

**SUMMARY OF
SUBMISSIONS IN RESPONSE TO:**

**The Code Committee Consultation Paper on Proposed
Minimum Standards of Competence, Knowledge and Skills
for Authorised Financial Advisers**

ABOUT THIS DOCUMENT

- This document summarises the 202 submissions¹ received from the public in response to the Code Committee's consultation paper released on 23 October 2009 on the proposed minimum standards of competence, knowledge and skills.
- All submissions relating to competence, knowledge and skills have been summarised and considered by the Code Committee. This document contains no comment from the Code Committee on the submissions.
- Submissions that were marked confidential were summarised and considered by the Committee but do not appear in this document. All submitters' details have been made anonymous. A full list of the organisations who submitted on these consultation papers is provided in a separate document on the Code Committee website www.financialadvisercode.govt.nz.
- Submissions on topics outside the Code Committee's ambit (such as suggested amendments to the Financial Advisers Act 2008) have not been recorded in this document.
- For ease of reference the table of recognised alternative qualifications/designations from the competence, knowledge and skills consultation paper has been attached as an appendix to this document.
- Each section commences with a question, an overview of the responses to that question and then the summaries of the individual submissions.

Acronyms and key terms

ACA	Associate Chartered Accountant
AFA	Authorised Financial Adviser
AT	Accounting Technician
CA	Chartered Accountant
CFA	Chartered Financial Analyst
CFP	Certified Financial Planner
CLU	Chartered Life Underwriter
National Certificate	National Certificate in Financial Services (Financial Advice) (Level 5)

¹ Over and above this some submitters endorsed other organisations' or individuals' submissions.

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EXECUTIVE SUMMARY

GENERAL COMMENTS

Approval of the standards in general

- Submitters generally agreed that the proposed minimum standards of competence, knowledge and skills were appropriate with some suggested changes.
- There was also general support for raising industry standards of competence, knowledge and skills for advisers.
- However some submitters noted that competence was not the only issue.
- Many submitters expressed concern about the treatment of experience in the proposed minimum standards.
- A number of submitters expressed support for using the National Certificate as the base standard. However some expressed concern that Level 5 was too low for AFA status.

CLASSES

Unrestricted AFAs

- Several submitters were not in favour of the label “unrestricted” as it was submitted that AFAs should only practise in areas in which they are competent.

AFAs who provide advice solely to wholesale financial service providers

- Submitters generally agreed that this class is appropriate.
- However a few submitters expressed the view that AFAs providing services to “wholesale” should be required to meet higher standards and that Standard Set B is insufficient as a competence standard. The two main reasons given for this submission were that all advice eventually influences the public and that the same level of expertise of advice is required for wholesale and retail clients.

Definition of Wholesale

Various suggestions with respect to the definition of “wholesale” were made:

- Several suggested that the definitions should include large corporates. However some opposed this as it was suggested that some “corporate” clients do not have the expertise to assess the quality of advice.
- Many suggested that sophisticated investors should be included within the definition of wholesale. The United Kingdom and Australian approaches to the issue of identifying sophisticated investors were recommended by several submitters.
- The Securities Act 1978 definition of “non-public” (s 3(2)) was also favoured by several submitters.
- Several submitters also favoured the approach of defining “wholesale services” as those services provided to any registered financial service provider.

- It was also submitted that research analysts who provide research solely to financial advisers should be included within the definition of “wholesale”.

Other suggested classes

- Several submitters suggested a separate class for “comprehensive financial planning”.
- A separate class for those who make investment transactions in relation to category 1 products was also suggested.
- Others suggested that a research analyst class and classes for other technical positions should be considered by the Code Committee.

ADVISERS WHO SHOULD NOT BE REQUIRED TO COMPLETE THE NATIONAL CERTIFICATE

The suggestions of groups of advisers who should not be required to complete the National Certificate included:

- accountants and lawyers;
- experienced advisers;
- superannuation and KiwiSaver advisers;
- those not involved in investment needs-based assessment or interaction with the public (including research analysts, specialist technical advisers and junior advisers); and
- those belonging to professional organisations including:
 - Institute of Financial Professionals of New Zealand Inc;
 - NZX Participants;
 - New Zealand Financial Markets Association Accredited Individuals; and
 - Members of the Institute of Financial Advisers.

Alternative qualifications were also identified as deserving of some relief in relation to the National Certificate:

- Australian and New Zealand Institute of Insurance and Finance Qualifications;
- Adviserlink qualifications including the previous version of the National Certificate;
- New Zealand University Degrees; and
- International qualifications.

Five submitters said that there were no groups who should be exempt from completion of the National Certificate.

RECOGNISED ALTERNATIVE QUALIFICATIONS AND DESIGNATIONS: RELIEF AGAINST THE NATIONAL CERTIFICATE REQUIREMENTS

NB: the table of recognised alternative qualifications and designations from the competence, knowledge and skills consultation paper is reproduced at the appendix to this document.

A variety of changes to the recognised alternative qualifications/designations table were suggested by submitters. The suggested changes are summarised at the beginning of Question Four.

Some of main suggested changes were that:

- Associate Chartered Accountants (ACA) and Accounting Technicians (AT) should be provided with some relief in relation to the National Certificate; and
- that alternative 6 (NZX Advisor) should also include NZX Associate Advisors, NZDX Advisors, and Futures and Options Advisors.

CFPs OF LONG-STANDING EXPERIENCE

- Many submitters were supportive of establishing different criteria for those of long standing experience, and a number of submitters agreed that only Standard Set B should be required.
- However a number of submitters suggested that experienced advisers should not be treated differently, because experience was no guarantee of competence and a number of the problems in the industry in recent years could be traced to the poor performance of “experienced” investors. Public confidence was stressed as important by several submitters.
- Some suggested that more stringent requirements should be imposed on these advisers.

PRACTICALITIES

Timing

- A significant number of submitters were concerned at the proposed timetable, and stressed the importance of providing sufficient time for advisers to achieve the proposed standards.
- Submitters were concerned that a number of aspects of the regime were still to be finalised, and that no firm deadlines could be set until then.
- Many submitters suggested that experienced advisers (which most defined as being advisers with more than 20 years’ experience) should be given as much time as they required, or alternatively merely extra time to complete the requirements.

Assessment

- Submitters were particularly concerned about the adequacy of assessment resources, and whether ETITO would be in a position to assess all the candidates in time to comply with the timetable.
- Linked to this concern, a number of submitters questioned ETITO's status as an exclusive assessor for Standard Sets B and C, and suggested that large firms could become Approved Training Organisations to assess these Standard Sets.
- Many submitters suggested that assessment of Standard Set B would place the most pressure on assessment resources.

A number of submitters suggested that a "Provisional AFA" or "Adviser-in-Training" status should be established for those candidates who were working towards achieving the necessary qualifications, provided they were making adequate progress.

Confidentiality

Concerns were expressed that assessment could jeopardise the confidentiality of both clients' and advisers' data and systems. The only solution suggested was to black out details identifying clients. However it was submitted that this would not prevent assessors (who could potentially be competitors) obtaining confidential information about the candidates' procedures and systems.

FOREIGN-REGULATED ADVISERS

- Most submitters agreed that foreign-regulated advisers should be subject to the same competency standards as New Zealand advisers.
- It was also accepted, however, that requiring foreign-regulated advisers to complete the National Certificate would be inappropriate and unduly burdensome.
- Most submitters agreed that a system should be established for the recognition of appropriate foreign qualifications, and it was suggested that NZQA or ETITO could analyse the regulatory regimes of individual countries to determine what qualifications should be recognised.
- However it was noted that foreign-regulated advisers still need to be subject to regulation in New Zealand to ensure that consumers are protected.
- Most submitters accepted that knowledge of the particular characteristics of the New Zealand market was necessary and that foreign-regulated advisers should be required to attain Standard Set B.

QUESTION ONE

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

SUMMARY

Submitters generally agreed that the proposed minimum standards were appropriate with some suggested changes. There was also general support for raising industry standards of competence, knowledge and skills for advisers. Some submitters suggested that all advisers should be required to have a tertiary qualification or an industry qualification.

A view was expressed by some that the key problem facing the industry was not low standards but a lack of independence and ethical standards on the part of some advisers.

Experience

Some suggested that requiring advisers to complete academic qualifications is unlikely to improve the standard of advice and that experience is the key to good financial services. Twenty-one submitters expressed concern about the treatment of experience in the proposed minimum standards. Common themes in these submissions were:

- That the proposed standards gave too much weight to educational requirements and not enough weight to experience;
- That advisers should be required to undertake a minimum period of mentoring before becoming AFAs (two and three years were suggested by a number of submitters); and
- That existing advisers should be able to be authorised on the basis of experience.

National Certificate

A number of submitters expressed support for using the National Certificate as the base standard. However a few submitters stated that a higher level qualification should be imposed and it was suggested by those submitters that the National Certificate may reduce the standard of financial adviser competence.

It was submitted that QFEs should be able to provide internal training (in accordance with published guidelines) rather than requiring their staff to complete the National Certificate.

Standard Sets of the National Certificate

Submitters commented on the curriculum of the National Certificate. In relation to Standard Set B, it was suggested that consumer law should form part of the curriculum.

In relation to Standard Set D, several submitters pointed out that advisers should only provide services where they are competent. It was suggested that an adviser who completes the investment unit standards should not be able to advise on insurance and vice versa.

INDIVIDUAL SUBMISSIONS

General comments

Twenty-two submitters generally agreed that the proposed minimum standards were appropriate with some suggested changes.

One submitter stated that they agree that the proposed minimum standards are reasonable. However the submitter stated that they understood that the Code Committee would add additional specialist classes over time.

One submitter supported the principle of trying to raise the industry standards of competence, knowledge and skills.

One submitter was in full support of the Code Committee's intent to raise industry standards for competence, knowledge and skills and that for new entrants the minimum standards should be mandatory.

One submitter agrees that the standards are reasonable for new entrants.

One submitter expressed a number of concerns, including that few advisers understand the products they offer. The submitter also expressed concern about a general lack of understanding of the impact of taxation on investments and insurance; advisers having narrow product knowledge and advisers having insufficient knowledge about the risks and benefits of different legal structures.

One submitter commented that the standards should be kept as simple as possible so that advisers are not driven out of the industry, leaving consumers with less competition.

One submitter suggested that (although the exact content and form of assessments is not yet available) the minimum standards seem to be a balance of theoretical and practical competency.

One submitter felt that the proposed minimum standards were inconsistent in that AFAs would have different qualifications, some of which were insufficient for unrestricted AFA status.

One submitter stated that the AFA status needs to inspire public confidence. The submitter pointed out the benefits flowing to both investors and industry members if a higher level of confidence in the integrity of financial advice and advisers can be attained.

One submitter supported the raising of standards and the suggested framework. She expressed confidence that the NZX Diploma provided an appropriate standard for competence, knowledge and skills.

One submitter noted that it shared the concerns of legislators and regulators regarding the standards of competence, knowledge and skills in the adviser industry and felt that the retail investor in New Zealand has been poorly served. That submitter fully endorsed the

minimum standards proposed for those AFAs wishing to provide services on an unrestricted basis.

One submitter expressed the view that the proposed minimum standards were too restrictive and failed to take into account the tertiary qualifications and industry experience held by advisers who have operated under the NZX Rules and Regulations for a number of years.

One submitter believed that the proposed standards are too “narrow”, so that someone in the submitter’s position (having 25 years’ experience, two degrees) would not qualify. The submitter believed that the additional papers required to obtain the National Certificate would not add materially to the submitter’s ability to do their job.

One submitter stressed the importance of cross-crediting from other qualifications (such as stock exchange exams, finance and accounting degrees) and suggested that membership of professional organisations such as INFINZ should be considered.

One organisation suggested that it is well placed to support and help achieve the policy goals of the financial advisers’ regime and the Code. It was submitted that further flexibility is needed to recognise the role that professional organisations play in training, assessment and quality assurance.

One submitter suggested that the proposed standards were appropriate as a first step, and that international supervision and mentoring mechanisms will supplement these.

One submitter expressed concern that the requirements should not be so “tough” as to encourage advisers to “hide under a QFE environment,” which encourages a limited choice of products and limited accountability.

One submitter suggested that the competency requirements should be set as a minimum, and so should not be set too high or otherwise experienced advisers may be forced out of the industry.

One submitter believed that the Code should explicitly identify what competencies are required (for unrestricted AFAs and specialist AFA classes) and the qualifications and professional designations that meet those requirements. The submitter stated that it would then be easier to assess the standard actually being set by the proposal.

One submitter suggested that the proposed requirements should be a baseline, and that AFAs should be required to have sufficient knowledge of the products they are recommending.

One submitter expressed concern that under the proposed minimum standards NZX Advisors had been “lumped in” with financial planners.

One submitter stated that they supported the proposal that those who wish to provide unrestricted advice to the public must attain independent knowledge-based competency backed by practical experience.

One submitter submitted that the proposed standards of competence, knowledge and skills do not focus on delivering appropriate outcomes for clients. It was submitted that many of the reasons investors have lost money relate to poor investment practices, inadequate security analysis, asset allocation, and portfolio construction. Competence, knowledge and skills standards need to ensure that all advisers can deliver this. It was submitted that ETITO should assess this aspect to ensure universal consistency.

Higher minimum standards

One submitter agreed that the National Certificate framework is appropriate as it covers practical and theoretical aspects. However that submitter expressed concerns about the level of competence if the standard is set at Level 5. The submitter's impression was that Level 5 qualifications are similar to, or slightly less academically rigorous than, first year courses taken for a bachelor's degree. It was acknowledged that the quality of both NCEA and tertiary courses vary widely, but it was suggested that students who progress through NCEA and tertiary courses with a financial flavour (accounting, finance, economics, mathematics, statistics) achieve a higher standard of analytical skills and knowledge. The submitter stated that analytical skills and a solid knowledge base are essential requirements for AFAs and high standards should be set as a minimum needed to achieve AFA status.

That submitter suggested that a comparison with what is required for long-established professions is necessary. It was pointed out that the NZ Institute of Chartered Accountants has three classes of membership ranging from Accounting Technician (AT) to Associate Chartered Accountant (ACA) and Chartered Accountant (CA). It was noted that the highest requirements are required for CAs. It was submitted that the competence level for AFAs should be set as high as that of CAs (who are required to complete four years of degree level study and a bachelor degree which includes designated courses and general study). However the submitter stated that the minimum level for AFAs appears to be lower than those required of ACAs (who are required to complete a bachelor level degree which includes designated courses). That submitter found this concerning and suggested that a higher level should be required.

That submitter stated that high minimum standards may present challenges for advisers at the moment as advisers have not been subject to regulation and education and competence requirements have been essentially voluntary. The submitter argued that the Committee should not adopt relatively low standards as this will be ineffective in improving outcomes for consumers.

One submitter made the point that all the standards should be framed to protect the public.

One submitter stressed that the proposed competence standards should be a minimum requirement, reviewed over time (and potentially raised).

One submitter was generally supportive of the proposed minimum standards. However, the submitter thought that in time all advisers should be required to obtain a degree. In the meantime, the submitter suggested that advisers should be able to be authorised if the adviser is able to demonstrate a two-year period of mentoring where assessment of practice has taken place.

One submitter expressed the view that all financial advisers should be required to have a tertiary qualification as well as a relevant industry qualification, such as an NZX Diploma.

One submitter thought that all financial advisors should be required to have a tertiary qualification, undertake a mentoring programme and have three years of experience before they are eligible to be authorised financial advisers.

One submitter expressed the view that all advisers should be required to have a tertiary qualification as well as an industry qualification, such as the NZX Diploma.

One submitter stated that all advisers should be fully qualified with a tertiary qualification preferably a Diploma in Business Studies (Personal Financial Planning or Personal Risk Management). It was suggested that if an adviser elects to complete the National Certificate instead, the adviser should also be required to complete two years mentoring where an AFA supervises and provides an assessment of the financial adviser's work. It submitted that this should include three monthly reports on the adviser's work. It was submitted that the lack of public confidence in advisers means that advisers should be encouraged to obtain higher qualifications than the minimum. Therefore that submitter suggested that there may be a need for different levels of AFAs recognising the qualifications obtained.

One submitter wanted all investment advisers to hold a tertiary qualification as well as "valuable industry relevant qualifications such as the NZX Diploma".

One submitter stated that all advisers should hold a tertiary qualification and should be required to undertake mentoring when first granted an advisory role and obtain a minimum of three years experience before being awarded AFA status.

One submitter said that the standards were a good starting point. The submitter suggested that over time the standards should be increased so that eventually a Level 7 Diploma is required.

One submitter stressed that the proposed standard should be the *minimum* requirement, and that the Committee should be willing to adjust/increase the educational requirements over time.

Standards too high for credit union members

One submitter expressed concern that the competence, knowledge and skills standards proposed will be far in excess of the actual need of Credit Union members.

Competence is not the only answer

One submitter did not agree that there is necessarily an issue of competence, knowledge and skill in the financial advisory industry that needs to be addressed. It stated that the key problem is lack of independence which means that commission drives sales rather than matching of appropriate products. It was suggested that standards of competence, knowledge and skills would not alter this situation.

One submitter stated that the standards are appropriate but that the particular qualifications specified should not be the only method of displaying competence, knowledge and skills.

One submitter suggests that skills such as personal integrity, common sense judgement, intuition, ongoing monitoring and the ability to respond to changes for the client are very important skills for financial advisers. It is submitted that pure factual knowledge and financial theory should not be the only skills required for authorisation.

One submitter commented that further qualifications were not needed for their own sake. In the submitter's view professionalism is not just a matter of academic qualifications but about integrity and applying skills in a way that meets client expectations.

One submitter commented that in his view the sector of the financial adviser industry that had most let the public down was the general financial planning sector. It was submitted that advisers in this sector are not employed by banks or members of NZX participant organisations. The submitter felt that this group's main failing was its willingness to accept commissions and inducements from product providers and a lack of understanding of risk and return.

One submitter said that what the industry needed was a focus on ethics and education and not more regulation.

One submitter stressed that the proposed competency requirements will not guarantee risk-free advice.

One submitter commented that the proposed standards put too much emphasis on academic and professional qualifications. The submitter suggested that the Code Committee would be better implementing an audit system designed to assess practical competence.

One submitter suggested that ethics not competence is the key to improving the industry.

One submitter did not support the proposed minimum standards. The submitter felt that authorisation of financial advisers based on academic qualifications was unlikely to improve the standard of advice and would eliminate or impose unreasonably on competent advisers. Instead, the submitter suggested that:

- (a) All advisers should be registered immediately and charged an annual sum to finance the supervision of the industry.

- (b) Advisers should be authorised after they have demonstrated that they are fit and proper people to be providing financial information and advice to the public. It was submitted that authorisation should be conducted following a process involving site inspection, interviews, references and taking into account academic qualifications. In deciding whether to authorise a financial adviser, regard should be had to academic qualifications and qualification demonstrated by market participation.
- (c) A list of all registered and authorised advisers should be published online.
- (d) A complaints procedure should be established, headed by a commissioner to investigate and deal with complaints.
- (e) A code of conduct should be established that requires all advisers to disclose all relevant matters, including details of their work, academic history and business model.

One submitter felt that the proposed standards were appropriate but that industry standards could be maintained through the rules applicable to NZX Advisors.

One submitter noted that while improved academic qualifications, disclosure of commissions and tighter regulations should be part of the changes to the financial adviser industry, the most important qualifications were an established track record, proven financial skills and experience and the ability to judge character.

One submitter stressed that operating within a structured environment with strong compliance procedures was the best guarantee of good practice.

Practical experience

One submitter noted that the proposed minimum standards focus largely on educational requirements as opposed to experience. The submitter felt that more recognition should be given to experience.

One submitter noted that while the proposed standards appeared to be appropriate, they should not be the only method of displaying competence, knowledge and skills. The submitter suggested an apprenticeship model should also be included. The submitter suggested that any apprenticeship should be performed under a QFE and have defined time frames and tutorial or tested content.

One submitter opposed the proposed standards and indicated that he believed the standards would increase costs without providing any additional benefits to clients. Further, it was submitted that the proposed standards discriminated against those with industry experience in favour of advisers with less experience but more “book learning”.

Two submitters expressed concern that the proposed standards do not allow advisers to become AFAs on the basis of experience and other qualifications.

One submitter suggested that the minimum standards of competence, knowledge and skills should not be based solely on academic qualifications. The submitter suggested that financial advisers should be required to apply for a licence to become an AFA with licences for different categories of investments. The submitter suggested two ways in which a

financial adviser could qualify for a licence. First, by having (a) a relevant qualification, plus (b) proof of two years current work experience in the relevant category and (c) the recommendation of a licensed adviser in the particular category. The suggested alternative was (a) five years current experience as a financial adviser, (b) recommendations from clients with portfolios invested for at least five years, and (c) proof of follow-up advice for portfolios.

One submitter thought that the proposed standards give too much weight to the National Certificate and not enough to experience or other higher qualifications.

One submitter suggested that practical supervision should also be a requirement as part of the National Certificate.

One submitter thought that the proposed standards placed too much weight on academic qualifications and not enough on experience. The submitter suggested that some senior advisers would not meet the proposed criteria to be an AFA.

