would be undertaken:

- for Standard Sets A and D, by any NZQA-accredited training provider or ETITO; and
- for Standard Sets B and C (the capstone unit standards), by ETITO. Central assessment of Standards Sets B and C by ETITO would be a key mechanism underpinning the universal consistency and integrity of financial adviser competence assessment. The Securities Commission is tasked with ensuring that the standards are met once the Code is in force and it has requested that if these proposed Standard Sets are adopted in the Code, ETITO be the sole assessor of Standard Sets B and C.

More information about assessment is available on ETITO's website at www.etito.co.nz.

Further work by ETITO

ETITO is working to ensure, if the proposed minimum standards are incorporated in the Code, that:

- training providers are able and ready to provide modular and full course training throughout New Zealand for those financial advisers who require it; and
- a tool is available that would help financial advisers to self-assess their own level of competence against the unit standards to help them decide whether they require further training; and
- the assessment system for the capstone unit standards is ready.

More information is available at www.etito.co.nz. This information is being updated regularly.

Enquiries about training and assessment should be made to ETITO. Enquiries about the proposed minimum standards should be made to consultation@financialadvisercode.govt.nz.

Future standards

The Code Committee notes that it is likely that the minimum standards of competence, knowledge and skills may be raised or broadened in the future. In particular, the Code Committee may consider developing higher minimum standards for particular classes of AFA (such as financial planners) in the future. In addition, the proposed alternatives to attaining the National Certificate in Financial Services (Financial Advice) (Level 5) set out in Table A of Part 3 may also be subject to change by the Code Committee in the future. Any proposed changes to these aspects of competence, knowledge and skills will trigger a consultation process.

5. HOW TO MAKE SUBMISSIONS AND GIVE FEEDBACK

Submissions on proposed minimum standards

We encourage you to provide a submission on the proposed minimum standards of competence, knowledge and skills by:

- emailing us at consultation@financialadvisercode.govt.nz ; or
- writing to:
Competence Sub-Committee
Code Committee
c/o Securities Commission
PO Box 1179
Wellington 6011

Your submission must include: your name, address and contact phone number.

You must specify in writing if you require a submission 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 5.00pm 13 November 2009.

In addition, the Code Committee's website is now in operation (www.financialadvisercode.govt.nz). This website includes a blog which will enable the public to give feedback on the proposed minimum standards, possibly with discussion chains emerging.

Particular consultation questions

The Code Committee welcomes submissions on all aspects of the proposed minimum standards of competence, knowledge and skills.

It would, however, be grateful if the submission could in addition respond to the following particular issues and provide reasons for your views.

Question One:

Do you think the proposed minimum standards for competence, knowledge and skills are appropriate? If not, what should the minimum standards for competence, knowledge and skills be?

Question Two:

Do you think the division between those AFAs who can provide unrestricted financial adviser services (Part 3 Table A) and those AFAs who can only provide financial adviser services to wholesale financial services providers (Part 3 Table B) is appropriate?

Question Three:

Are there groups of financial advisers who it is proposed must complete the revised National Certificate in Financial Services (Financial Advice) (Level 5) that you think should not be required to complete it?

Question Four:

Do you think the standards for financial advisers proposed as alternatives to attaining the National Certificate in Financial Services (Financial Advice) (Level 5) are appropriate (as set out in Table A in Part 3 of this Consultation Paper)?

Question Five:

How do you think “wholesale” financial service provider should be defined in terms of the second class of AFA (as set out in Table B in Part 3 of this Consultation Paper)?

Question Six:

Do you think that the minimum standards of competence, knowledge and skills required for those financial advisers who have been deemed certified on the basis of long standing experience (see Part 3 Table A – last category of the table) are appropriate?

Question Seven:

Do you have any comments to make regarding the practicalities of achieving the proposed minimum standards? Do you have any comments on appropriate timeframes for compliance with the minimum standards of competence knowledge and skills?

Question Eight:

Do you have any comments on minimum standards of competence, knowledge and skills for foreign-regulated financial advisers?

Question Nine:

Are there any other matters you would like to comment on?

Opportunities for discussion

The Code Committee is also proposing the following additional opportunities for discussion in the coming months. In particular:

- There will be three public meetings at the end of October. Please email consultation@financialadvisercode.govt.nz if you would like to attend.

- Wellington 28 October 2009 – Michael Fowler Centre, Renouf Foyer
 - 1.30pm attendees start to arrive (tea, coffee, water available)
 - 2.30pm-4.30pm Presentation and Discussion

Parking is available at the Michael Fowler Centre (\$4.00/hour). Alternative parking at Tournament Car Park, Wakefield Street (\$3.00/hour).