One submitter noted that the proposed standards do not allow for recognition of prior learning or existing experience or other qualifications including in-house training. The submitter felt that the standards should recognise this experience in some way.

One submitter felt that it was inappropriate to authorise advisers simply because they have completed the National Certificate. The submitter thought that in addition to completing this qualification, advisers should be required to undergo a period of mentoring and work in the industry for at least three years before becoming authorised.

One submitter noted that CFP and NZX Advisors are required to demonstrate competence not just by passing exams but also by undergoing a two year supervisory period. The submitter felt this requirement should apply to all advisers. Another submitter agreed.

One submitter stressed the importance of experience, and stressed that qualifications were not necessarily a guarantee of competence.

One submitter stressed the importance of recognising the attributes of experienced advisers who do not necessarily meet the required educational standards at present.

One submitter suggested that, in order to obtain AFA status, an adviser should have to hold appropriate qualifications, undertake a mentoring programme and gain three years' experience.

One submitter stated that too much emphasis was placed on technical and theoretical requirements at the expense of practical experience of running an advisory practice.

One submitter said that the minimum standards should include requirements for work-based training, supervision, mentoring and continuous development.

One submitter suggested that the proposed minimum standards are acceptable but that the standards could be strengthened by also requiring a period of practical experience. It is recommended that one year of supervision or mentoring or three years of unsupervised experience be required in order to become an AFA. The National Certificate does not require sufficient practical experience as there is a difference between what is required to gain a unit standard qualification and working with clients for extended periods.

One submitter would prefer more emphasis to be placed on experience.

One submitter argued that practical experience in a controlled environment should be a crucial part of authorisation.

Specialisation

One submitter stated that advisers should have a specialisation for each product type that he or she sells.

Another submitter stressed the importance of advisers taking the Level 5 units relevant to their field of practice

One submitter also suggested that there should be a separate specialist category for the trustee industry under Standard Set D or a separate category of AFA (with training requirements able to be offered internally by QFEs).

One submitter supported the use of the National Certificate but suggested that the units should allow for more specialisation in particular areas.

One submitter suggested that the competence, knowledge and skills standards are biased towards full-time financial advisers.

One submitter supported the proposed minimum standards but submitted that the standards should vary depending on the type of work undertaken by the adviser. The submitter thought that this approach was appropriate given that many investors require access to simple low cost advice. The submitter suggested five categories of investment adviser that could be recognised with different standards for each.

One submitter stressed the importance of distinguishing between the skills required for investment advice, on one hand, and insurance and risk management on the other. Another submitter stressed the importance of differentiating between independent advisers who have operated as sharebrokers and advisers who had apprenticed within the insurance industry.

National Certificate

Two submitters stated that all advisers should complete the Level 5 qualification.

One submitter stated that all groups should be required to complete the National Certificate or show equivalent qualifications. The submitter suggested that the NZX Diploma was "equivalent".

One submitter supported setting the proposed minimum standard at Level 5.

One submitter expressed the view that the National Certificate represented the appropriate level of competence, knowledge and skills. The submitter said that advisers who have reached this level, including by obtaining historic qualifications, should be authorised subject to completing Standard Set B.

One submitter expressed support for the Level 5 standard while noting that a definitive response cannot be given as units 25648 and 25649 are in the process of being reviewed. That submitter noted that the range of competencies required relating to advising on securities may not be relevant to every advisory role intended to be undertaken.

One submitter states that Standard Sets A, B and C are appropriate and agrees with the review of the two existing unit standards on investment advice.

One submitter thinks that requiring anything more than Standard Set B to become an AFA is inappropriate. It is submitted that the other unit standards could be done as part of continuing education but not as a condition of becoming an AFA. That submitter suggested that the Commissioner for Financial Advisers should develop a process for approving current advisers without the nominated educational standards in Table A Part 3. It was argued that as a trade-off for this, the consequences of cancellation of authorisation should be made more stringent such as requiring advisers to attain educational standards in order to re-authorise or a period of exclusion from practising.

Two submitters expressed concern that the National Certificate could provide an entranceway for new advisers that could be of a reduced standard of competence.

One submitter expressed support for the Code Committee's intention to raise industry standards. The submitter expressed the hope that the revision of the current National Certificate will not result in reduced standards. The submitter also expressed the view that assessment should not be one-off in nature but rather ongoing.

One submitter indicated that he thought that new advisers should be required to complete the NZX Diploma rather than courses offered by ETITO which he did not believe were of a sufficiently high standard.

One submitter indicated that the NZX Diploma should be the base qualification. However, the submitter thought that senior advisers should be exempt from undertaking the NZX Diploma given the experience they have.

One submitter suggested that the NZX Diploma should be cross-credited towards the National Certificate (or should be recognised as an alternative qualification for the purposes of authorisation) and should be a minimum requirement for investment advisers.

One submitter stated that Standard Sets C and D could be achieved through training, practical experience and should be via practical assessment.

One submitter felt that the National Certificate was inadequate in its coverage of investment advice. The submitter recommended that the investment content should mirror that covered in the NZX Diploma.

One submitter expressed concern that the National Certificate did not place enough emphasis on the ethical obligations of advisers.

One submitter suggested that the National Certificate may be a lesser standard for new advisers than the post-graduate diploma standard. It was submitted that this will lead to a reduced standard of financial adviser competence.

One submitter stated that QFEs should have the option of giving staff internal training (in accordance with published guidelines) rather than requiring them to complete the Certificate; the submitter suggested that in-house training should be available for Standard Sets B and C, in addition to the in-house training that ETITO has suggested will be available for Standard Sets A and D.

One submitter suggested in relation to the Standard Sets that:

- the requirement to complete Standard Set A should be waived if the individual has a business degree or diploma/papers that “show learning in business” or should be waived if the adviser has over five years’ experience;
- all participants should prove knowledge of the Code under Standard Set B;
- Standard Set C should be standard across the industry; and
- only a “realistic assessment” should be required if an adviser has over five years’ experience.

One submitter suggested that it was inappropriate to define competency requirements by reference to just one qualification (the Certificate) which could be changed unilaterally by ETITO, although it accepted that the Certificate could be an appropriate standard.

One submitter suggested that the standards, as currently set, place too much emphasis on financial planning (at the expense of portfolio construction and the constituent financial instruments).

Standard Set A

One submitter expressed the view that unit standard 25643 was too broad for general insurance advisers because insurance advisers only need knowledge in relation to insurance products not other products.

Standard Set B

One submitter suggested that Standard Set B is an appropriate standard to require AFAs to complete but that AFAs should be required to attain it as part of continuing professional development.

One submitter stated that all AFAs should, at a minimum, be required to attain Standard Set B.

One submitter suggested that if the other qualifications incorporate knowledge of the Code into their curriculum, it would be necessary to review the requirement that holders of those qualifications attain Standard Set B.

One submitter suggested that all advisers should be required to demonstrate knowledge of the client's rights under the Securities Act 1978, Securities Markets Act 1988, Consumer Guarantees Act 1993, Credit Contracts and Consumer Finance Act 2004, the Credit (Repossession) Act 1997, the Fair Trading Act 1987, Insurance Law Reform Act 1977, Financial Advisers Act 2008, the Banking and Insurance and Savings Ombudsmen scheme as well as certain features of the Companies Act 1993 and Unit Trusts Act 1960. It was suggested that Standard Set B should include the study of consumer rights arising from the above legislation.

Standard Set C

One submitter felt that Standard Set C could be condensed to one or at most two units.

One submitter questioned the utility of requiring those who hold Level 7 or 8 qualifications to attain Standard Set C.

One submitter expressed concern at the apparent "equivalence" (when comparing alternatives 2 and 3 of the alternative recognised qualifications)² accorded to Standard Set C and the 2-year mentoring requirement completed by CFPs and CLUs.

Standard Set D

One submitter expressed approval that the two investment unit standards are being reviewed. That submitter suggested that in addition to reviewing the content of these standards, consideration should be given to setting the standard for these units at a level higher than Level 5.

One submitter would like to see a complete separation between the financial planning industry and the share broking industry, because it would be inappropriate for someone specialised in one field to give advice in another field.

One submitter also believes that it is necessary to state explicitly whether an adviser will be limited in his/her fields of practice by the Standard Set D units chosen (e.g. can an adviser who has obtained the Health Insurance unit of Set D advise on life insurance?).

One submitter stated that to provide unrestricted financial adviser services, financial advisers should be required to complete two investment advice unit standards **and** the two insurance advice unit standards. If an AFA chooses to only complete the insurance unit standards then the AFA should be restricted to providing advice/plans in relation to insurance. If an AFA chooses to complete only the investment unit standards, the AFA should be restricted to providing advice/plans in relation to investment.

² See table appended to this document.

In a similar vein another submitter stated that an AFA should not be permitted to advise on investment products when the adviser's background is risk insurance or mortgage broking. The submitter suggested that advisers should only be permitted to provide services in the areas that they are trained and experienced in, for instance investments/financial planning, risk, or mortgage broking.

One submitter suggested that standard Set D should be changed as advisers should not be permitted to provide unrestricted advice on insurance when they have only attained the investment unit standards. It was submitted that advisers should be required to have attained an appropriate level of specialist knowledge in relation to the particular products on which they advise. However an adviser who has specialist knowledge in relation to life insurance should not be required to complete a specific unit standard on health insurance to advise in relation to health insurance products.

One submitter stated that the National Certificate fails to cater to those who provide advice on superannuation products and services whereas insurance and investment-focused standards are specifically covered in Standard Set D. The submitter suggested that Standard Set D should include unit standards tailored to superannuation fund advisers.

One submitter stated that it is unclear which standards in Standard Set D need to be completed.

Four submitters suggested including unit standard 25654 "Business Risk Insurance" within Standard Set D. One of those submitters noted that in the business insurance market there is insufficient knowledge of business concepts such as imputation credits and how to read a balance sheet.

QUESTION TWO

Do you think the division between those AFAs who can provide unrestricted financial adviser services and those AFAs who can only provide financial adviser services to wholesale financial services providers is appropriate?

SUMMARY

AFAs who give advice solely to wholesale financial services providers

Submitters generally agreed that the two classes are appropriate. However a few submitters expressed the view that AFAs providing services to a “wholesale client” should be required to meet higher standards than those proposed. Two reasons given were that all advice eventually influences the public whether it is given to a wholesale client or to a retail client and that the same level of expertise of advice is required for wholesale and retail clients.

Several submitters suggested that the competence, knowledge and skills standard prescribed for those providing services to wholesale financial services providers (Standard Set B) is not sufficient.

Unrestricted financial adviser services

Several submitters were not in favour of the label “unrestricted” as it was submitted that AFAs should only practice in areas in which they are competent. For instance if the AFA has only completed the insurance unit standards the AFA should not be permitted to offer investment advice.

Other suggested classes

It was suggested by several submitters that there should be a separate class for “comprehensive financial planning”. It was also suggested that a separate class should be created for those who make investment transactions in relation to category 1 products.

Others suggested that a research analyst class and classes for other technical positions should be considered. Several submitters recognised that the Code Committee may create different classes in the future.

INDIVIDUAL SUBMISSIONS

Wholesale class

Support for the wholesale class

Thirty-four submitters generally agreed that the division between the two classes of AFA is appropriate. Two of the reasons given for why this division is appropriate were that:

- servicing wholesale customers requires different skills to servicing the public; and
- that the division is appropriate as the “wholesale” sector does not offer financial planning advice.

One submitter stated that without this division the Code would be difficult to administer.

One submitter agreed in principle with the division but noted that the usefulness of the division depended on how “wholesale client” would be defined. Another submitter agreed with this division but urged caution about how the classes are defined.

Seven submitters specifically stated that they supported the distinction and the minimum standards required for both classes of AFA.

With respect to standards for AFAs providing advice to wholesale registered financial service providers one submitter indicated that it had developed an accreditation programme which it considered should be recognised as the default competency standard for wholesale financial service providers.

Criticism of the division

Five submitters were of the opinion that the division was not appropriate. Some of the reasons given were that:

- all advice will eventually influence the public and therefore the same competence standards should be required for the wholesale class;
- the proposed division “seems to pander to the large corporate”;
- providing advice to wholesale clients requires no less skill than providing advice to retail clients;
- the public would have difficulty in understanding the differences between the two classes.

One submitter stated that the fewer the exceptions within the rules the better. That submitter stated that they see no strong case for differing standards depending on which sector is being served.

One submitter did not think the division was appropriate on the basis that there are two different types of adviser who provide services to wholesale financial service providers: those who market a single product or suite of products from one supplier and only need to display competency in that particular product or products; and those advisers offering tailored solutions to wholesale clients.

One submitter stated that this class is inappropriate. It was suggested that the competence, knowledge and skills standards for those who provide advice only to wholesale financial service providers should be higher to ensure that products offered are fully understood by the adviser and its attributes adequately explained to the recipient of the advice. That submitter understood the intention of the different classes was to remove the ability of financial advisers to advise on products or classes of products that they do not have adequate knowledge of. It was submitted that these proposed standards do not achieve this purpose.

One submitter suggested that this class was inappropriate, because wholesale providers should have the highest possible standard of product knowledge and understanding of all advisers. Another submitter also suggested that wholesale clients deserve the protection of regulation too.

One submitter noted that wholesale providers would only need to meet the unit standard based on knowledge of the Code, and that this submitter would be disappointed if its own Accreditation Program were not recognised as the default competency standard for the industry.

One submitter suggested that the Financial Markets Accreditation Program should be recognised as an alternative to Standard Set B.

One submitter expressed the view that even AFAs only providing adviser services to wholesale financial service providers should be required to meet Standard Sets A and D.

Another submitter thought that those financial advisers providing wholesale financial adviser services should be expected to meet higher competency standards to ensure that advisers have proper knowledge of the products being advised on. Support for higher standards for the “wholesale class” was expressed by another submitter.

Another submitter agreed that high competency standards should be required for such advisers, and felt that Standard Set B alone was not sufficient.

One submitter suggested that wholesale advisers should be subject to the same requirements, or at least Standard Set B should be extremely broad ranging.

“Unrestricted” AFA class

One submitter stated that the term “unrestricted” AFA is unsuitable as advisers should only provide services in areas in which they are competent. It was submitted that financial planning is very different to risk management as an example.

Another submitter stated that the term “unrestricted is inappropriate” as the Code should contain a requirement that members practise within their areas of competence as this is an important consumer protection safeguard. That submitter referred to Standard Set D and submitted that the unit standards do not cover particular services such as comprehensive financial planning therefore the word “unrestricted” is inappropriate. It is pointed out that an AFA may only have completed the investment unit standards and therefore have insufficient knowledge of risk insurance to provide a comprehensive financial planning service. It was suggested that AFAs may need to gain additional formal qualifications beyond the National Certificate to demonstrate competence or gain extra experience to practise in certain areas especially in speciality areas.

Another submitter makes a similar submission stating that the proposed standards do not differentiate between those with expertise in financial planning and those with insurance expertise. That submitter points out that an adviser holding a Graduate Diploma in Business Studies (Personal Risk Management) is qualified to offer risk management and insurance advice but is not necessarily qualified to provide general financial advice or to advise about complex investment products. It is submitted that an AFA qualified to offer unrestricted advice should be required to complete the Personal Financial Planning Diploma, the NZX Diploma or be an ACA.

One submitter suggested that having a single unrestricted class of AFA was inappropriate for CAs, who only advise on a restricted range of matters.

Comprehensive financial planning class

One submitter recommended that a comprehensive financial planning class be created that requires a higher level of competence through holding the CFP designation. It is submitted that Level 7 should be the standard for this class. That submitter states that at present, the majority of advisers who call themselves “financial planners” are actually investment advisers who do not provide comprehensive financial planning. That submitter commends the existing CFP professional standard as suitable since it has international recognition, is based on global standards and is subject to external quality audit.

Category 1 investment transactions class

One submitter suggested that a separate class of AFA should be created for those who deliver a limited range of category 1 products or deal with investment transactions.

One submitter believed that different competence standards should apply to financial planning services and other category 1 products (where financial planning services are not provided). That submitter stated that a different qualification should be required for AFAs who only carry out investment transactions.

One submitter suggested that the Code should draw a distinction between financial planning advisory services (offering a full financial planning service including advice on insurance, estate planning etc) and investment advisory services (merely offering investment advice). The submitter said that a route to accreditation as a specialist investment advisor should be offered.

One submitter also believes that the public needs to be able to easily distinguish between AFAs giving investment advice and those giving insurance advice.

Other Classes

One submitter favoured having different classes of AFA corresponding to the class of product that the adviser has the knowledge and experience to advise on, rather than a single class of “AFA.”

Another submitter was also concerned that there was no separate treatment for research analysts and CFAs working in share broking firms, who do not actually advise clients directly.

One submitter suggested having classes of AFA beyond just retail and wholesale categories, designated by acronyms in brackets.

One submitter suggested that a distinction should be made between stockbrokers and financial advisers.

One submitter expressed support for the plan to raise the minimum standards over time and to develop different classes of AFAs. It was suggested that different classes of AFAs should be introduced sooner rather than later.

One submitter expressed similar views. It was submitted that the scope and extent of the persons covered by the Code is very wide. It is suggested that in time consideration should be given to developing different classes of AFA based on their particular areas of expertise. For example persons who deal in futures and options as against those who deal with life assurance and risk products. That submitter suggested this as a matter for future thought once the Act comes into force and once some of the practical application is examined.

Operation of the Act in relation to division

One submitter queried whether advisers providing financial adviser services to wholesale financial services providers need to be included with the Code as the Act was designed to protect the public (not wholesale clients).

Another submitter said that it was difficult to respond to this question without a definition of wholesale financial services provider. If the division is to be used, however, the submitter recommended that wholesale financial service providers should be a separate category of advisers with separate standards, not a different type of AFA.

QUESTION THREE

Are there groups of financial advisers who it is proposed must complete the revised National Certificate that you think should not be required to complete it?

SUMMARY

Five submitters said that there were no groups who it is proposed must complete the revised National Certificate that should not be required to complete it.

Other submitters identified various groups of financial advisers who should not be required to complete the National Certificate as well as a number of different qualifications and designations which should be recognised for relief as against the National Certificate.

Lawyers and Accountants

Two submitters suggested that special provisions should be included for lawyers and accountants who want to become AFAs, while one submitter said that lawyers and accountants should be excluded from the requirements altogether.

Experienced advisers

A large number of submitters said that experienced or senior advisers should not be required to complete the National Certificate. Many favoured “grandfathering” such advisers into AFA status. Most submitters who commented on “grandfathering” thought that 20 years’ experience was sufficient, several suggested ten years or five years.

On the other hand some submitters supported the requirement for experienced advisers to meet the new standards.

Superannuation/Kiwisaver

Two submitters suggested that completion of the National Certificate should not be necessary for trustees of employer superannuation schemes. One submitter suggested that those who only provide advice on workplace savings schemes should be exempt from the competence, knowledge and skill standards or that the standards should be less stringent.

Roles which do not involve investment needs-based assessment or interaction with the public

A number of submitters said the minimum standards should make special provision for advisers who do not provide investment needs-based advice or interact directly with the public. Specific roles mentioned included specialist technical advisers, research analysts and junior advisers who do not deal with the public.

Certified members of the Institute of Finance Professionals of New Zealand Inc

One submitter suggested that certified members of the Institute of Finance Professionals of New Zealand who have three years’ work experience should not be required to complete the National Certificate. They submitted that such individuals should only be required to attain Standard Set B.

NZX Participants

A large number of submitters, stressed that there was a clear difference between those financial advisers operating as NZX Advisors (in an environment where there is an active regulator with a memorandum of understanding with the Securities Commission) and those operating outside the NZX regime. The submitters said that the minimum standards should reflect this difference.

New Zealand Financial Markets Association Accredited Individual Status

Several submitters stated that individuals with this status should not be required to complete the National Certificate.

Members of the Institute of Financial Advisers

A number of submitters suggested that members of the Institute of Financial Advisers should only be required to attain Standard Set B.

Other professional bodies

A number of submitters said that members of other professional bodies should be exempt from completing the National Certificate. Submitters referred to the following bodies: the Chartered Institute of Secretaries and Administrators; the New Zealand Institute of Management; the Institute of Directors; the Australian and New Zealand Institute of Insurance and Finance; and the New Zealand Society of Actuaries.

Alternative Qualifications

Some submitters said that the minimum standards should recognise qualifications from the Australian and New Zealand Institute of Insurance and Finance.

Other submitters suggested that the minimum standards should recognise qualifications from Adviserlink and in particular it was submitted that that the previous version of the National Certificate Level 5 should be recognised as equivalent to the new revised National Certificate Level 5.

A number of submitters stated that degrees (such as commerce and accounting degrees) and qualifications from other New Zealand universities and tertiary institutions should also be recognised.

Many submitters suggested that appropriate overseas qualifications should be recognised. Some submitters referred to particular qualifications, including: the UK Financial Planning Certificate; the Australian Diploma in Financial Services; qualifications offered by the Securities Institute of Australia; qualifications offered by the Financial Services Institute of Australia (Graduate Diploma in Applied Finance and Investment or the Graduate Diploma in Financial Planning); and the Certified International Investment Analyst qualification offered by ACIIA.

INDIVIDUAL SUBMISSIONS

A number of submitters said there were no groups who it is proposed must complete the revised National Certificate that should not be required to complete it.

One submitter stated that they would not recommend reducing the minimum standards of competence proposed for any of the groups of financial advisers and that the National Certificate is the appropriate minimum standard for AFAs. That submitter noted that it understands that advisers who have been working in the industry for some time (but who do not have a formal qualification) may be able to demonstrate to an assessor that they have attained competence at Level 5 Certificate Level without purchasing additional training.

One submitter suggested that three groups of individuals should not be required to complete the National Certificate:

- those who currently hold relevant qualifications and have experience;
- AFAs who only carry out investment transactions; and
- AFAs who provide wholesale financial advice and investment transactions other than to financial service providers.

Lawyers and Accountants

One submitter suggested that lawyers should not need to attain unit 25653 as they are already aware of requirements of regulations and professional practice standards. It was suggested that credit should also be given for relevant training to become a lawyer. Also many lawyers have commerce qualifications which should be recognised.

One submitter argued that credit needs to be given to the education, experience and knowledge of property and property securities held by lawyers and accountants, especially given the stringent regulation to which they are subject.

One submitter suggested that lawyers should be excluded from the requirement of becoming an AFA.

One submitter commented that many conservative investors do not use financial advisers and instead rely on advice from accountants and lawyers. If the proposed minimum standards are adopted, such professionals are unlikely to seek AFA status and will therefore not be able to provide advice. The submitter felt that this was a negative outcome. The submitter felt that accountants and lawyers were in a position to provide a check on the advice of others and have appropriate commercial knowledge to provide financial advice in a number of instances.

One submitter suggested that lawyers have access to unsurpassed information on property prices, and therefore it would be illogical to bar them from advising clients on property prices. The submitter therefore suggested that reserving to investment advisers the ability to advise on such matters is “illogical – if not odious.” The submitter suggested that it should be possible to give such advice as a “necessary incident of professional practice” given the stringent professional regulation of lawyers and accountants.

One submitter suggested that poor advice from financial advisers, not solicitors or accountants, was to blame for many investment failures in recent years. The submitter pointed to the long-standing relationship between many solicitors and clients, and the extent to which solicitors are required to advise on investment and risk management,

suggesting that a client would not lightly accept a replacement financial adviser simply because they are “authorised”.

One submitter suggested that lawyers and accountants should be excluded from the regime.

One submitter stated that the proposed competence, knowledge and skills standards for CAs and lawyers are too high. The submitter suggested that the high standards will make lawyers and CAs reluctant to comment on investment decisions and will leave clients to make their own decisions. The submitter expressed concerns about leaving clients who do not have general financial education to make their own investment decisions. It was suggested that a narrow interpretation of the exemptions under the Act based on whether the financial adviser service is a “necessary incident of professional practice” coupled with the proposed competence, knowledge and skills standards will create a negative result for investors as CAs and lawyers act as a check on the advice of others. It was suggested that in reality a client will expect a CA or lawyer to say if an investment is inappropriate. The submitter stated that both professions have ethical standards that preclude them from providing advice if they are not competent.

One submitter suggested that lawyers dealing with a property purchase may not be able to comment on the property price as this would be financial advice and is arguably not a necessary incident of dealing with the legal aspects of a property purchase. However it is submitted that the lawyer will, due to commercial experience, be knowledgeable of property prices and capitalisation rates on similar transactions and could advise the client if the price is inappropriate. The submitter argued that a property lawyer despite the lack of financial advice training, is likely to have good knowledge of:

- current property prices due to numerous transactions they tend to deal with; and
- factors such as title types, finance structure leases, body corporate rules all of which have a bearing on value and price.

That same submitter suggested that the Code could create a class of AFAs (which might include lawyers and accountants) who only advise on “conservative investments”. This class would need to:

- show the ability to identify that an investor is conservative;
- show the ability to identify conservative investment products; and
- apply recommendations based on clients needs e.g. diversification and cashflow requirements.

Another submitter sought clarity on whether there should be a competence pathway for professionals (such as actuaries, lawyers, taxation accountants) working in corporate entities. These professionals may from time to time have client contact and are technically providing financial adviser services. The submitter would like to know how these professionals will be dealt with.

Experienced/senior advisers

Sixteen submitters agreed that senior advisers should be “grandfathered” into AFA status. Twelve of those submitters suggested that senior financial advisers who can demonstrate 20 plus years experience within their respective advising industry should be assessed on their merits with the possibility of being “grandfathered” into the AFA status. Two submitters thought 10 years’ consecutive experience was sufficient to be eligible for being “grandfathered”. Some of these submitters suggested that if experienced advisers were not “grandfathered” they may leave the industry. Some noted that these senior advisers help to develop new advisers.

Another submitter expressed similar views and stated that previous experience should be taken into account in deciding what standards of competence, knowledge and skills must be attained.

Others did not specify a particular number of years experience but just made the comment that experienced advisers should be “grandfathered”. One submitter suggested that advisers with “significant experience” be considered for “dispensation.” Another stated that those advisers with “extensive experience” should be exempt from having to complete the National Certificate.

One submitter suggested that advisers with 25 years’ experience, as well as relevant tertiary qualifications, should be able to be “grandfathered”.

One submitter suggested that advisers with five years’ experience should only need to complete Standard Set B.

One submitter stated that senior advisers who have been in the industry for more than 8 years and have other professional qualifications plus meet a certain age (55 years) and have performed roles in senior management should not be required to attain the National Certificate or other recognised alternatives.

One submitter suggested that if an adviser has been operating in the industry for five years without being subjected to formal dispute proceedings that adviser should be recognised as an AFA without imposing additional education requirements.

One submitter suggested that, while the competency requirements were appropriate for new entrants, advisers with five years’ experience who attain Standard Set B should be given AFA status in order to avoid experienced advisers leaving the industry. The submitter suggests that client testimonials could be used to demonstrate experience.

One submitter suggested that he should not be required to complete the National Certificate as he had sufficient experience in the industry.

One submitter said that the proposed minimum standards did not give enough weight to longevity in the industry. The submitter thought that those advisers who had been in the industry for more than ten years should be authorised on the basis of a simple test to establish competency.

One submitter submitted that experienced advisers should be permitted to become AFAs without having to undergo further education. In return for authorisation, the submitter suggested that such advisers should become fee-based advisers rather than operating on a commission basis. The submitter thought that this more than anything else would improve the behaviour of financial advisers as a group.

One submitter felt that experienced advisers should be “grandfathered” into the new regime and should be subject to ongoing continuing education requirements in order to maintain standards.

One submitter expressed concern that the standards do not sufficiently recognise the position of established advisers who have attained qualifications such as CFP and CLU. The submitter expressed the view that in other professions when an examination process changes over time, those already qualified do not have to re-sit their qualifications. The submitter thought that the same approach should be applied to financial advisers.

One submitter stated that the standards do not take into account experience and a “sound track record of satisfied clients” as clients who are happy do not need to be protected from that adviser.

One submitter suggested that independence is the key as independent advisers usually gain clients by recommendation and if the adviser does not perform they will not be recommended. It was noted that older independent financial advisers may not be willing to go through the competence, knowledge and skills standards required and that this would not be a good result for consumers.

Senior NZX participants

One submitter stated that experienced NZX Advisors should be granted leniency with a view to “grandfathering” into AFA status. It is submitted that experienced NZX Advisors have a lot to offer the investing public and a significant role to play in training new entrants. That submitter suggested those who meet certain criteria such as relevant experience, NZX Diploma, direct compliance supervision structures, adequate research and track record should be “grandfathered”.

Two submitters stated that allowances should be made for senior financial advisers who have operated under the NZX regime for a number of years and have significant knowledge and experience. Therefore it was submitted that these advisers who have 20 years plus experience (but have not completed the NZX Diploma) should be given the possibility of being “grandfathered” into AFA status. It was submitted that a failure to do this could impact on public confidence and may create a vacuum of experienced advisers.

Another submitter supported “grandfathering” of senior NZX Advisors with 20 or more years’ experience. Another submitter advocated “grandfathering” for experienced NZX advisers that met certain requirements (e.g. 20 years’ experience, the NZX Diploma, direct compliance supervision structures in place, good track record.)

One submitter supported the Code Committee's intention to raise standards. However, he submitted that allowances should be made for experienced financial advisers who have been operating under the NZX's rules.

One submitter stated that there are many who have become NZX Advisors due to experience or length of service. That submitter observed that many of these individuals hold finance or other similar degrees and that a flexible approach should be taken.

One submitter (also endorsed by another submitter) suggested that allowances should be made for senior financial advisers who have been operating under the NZX regime for a number of years and who have depth of knowledge and experience. It was submitted that public confidence may be affected if seniority within the industry is not recognised.

Another submitter said that the standards should make allowance for senior advisers who have been operating within the NZX system.

One submitter suggests that those with 15 years practical experience including five years as an NZX participant should be given full recognition as AFAs without further training or assessment.

One submitter generally endorsed the proposed systems, but felt that due regard needed to be given to the experience and expertise of long-term NZX Advisors, given the stringent culture of compliance in which such advisors work.

One submitter would like recognition to be given to senior financial advisers with specialist skill sets who have been operating under the NZX regime for a number of years and only provide advice within that skill set (e.g. fixed income).

One submitter wished special allowances to be given to NZX Advisors of long-standing experience.

Two submissions advocated that NZX advisors should be "grandfathered" into AFA status.

One submitter felt that allowance needed to be made for experienced NZX advisers to avoid losing them from the field and creating a vacuum.

One submitter suggested that long-standing NZX Associate Advisors who do not have the NZX Diploma should not have to complete Standard Sets B, C and D.

One submitter noted that some advisers were "grandfathered" into the NZX in the 1970s. As these advisers would now be in the later stages of their careers, the submitter suggested that such employees should be given five years to continue working until retirement without having to meet any further standards.

One submitter states that NZX Advisors are regulated under the NZX Participant Rules and that NZX Advisors have achieved the status through a significant commitment to study or by having significant experience (20 years plus). It is submitted that those who are NZX

Advisors but do not have a post-graduate diploma should be provided with a simple method for qualifying under the regime.

Process for “grandfathering” senior advisers

One submitter suggested that a process should be established whereby experienced financial advisers could submit details of their qualifications and experience along with references and be authorised on that basis. Similarly another submitter suggested that there should be a general provision allowing existing experienced advisers to demonstrate educational qualifications and practical experience so that they did not have to attain the National Certificate. That submitter suggested that greater flexibility was necessary in order to recognise capable advisers who do not fit precisely within any of the proposed standards. Another submitter also supports case-by-case consideration of individual applications, including on the basis of relevant experience.

One submitter said that the proposed standards were appropriate for new entrants to the industry. The submitter suggested, however, that a process be developed for existing advisers to be authorised individually by the Commissioner for Financial Advisers.

Submissions against “grandfathering”

One submitter fully supported requiring experienced advisers to fulfil the new standards.

One submitter made the point that experience does not necessarily mean that competence, knowledge and skills have been retained. The point was made that “the older the adviser, the greater the need for re-education”.

Superannuation/Kiwisaver

One submitter was concerned that trustees of an employer-sponsored superannuation scheme and potentially employers themselves could be caught by the terms of the Act.

Another submitter argued that completion of the National Certificate should not be necessary for trustees of employer superannuation schemes. One submitter suggested that if such a trustee is required to be authorised, it should be the trustee itself – and not the directors of it, for example – that should be authorised.

One submitter stated that the proposed standards are inappropriate for those advisers who only provide advice on workplace savings schemes. It was stated that the employer generally decides on the scheme design and what is offered to the employees (Kiwisaver excepted) and the adviser’s advice and knowledge is specific to the terms and conditions of the particular workplace savings scheme. It was submitted that this class should be exempt from any competence, knowledge and skills standards or if this is not accepted, that the requirements should be less onerous and costly.

Roles which do not involve investment needs-based assessment or interaction with the public

Technical/specialist advisers

One submitter suggested that some employees captured by this Act may operate in roles or within team structures where the minimum standard will exceed what is necessary for their role. That submitter proposed that those who are not providing needs-based investment advice to the public should not be required to complete the National Certificate. It was submitted that these advisers are providing specific technical skills or work where an AFA is ultimately responsible for any advice given to a member of the public. Three other submitters expressed similar views.

One submitter suggested that specialist technical advisers who do not assess the financial needs of the public should not be required to meet the minimum competence standards as they require specialist education and training.

One submitter stated that there should be a process whereby alternative qualifications could be considered for those who do not provide “investment needs based advice” ie a research analyst or a debt origination analyst deployed to educate the public in the workings of an instrument.

Another submitter stated that the position of research analysts needs to be examined as their roles do not normally involve providing one-on-one investment advice and this should be recognised in the proposed adviser requirements.

One submitter stated that it should be recognised that customers will not necessarily want needs based advice and may seek a high degree of technical product knowledge and advice. The submitter suggests that it is inappropriate to require that advisers complete a qualification or test for competence that is not relevant to a particular specialist technical advisory role. The submitter stated that the Code needs to recognise that competence in some product areas is potentially very different from the skills required to provide customer-focused needs advice. An example is a research analyst employed to prepare, publish and present (to both wholesale and/or retail investors) securities research. Such analysts will not have direct client relationships or client files although these advisers are captured by the Act as they provide “financial advice”. It was submitted that these analysts often have university qualifications often at PhD level which are highly relevant to their research role and the unit standards should be sufficiently flexible to allow for these roles.

Another submitter also stated that alternative qualifications should be considered for roles such as research analysts or debt origination analysts. These analysts who do not assess the needs of the public but rather provide specialist technical information, should not be required to meet the proposed minimum standards as they require very different specialised training and education. Two other submitters expressed similar views.

One submitter said that alternative qualifications should be made available for advisers in roles that are not specifically investment needs based, for example analysts.

One submitter thought that the minimum standards should make special provision for research analysts and debt origination analysts who do not provide investment needs based advice to the public but rather provide specific technical advice.

Another submitter referred to specialist roles such as research analysts who undertake research on products for retail advisers and suggested that the competence requirements do not suit research analysts. They stated that these advisers often have specialist degrees but may not have completed the broader papers covered by the NZX Diploma or other qualifications.

One submitter was concerned that specialised research teams would be caught, which the submitter did not think was the intent of the legislation.

One submitter suggested that special consideration ought to be given to those who do not actually advise the public, but who provide technical skills.

One submitter also suggested that allowance should be made for those who do not provide direct investment advice but who have satisfactory qualifications for their area of work.

One submitter believed that special consideration should be given to those who do not provide advice directly to clients generally, but whose work ultimately educates the public (e.g. research analysts or fixed income analysts).

Two submitters also suggested that different educational requirements should apply to back-room staff such as research analysts.

One submitter stressed the importance of giving special consideration to those who do not advise the public directly (e.g. research analysts).

One submitter also felt that specialist employees who work for an AFA who is ultimately responsible need to be considered.

One submitter commented that advisers on the fringes, such as accountants and counter staff at banks, should be required to meet the same standards as all other financial advisers.

One submitter suggested that the Code did not treat investment bankers and corporate advisers appropriately.

Junior/ back-office advisers

One submitter suggested that special consideration ought to be given to junior advisers who do not directly interface with the public.

One submitter also suggested that special allowance should be made for back-room staff who do not advise clients directly.

One submitter sought clarification as to whether back office staff, who produce financial plans, check advice and make transactions with respect to category one products, would need to be authorised.

One submitter sought clarity on whether support staff to advisers (including those who prepare transactions, disclosure documentation and letters) would need to be authorised. The submitter suggests that authorisation should be required when the employee/agent advises a client directly, but that employees dealing with client complaints should not need to be authorised.

One submitter suggested that “back office” support staff should not be required to become authorised.

Certified Members of INFINZ

One submitter suggested that certified members of INFINZ who, in addition to the work experience and education required to attain such certified membership, have work experience of sufficient duration (three years) in the area of unrestricted financial adviser services, should not have to complete the National Certificate. It was submitted that these people have attained the skills to provide financial advice to wholesale financial service providers but if they have now decided to deliver this to the retail marketplace, they should only be required to attain Standard Set B. That submitter stated that INFINZ requires certain levels of competence, and three years’ work experience for an individual to become certified. It is suggested that after the Code comes into force Certified INFINZ members who wish to become an AFA may need to attain Standard Set C as well as B unless their qualifications and work experience indicate that they have attained such competence. That submitter suggested that membership of INFINZ exceeds the minimum standards set out by the Code Committee. Therefore the submitter suggests that the Code Committee should provide some relief to Certified INFINZ members as against the National Certificate.

NZX Participants

Recognition of NZX Regulation

One submitter (endorsed by another submitter) noted that they are fully supportive of the Code Committee’s intent to raise the industry standards for competence, knowledge and skills and that the recognised alternatives (see appendix B) set a solid industry standard to help achieve the objects of the Financial Advisers Act 2008. But that submitter wished to make a clear distinction between those financial advisers who have been operating as NZX advisers within a regime that has an active regulator with a Memorandum of Understanding (MOU) with the Securities Commission. It was submitted that under this regime, participant firms and their employees are reviewed against the NZX Participant Rules. It was submitted that the Participant Rules cover a broad spectrum of issues facing financial advisers from the Financial Transaction Reporting Act, market manipulation, insider trading to client duty of care. It was pointed out that advisers are personally liable for failure to comply with the Participant Rules.

One submitter stated that they are fully supportive of raising industry standards of competence, knowledge and skills. However it is submitted that there should be a

distinction between those who have been operating as NZX Advisors within a regime that has an active regulator with a MOU with the Securities Commission and “other” financial advisers. The regulator reviews participant firms and their employees against the Participant Rules. Another submitter expressed similar views.

Another submitter suggests that NZX Participants already exhibit the levels of competence, knowledge and skills required to provide high quality investment advice. It is submitted that the proposed minimum standards do not adequately recognise the existing high standards of NZX Advisors and Associate Advisors. It was submitted that NZX Advisors and NZX Associate Advisors have attained academic achievements, formal mentoring, NZX audit and discipline procedures, peer reviews and ongoing professional development. That submitter stated that very few of the notable investment advice shortcomings have originated with NZX firms because of the existing competence and ethical standards set by NZX and audit, complaints and disciplinary procedures. Therefore NZX Advisors and NZX Associate Advisors with at least five years experience should only be required to attain Standard Set B.

Several submitters point out that those who have worked in the share broking industry have been required to operate in a regulated environment and that this should be taken into consideration. One submitter argued that the wider financial services industry does not have this level of regulation, compliance and care.

Two submitters suggested that special provision should be made for advisers operating under the NZX Rules. The submitters felt that the personal liability imposed under the rules and NZX’s enforcement of them provided an assurance of quality.

One submitter stated that there should be a distinction between financial advisers who have been operating as NZX Advisors for a number of years and those new to the industry. It was submitted that NZX Advisors already operate within an environment where the strictest compliance with Participant Rules is required.

One submitter stated that he is generally in favour however a distinction should be made between advisers operating under the NZX rules/regulations. It is submitted that NZX advisers are personally liable for breaches and the NZX rigorously enforces the rules. Another submitter also stated that the NZX framework provides a suitable regulatory framework.

One submitter suggested that those that operate under the NZX Participant Rules already cover a wide range of matters set out in the consultation paper.

One submitter suggested a distinction between advisers who are members of professional associations and those that are not. The submitter thought that advisers who are working in a regulated environment and those who are members of professional associations should be given credit for this in terms of authorisation.

One submitter argued that NZX Advisors who have been operating for some time within a closely regulated industry should be treated differently.

One submitter stressed that the culture of compliance created by the stringent rules imposed by the Stock Exchange Rules and Regulations should be recognised.

One submitter suggested that recognition should be given to the supervision undertaken by NZX firms under the Participant Rules in the accreditation process.

One submitter supported the proposal, but thought that a distinction needed to be made between those who had been working in the industry under NZX regulation and new entrants.

One submitter suggested that it was necessary to recognise the status of advisers working with an NZX firm.

One submitter was concerned that many of the problems with the industry stemmed from an inadequate knowledge of the technicalities of products that formed portfolios, which is not a problem with NZX Advisors.

One submitter believed that those in his position (moving from being an NZX Associate Advisor to an Advisor in 2010, having completed the NZX Diploma and having demonstrated three years' experience in compliance with the NZX Rules and Regulations under a strict compliance department) should not have to complete the Certificate.

Another submitter stated that those that belong to NZX participant firms and NZX advisers who are involved in "full service (research driven investment advisory and stock broking firms)" should be recognised as competent without further assessment.

NZFMA Accredited Individual Status

One submitter recommended that advisers with NZFMA Accredited Individual Status should be exempt from completing the National Certificate. Another submitter agreed that the Committee should recognise the NZFMA Accredited Individual Status.

Another submitter suggested that NZFMA-accredited dealers should only be required to complete Standard Set B, and that this requirement should be reviewed once the NZFMA curriculum has incorporated knowledge of the Code.