- Auckland 29 October 2009 – ASB Lounge, Eden Park
 - 1.30pm attendees start to arrive (tea, coffee, water available)
 - 2.30pm-4.30pm presentation and discussion

Parking is available on site with a total of 150 spaces available.

- Christchurch 30 October 2009 – The Christchurch Club
 - 1.00pm attendees start to arrive (tea, coffee, water, scones)
 - 1.15pm-3.15pm presentation and discussion

Parking is available to members only. There is on-street parking as well as a public car park on Manchester Street (first hour free then \$1.20 per half hour).

These meetings are designed as a discussion forum. For feedback to be formally reviewed by the Committee, submissions need to be made in writing.

- Ross Butler (the Code Committee Chair), and members of the Code Committee, are willing, if required, in November 2009 to speak at:
 - national and regional forums and meetings of advisers, consumers, dealer groups, financial service product companies; and
 - other groups in the financial adviser sector.

The Code Committee has limited resources and Committee members all have their own commercial commitments. It would, therefore, be helpful if regional meetings might be planned across organisational boundaries.

Please email the Code Committee's Secretariat at secretariat@financialadvisercode.govt.nz if you would like to invite us to attend such a meeting. In most circumstances, we would expect the organisers to meet travel costs for Code Committee members.

- We will be seeking to meet with adviser associations, industry and consumer groups in the financial adviser sector.
- We will also be continuing our useful dialogue with other Review/Taskforces/Inquiries engaging with the sector.
- The Code Committee will also be seeking to inform the media about its work, particularly those that focus on advisers and financial services.

6. BACKGROUND TO THE CODE COMMITTEE

AFAs must comply with the Code

When the Act comes fully into force, AFAs must comply with certain obligations under the Act and its regulations, including an obligation to comply with the Code.

The Code

The Code will set out minimum professional standards of:

- competence;
- knowledge and skills;
- ethical behaviour;
- client care; and
- continuing professional training.

Code Committee to prepare draft Code

The Code Committee has been appointed to prepare a draft Code. The names, and contact details, of its members can be found at www.financialadvisercode.govt.nz.

The Code Committee must, in preparing the draft Code, consult with representatives of the financial adviser industry, and with interest groups within that industry. It must allow an opportunity for anyone affected by the Code to make submissions.

The process for approving the draft Code

Approval by the Commissioner for Financial Advisers and the responsible Minister

The Act sets out a detailed procedure for approval of the draft Code by the Commissioner for Financial Advisers and then by the responsible Minister.

Both the Commissioner and the responsible Minister may –

- refer the draft Code back to the Committee for further work before approving it; or
- in certain cases, make changes themselves.

Coming into force

After the Minister has approved the draft Code, the Commissioner must give not less than 28 days notice in the *Gazette* of when the Code will come into force.

Consultation in relation to proposed minimum standards***Further consultation papers***

The Code Committee will release further consultation papers in the coming months on:

- ethical behaviour and client care; and
- continuing professional training.

Nature of consultation

The Code Committee considers that its consultation and engagement should be iterative in nature, rather than consulting only when a complete draft Code has been developed. The Committee prefers to give the sector a clear vision of its thinking in relation to the various aspects of the Code as they evolve.

This approach will enable the Committee to change or refine its thinking after considering feedback and submissions. It will also enable the industry to prepare for the new regulatory environment.

The Committee is approaching issues relating to the Code with an open mind, and is keen to get feedback on the proposed minimum standards.

Draft Code

The Code Committee aims to release a draft Code for discussion by the end of the year. The release of the draft Code will be the trigger for a further round of consultation. Details will be advised at the time of release of the draft Code.

Analysis of submissions

A report will be prepared in relation to all submissions received and made available on the Code Committee's website.

Contacting the Code Committee

The Code Committee now has its own website www.financialadvisercode.govt.nz. The Committee will post all consultation papers and information about up-coming meetings on this website. Submissions on consultation papers should be emailed to consultation@financialadvisercode.govt.nz or posted to:

Competence Sub-committee
Code Committee
c/o Securities Commission
PO Box 1179
Wellington 6011

The email contact details for enquiries directed to the Secretariat or the Chair are as follows:

Secretariat secretariat@financialadvisercode.govt.nz

Chairman chair@financialadvisercode.govt.nz

Thanks for taking the time to read this consultation paper.

We are keen to hear your views on the proposed minimum standards of competence, knowledge and skills, and we value your input.

Sincerely,

Ross Butler

Chairman, on behalf of the Code Committee,

Wellington,

23 October 2009.