Another submitter believed that those with NZFMA accreditation, appropriate international accreditation or NZX Advisor/Associate Advisor status should not be required to complete the Certificate.

Members of the Institute of Financial Advisers

One submitter suggested that the proposed recognised alternative qualifications are too restrictive and disadvantage those who have been members of the IFA for 10-20 years. It was submitted that these advisers are not likely to provide less competent advice to their clients. That submitter recommends a more liberal approach to these advisers especially if they are a member of a professional association and are required to follow professional practice standards including ongoing continuing professional development (CPD). That submitter supports full application of assessment for those who have no formal

qualifications and no membership of a professional body (and therefore have not undertaken CPD and are not required to follow any professional standards).

That submitter expressed disappointment that there is no recognition of membership of a professional association in the competence, knowledge and skills standards. It was noted that the IFA has formal requirements for membership including educational qualifications, mentored practical experience, ethical conduct and ongoing CPD. It was suggested that advisers who have been members and have therefore maintained CPD will have met Standard Sets A and C. That submitter stated that Standard Set C is drawn directly from global practice standards for financial advice that are the basis for IFA's professional standards. Therefore a current IFA member should not need to attain Standard Sets A and C, irrespective of what other qualifications or professional status they hold.

Another submitter suggested that IFA members should only be required to attain Standard Set B regardless of other qualifications or professional designations held. That submitter also drew attention to the fact that IFA members must comply with the IFA's code of conduct, educational requirements and professional development.

One submitter suggested that a full IFA member should only need to complete Standard Set B.

Other professional bodies

One submitted expressed concern that the criteria focused on the position of CFP, CFAs, CAs and NZX members. The submitter felt that there was not enough scope for speciality industry participants to become AFAs. In particular, the submitter noted that no recognition was made for members of the Chartered Institute of Secretaries & Administrators, and the New Zealand Institute of Management and the Institute of Directors.

One submitter submitted that financial advisers with industry qualifications equal or higher than a Level 5 qualification should not have to complete the National Certificate or attain any further qualifications. In particular, the submitter thought that CLUs, CFAs and CFPs with a minimum of five years industry experience should not be required to attain additional qualifications. In addition, the submitter expressed the view that fire and general insurance advisers who are Associates, Senior Associates or Fellows with the Australian and New Zealand Institute of Insurance and Finance and have a minimum of five years industry experience should not have to attain additional qualifications.

One submitter expressed the view that Fellows of the Society should be treated in the same way as CFAs who have an exemption from Standard Set A and Standard Set D. That submitter expressed the view that those individuals who are Fellows already had to demonstrate these skill sets in order to become Fellows.

Another submitter suggested that the Committee should recognise Institute of Financial Advisers membership and Australian Financial Markets Association accreditation.

One submitter stated that there is insufficient recognition of the role that professional organisations (and NZICA in particular) play in quality assurance, training and assessment. One submitter pointed out that NZICA has:

- rules, policies and procedures to restrict entry to those who do not meet its standards;
- rules, policies and procedures to sanction/remove those who do not meet its standards; and
- policies and structures to build and improve the quality of applicants' and members' competencies and knowledge.

That submitter stated that NZICA regulates its members through:

- admissions requirements for the three designations (CA, ACA and AT) covering three key elements: academic study, practical experience and professional competence;
- Additional quality assurance through a mentoring programme, assessment of training institutions and training organisations;
- required ethical and professional standards;
- required ongoing professional development;
- a requirement to hold a Certificate of Public Practice (for those serving the public);
- system of Practice Review to ensure compliance;
- system of practice entity review for members involved in public practice;
- obligations to abide by professional standards; and
- disciplinary procedures for reprehensible conduct and non-compliance with standards.

That submitter suggested that the principle of continual flexibility be adopted whereby the Committee is able to review and amend its competence requirements if professional organisations are able to implement training and assessment schemes that can assure the Committee that their members are meeting the expected competence levels.

Australian and New Zealand Institute of Insurance and Finance qualifications

One submitter suggested that qualifications from this organisation should be recognised as alternative qualifications for the purposes of authorisation. It was noted that the Institute was named Education Service Provider of the Year in the Asia Pacific Region for 2009.

One submitter stated that qualifications obtained through the Australian & New Zealand Institute of Insurance and Finance should be recognised in terms of AFA status.

One submitter suggested that the Diploma in Financial Services (Life Insurance) offered by the Australian and New Zealand Institute of Insurance and Finance should be recognised. The submitter suggested that this course was comparable to the National Certificate.

Adviserlink Certificate in Financial Services (Financial Advice) Level 5

One submitter had obtained the AdviserLink Certificate in Financial Services (Financial Advice) Level 5 and stated that it should be considered in terms of equivalence to the National Certificate.

Another submitter stated that those with the “Adviserlink Certificate in Financial Services” should be recognised as equivalent as the content is similar to the proposed National Certificate. It was submitted that those who hold this should only be required to complete Standard Set B.

NZ Diploma in Life Assurance

One submitter suggested that the NZ Diploma in Life Assurance should be recognised for CLUs as it is similar to the Massey and Waikato Graduate Diplomas.

New Zealand university degrees and other tertiary qualifications

One submitter stated that New Zealand university degrees should be recognised in some way as achieving a degree will demonstrate that the proposed standards are met or exceeded.

Two submitters stated that the Code Committee should consider whether a Bachelor of Commerce or an MBA should be recognised in the Code as an alternative relevant qualification.

Another submitter also stated that there should be credit for a full tertiary degree ie BCA or BCom.

It was also submitted that accountancy degrees should be recognised in some way (even if the individual is not a CA). That submitter also suggested that economics or finance majors should also be recognised.

One submitter suggested that it should be possible to cross-credit mainstream finance, business and law degrees to the requirements of the National Certificate.

One submitter stated that advisers with other formal university qualifications ie business degrees with a major in finance, accounting etc should be recognised where they have practical experience. It was stated that these advisers should only be required to attain Standard Set B.

One submitter noted that although graduate diplomas can form the basis of authorisation as an AFA, university degrees majoring in areas such as economics and finance cannot. The submitter suggested that that was anomalous given that a higher standard of learning was required to obtain a degree than a diploma.

Another submitter suggested that those with a degree with a major in financial planning from Massey or Waikato University should be recognised as AFAs automatically. It was submitted that these people will have taken the same courses as are required for the diplomas leading to CFP and CLU and that these individuals should only be required to attain Standard Set B.

One submitter stated that his qualifications (Bachelor of Business Studies, NZX Diploma, and the Canadian Securities Course) should be sufficient to be considered competent. That

submitter stated that the proposed standards fail to take into account legitimate tertiary qualifications and industry experience.

One submitter expressed concern that no provision is made for financial advisers who hold masters degrees, despite the fact that such degrees are higher level qualifications than graduate and postgraduate diplomas.

Another submitter queried why only qualifications from Massey and Waikato universities are recognised as alternatives to the National Certificate. The submitter expressed the view that similar qualifications from other institutions should also be recognised. Another submitter also queried the focus on Massey and Waikato qualifications.

One submitter said that advisers who have completed the NZ Diploma of Life Insurance should also be recognised.

One submitter felt that the competence, knowledge and skills standards did not recognise a wide enough range of university degrees (e.g. Bachelor of Business Studies majoring in Finance) or anticipate new degrees. The submitter suggested that the list be expanded, be made flexible, and provision be made for advisers to “top up” relevant but insufficient qualifications.

Another submitter suggested that the Massey Postgraduate Diploma and the Waikato Postgraduate Diploma in Business Studies (Personal Risk Management), the NZX Diploma and NZX membership should be recognised.

One submitter thought that the standards should allow for authorisation on the basis of other suitable qualifications.

One submitter said that the Committee should broaden the range of qualifications that allow an adviser to become authorised to include other qualifications that include the study of finance, investment practice and financial markets.

Exams administered by Otago University on behalf of the NZ Society of Investment Analysts and the NZ Stock Exchange (late 1980s-1990s)

One submitter suggests that the NZ Society of Investment Analyst exams should receive some relief against the National Certificate. The exams included:

- Financial Accounting;
- Investment Analysis; and
- Ethics, Legislation and Regulation of Stock Exchange Practices.

That submitter suggested that those who are NZX Members and have completed the above exams should not be required to complete Standard Sets A or C as the NZ Society of Investment Analysts exams covered this material.

One submitter said that individuals who have passed the Society of Investment Analysis exams should be viewed as having completed the NZX Diploma. He noted that in the 1990s this was an alternative to the NZ Stock Exchange Diploma.

One submitter stated that in the 1990s the NZ Stock Exchange encouraged those seeking membership of the Stock Exchange to complete the Society of Investment Analysts exams as an alternative to the NZX Diploma (formerly called the NZSE Diploma). That submitter recommended that those who have passed these Society of Investment Analysts exams and have relevant experience should be treated in the same manner as those who have completed the NZX Diploma.

International qualifications

A number of submitters said that alternative qualifications from overseas institutions should be recognised.

One submitter was concerned that the proposed standards not act as a barrier to the entry of experienced and competent overseas personnel or New Zealanders who have obtained relevant overseas qualifications.

One submitter noted that the proposed alternative recognised qualifications include New Zealand graduate and postgraduate courses but noted that similar qualifications from overseas universities are not recognised.

Australian qualifications

One submitter suggested that Australian-based qualifications need to be examined and recognised where they are appropriate.

Another submitter also suggested that the Australian Diploma in Financial Services (Financial Planning) (issued by ASIC) should be recognised.

Another submitter suggested that holders of the Australian Financial Services Diploma (Financial Planning), should only be required to attain Standard Set B.

One submitter queried whether graduate diplomas from overseas institutions would be recognised. In particular the submitter referred to the Graduate Diploma in Financial Planning and the Graduate Diploma in Applied Finance (Investment Analysis Stream) offered by the Securities Institute of Australia.

FINANCIAL SERVICES INSTITUTE OF AUSTRALIA QUALIFICATIONS (FINSIA)

One submitter suggested that the Code Committee should consider whether the qualifications offered by Financial Services Institute of Australia (FINSIA) should be recognised and whether relief as against the National Certificate should be provided. It is submitted that these qualifications are a natural extension to the NZX Diploma. It was stated that many advisers have completed the Graduate Diploma in Applied Finance and Investment or the Graduate Diploma in Financial Planning. It was suggested that these graduates should not be required to attain Standard Set D.

Another submitter stated that most NZX Advisors undertake training and qualifications through FINSIA. It was noted that NZX recognises FINSIA as providing an acceptable level of training and assessment in both the equities and derivatives markets and therefore it was submitted that FINSIA qualifications should be recognised as alternative qualifications in the Code. That submitter pointed out that NZX Associate Advisors are required to complete two of the FINSIA papers and therefore these individuals should be recognised in some way.

One submitter suggested that holders of the Australian Diploma of Financial Services provided by Kaplan should receive some relief from the National Certificate.

One submitter stated that the Kaplan Diploma of Financial Services (Financial Planning) should be recognised in the Code and receive some relief as against the National Certificate. He submitted that this course covers the financial planning process (consumer/client needs), functions of a financial planner (advice and ethics); the operation of financial markets; impact of the economy on financial advising (inflation etc); history of regulation, estate planning and risk management. That submitter also stated that the Graduate Diploma of Applied Finance and Investment Securities should be recognised.

United Kingdom Qualifications

Two submitters suggested that the UK Financial Planning Certificate (issued by the FSA) should be recognised. Another submitter strongly believes that some cross-crediting should be permitted for the UK Financial Services Qualification.

Certified International Investment Analyst (offered by Association of Certified International Investment Analysts (ACIIA))

One submitter suggested that this certification should be recognised. ACIIA has 32 country member associations. There are 4754 CIIA holders worldwide. It was submitted that to become a CIIA, an adviser must complete two exams and the UK Financial Services Authority has accredited CIIA as a qualification meeting the requirements for those engaged in securities activities. CIIA candidates must pass two levels of common knowledge exams and national/regional exams, be a member of a participating society, have three years experience in financial analysis, portfolio management and/or investment. It was submitted that those that hold this qualification should only be required to attain Standard Set B.

Process for recognition of overseas qualification

One submitter stated that they would like to see alternative overseas qualifications recognised and that there should be a process by which alternative qualifications could be considered for roles that are captured by this legislation that are not specifically "investment needs based" ie research analyst or a debt origination analyst deployed to educate the public on the workings of an instrument. Another submitter supports this idea.

QUESTION FOUR

Do you think the standards for financial advisers proposed as alternatives to attaining the National Certificate?

NB: the Table of recognised alternative qualifications and designations from the consultation paper on competence, knowledge and skills is appended to this document for ease of reference.

SUMMARY

General comments

A number of submitters generally supported the proposed alternative standards.

Some submitters felt that the range of alternatives were too narrow and that some mechanism should be included to recognise other qualifications.

The view was expressed that some advisers that possess the proposed recognised alternative qualifications and designations may still be producing poor outcomes for consumers.

Comments on particular alternatives

The following comments were made in relation to particular recognised alternative qualifications/designations:

Alternative 1

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;
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Some submitters said that if an adviser has completed one of the specific diplomas, he or she should only be required to attain Standard Set B. Some submitters noted that the Massey/Waikato diplomas are level 7 and level 8 qualifications whereas the National Certificate is only a level 5 qualification.

Alternative 2

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 Planner; or ➤ a Chartered Life Underwriter; and ○ be able to demonstrate a two-year period of mentoring where assessment of practice has occurred; and ○ have attained Standard Set B;
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A number of submitters opposed the two-year mentoring requirement. Some thought that it was excessive in comparison with the requirements of the National Certificate. Others pointed out that advisers were not previously required to undergo a period of mentoring in order to attain the CFP or CLU designation and that they should not be retrospectively required to do so now, given that such advisers would have been practising for a number of years.

Some submitters said that Associate Financial Planners and Associate Life Underwriters should be treated in the same way as CFPs and CLUs.

It was noted that a number of advisers who were formerly CFPs had lost their right to use the CFP designation when they let their IFA membership lapse. It was submitted that such advisers should be treated as if they had not let their membership lapse for the purposes of authorisation.

Alternative 3

OR	<ul style="list-style-type: none"> ○ be a Chartered Financial Analyst (CFA); and ○ have attained Standard Sets B and C ;
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There were a range of comments in relation to alternative 3 including:

- that CFAs should not be required to attain Standard Set C;
- that CFAs should be required to attain Standard Sets B, C and D; and
- that CFAs should not be required to attain Standard Sets B and C.

Alternative 4

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; and ➤ unit standards 25650, 25651 and 25652;
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Some limited changes were suggested in relation to Chartered Accountants (CAs). However most of the submissions in relation to alternative 4 related to relief for Associate Chartered Accountants (ACAs) and Accounting Technicians (ATs). No relief as against the National Certificate was proposed in the consultation paper for these groups of advisers.

Some submitted that ACAs should receive the same relief under the Code as CAs receive and that ATs should receive some limited relief under the Code.

Alternative 5

OR	<ul style="list-style-type: none"> ○ have an NZX Diploma; and ○ have attained Standard Sets B, C and D;
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Some submitters suggested that alternative 5 and alternatives 6 and 7 were inconsistent. It was pointed out that if an adviser has an NZX Diploma he or she is required to complete Standard Sets B, C and D. Similarly, if an adviser is an NZX Advisor he or she is required to complete Standard Sets B, C and D. However, if an adviser is both an NZX Advisor and has an NZX Diploma he or she is only required to complete Standard Set B.

Several submitters said that simply having an NZX Diploma should be sufficient for the purposes of authorisation.

Clarification was sought regarding whether the NZSE Diploma (the predecessor to the NZX Diploma) would be treated in the same manner as the NZX Diploma.

Alternative 6

OR	<ul style="list-style-type: none"> ○ be an NZX Advisor; and ○ have attained Standard Sets B, C and D;
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A number of submitters said that NZX Advisors should be defined to include NZX Advisor, NZX Associate Advisor, NZDX Advisor and Futures and Options Advisor.

NB: a Clarification note was released on 28 October 2009 correcting references to “NZX Members” to “NZX Advisors”. This was circulated to the Code Committee email distribution list and placed on the website.

Alternative 7

OR	<ul style="list-style-type: none"> ○ have an NZX Diploma; and ○ be an NZX Advisor; and ○ have attained Standard Set B;
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NB: a Clarification note was released correcting references to NZX Members to NZX Advisors. This was circulated to our consultation distribution list and placed on the website but some submitters did not seem to be aware of the clarification.

Some submitters suggested that advisers in this category should be required to attain further Standard Sets.

Alternative 8

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.
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See the responses to Question 6.

INDIVIDUAL SUBMISSIONS

General submissions

Five submitters generally supported the proposed alternatives.

One submitter supported the alternative standards, however, the submitter cautioned that qualifications were not a guarantee of good advice.

One submitter endorsed the requirement for all AFAs to attain Standard Set B.

Another submitter supported the Committee’s proposal that persons who are not members of a professional organisation or who have not gained any relevant qualifications must complete all of the minimum standards as the submitter stated that these are the people who potentially pose the greatest risk.

One submitter stated that there is a disparity in the importance placed on the National Certificate compared to other qualifications. The submitter pointed out that the holder of an NZX Diploma (which comprises six tertiary level, basic and advanced subjects) only

receives relief from Standard Set A. It was suggested that a similar disparity arises in the relief provided to CAs and holders of the Massey/Waikato diplomas.

One submitter stated that there seems to be some inequality between:

- holders of the Massey/Waikato Diplomas who are CFPs or CLUs and can demonstrate two years of mentoring and have completed Standard Set B; and
- graduates of the same diploma courses who have completed Standard Sets B and C; and
- CFPs who are not graduates of any diploma courses but have completed Standard Sets A, B and D.

One submitter stated that the benchmarks should describe the qualifications required but not prescribe the institutions that currently provide the education (i.e., presumably, the benchmarks should not prescribe the institutions that *can* provide the education).

One submitter felt that there were too many alternative ways of becoming authorised. The submitter felt that the current nine alternatives should be reduced to seven.

One submitter wanted continuing professional development standards to be taken into account as credit towards achieving the proposed minimum standards of competence, knowledge and skills.

One submitter expressed concern that the discussion document does not identify why additional Standard Sets are required for those holding particular recognised alternative qualifications, and in particular why someone who holds an NZQA Level 7 qualification is still required to complete additional Standard Sets.

One submitter supported the proposed minimum standards. However, the submitter suggested presenting the standard in a different way. They stated that in reality the minimum standard is the National Certificate or the recognised alternative qualifications/designations.

One submitter suggested that greater weight ought to be given to “historical qualifications.”

Two submitters suggested that approved qualifications should be listed as they are approved. One submitter mentioned that international qualifications should also be listed.

Flexibility of recognising relevant alternative qualifications/designations

One submitter said that a flexible and pragmatic approach should be taken to recognising qualifications not currently recognised in the standards. Another submitter stated that the nine alternatives should be flexible and subject to development after the standards are finalised.

One submitter suggested that alternative qualifications from appropriate institutions in New Zealand or overseas should be considered for the purposes of authorisation.

Another submitter supported the proposed alternatives but thought that there should be a process whereby other qualifications could be recognised.

One submitter suggested that where an adviser did not fit within the criteria (e.g. for recognition of international qualifications) there should be a means by which they could apply for individual consideration, and for that application to be considered promptly (requiring adequate personnel). Another submitter also suggested that individuals should be able to apply to the Securities Commission for special dispensation in relation to a particular qualification, with the decision being made public.

It was suggested by one submitter that the recognised alternative qualifications are too narrow and will lead to anomalies. For example the submitter stated that there are existing advisers who are CFP professionals who have gained their status but do not have a Diploma. For instance, some have completed a degree in financial planning or have become a CFP professional in Australia, Canada, South Africa, UK and who have become certified in NZ after completing a course in NZ taxation plus a period of mentored experience. It was stated that in the transition phase there should be more flexibility to cover these qualifications.

Another submitter was also concerned that the range of qualifications specified was insufficiently broad or flexible, and more consideration needed to be given to recognising other relevant qualifications (including from overseas). The submitter suggested that a more flexible, case-by-case approach, possibly by means of a waiver provision, needed to be taken to recognise (particularly older) qualifications to avoid prejudicing experienced advisers.

One submitter expressed the view that the list of qualifications that are recognised is relatively narrow. The list does not cover overseas based qualifications. It was recommended that the Code include a process by which alternative qualifications may be considered for relief.

One submitter did not think that the net was cast sufficiently wide to take into account qualifications that may have been obtained some years ago, and that a common sense approach to recognising such qualifications (perhaps by a specialist committee) was necessary.

One submitter noted that there were other qualifications which could be accepted as appropriate recognised alternatives and that it was not realistic to specify all relevant qualifications in the Code. The submitter said that the assessment of other qualifications should be made on a case-by-case basis.

One submitter suggested that a system of cross-crediting could be introduced without compromising the integrity of AFA authorisation.

One submitter suggested that recognising a wider range of alternative qualifications was desirable.

One submitter suggested that there ought to be more flexibility in the alternative qualifications and designations taken into account.

Another submitter stated that it appears that there are a significant number of advisers in the New Zealand financial advisory sector that have a range of suitable qualifications that are not recognised in the Code. It was submitted that many of these are held by individuals who were early adopters of the idea of achieving professional qualifications and they should not be penalised for this.

That submitter strongly argued that the range of qualifications recognised should be broadened to include other qualifications that include the study of finance, investment practice and financial markets. It is submitted that financial advisers provide a broad range of services and therefore a broad range of qualifications should be recognised. It is suggested that restricting the qualifications recognised in the Code will potentially restrict investment options available to the public.

One submitter suggested that there should be levels of qualifications that reflect different levels of expertise.

Trust and estate administration recognition

One submitter responded that the alternatives were not appropriate and said that there should either be:

- a) A further specialisation option under Standard Set D for trust and estate administration; QFEs should be able to provide internal training; or
- b) A separate category labelled "AFA (Trust and Estate Administration)" with the following definition:

"An AFA employed by a QFE which is a trustee corporation, may provide financial services in relation to wills, estates, trusts and Enduring Powers of Attorney if the employee:

- a) is a Lawyer performing legal work within the scope of his or her employment; or
- b) is a Chartered Accountant or holder of a degree in commerce or accountancy, giving advice about the taxation, accounting or business consequences of any transaction of asset [sic]; or
- c) has been employed by a trustee corporation or corporations in a client advisory capacity for at least 3 years and the advice relates on to:
 - i. preparation of wills and/or Enduring Powers of Attorney; or
 - ii. setting up trusts and/or transfer of assets already owned by clients into a trust; or
 - iii. distribution of the assets of any trust or estate; or
 - iv. administration of trusts including the acquisition of any interest in land, but not any other category 1 financial product.

Note: trustee corporation is defined in section 2 of the Trustee Act 1956, and legal work is defined in the Lawyers and Conveyancers Act 2006."

Protecting consumers

One submitter raised concerns that there are practising advisers who possess one of the recognised alternative qualifications/designations but are still producing poor outcomes for consumers. It was submitted that most of these advisers seem to be required to do very little further work ie acquiring knowledge of the Code (Standard Set B).

That submitter stated that the decision to recognise existing qualifications should be based on extensive examination of the advice being generated in the market currently by practising advisers. The submitter's overall impression from the recent Consumer NZ mystery shopping exercise was that no particular qualification can currently be relied upon to consistently produce good quality outcomes for consumers.

Another submitter stated that financial advisers should be required to have a sound knowledge of consumer law. It was submitted that while most business graduates will have covered this topic, it is not clear whether the Massey/Waikato diplomas or the NZX Diploma require coverage of consumer law.

One submitter felt that the proposed recognised alternative qualifications/designations provided too many options for authorisation, that it would confuse the public and that everyone should be required to complete the entire National Certificate.

The following submissions were made on the alternatives to attaining the National Certificate:

Alternative 1

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;
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One submitter commented that the both of the Massey Graduate Diplomas require students to complete unit standards equivalent to unit standard 25650, unit standard 25651 and unit standard 25652. It was submitted that as Standard Set C comprises these units as well as unit 25653, it was suggested that holders of the two Massey Graduate Diplomas should only be required to complete unit standard 25653 and Standard Set B.

One submitter stated that if a person has a Massey/Waikato Diploma they should only be required to attain Standard Set B (not C) as that submitter stated that the diplomas mentioned incorporate appropriate training in relation to financial planning processes.

Another submitter agreed that the Diploma in Personal Financial Planning sufficiently covers the material in Standard Set C, therefore this requirement should be reconsidered.

One submitter stated that if one of these diplomas is held then the adviser should only be required to attain Standard Set B.

Another submitter also states that Standard Set C should not be required for advisers in this category as the diplomas adequately cover this. It was however recommended that this

category of adviser be required to complete a year of supervised or mentored experience or three years of unsupervised experience (unless they are a member of a professional association).

One submitter suggested that as an alternative to the graduate Diploma, an adviser should be allowed to present a Certificate of Attainment indicating that they have completed the papers required to obtain the Diploma.

One submitter noted that the graduate Diploma in Business Studies (Personal Financial Planning) Massey and the graduate Diploma in Business Studies (Personal Risk Management) Massey are Level 7 qualifications and that the postgraduate Diploma in Personal Financial Planning Waikato is a Level 8 qualification. In light of this, the submitter suggested that these qualifications exceeded the requirements of the National Certificate, which is a Level 5 qualification, and should be sufficient for the purposes of authorisation.

One submitter suggested that, given the diplomas are Level 7 and 8 qualifications, the Graduate Diplomas in Business Studies and the Postgraduate Diploma in Personal Financial Planning (assuming their content is revised to take account of Standard Set B) should be sufficient without the adviser needing to complete Standard Sets B and C. At least, the submitter suggested, only Standard Set C should be required.

One submitter suggested that the requirements would be disproportionately onerous on students completing a Diploma in Business Studies (Personal Financial Planning), because after completing the Diploma the student would still need to complete Standard Sets B and C. The submitter suggested an incentive to complete the Diploma should be included, perhaps by incorporating material from Standard Sets B and C into the Diploma so that completion of the Diploma fulfils the requirements of those Sets.

One submitter stated that those with a Graduate Diploma in Business Studies (Personal Financial Planning) should not be required to attain any parts of the National Certificate in order to be authorised.

One submitter stated that having examined the content of the Massey Diploma in the 1990s, it did not appear to offer any significant additional benefits to the University of Otago NZX Diploma. However it was noted that this content may have changed.

One submitter supported the proposed minimum standards, in particular recognising both the Graduate Diploma in Business Studies (Personal Financial Planning) and the NZX Diploma.

One submitter noted that, in relation to the two Massey University Diplomas, the term "Graduate" is not merely a descriptor but is part of the title: Graduate Diploma in Business Studies (Personal Financial Planning) and Graduate Diploma in Business Studies (Personal Risk Management)."

Alternative 2

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 Planner; or ➤ a Chartered Life Underwriter; and ○ be able to demonstrate a two-year period of mentoring where assessment of practice has occurred; and ○ have attained Standard Set B;
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One submitter stated that comparing the relief provided under alternatives 1 and 2 implies that Standard Set C was equivalent to CFP/CLU status and two years of mentoring, which it submitted was not accurate.

One submitter stated that inconsistency and bias towards the National Certificate are apparent when alternatives 1 and 2 are compared. It is submitted that advisers who have completed the Diplomas are required to fulfil additional requirements and it is submitted that this would encourage new entrants to follow the easier National Certificate route.

One submitter noted that the pathways to CLU status differ quite significantly and the Code Committee should look behind the CLU designation to see what the CLU has actually done to achieve the designation.

One submitter suggested that insufficient credit was being given to CLU status.

One submitter stated that those that became CLUs before the Diplomas had been created in 2003 should only be required to attain Standard Set B. Another submitter suggested that a CLU should only need to obtain Standard Set B to qualify as an AFA.

One submitter suggested that membership status (e.g. CFP) demonstrated adherence to ongoing education, dedication to clients, and qualifications.

One submitter felt that members of the Institute of Financial Advisers who are CFPs or CLUs should not be required to attain Standard Sets A and C. The submitter felt that CFPs and CLUs would already have met such standards and noted that Standard Set C is drawn from the global practice standards for financial advice that are the basis for the Institute of Financial Advisers' professional standards.

Mentoring requirement and Diploma requirement (already required for CFP designation)

Two submitters queried whether the two year period of mentoring required for this category was over and above the two year mentoring period already required to become a CFA or CFP.

One submitter stated that the standards for financial advisers to attain are appropriate in general terms. However it was noted that the two year mentoring period will already have been achieved as part of becoming certified as a CFP.

One submitter stated that a two year period of mentoring is unnecessary and excessive compared to what is required to complete the National Certificate. Those who hold these professional designations will almost certainly have done two years of mentoring. Since 1999 the IFA has required a two year period of mentoring. It was pointed out that those who were not required to be mentored in order to become a CLU or CFP have mentored others. It was suggested that those who have mentored others should be treated in the same manner as those who have undergone mentoring themselves.

One submitter pointed out that in the process of becoming a CFP an adviser would have already completed a two-year mentoring period.

One submitter suggested that the mentoring requirement should be waived for those with CFP or CLU status, Institute of Financial Advisers membership, NZFMA Individual Accreditation or Australian Financial Markets Association accreditation.

One submitter suggested that it would be unreasonable for CFPs and CLUs to be required to demonstrate mentoring in addition to that which would have been required for them to attain that status in the first place. It was suggested that CFPs and CLUs should only need to obtain Standard Set B.

One submitter expressed concern with alternative 2 on the basis that the two-year mentoring requirement has been haphazard in the past. Instead the submitter suggested that all advisers should be required to complete Standard Set C.

Another submitter stated that the requirement to have a diploma is repetitive as all CFPs and CLUs need a diploma to become a CFP or CLU.

Another submitter stated that this group have already completed a diploma and will have completed two years mentoring and therefore they should only be required to attain Standard Set B.

One submitter noted that in order to be a CFP or a CLU, individuals are required to undergo two years of mentoring. Accordingly, the submitter suggested that the additional requirement of being able to demonstrate a two-year period of mentoring where assessment of practice has occurred was redundant.

Position of those who qualified as CFPs prior to mentoring being required

One submitter sought clarification regarding this alternative. The submitter queried whether an experienced financial adviser who met the rest of the requirements under this option would be required to undergo a two-year mentoring period if formal mentoring had not been required at the time the adviser qualified and became a CFP or a CLU.

Another submitter wondered how CFPs who qualified before the mentoring requirement was introduced would be able to demonstrate that they had undergone a two-year period of mentoring. The submitter queried whether it would be sufficient for such individuals to demonstrate that they had been continuously employed and working with other qualified and experienced advisers in an environment where informal peer review took place over a five or seven year period.

One submitter noted that many advisers who have been mentored over the years did not do so pursuant to a formal arrangement which was recorded. The submitter suggested that references from respected professionals should be considered sufficient to provide evidence of good practice.

One submitter pointed out that a number of advisers with a Graduate or Postgraduate Diploma and CFP status were not required to undertake mentoring at the time they qualified. In a number of cases such CFPs have gone on to mentor other advisers. The submitter said that such advisers should not be required to undergo mentoring now when it was not a requirement at the time and they have been working in the industry for a long period of time.

One submitter noted that since the mid-1990s CFPs have been required to undergo a two-year period of mentoring. The submitter noted that for financial advisers who qualified as CFPs before that period it would be difficult to demonstrate that mentoring had taken place.

One submitter noted that CFPs were not previously required to undergo a period of official mentoring. As a result, older CFPs may not be able to meet this requirement, although they are likely to have worked with colleagues for many years and have been unofficially mentored. Accordingly, the submitter felt that such CFPs should not be required to demonstrate a two-year period of mentoring.

One submitter said that CLUs should only be required to attain Standard Set B. That submitter said that the proposed mentoring requirement should be removed because all CLUs will have either received mentoring or been exempted from the mentoring requirement by the Institute of Financial Advisers. The submitter observed that the IFA only exempts advisers who have been practicing for a minimum of ten consecutive years.

Position of those who acquired CFP or CLU status prior to the Diplomas being created

One submitter stated that the requirement that CLU have specific education qualifications should be removed as it penalised advisers who qualified prior to the development of the Massey and Waikato courses. Prior to the development of those courses there was no "grandfathering", CLU were required to:

- (a) pass five industry related Adviserlink courses, which at the time were the equivalent to the National Certificate in Financial Services;
- (b) have completed one of the following:
 - (i) the Associate Exams (Life Insurance) through the Insurance Institute of New Zealand (12 papers);
 - (ii) the Diploma in Life Insurance through the Insurance Institute of New Zealand (8 papers); or
 - (iii) the Certificate in Life Insurance through the Open Polytechnic of New Zealand (12 papers).

One submitter thought that the proposed minimum standards should make allowance for CLUs who do not hold one of the graduate diplomas from Massey or the postgraduate diploma from Waikato. The submitter pointed out that many CLUs completed the NZ Diploma in Life Assurance which is similar to the current qualifications being offered.

One submitter felt that the proposed minimum standards were not fair to those advisers with pre-1990s qualifications. In particular, the submitter suggested that CLUs with mentoring and experience should only be required to complete Standard Set B.

Position of CFPs who have resigned

One submitter pointed out that there are a number of advisers who were formerly CFPs but who lost the right to use the designation when they resigned from the IFA. The submitter suggested that such advisers should be treated as if they had not resigned for the purposes of authorisation.

Associate Financial Planners (AFPs) and Associate Life Underwriters (ALUs)

Two submitters stated that AFPs and ALUs should receive some relief. One submitter stated that these advisers should only be required to complete Standard Set B.

Another submitter argued that those who are AFPs or ALUs and have gained these through taking four university diploma papers, in addition to Adviserlink courses should only be required to attain Standard Set B.

One submitter suggested that more detail needed to be provided about how mentoring would be taken into account, and in particular how objective standards would be developed for assessing the value of mentoring.

Alternative 3

OR	<ul style="list-style-type: none"> ○ be a Chartered Financial Analyst (CFA); and ○ have attained Standard Sets B and C ;
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One submitter stated that CFAs should also be required to attain Standard Set D.

One submitter suggested that the practical and ethical standards advisers have to attain in order to become CFAs are higher than those required for the National Certificate. Accordingly, the submitter thought it was wrong that CFAs should be required to complete Standard Sets B and C.

One submitter suggested that it should not be necessary for CFAs to obtain Standard Set C, given that that status requires that both the employer and an independent charterholder certify that the adviser has four years of experience, and that 20 hours of continuing education each year is recommended.

Another submitter also commented in relation to alternative 3 that the CFA Candidate Body of Knowledge is kept up-to-date. There are three comprehensive levels to the curriculum and examination process, requiring 150-250 hours' work and through which only 10% of candidates pass.

Alternative 4

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; and ➤ unit standards 25650, 25651 and 25652;
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General comments on accountants

One submitter suggested that given the high levels of equivalence and transferability, that all NZICA membership designations (CA, ACA and AT) receive exemption not just the CAs. It was submitted that this will help eliminate unnecessary duplication and reduce compliance costs.

That submitter also stated that all NZICA Members are also required to complete aspects of the Professional Competence Programme. CAs must fully complete this. The Programme focuses on identification of the most relevant professional skills, at the level of competence required for entry into the membership category. The Programme develops and assesses applicants' competencies and attitudes, across various business contexts. For CAs it focuses on professional communication skills, ethical behaviour, critical thinking, accessing, analysing and synthesising information, working in a team, leadership and integrating knowledge across the accounting sub-disciplines and a range of other business disciplines.

That submitter also noted that NZICA annually reviews the academic schedules and reviews the academic programmes of Accredited Training Institutions against NZICA's Statements of Learning Outcomes every five years (or less depending on need). NZICA also approves employers as Approved Training Organisations if they are capable of offering the type of work experience that fulfils the practical experience requirements required for admission to the College of Chartered Accountants or College of Associate Chartered Accountants. This

ensures that practical experience is planned, supervised, relevant and gained in a quality environment.

It was also submitted that NZICA, through its Professional Standards Board, develops ethical and professional standards that all members must comply with. NZICA also has a continuing professional development regime which requires members to undertake up to 20 hours of CPD comprising structured and unstructured activities.

Chartered Accountants

One submitter suggested that CAs should be required to attain all unit standards comprising Standard Set C as that submitter stated that the operational guidelines for CAs are different to financial adviser guidelines.

One submitter felt that the requirements for CAs did not accord with commercial reality as CAs would generally only provide advice to conservative investors. Accordingly, the submitter felt it was unrealistic to require CAs to meet the requirements for providing any type of investment advice.

Another submitter suggested that CAs should not be required to fulfil Standard Set B.

One submitter stated that CAs should be given full recognition as AFAs without further training or assessment.

One submitter proposed a training and assessment process which will ensure that CA members have gained competence to the level of the Code Committee requirements and the Financial Advisory Engagement Standard. It was also noted that provisional CAs also complete the NZICA Foundations Programme which teaches and assesses knowledge of professional standards and ethical behaviour and requirements of legislation.

CA with Certificate of Public Practice

One submitter stated that CAs holding Certificates of Public Practice (CPP) should be considered for further exemption. It was submitted that these individuals are specifically monitored against their compliance with the regulatory requirements and the Institute's standards. It was suggested that this will eliminate unnecessary duplication and reduce compliance costs. To gain a Certificate of Public Practice the individual must have been a CA for at least two years. The two years' experience must relate to the services intended to be provided to the public. The acceptable practical experience is verified by an approved CPP holder, including verification that the necessary skill has been demonstrated to an appropriate level. This acceptable practical experience is in addition to, and at a level senior to, the experience required to gain membership to the College of Chartered Accountants. The Certificate of Public Practice may only be gained by CAs. CAs must already have completed four years' tertiary education, one years' practical experience, two years' specified practical experience and completion of two professional competence exams.

That submitter stated that holders of the Certificate of Public Practice are then subject to ongoing regulation including a triennial review (unless more frequent visits are required) by the NZICA Practice Review Unit. The Review examines compliance with auditing standards,

financial reporting standards, appropriate legal frameworks and quality requirements, along with ethical matters. All reviewers receive appropriate training (initial and ongoing) and all practice review files are subject to peer review for accuracy and consistency. If satisfactory level of compliance is not achieved the member can be subjected to a further review, restricted from offering services unless further training is undertaken or a mentor appointed; or can be referred to NZICA's Professional Conduct Committee for disciplinary action.

That submitter stated that holders of the Certificate of Public Practice face a much closer level of scrutiny of their competence via NZICA's triennial reviews. It was noted that these individuals are assessed against their compliance with NZICA's Professional Standards: PS1 (quality control), PS2 (Client Money) and the Financial Advisory Engagement Standard. CPP holders are also required to complete the Foundations programme or equivalent which teaches and assesses knowledge of professional standards and ethical behaviour and requirements of legislation.

Associate Chartered Accountants (ACA) and Accounting Technicians (AT)

One submitter strongly recommended that ACAs and ATs be recognised as having appropriate qualification/designation to receive relief against some of the National Certificate Standard Sets. The lowest academic entry requirement for the AT sits at Level 5-6 of the NZQA framework. In addition it was submitted that all members of NZICA must show evidence of practical experience working under a mentor and professional competence through the Foundations Programme. All three categories of NZICA member must meet at minimum a Level 5 Diploma, through to Level 7 NZQA and a four year university degree programme. It was submitted that as a result CAs, ACAs and ATs have sufficient transferable knowledge and skills to be entitled to various levels of exemption.

It was submitted that a training and assessment process could be created which would ensure that ACA members have gained competence to the level of the Code Committee requirements and the Financial Advisory Engagement Standard. It was also noted that provisional ACAs also complete the NZICA Foundations Programme which teaches and assesses knowledge of professional standards and ethical behaviour and requirements of legislation. It was submitted that ACAs should receive the same relief as CAs ie that they should only be required to attain Standard Sets B and D.

One submitter noted that no alternative is proposed for those individuals with the ACA designation and that the same relief given to CAs should be given to ACAs.

In relation to Accounting Technicians it was submitted that the Diploma in Business includes more than one comparable and transferable element in its core component in relation to economic theory and markets which would justify exemption from unit standard 25642. It was also pointed out that all AT members must study and pass the Foundations Course prior to admission which teaches and assesses knowledge of professional standards and ethical behaviour and requirements of legislation (unit standard 25653). It was submitted that ATs should be required to attain Standard Sets A (except for unit standard 25642), B and C (except for unit standard 25653) and D.

Alternative 5

OR	<ul style="list-style-type: none"> ○ have an NZX Diploma; and ○ have attained Standard Sets B, C and D;
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One submitter noted that advisers with an NZX Diploma are required to complete a number of professional practice and investment advice papers. That submitter felt that knowledge in these areas would have been acquired via experience in the case of those advisers who have been working in the industry over an extended period of time.

One submitter expressed general support for the proposed standards. The submitter noted that the NZX Diploma appeared to have been portrayed in the media as a lesser qualification than the Graduate Diploma in Business (Personal Financial Planning). The submitter holds both qualifications and wanted to record her view that both qualifications are of a very similar level and standard. As to ongoing education, however, the submitter felt that the requirements that NZX Advisors have to meet are more comprehensive than the CFP continuing education requirements.

One submitter suggested that the perception that the NZX Diploma was of an inferior standard to other qualifications was unfounded, and that it was superior to “broad brush qualifications.”

One submitter stated that that it is clear from the tone of submissions from traditional financial planners that there is some form of orchestrated campaign to diminish the value of the NZX Diploma. That submitter stated that traditional financial planning is a different discipline to investment advising and therefore requires different educational requirements. That submitter stated that the NZX Diploma requires a greater depth of understanding of investment analysis than the DipBS and that brokers deliver more demanding and sophisticated results to clients. It is submitted that the broking environment provides at least two hours of continuing education per day.

One submitter said that the NZX Diploma covers technical aspects, and suggested that the holders of the NZX Diploma should not be required to attain Standard Set D.

Another submitter agreed that the papers included in the NZX Diploma are more akin to Standard Set D rather than Standard Set A.

One submitter stated that requiring those NZX Advisors or NZX Diploma holders who do not have both to complete Standard Sets B, C and D is too high. It was suggested that the number of years experience should be taken into consideration.

One submitter also believed that the NZX Diploma was the most useful qualification available.

Another submitter noted that in her experience the NZX Diploma required a higher level of financial competence than the Massey and Waikato Diplomas.

One submitter suggested that the NZX Diploma was very useful in combination with practical experience, and that therefore those who had 20 years' plus experience and the NZX Diploma were suitably qualified.

One submitter suggested that advisers that possess an NZX Diploma and sufficient other qualifications, as well as 20 years' experience within a compliance framework and demonstrated competency and integrity, should not have to complete the National Certificate.

One submitter supported the Committee's intention of raising standards and the quality of advice given. The submitter also indicated that in his experience advisers with NZX status operated in a better manner than other advisers. The submitter felt that the NZX Diploma had not been given enough weight in the proposed standards.

Two submitters also indicated the NZX Diploma provided the necessary skills for advisers but worried that the National Certificate could potentially lower standards.

Two other submitters stressed that appropriate consideration should be given to the NZX Diploma and relevant experience.

One submitter believed that the NZX Diploma is a high quality qualification sufficient to provide appropriate knowledge for participants to work in the industry; he also stressed the value of working in a strict environment under the NZX Rules and Regulations.

One submitter stated that this alternative and alternatives 6 and 7 appear to be inconsistent. If an adviser has an NZX Diploma he or she is required to complete Standard Sets B, C and D. Similarly, if an adviser is an NZX Advisor he or she is required to complete Standard Sets B, C and D. However, if an adviser is both an NZX Advisor and has an NZX Diploma he or she is only required to complete Standard Set B.

Several submitters said that having an NZX Diploma alone should be sufficient to be authorised.

One submitter expressed support for allowing individuals to practise as AFAs if they hold an NZX Diploma. However, the submitter felt that there should be three additional requirements for advisers authorised on this basis. First, new advisers should be subject to ongoing mentoring. Second, the NZX Diploma status should be achieved within a four year period. Third, there should be no requirement for senior advisers of more than 15 years experience to retrospectively sit papers for an NZX Diploma.

NZSE Diploma

One submitter noted that the NZX Diploma presumably encompasses the earlier named NZSE Diploma, with the change of qualification name occurring in law as part of the legislation that resulted in demutualisation of the stock exchange in December 2002.

NZX Diploma should receive less relief

One submitter stated that the relief proposed for NZX Advisors who also hold an NZX Diploma is inconsistent with the requirements for others to demonstrate knowledge of the financial advice process. The submitter stated that an NZX Diploma can be completed by attaining papers on financial product sales only with no requirement to attain standards on providing financial advice.

Another submitter commented that the NZX Diploma has been given similar status to the Business Diplomas offered by Waikato and Massey Universities. That submitter stated that the NZX Diploma requires less time and effort than the Waikato and Massey Diplomas. However that submitter noted that the concessions relating to those who are NZX Advisors and diploma holders may be appropriate as NZX Advisors have had to complete a period of mentoring over and above the diploma. The submitter suggests that the Committee should give consideration to what mentoring requirements should be on an ongoing basis.

Alternative 6³

OR	<ul style="list-style-type: none"> ○ be an NZX Advisor; and ○ have attained Standard Sets B, C and D;
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One submitter suggested that more bureaucracy served no purpose in addition to NZX Advisor status and requirements.

Another submitter also stated that NZX Advisors should be considered to automatically meet the competence, knowledge and skills standards and should not be required to do any of the Standard Sets.

One submitter commented that she fully endorsed the minimum standards for advisers entering the industry and expressed her confidence that the current NZX Advisor accreditation process was appropriate.

One submitter stated that relevant experience and exam papers completed to become an NZX Advisor should be recognised.

One submitter stated that the Massey diplomas have not been recognised by the NZX as achieving a sufficient standard to meet the NZX Advisor status. That submitter argued that NZX Advisors have higher qualifications than the Massey diploma and therefore those holding the status of NZX Advisor should be given greater relief under the Code than those holding the Massey diplomas. The submitter also implied that industry experience should also be taken into account in establishing which standards financial advisers should be required to meet.

³ Note: the Clarification note released on 28 October 2009 corrects the reference to NZX Member (see the website www.financialadvisercode.govt.nz). The term NZX Member should be replaced with the term NZX Advisor in the consultation paper.

Another submitter stated that NZX Members should only be required to complete Standard Set B even if they have not completed the NZX Diploma.

One submitter stated that requiring those NZX Advisors or NZX Diploma holders who do not have both to complete Standard Sets B, C and D is too high. It was submitted that consideration of number of years experience should be given by the Code Committee.

One submitter noted that there is no such thing as an “NZX Member” as referred to in the consultation paper, and that this should be amended to refer to NZX Advisors and NZX Associate Advisors.

Other categories of NZX participants

One submitter sought further detail on the clarification note which stated that NZX Member means NZX Advisor, as defined in the NZX Participant Rules. That submitter suggested that NZX Advisors, NZX Associate Advisors, NZDX Advisors and Futures and Options Advisors should be recognised in the same way as they have all undergone the accreditation process with NZX. Three other submitters agreed with this approach.

Another submitter sought clarification as to the definition of NZX Member. In particular, the submitter queried whether this included NZX Associate Advisors.

Another submitter queried whether NZX Member included NZX Advisors, NZX Associate Advisors, NZDX Advisors and Futures and Options Advisors.

One submitter requests some clarification regarding the release of the clarification note stating that NZX Member means NZX Advisor as defined in the NZX Participant Rules. It suggests that the first line alternative 6 should read: “be an NZX Advisor, NZX Associate Advisor, NZDX Advisor or a Futures and Options Advisor (all as defined in the relevant set of NZX conduct rules)”. One submitter states that this encompasses all named adviser groups, as all have undergone accreditation with NZX. That submitter acknowledges that the additional competence standards (Standard Sets B, C and D) are appropriate.

One submitter said that the Code should clarify what NZX Member means. The submitter said it should include NZX Advisors, NZX Associate Advisors, NZDX Advisors and Futures and Options Advisors.

One submitter noted that in addition to NZX Advisors there are also NZDX and NZX Futures and Options Advisors. The submitter felt that such individuals should be treated in the same way as NZX Advisors.

Another submitter stated that Associate Advisors technically have the same standards as NZSE Members and that Associates should be considered equal to NZSE Members. Associate Members should be treated in the same way as NZX Advisors. It is submitted that NZX Participants are well regulated compared with other financial sectors.

One submitter stated that accredited NZX Futures and Options Advisors should only be required to attain Standard Set B. It was submitted that the core competencies required to

advise clients on futures and options are different to other financial advice. It was submitted that NZX only places educational requirements on NZX Futures and Options Advisors that are relevant to the futures and options industry. Therefore they are not required to hold the NZX Diploma.

One submitter suggested that the Code Committee should consider how the competence standards relate to other regulation, including regulation of futures dealers under the Securities Markets Act 1988.

One submitter stated that NZX Futures and Options Advisors should be recognised. It is submitted that this is the highest NZX accreditation for Futures and Options Advisors and they should be recognised in the same way as NZX Advisors.

Another submitter suggested that the NZX Futures and Options Accreditation course should count towards the National Certificate.

Another submitter stated that NZDX and NZX Futures & Options Advisors should be treated in the same manner as NZX Advisors.

One submitter agreed that the standards appear appropriate as minimum standards. However that submitter stated that more complex fields such as derivatives trading (FX/Futures/CFDs) will require specialist training – the submitter proposed NZX and/or FINSIA levels of accreditation.

NZX Associate Advisors

One submitter also suggested that no distinction be drawn between NZX Advisors and NZX Associate Advisors where the latter could demonstrate sufficient experience.

One submitter suggested that “NZX Member” should encompass both NZX Advisors and NZX Associate Advisors. Another submitter stated that both NZX Associate Advisors and NZX Advisors should be recognised as NZX Advisors as each has the mandatory qualifications deemed necessary to advise clients under the Stock Exchange current regulations.

One submitter argued that the competence standards should not distinguish between NZX Advisors and NZX Associate Advisors as the same work is done and there is no evidence that one group performs better than the other. It was submitted that the Code Committee could require examination of an NZX Associate Advisor’s work history, peer and client references. It was submitted that unless this is done many experienced advisers will be lost as many will retire rather than sit more exams, possibly as many as half of NZX Associate Advisors will be lost which would harm public confidence.

One submitter stated that that NZX Advisors and NZX Associate Advisors are at an acceptable level of competence, knowledge and skills and public confidence is sufficiently retained by these individuals due to the regulated environment they have operated in. It was submitted that NZX Advisors and NZX Associates should be treated equally in the Code as NZX has ensured that both NZX Advisors and NZX Associates meet the minimum standards.

One submitter stated that NZX Associate Advisors should be given full recognition as AFAs without further training or assessment.

One submitter suggested that NZX Advisors/Associate Advisors should not have to complete the Certificate if either a) they have completed the NZX Diploma or are working towards the Diploma and have NZX Associate Advisor status or b) have NZX Advisor/Associate Advisor status and have worked in an NZX firm as an Advisor for an extensive period.

One submitter suggested that NZX Advisors and Associate Advisors who do not have the NZX Diploma (because NZX has determined that they have sufficient equivalent qualifications) should also be held to fulfil the competency requirements.

One submitter stated that no distinction should be made between NZX Advisors and NZX Associate Advisors if the latter could demonstrate sufficient experience.

One submitter pointed out that there are NZX Associate Advisors who may have completed the NZX Diploma but do not have the three years work experience.

One submitter suggested that another category be created for NZX Associate Advisors who do have the NZX Diploma, and who would only have to complete Standard Set B.

Former NZX Advisors

One submitter stated that any requirements applicable to NZX Advisors should be applicable to former NZX Advisors.

Alternative 7⁴

OR	<ul style="list-style-type: none"> ○ have an NZX Diploma; and ○ be an NZX Advisor; and ○ have attained Standard Set B;
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One submitter wanted to know the rationale for requiring NZX Advisors or NZX Diploma holders to complete Standard Sets B, C and D but where a person is both an NZX Advisor and an NZX Diploma holder they need only complete Standard Set B.

One submitter stated that the proposed standards for existing and new advisers are appropriate with some exceptions. It was submitted that completion of the NZX Diploma plus the three years' employment required to become an NZX Advisor is sufficient to meet the standard for AFA status. It was also submitted that NZX Advisors are required to operate under the NZX Participant Rules which cover the Financial Transactions Reporting Act, market manipulation, insider trading and principles of good share broking practice.

⁴ Note: the Clarification note released on 28 October 2009 corrects the reference to NZX Member (see the website www.financialadvisercode.govt.nz). The term NZX Member should be replaced with the term NZX Advisor in the consultation paper.

One submitter stated that this class should be required to satisfy Standard Sets C and D as well. That submitter questioned whether having both a diploma and being an adviser fills this gap in knowledge of Standard Sets C and D.

One submitter suggested that this box should read: “have an NZX Diploma or have been granted a waiver by NZX from having to obtain such Diploma by virtue of holding an equivalent or higher qualification; and be an NZX Advisor and have attained Standard Set B”.

One submitter stated that the distinction between NZX Advisor and those who hold an NZX Diploma is an unfair differentiation. It is submitted that the distinction is particularly unfair to NZX Futures and Options Advisors and does not accurately reflect the level of competence required for accreditation as an NZX Advisor or NZX Futures and Options Advisor. It was noted that NZX has the ability to grant waivers from practical and educational requirements where NZX is satisfied that the applicant has met the requirements through alternate experience and/or qualifications. To determine whether to grant a waiver from the educational requirements, NZX requires applicants to map their other educational achievements and experience against the learning outcomes for the NZX Diploma papers. Where the applicant can show that they have met the learning outcomes through other educational achievements and/or experience, NZX will grant a waiver. Therefore it was submitted that all NZX Advisors should be viewed equally and should only be required to attain Standard Set B.

One submitter wished to confirm that the Committee will take into account the “back door” means by which an NZX Diploma may have been obtained when considering the authorisation of advisers with NZX Diplomas. That submitter suggested that the “fast track” accreditation available to NZX Advisors under this pathway was unwarranted and should be removed.

Alternative 8

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.
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(Submissions on alternative 8 are set out at Question 6 (below).)

Where an adviser has more than one alternative qualification or designation

One submitter noted that it is possible for an adviser to have more than one alternative recognised qualification or designation and it may not be clear which Standard Sets must be completed. For example a number of NZX Advisors are also CFPs. It was noted that an NZX Advisor must complete Standard Sets B, C and D while CFPs only need to complete Standard Sets B and C. The submitter stated that this should be clarified.

Another submitter also wished to confirm that if an adviser had more than one alternative recognised qualification or designation (e.g. CFP and NZX Advisor) they would only have to complete the lowest common requirements.

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 the Consultation Paper)?

SUMMARY

Various suggestions for “wholesale” were made. Several suggested that the definitions should include large corporates. However some opposed this as it was suggested that some “corporate” clients do not have the expertise to assess the quality of advice i.e. some small businesses, family trusts, incorporated societies.

Many suggested that sophisticated investors should be included within the definition of wholesale. The criteria for being a sophisticated investor was usually suggested as being based on experience (habitual investors) or based on the level of capital invested or a combination of both. Several submitters referred to the United Kingdom Financial Services Authority (FSA) model and the Australian Corporations Act model.

The Securities Act 1978 definition of “non-public” (s 3(2)) was also favoured by several submitters.

Several submitters also favoured the approach of defining wholesale services as those services provided to any registered financial service provider.

It was also submitted that research analysts who provide research solely to financial advisers should be included within the definition of “wholesale”.

INDIVIDUAL SUBMISSIONS

Two submitters stated that they generally supported drawing a distinction between advisers who provide advice to wholesale clients and those who provide advice to the retail public.

However two submitters suggested that retail and wholesale advising roles were often not clearly delineated in practice. One of those submitters suggested that while there are generally clear differentials between wholesale clients and the retail public, at times this distinction can be blurred – ie an investment banker managing an IPO will deal with retail advisers and the public. That submitter stated that good standards of monitoring will be required to ensure compliance.

Large corporate/industry

Three submitters suggested that the definition of “wholesale client” should be widened to include large corporate.

One submitter stated that wholesale advisers should be those (including employees and agents) who provide advice and transaction services to other members of the industry (such as fund managers, investment advisers, asset consultants, superannuation funds,

aggregators such as wrap services and master trusts, community trusts and employers who nominate KiwiSaver preferred provider schemes).

One submitter suggested that one of the main characteristics of “wholesale” advice should be advice to those in business and who have primary responsibility for making investment decisions on behalf of others.

However another submitter suggested that any definition of “wholesale” client should avoid treating all “corporate” entities as wholesale clients. That submitter stated that there are many entities that should be considered as “retail” as they do not have the expertise to assess the quality of an adviser ie small businesses, family trusts, most incorporated societies and small charities.

One submitter said that whatever definition was adopted it should include banks, fund managers and insurance companies.

Two submitters stated that the definition should relate to institutional investors and fund managers only.

Inclusion of sophisticated investors in the definition of “wholesale”

One submitter stated that the definition should:

- reflect the consumer protection focus of the Financial Advisers Act; and
- be broad enough to capture those persons or entities that are sufficiently large, experienced and/or sophisticated such that they can be assumed to have a sufficient understanding of the financial adviser services they are receiving.

Habitual investors

Two submitters stated that the wholesale definition should include habitual investors rather than less experienced retail investors.

Another submitter suggested that a focus on experience was needed and submitted that customers, whether organisations or individuals, should be assessed on the level of expertise they have or can reasonably obtain due to the nature of their business and access to expertise. Where customers are experienced, that submitter stated that they should be treated as wholesale customers.

One submitter endorsed the approach of taking into account the customer’s situation, including their reliance on their adviser and their level of sophistication and knowledge. The submitter noted that this will vary within the category of retail customers, as well as between retail and wholesale customers.

Amount of funds

One submitter suggested that the definition of “wholesale” could be linked to the amount of money invested. Where the amount of money involved is sufficiently high to confidently assume that they are capable of assessing the risks themselves (set sufficiently high – for example, \$1m-\$2m – that inexperienced individuals who happen to have significant assets

are still protected) then it should be considered as “wholesale” advice. The idea of defining wholesale advice with reference to the level of capital invested is supported by another submitter.

United Kingdom Approach

One submitter suggested adopting the UK approach to the definition of “wholesale” or “professional” customer. Under this approach the customer is notified that it is being regarded as a wholesale/professional customer, and this affects the level of disclosure and the competency requirements for the adviser. The submitter suggested that the definition of wholesale customer should be clear so that authorisation is not required. The submitter also suggested that the customer should be able to request re-categorisation.

That submitter suggested that under the UK Financial Services Authority (FSA) approach, a customer is regarded as a “wholesale” customer if they meet one of the following criteria:

- they are an “eligible counterparty” because they are an investment firm, credit institution, central bank or supranational organisation, etc;
- they are a “professional client” because they are required to be authorised or regulated to operate in the financial markets (e.g. institutional investors, commodities derivatives dealers);
- they are a “professional client” because they meet certain balance sheet, turnover, employee number or own funds thresholds;
- they are a “retail client” but on the adviser’s assessment they have sufficient expertise, experience and knowledge to make their own investment decisions. The adviser must warn the client of the classification and the client must acknowledge it in writing.

Australian approach

One submitter suggested that the Australian approach could also be utilised. The Australian scheme allows for retail customers to be classified as a “sophisticated investor” when the advisor is satisfied on reasonable grounds that they have sufficient experience and expertise to assess the merits and risks of an investment. The customer must acknowledge in writing that it will not receive a disclosure statement and will not be protected as a retail customer. However it is submitted that the Australian approach of requiring certification to provide advice to wholesale customers should not be followed.

The Australian definition of “wholesale client”, “professional client” and “retail client” in s 716G of the Australian Corporations Act was supported by two submitters.

One submitter suggested that either of the approaches taken in the United Kingdom FSA or the Australian Corporations Act to defining “wholesaler” and “professional customer” could be adopted to fit the New Zealand market.

Another submitter was also in favour of the UK or Australian approaches but suggested that further consultation should be undertaken to ensure that the definition adopted is appropriate for New Zealand.

Two other submitters were in favour of the Australian approach, and two other submitters were in favour of either the Australian or UK approach.

Securities Act definition

One submitter suggested that wholesale customers have different requirements to the general public and that this is consistent with the Securities Act definition.

Another submitter also suggested that the definition of “public” in the Securities Act could be used and adapted to encompass financial adviser services not just securities.

Another submitter agreed that the Securities Act definition could be used to define “wholesale” and wholesale clients should include individuals and entities.

Three other submitters agreed that the definition should be consistent with the Securities Act definition. One other suggested that this definition is a good starting point.

Definition of “financial service provider” in the Financial Service Providers (Registration and Dispute Resolution) Act 2008

Four submitters agreed that another way to define “wholesale” is to state that you are a wholesale AFA when you provide services exclusively to other registered financial services providers.

One submitter suggested that the definition extend to include such overseas entities where, if the services that they provide overseas would require registration in NZ as a Financial Services Provider if provided in New Zealand, then delivery of services to such entities may similarly be regarded as delivery of a wholesale service.

Ten submitters suggested that “wholesale” should mean “registered financial service provider and/or fund managers where an individual or team have been appointed to manage funds on behalf of others”.

One submitter stated that “wholesale” should be a registered financial service provider or a company/other corporate structure who’s activities incorporate any financial services provisions.

Research Analysts

One submitter stated that this class should be extended to cover those financial advisers who provide financial adviser services to other financial advisers. This would cover those who provide research on category 1 products directly to financial advisers. It was suggested that this should cover managed fund research houses and share brokers who provide research exclusively to financial advisers. That submitter noted that the research eventually flows through to consumers and therefore it could be argued that higher minimum

standards should be required but it is pointed out that the same could be said of those who provide advice to “wholesale” financial service providers.

Three-limbed approach

One submitter suggested a three-limbed approach to “wholesale”. First a public/non-public separation based on the Securities Act definition provided that the definition is extended to cover securities. It was submitted that this limb of the definition recognises that the investors being advised are able to seek out and assess investment advice.

Secondly that same submitter suggested that some customers, due to their size, could be defined as wholesale customers or professional customers. Size could be defined by reference to:

- the size of transaction;
- the size of the business undertaking the transaction; or
- the income/net wealth of the individual receiving the advice.

That submitter stated that this mirrors the approach of the Financial Services Authority of the UK and the Australian Corporations Act 2001, s 761A. However it was recognised that the thresholds would need to be in keeping with the context of the New Zealand markets.

Thirdly it was suggested that where the advice is given to, and the action will be taken by, a corporate or sophisticated or professional investor then it should be categorised as “wholesale” advice.

Professional trustees

One submitter suggested that “wholesale” should include professional trustees. Another submitter stated that they understood that the wholesale definition would not extend to the corporate trustee business division of New Zealand Guardian Trust, which is subject to a separate upcoming review.

Product companies

One submitter suggested that only those who design products should qualify, and not those who interact with the public.

Other relevant factors

One submitter suggested that relevant factors in defining what wholesale should mean include the size of transactions, the experience of counterparties and ownership structures.

One submitter suggested that the definition of wholesale client should take into account whether it is expected that a personal financial planning process will form part of the advice. It was submitted that wholesale clients could include financial services companies, superannuation schemes or charitable trusts. The submitter suggested that the defining feature of such clients is that they do not expect a financial planning process to be part of the advice.

One submitter stated that the two different classes should be titled in a way that reflects their indirect involvement within the industry.

Further consultation

One submitter said that the Code Committee should define the term “wholesale financial services providers” and seek feedback on that definition and the proposed standards in light of it, rather than seeking the definition as part of the consultation process.

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 (alternative 8) are appropriate?

SUMMARY

Many submitters were supportive of establishing different criteria for those of long standing experience, and a number of submitters agreed that only Standard Set B should be required.

On the other hand, a number of submitters suggested that experienced advisers should not be treated differently, because experience was no guarantee of competence and a number of the problems in the industry in recent years could be traced to the poor performance of “experienced” investors. The interests of clients and the importance of public confidence were stressed by several submitters.

Of those who agreed with treating experienced advisers differently, a number nevertheless suggested that more stringent requirements than were proposed in the consultation paper should be imposed. Suggested requirements included educational qualifications, an appropriate compliance structure, adequate resources and a demonstrated track record or other demonstration of competency.

Several submitters raised the question of consistency between advisers and called for a clarification of what “long standing experience” meant. In particular, some submitters suggested that distinguishing between financial advisers and CFAs was unjustified, and stressed that the Committee, or another official body, and not a professional organisation, should determine these questions.

Several alternative proposals were made. Although submitters generally agreed that it was appropriate to require the completion of Standard Set B, a number suggested that it was inappropriate (particularly for CFPs) for experienced advisers to have to complete Standard Set A.

INDIVIDUAL SUBMISSIONS

Proposed standard is appropriate

A number of submitters suggested that the proposal is appropriate.

One submitter thought that the minimum standards were appropriate so long as “challenge” and “panel assessment” pathways are available.

Another submitter suggested that those who have 20 or more years of experience should be “assessed on their merits” when it comes to assessing their competence and skills.

One submitter agreed that the standards proposed are suitable. That submitter pointed out that there are many very experienced advisers who have not passed any formal

qualifications for example NZX Advisors (previously Members of the NZ Stock Exchange) who have considerable experience and provide a high level of service to clients. Some form of transition provisions could be implemented for these individuals. It was submitted that the type of advice they are undertaking and also the type of organisation they work for should also be taken into account. For instance many NZX Advisors work with a significant organisational structure of compliance officers, processes and procedures and are regulated by NZX.

No special treatment of experienced advisers

Several submitters argued that the standards for this alternative 8 are not appropriate as other experienced AFAs who are not CFPs have not been given recognition for long-standing experience. One submitter suggested that treating longstanding CFPs differently may not be justified.

Five submitters questioned the proposal for special treatment of experienced advisers (or “grandfathering”). They stated that because experience does not guarantee competence and the client’s needs, as well as public confidence, had to be placed at the forefront. It was stated that “grandfathering” could also be used by organisations to circumvent the regime.

One submitter felt that the provision for “grandfathering” in alternative 8 was inconsistent with the aims of the Financial Advisers Act. The submitter suggested that that option be removed and that those advisers who wished to rely on longstanding experience would have to demonstrate competence sufficient to meet the requirements of each unit standard (based on experience, prior learning and competence).

One submitter recommended that the process of being authorised should require an examination of the skills and competencies, including evidence of experience.

One submitter stated that the decision to include existing advisers based on their long-standing experience should be based on a comparison of the advice currently being generated in the market by practising advisers who meet this definition. The submitter stated that while they had not specifically analysed this issue, the impression they had was that long-standing experience is no guarantee of good quality outcomes for consumers.

The need for more stringent requirements

Two submitters suggested that CFPs should only be “grandfathered” if they have financial planning experience (not insurance experience), meet appropriate education qualifications, work in an environment where there are direct compliance structures supervised by an independent body, have adequate research resources and a good track record.

One submitter suggested that many of the problems of the past two years have resulted from financial planners and “recycled insurance salesmen” being “grandfathered” despite not having sufficient competence. That submitter therefore suggested that more stringent requirements be imposed: for example, a minimum of 20 years’ experience in financial planning (not just insurance), appropriate educational qualifications, direct compliance supervision structures, adequate research resources and an established track record. Two submitters concurred in this suggestion.

One submitter stated that from his experience many of the issues that have arisen in the past two years have come from financial planners who have been “grandfathered” as CFPs and insurance salesmen setting up as financial planners. Many of these advisers lacked competence and had no understanding of risk as it pertains to investment. It was submitted that financial planners should only be considered for “grandfathering” if they meet certain criteria such as relevant experience in financial planning (not insurance), appropriate education qualifications to meet CFP requirements, direct compliance supervision structures in place backed by independent overseeing body, adequate research resources and track record.

One submitter suggested that experience alone did not demonstrate competence, and that membership of professional organisations and continuing education would probably be required as well.

One submitter suggested that five years’ experience should qualify as “long standing”, by analogy with other bodies such as Adviserlink, but that this should be a guideline only subject to particular circumstances.

One submitter queried what the words “long standing experience mean” and questions whether the standards required are sufficiently robust.

One submitter suggested that a broad exam paper could be set which all longer standing members would be required to pass in order to become an AFA. It was suggested that only advisers with a least ten years experience should be eligible to become AFAs in this way.

One submitter suggested that CFPs who have been deemed certified on the basis of longstanding experience should have to demonstrate their competency in order to offer unrestricted financial advice.

One submitter stated that the proposed unit standards should be at the graduate diploma level.

One submitter stated that a CFP who is certified on the basis of long standing experience is unlikely to have studied consumer law and that all advisers should be required to have a knowledge of consumer law.

Difficulties and achieving consistency between advisers

One submitter queried what the words “long standing experience” means and questioned whether the standards required are sufficiently robust.

One submitter said that the definition of “long standing experience” should be clarified. That submitter also said that the qualifications that advisers have should be assessed against the National Certificate framework, if gaps are identified advisers should only be required to undertake training to fill those gaps rather than being forced to take the whole course.

One submitter noted that the standard allowing financial advisers to be certified on the basis of long standing experience applied only to financial planners and not financial advisers

generally. The submitter suggested that an equivalent standard should be included for financial advisers generally.

Two submitters stated that this option should also include CLUs as well as CFPs.

One submitter noted the discrepancy between the reference to “financial advisers” in this context and the description given in alternative 8 of “certified financial planners”. The submitter favoured use of the former, broader, term, to cover the insurance and trustee industry as well. Two other submitters agreed.

One submitter explained that it was his understanding that those CFPs who were certified without completing a university diploma were required to complete some courses and take an exam. In this respect, the submitter felt it was incorrect to say that these CFPs were “deemed certified on the basis of long standing experience”. The submitter felt that the courses such advisers were required to sit were sufficient and that they should only be required to attain Standard Set B.

One submitter wished to clarify that alternative 8, referring to CFPs, referred to those who had achieved that designation by non-examination in the 1990s by the forerunner of the Institute of Financial Advisers. The submitter suggested that it should be the Committee, not a professional body, that certifies advisers on the basis of long-term experience. Another submitter agreed with this latter suggestion.

One submitter suggested that the proposed standards for financial advisers of longstanding experience will be inadequate and contradictory unless the experience and knowledge of “other professional groups” is recognised.

Alternative proposed standards

One submitter stated that there should be recognition of those advisers with considerable practical experience and that these advisers should not be required to gain the National Certificate to become authorised. They submitted that this alternative is misleading as all CFPs were required to demonstrate prior experience, completion of some courses and taking an exam. The submitter noted that of all current CFPs only 50-60 advisers would fall into this category. It was stated that many of those have degrees and some are CAs. They have all been members of a professional association for 12 years and have had to keep up with CPD and comply with professional practice standards. The submitter suggested that this category should only be required to attain Standard Set B.

One submitter suggested that advisers with 20 plus years experience should be “grandfathered” into AFA status as he submits that longevity is evidence of competence, knowledge and skills. It was submitted that it would be detrimental to the investing public and inconsistent with the Code’s intent if this led to the loss of experienced advisers.

One submitter stated that advisers in this category should be required to attain Standard Sets B and D to become an AFA.

One submitter said that financial advisers in this category should be required to attain Standard Set B. Another submitter agreed with this for advisers with five years' or more experience. However, the submitter thought that the other Standard Sets should be required as part of ongoing education and not as a condition of becoming an AFA.

One submitter endorsed the accreditation of advisers of long-standing experience via one or more of an examination, evidence from the workplace and an interview.

One submitter suggested that extensive experience at an NZX firm operating under the NZX Rules and Regulations should be sufficient to be deemed certified; he suggested that otherwise the industry would lose a wealth of experience.

Two submitters suggested that only Standard Set C should also be required.

One submitter states that those with CFP professional designation obtained from long-standing experience would have had their experience "quantified" and formally recognised by an association such as the IFA. Therefore these advisers should only need to complete Standard Set B.

One submitter felt that the Code Committee had misunderstood the basis on which CFPs were awarded the designation. Such advisers were not certified simply on the basis of long standing experience but were required to complete a number of Adviser Link courses, sit a written exam and complete a comprehensive case study. On this basis the submitter thought it was inappropriate to require such advisers to complete Standard Set A.

One submitter stated that CFPs who are deemed certified on the basis of long standing experience should not be required to complete Standard Set A.

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 skill?

SUMMARY

A significant number of submitters were concerned at the proposed timetable, and stressed the importance of providing sufficient time for advisers to achieve the proposed standards. Submitters were concerned that a number of aspects of the regime were still to be finalised, and that no firm deadlines could be set until then.

Submitters stressed that time was required for businesses and individuals to understand the system and make the transition, particularly where a large number of employees in an organisation were required to be trained and assessed.

Submitters were particularly concerned about the adequacy of assessment resources, and whether ETITO would be in a position to assess all the candidates in time to comply with the timetable. Linked to this concern, a number of submitters questioned ETITO's status as an exclusive assessor for Standard Sets B and C, and suggested that the approach taken by the New Zealand Institute of Chartered Accountants, whereby large firms could become Approved Training Organisations, had merit.

Some submitters also requested that more detailed information be released about the content of proposed assessments, and in particular about the provision of a self-evaluation tool.

A number of submitters suggested that the timetable was not feasible, and that a longer period of time should be allowed for advisers to make the transition. Two years from the finalisation of the Code was the most common suggestion, but some submitters suggested that staggering requirements could alleviate the pressure on candidates and assessors.

A number of submitters suggested that a "Provisional AFA" or "Adviser-in-Training" status should be established for those candidates who were working towards achieving the necessary qualifications, provided they were making adequate progress.

Concerns were expressed that assessment could jeopardise confidentiality of both clients' and advisers' data and systems. The only solution suggested was to black out details identifying clients, but it was stated that this would not prevent assessors (who could potentially be competitors) obtaining confidential information about the candidates' procedures and systems.

Lastly, a large number of submitters suggested that consideration should be given to the position of experienced advisers (which most defined as being advisers with more than 20 years' experience). They suggested in particular that experienced advisers should be given

as much time as they required, or alternatively merely extra time to complete the requirements.

INDIVIDUAL SUBMISSIONS

Factors and difficulties in determining an appropriate timeline

A number of submitters stressed the necessity of allowing appropriate lead-in time, especially given the difficulty with recruiting new advisers to the industry.

One submitter suggested that advisers should be given the necessary time to reach the proposed standards providing they can demonstrate that they are working towards compliance.

One submitter suggested that variables such as the number of advisers qualifying and the availability of assessment and training would affect the time required for implementation. Likewise another submitter was concerned at the number of advisers that would need to be trained, and the time pressure created.

Two other submitters shared these concerns, particularly given the incentive provided for early uptake (between the middle and end of 2010). Given uncertainty about the number of people that will require to be assessed; whether funding is available; when training and assessment will begin and whether the ETITO has the capacity to manage a transition by the end of 2010; the submitter expressed concerned about the difficulty of planning for the transition.

One submitter stressed that any timeline was dependent on ETITO being ready.

One submitter stated that due consideration should be given to the existing size of an adviser's business and whether the adviser is working full time and the personal and extra-curricular commitments that advisers have. It was suggested that the Code Committee should ensure that the timeframe does not impact on the quality of advice given to clients due to the extra time pressure required to complete the additional qualifications.

Another submitter suggested that the following factors should be taken into account in determining the time allowed for compliance:

- time required for advisers to undertake self-assessment;
- time to develop courses and assessment tools;
- length of time appropriate for advisers to complete qualifications on a part time basis. The submitter suggests that 18 months may be required.
- Timeframes around QFEs, private training enterprises, registered training workplaces, and/or industry training organisations administering workplace assessments.
- The large number of advisers involved (and the central role of ETITO) and the fact that the regime is new means that there will be some delays. Therefore it was submitted that a contingency should be built in.

One submitter stated that advisers should be required to disclose how far through the accreditation process they are.

One submitter expressed some concerns at the proposed timeframe, given the time required to define standards and establish material and evaluation standards. Businesses would also need time to adapt, change job descriptions, contracts, study time availability and so on. The submitter suggested that it should be sufficient for businesses to show that they are making progress by the end of 2010.

One submitter stated that businesses will need time to deal with the wider implications of the competence standards. This includes changes to job descriptions and contracts, part time study requirements, change to remuneration etc.

One submitter suggested that logistical issues could not be adequately addressed until the scope of the exemption for lawyers and CAs was clarified.

One submitter stated that all advisers with identified skills gaps will need to gather a portfolio of evidence which will need to be assessed, either by ETITO or by a NZQA-registered and accredited training provider. It was submitted that it would be unrealistic to expect the process to be completed any earlier than two years from the date the Code comes into force, particularly as there is only one accredited provider of the National Certificate.

One submitter stated that those required to undertake study should be given sufficient time to qualify, allowing for personal circumstances which may delay study and ability to re-sit papers (given that high standards should be required to pass). It was submitted that demonstration of a commitment to undertake the training should be an important test.

One submitter noted that 250 of its 400 members had already achieved its own Accreditation, and that all would be accredited by 31 March 2010. It therefore endorsed the timeframe suggested.

One submitter suggested that setting a lower competency standard would alleviate the concerns.

Proposed alternative timelines

One submitter suggested that, given the practical difficulties, the timeframe should be extended in order to process all the advisers that will require to be authorised (by at least 12 months), without extending the deadline to *register*.

One submitter stated that in order to give those likely to seek authorisation a fair opportunity to do so before the Code comes into effect, its coming into force needed to be delayed to give a large number of current practitioners time to complete the relevant qualifications. The submitter said that at least two years seemed necessary in order for the Code to be fairly implemented. The submitter suggested that in order to encourage early applications, financial advisers should be allowed to apply for authorisation before the Code

comes into force and be entitled to use the AFA title in advertising and promotions before that time.

One submitter suggested that advisers be given between 18 months and two years to complete the requirements for authorisation, while five other submitters suggested two years be allowed. One of those submitters suggested that the two years should be measured from either when the Code is finalised or when the legislation comes into force, whichever is later.

One submitter suggested, however, that a requirement should be imposed for advisers to complete at least 30 credits within the first 12 months. Advisers who have already completed some of the requirements before the Code comes into force should be required to complete at least 30 credits or meet the minimum standards within 12 months.

One submitter recommended a transition period of *at least* 12 months after the standards come into force, ending (at the earliest) after the date on which the first applicants finish the course of study required to achieve the Certificate.

One submitter suggested that three times the minimum period of time in which it would take to complete the qualifications would be appropriate.

One submitter stated that the factors that impinge on timing for credit unions are cost, time and accessing approved training and assessment. It was submitted that those wishing to become an AFA should be enrolled in an appropriate programme within a year of the announcement of the Code and have completed the necessary unit standards within a three year time frame.

Two submitters suggested that three years should be allowed for those who need to complete parts of the National Certificate in order to ensure that they can continue to provide advice and care to their clients, while one other recommended three to four years and two others recommended three to five years.

One submitter suggested that up to five years should be allowed for advisers to complete the new requirements to avoid them over-committing themselves.

Circumstances of individual advisers

Two submitters stressed that there needed to be sufficient time for existing advisers to fulfil competence, knowledge and skills standards and also attend to clients before the Code is enforced. They stated that the date the Code comes into force should take into account the fact that advisers will be undertaking the attainment of the standards on a part-time basis.

One submitter indicated that if all advisers have to comply with the proposed standards they would need to be introduced over a three to five year period as work and family commitments would not allow advisers significant time to study for the new qualifications.

One submitter stated that the practicality of achieving the proposed minimum standards will depend on the individual, the time frame and availability of courses and assessors. The submitter stated that the period to attain compliance with the minimum standards should

be the timeframe determined as being reasonable for advisers generally to complete the training required to achieve the required competence level.

One submitter wondered whether the Code Committee had considered the position of financial advisers who have completed a significant part of one of the approved qualifications at the time the Code comes into force.

One submitter stressed that with heavy workloads and busy lives outside work, advisers needed to be given flexible timeframes. On the basis of each unit comprising one to two assignments and one exam, the submitter suggested a maximum of two units per year.

One submitter questioned whether timeframes should be imposed at all as some financial advisers might want to complete the required courses on a part-time basis. The same submitter suggested that if a person failed the same paper twice they should not be allowed to become an AFA and that the passing grade should be 75%.

Issues with assessment

One submitter stated that the authorisation of 5,000 advisers is a significant task. If the estimate is correct, that submitter expects that the majority will need to undergo formal assessment of competence. The major constraint is likely to be the availability of assessors able to do file reviews and interviews and the submitter raised concerns that the pool of assessors is likely to be limited as the assessors will need relevant industry training and it was noted that if the job only lasts six months it may not be a very attractive proposition.

One submitter had concerns about the capacity within training and assessment providers to properly address the immediate operational needs of wholesale financial service providers and the ability of those assessors to appropriately determine the competence, knowledge and skills of AFAs providing services to wholesale financial service providers. It was submitted that the level of sophistication and skills exhibited by professionals in the wholesale market is higher but that the competence in Standard Sets C and D may not be relevant to those wholesale AFAs. Concern was expressed that assessors (who by their nature are targeting retail market requirements) need to be able to understand and assess the work of wholesale AFAs.

One submitter recognised that under the definition of “financial planning service” insurance advisers that only advise on category 2 products will be required to be authorised. It was submitted that many of these advisers will have none of the proposed recognised alternative qualifications or designations and therefore the number of advisers required to be authorised may be much higher than originally thought – perhaps thousands more. It was noted that at this point there is only one accredited education provider who can provide the National Certificate unit standards. One submitter raised concerns as to whether there will be sufficient education providers and training available within the timeframe envisaged by the Commission.

One submitter felt that the biggest practical constraint would be ensuring that there are enough assessors to assess Standard Set B. Two other submitters agreed that assessment capacity would be the biggest constraint.

One submitter noted that it would be necessary to build assessing capacity to assess all advisers in the industry. In particular it was submitted that there would need to be investment in systems, processes and resources if all advisers are to be assessed. If a clear roadmap to authorisation was put in place, it was submitted that most advisers could complete the compliance requirements within 12 months.

One submitter noted that the paper provided limited details on assessment of competence. The submitter sought more detail, including who the assessors will be and what the cost of the assessment process will be.

One submitter stated that the range of courses and resources available will determine the timeframe required.

One submitter queried whether all unit standards will be assessed via interview or whether some will be assessed via exam. That submitter noted that Privacy Act considerations will need to be dealt with in relation to providing client files for assessment purposes.

One submitter noted that the consultation paper assumes there will be a tool that advisers can use to self-evaluation. Another submitter sought more information on what the tool is and how financial advisers would access it. One submitter suggested that the results of such assessments should be available to managers so that development plans can be put in place for individual adviser staff as a whole.

A number of submitters suggested that the approach used by the New Zealand Institute of Chartered Accountants should be used. Under that approach firms become Approved Training Organisations in order to mentor and train individuals joining the industry.

Likewise, another submitter suggested that assessment be “unbundled” from training, so that advisers could sit the assessments without necessarily undertaking the training. It was submitted that this would be particularly useful in enabling individuals to be assessed early in the timetable.

One submitter stated that training and assessment should be available remotely, so that advisers in remote areas are not disadvantaged.

One submitter noted that the transitional period would be affected by a number of factors, including the resourcing, capacity and capability of assessors and training organisations and the availability of a self-evaluation tool.

One submitter was concerned at the time and cost required to meet the new standards. The submitter was not convinced that competition would reduce the cost of training, especially in the context of reducing government support.

One submitter was concerned that some advisers would not be able to provide client files to demonstrate their competence (such as supervisors). Such people should be able to be assessed on the basis of examination alone.

Another submitter raised concerns that multiple organisations are going to be involved in the regulation process, and that this will potentially add unnecessary duplication, expense and delay. At the same time, that submitter is concerned that the industry training provider sector and ETITO will face a number of capability issues and struggle to secure suitably qualified trainers and assessors to meet demand in the short to medium term.

Restriction of assessment of Standard Sets B and C to ETITO

Four submitters questioned why only ETITO can assess Standard Sets B and C and stated that this could cause a bottleneck. One submitter recommended that ETITO assist with developing a number of accredited assessors within QFEs. One submitter also agreed that QFEs should be able to assess these standards as well. Another submitter suggested that ETITO – rather than the industry generally – should provide assessment resources to avoid any inadequacy.

One submitter suggested that there should be one standard for accredited assessors and that ETITO need not necessarily be the only provider.

One submitter stated that assessment of Standard Sets A and D should be centrally assessed by ETITO but that assessments could be carried out by any NZQA-accredited training provider provided that common examinations and assessments are used by all.

One submitter suggested that the assessment for Standard Set B take place online in order to allow advisers to meet the standard in a timely and cost effective manner.

One submitter expressed concern that allowing any training provider to provide training on Standard Sets A–D may mean that providers with little to no experience in the financial sector are training financial advisers.

One submitter expressed concern about the independence of assessors. It was submitted that assessors should be independently remunerated so that those taking the courses do not pay for the assessor's salaries. The submitter saw this as a potential conflict of interest.

One submitter expressed the view that advisers should be able to complete the National Certificate by routes such as "challenge" and "panel assessment" pathways.

One submitter suggested that the final document containing the minimum standards provide more details on the alternative assessment processes available to practice as an AFA.

One submitter notes that the NZX Diploma requires completion of a paper on the New Zealand Stock Market (FIN 405N) and Securities Law and Market Regulation in New Zealand (FIN508N). It was stated that NZX, in conjunction with Kaplan Professional, update the material contained in these courses as necessary to reflect changes in the Rules or regulatory environment. That submitter wondered whether it would be possible to incorporate the content of Standard Set B into one of these papers.

Particular standards

One submitter stressed that Standard Set B needs to be developed and published urgently. Assuming that Standard Set B requires no more than about 120 pages of pre-reading and can be delivered in a two-day course, the submitter felt that it should be possible for AFAs to meet the standard in time.

With respect to Standard Set C, one submitter noted that it comprises 18 credits. The submitter thought it could be effectively delivered over an eight-day course or over a four-day course for advisers with more than five years' experience. In light of this, it was submitted that an adviser who has met Standard Set B and who has more than three years' experience at the time the standards come into force should be able to continue practising for a further 12 months while completing the outstanding requirements for Standard Set C.

One submitter suggested a staged approach, with 6 months given to attain Standard Set B and a further two years to obtain Standard Sets A and C.

Provisional and "AFA in training" status

Provisional status for current advisers

Several submitters suggested that provisional status should be given to current advisers to enable them to continue to practise while gaining the competence, knowledge and skills standards.

One submitter stated that if completion of the National Certificate is made mandatory then a two year timeframe should be provided with 50% of the qualification being completed by December 2010 to attain "provisional AFA status" with final completion by December 2011. In the interim if the adviser fails to attain 50% of the National Certificate by December 2010, the submitter proposed that the AFA should lose their provisional AFA status.

Three submitters suggested that provision should be made for the staggering of assessment and attainment of qualifications, given the large number of advisers that will need to become qualified at the same time and the potential for there being an insufficient number of accredited training providers.

One submitter stated that as a compromise the implementation of a short interim-authorisation period where relatively low standards are set should be considered. It was submitted that after this period the competence standards should then be replaced by ones comparable with other professions, with the deadline for transition announced clearly in advance. AFAs who did not meet the higher standards by the announced timeframe would lose authorisation. It was suggested that this transition period should be in place for three years maximum.

One submitter suggested that as part of a staged implementation plan, advisers should be classed as provisional in terms of competence with the full conduct provisions applying from day one of the Code. It was suggested that over a year, assessment could be completed and advisers could move from provisional to AFA. Six submitters supported the concept of

“provisional advisers”, and one other submitter suggested that the label “Associate” could be used.

One submitter suggested that a two-stage assessment process be used. At stage one an NZQA accredited workplace assessor would issue a provisional authorisation. At stage two an ETITO audit of that assessment would be made.

One submitter suggested that some form of supervision be required for those who fail any assessments and that this could match the supervision requirements for new advisers seeking to become an AFA.

One submitter sought clarification as to what transitional arrangements would be in place while advisers undertake the necessary study to achieve authorisation.

One submitter suggested that the Code should include a restricted class of provisional authorisation for unqualified financial advisers participating in training and assessment which requires mentoring and supervision. It was submitted that this class could be subject to time limits and training requirements. It was suggested that provisional authorisation could be granted to:

- those who have completed Standard Set B and are progressing towards the Certificate;
- provisional members of IFA who are undertaking the Massey Graduate Diploma and are mentoring to become CFPs and CLUs; or
- employees of a QFE undertaking an approved programme.

Provisional status for new advisers

One submitter noted that the Code fails to address trainee advisers. The law precludes anyone from providing financial advice or making investment transactions in relation to category 1 products unless the person is an AFA. It was submitted that there needs to be a mechanism for trainee advisers to give advice to customers under supervision.

Another submitter also expressed concerns about the lack of detail on the pathway for a new adviser into the industry and whether a period of mentoring would be required.

Two submitters noted that trainee advisers will also not be able to attain Standard Set C as they will not be able to develop any workplace evidence. This is a barrier to recruitment. One submitter stressed the importance of ensuring that new advisers enter the industry within a supportive structure.

Most submitters suggested that there needs to be a process for new advisers whereby they can provide advice under supervision while attaining competence.

Another submitter suggested that an “Adviser in Training” class of AFA be established for “apprentice” AFAs working towards their qualification. This would allow them to work within the industry in the meantime. The Australian system provides for such a class. It was

submitted that this would also address training and evaluation capacity constraints. It was suggested that experienced AFAs should act as supervisors.

One submitter noted that new advisors are currently supervised by NZX participant firms and that this has proved effective. He suggested that this form of supervision should be included as part of a new adviser's authorisation process.

One submitter felt that the proposed standards would encourage new entrants into the financial advisory industry to join QFEs and that this was not in the interests of the public. The submitter suggested establishing a "provisional" status that would allow an adviser to practise while studying.

One submitter said that AFAs should be required to be in structured peer review/supervision relationships once the Code comes into effect. Alternatively, if it is not seen as an appropriate initial requirement for all AFAs, the submitter felt that it should nevertheless be a requirement for newly qualified AFAs operating as sole practitioners.

Six submitters pointed to the NZX regime for new advisers which uses the NZX Associate Advisor designation for trainee NZX Advisors and suggested that this model be incorporated into the Code. The NZX regime imposes a six-month requirement.

One submitter suggested that there should be a "pathway option" for individuals wishing to enter the industry and those wishing to employ them, in conjunction with the availability of internal training.

One submitter stated that an apprenticeship procedure should be added to the code which has "tutorial or tested content".

One submitter stated that the provisional status be limited to a period no longer than two years, as the National Certificate will take 12-18 months if study is part time.

One submitter stated that Financial Advisory Groups/Firms could be certified as approved mentoring and training organisations for individuals working towards AFA status. It is suggested that a reasonable period of say 2-3 years to meet the educational and practical experience requirements should be applied for new advisers. It was submitted that extensions could be granted in exceptional circumstances.

One submitter felt that all financial advisers should be required to undertake a minimum of three years mentoring before becoming AFAs.

Position of advisers part-way through existing relevant qualifications

One submitter expressed concern regarding the position of those who are part way through one of the existing relevant qualifications. The question asked was whether the adviser would receive any recognition for those papers completed or whether they would be given time to complete the Diploma.

One submitter noted that new advisers who are part way through their Diploma in Business Studies (personal financial planning or personal risk management) should be permitted to provide advice while they complete the remaining courses but should be mentored by a fully qualified AFA for a minimum of two years.

One submitter suggested that a provisional AFA status should be introduced for those in the process of completing the two year mentoring period.

Confidentiality issues

Five submitters expressed concerns about client confidentiality relating to the assessment of Standard Set C by outside assessors especially where assessors are also in the business of financial advice. One submitter expressed concerns about intellectual property associated with the advisers' systems and processes.

One submitter suggested that blacking out the names and identifying details for assessment purposes may alleviate client confidentiality concerns but this does not address the issue in relation to intellectual property embedded in an adviser's systems and processes.

One submitter stated that in an electronic age it is not feasible to "black out" clients names on files. One submitter suggests that this issue should be considered in consultation with the Privacy Commissioner and suggests that in alternative, in-house assessment by the QFE should be able to be undertaken.

One submitter shared similar concerns in relation to private client data, and noted that such information cannot be shared without the client's permission as this would breach the Privacy Act.

One submitter raised several concerns regarding the confidentiality of client files. In particular, the submitter expressed a concern that his current agreements with clients did not contain an exception to the general confidentiality obligations that would allow him to disclose client files to a regulator. In addition, concern was expressed about any possible outsourcing of regulatory and oversight work to third parties.

One submitter was concerned that clients' privacy rights could be impacted when evidence was provided to ETITO of a participant's track record. It was suggested that this issue should be considered with the Privacy Commissioner, and that internal training would eliminate the concern.

One submitter suggested that assessors should not have access to material that is potentially commercially-sensitive where the assessors are from a competing organisation.

The position of experienced advisers

One submitter stated that very experienced advisers, with 20 or more years' experience, should be given all the time they require (or at least "reasonable time") to reach the standards provided they can demonstrate that they are working towards compliance with

the Code's minimum standards. These senior advisers provide mentoring and training to new advisers. This submission was reflected by eighteen other submitters.

One submitter noted that the average age of risk insurance advisers nationwide was 57 years old. He suggested that many such advisers would take early retirement rather than try to become authorised. Accordingly, he noted the need to ensure that the industry was not left with too few advisers to assist "Mum and Dad" investors. One other submitter expressed the same concern about experienced advisers leaving the industry.

One submitter suggested that if experienced advisers are required to fulfil the new requirements, they should be able to continue to provide advice while they complete the requirements to avoid losing their expertise.

Two submitters believed that "strict adherence" to the proposed standards would create a vacuum of experienced advisers but that for new entrants (i.e. those who will have to qualify anyway) the proposal is appropriate.

One submitter states that advisers with significant and relevant experience should be granted appropriate time to meet the requirements. That submitter states that it is crucial that these people remain in the industry to pass on knowledge, mentor and train the next generation of advisers. One submitter agreed and submitted that those who have been in the industry over 8-10 years should be considered as meeting the minimum standards.

One submitter stated that senior brokers without the proposed educational requirements should be given a fair timeframe to achieve the superior investment advisory qualification in the NZX Diploma.

One submitter also suggested three to five years, at least for experienced advisers.

One organisation stated that while it will attempt to move swiftly to achieve positive outcomes for both its members and the public, there is a need to consider the implications for its professional development and member services programmes for 2010-12 and also advise members of what they need to be doing in 2010 to comply with the new framework. That organisation recommended that the Code Committee consider extending the policy development process in order that stakeholders can better make the necessary institutional and system changes.

Other points

One submitter expressed concerns about whether the organisations charged with bringing the new Code into effect will have sufficient financial and industry knowledge to ensure a smooth transition period. The submitter sought assurances that there would be sufficient funding and technical expertise so that disruption to financial advisers will be minimised.

One submitter expressed concern that new advisers entering the industry would have to complete a commerce degree, an NZX Diploma and the new minimum standards. The submitter felt that completing all these requirements would take a considerable period and firms were unlikely to want to have people training this long.

QUESTION EIGHT

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

SUMMARY

Most submitters agreed that foreign-regulated advisers should be subject to the same competency standards as New Zealand advisers. It was also accepted, however, that requiring foreign-regulated advisers to complete the National Certificate would be inappropriate and unduly burdensome.

Most submitters therefore agreed that a system should be established for the recognition of appropriate foreign qualifications, and it was suggested that NZQA or ETITO could analyse the regulatory regimes of individual countries to determine what qualifications were equivalent.

However some submitters indicated that foreign-regulated advisers still need to be subject to regulation in New Zealand. Concern was expressed that consumers might encounter problems if advisers who are subject to overseas regulation are permitted to operate outside the regulatory framework here. It was submitted that it would be more difficult for consumers to exercise their rights if faced with the prospect of making a complaint to an overseas regulator.

Many submitters also suggested that where an adviser was subject to an established regulatory regime that was equally (or more) demanding than New Zealand's, they should be deemed to have fulfilled the requirements. This is certainly true of the Australian regime, and submitters stressed the importance of facilitating a free flow of advisers between New Zealand and Australia.

At the same time, most submitters accepted that knowledge of the particular characteristics of the New Zealand market was necessary. There was general agreement that it was appropriate to require foreign-regulated advisers, regardless of their home country, to complete Standard Set B in order to demonstrate knowledge of New Zealand's particular legal, accounting, insurance, tax and retirement savings environment. It was also suggested that an additional requirement for mentoring could be imposed.

A small number of potential problems were identified, including the difficulty of defining "foreign-regulated adviser." It was also suggested that care was necessary to avoid imposing overly onerous requirements on foreign-regulated advisers.

Concern was also expressed about the position of wholesale advisers, and it was suggested that exceptions could be made, for example, when an overseas adviser was giving a presentation to New Zealand wholesale clients.

INDIVIDUAL SUBMISSIONS

Encouragement of participation of foreign-regulated advisers

Two submitters felt that the participation of foreign-regulated advisers should be encouraged.

One submitter stated that participation in the financial service industry in New Zealand by appropriate foreign participants should be encouraged.

One submitter stated that overseas advisers, fund managers and research analysts are regularly brought to New Zealand by New Zealand companies to present on specialist fields. That submitter expressed the view that no impediment should be placed in their way. However that submitter stated that the rules should enable action to be taken against so-called “boiler shop” operators operating out of overseas jurisdictions.

The importance of applying the same standards

Nine submitters stated that foreign-regulated financial advisers should have to meet the same competency standards as domestic financial advisers.

One submitter suggested that any adviser giving advice about a financial instrument in New Zealand (whether they are in New Zealand or not) should be captured by these regulations.

Recognition of qualifications and regulatory regimes

Nine submitters suggested that it was appropriate to recognise appropriate foreign qualifications by a fair and objective process, which would encourage appropriate foreign participants. In particular, many submitters, suggested that where the adviser’s home country had an equal or higher qualification regime, the requirements should be taken as met.

One submitter stressed the importance of establishing an effective system before allowing foreign-regulated advisers to practise.

One submitter stated that foreign regulated advisers whose country of origin has a standard of competence, knowledge and skills that is of a similar standard to New Zealand should be able to practise with the requirement to undertake Standard Set B.

One submitter stated that there should be mutual recognition of foreign-regulated financial advisers so that foreign-regulated advisers should not be subject to the minimum standards of competence, knowledge and skills where they have been assessed by NZX as meeting the required level of competence by virtue of regulation in the foreign jurisdiction. It was submitted that they should not be required to attain Standard Set B where they have been assessed by NZX as having met more stringent requirements in their home jurisdiction. Any additional standards of competence would create a barrier to entry into the New Zealand markets and is not necessary.

One submitter suggested that the Committee should recognise equivalent foreign status where the IFA and NZX do so.

Another submitter suggested that foreign financial advisers with an internationally recognised qualification such as CFP should also be eligible for authorised status on completion of additional New Zealand specific training.

One submitter said that foreign-regulated advisers operating in New Zealand should comply with the regulatory regime in place in their home country.

One submitter envisages problems for consumers if advisers who are subject to overseas regulation are permitted to operate outside the regulatory framework here. It was submitted that it will be more difficult for consumers to exercise their rights if faced with the prospect of making a complaint to an overseas regulator. That submitter suggested that foreign-regulated advisers should not be exempt from the Code.

Process for examining equivalence of overseas qualifications

A number of submitters suggested that there should be a focus on recognising standards from already-regulated financial advisory markets, in particular the United Kingdom, Australia and the United States.

One submitter suggested that a panel should be established to assess the competence of foreign advisers. The submitter noted that the panel should work closely with professional bodies in other jurisdictions to establish and maintain a database of applicable benchmarks for recognition of advisers from other jurisdictions.

Australian mutual recognition

Two submitters stated, in particular, that licensed Australian financial advisers should be exempt from the requirement to satisfy the proposed minimum standards on the condition that they comply with the Australian financial services laws. The submission suggested this approach because the requirements of the Australian financial services laws, which are set out in the submission, are comparable to the requirements under the proposed minimum standards.

Likewise, another submitter noted the need for consistency between Australian and New Zealand standards given business opportunities, transfer of risk and access to staff; and the submitter stated that it is therefore necessary to ensure appropriate recognition of foreign standards.

Another submitter suggested that the focus should be on recognising Australian advisers in the first instance.

One submitter suggested the establishment of a mutual recognition regime.

Membership of international professional financial organisations

One submitter suggested that members of international financial bodies should receive relief in terms of the competence standards. It was suggested that the Financial Services Institute of Australasia (FINSIA) and the Chartered Institute for Securities and Investment in the United Kingdom (CISI) both have relevant educational and practical experience requirements.

One submitter stated that CFP professionals who have transferred from overseas jurisdictions and have become CFP NZ should only be required to attain Standard Set B. That submitter noted that to become a CFP overseas the candidate is required to meet standards set by the Financial Planning Standards Board and the curriculum is similar throughout the world. It was submitted that the content of qualifications is very similar but there are differences in knowledge especially relating to local law and tax. It was stated that IFA assesses the equivalency of the overseas qualifications and typically overseas CFPs are required to take a course in estate planning and taxation plus have six months of mentoring and complete the IFA case study exercise.

Requiring foreign-regulated advisers to display knowledge of New Zealand conditions

One submitter stressed that the knowledge of local products and laws is where the greatest variation between countries will exist. It was submitted that the differences are substantial and significant and so are relevant to the quality and content of advice. It was stated that even between Australia and New Zealand, the tax laws and superannuation are very different. Therefore foreign advisers will need to demonstrate New Zealand knowledge of key content especially tax if they are to adequately advise New Zealand residents.

Six submitters agreed that foreign-regulated advisers should be required to demonstrate familiarity with the particular characteristics of the New Zealand market. These include its legal, regulatory, accounting and insurance environment, as well as KiwiSaver.

One submitter stated that foreign financial advisers that are regulated in an overseas jurisdiction approved by the Minister should be eligible for authorised status on completion of additional training to familiarise them with the Code and with the New Zealand environment and applicable legislation. The submission stated that as a minimum that should include completion of Standard Sets B and D and unit standard 25653.

Mentoring

Two submitters suggested that foreign-regulated advisers undergo a period of 12 months' mentoring in order to ensure that they are competent and that there are no language barriers.

One submitter stated that Standard Sets A and B should be required regardless, but that Sets C and D could be waived if appropriate skills could be established.

Concerns in applying the standards to foreign-regulated advisers

One submitter thought that the term "foreign-regulated advisers" should be defined. In particular, the submitter queried whether the term includes foreign regulated companies that have advisers working in New Zealand or whether it simply referred to individual advisers who are subject to foreign regulation.

One submitter stated that only the conduct provisions of the Financial Advisers Act should apply to offshore financial advisers when providing services or delivering advertisements to New Zealand consumers. The provisions require financial advisers to act with skill, care and diligence and not to be misleading or confusing. That submitter stated that it was inappropriate to impose prescriptive registration, authorisation and disclosure requirements

on overseas based advisers, and that advisers only be required to have a level of competence appropriate to the role being undertaken. In particular it was submitted that:

- obstacles should not prevent New Zealand-based individuals and entities wanting to access offshore advice that may not be available from New Zealand advisers from gaining access, including at the wholesale level;
- obstacles should not prevent New Zealand-based individuals and entities wanting to bring research publications or well qualified and knowledgeable financial advisers (including product technical experts) to New Zealand; and
- the introduction of any new barrier to accessing offshore advisory services relating to capital raising and offshore funding also runs counter to other initiatives being undertaken at this time of financial crisis.

One submitter suggested that monitoring foreign-regulated financial advisers will be difficult and it also may be restrictive for New Zealand residents and entities. That submitter cited the example of a New Zealand consumer who purchases category 1 products offshore. The person offshore would be providing a financial adviser service. The submitter suggested that the definitions for providing “financial adviser service” from offshore could be narrowed and confined to “investment advice,” that is, the advice needs to be specifically directed at the consumer or entity (for example, a financial planning service) before New Zealand regulation would apply. That submitter did not see a need for regulation of offshore providers of insurance.

One submitter suggested that the presence of an AFA at a presentation given by a foreign-regulated adviser could be sufficient.

One submitter suggested that an exception should be made where an offshore adviser is assisting a New Zealand resident in the adviser’s home market. It was stated that proper consideration needs to be given to the status of offshore-originated investment research that is disseminated or available in New Zealand.

The position of wholesale advisers

One submitter suggested that most foreign advisers are likely to provide wholesale financial services and advice.

One submitter envisaged a risk that certain foreign-regulated advisers (such as overseas economists or fund managers) making presentations to wholesale clients (such as corporates, charitable trusts or companies) could be caught by the legislation, which it suggested would be inappropriate.

One submitter suggested that it was not necessary to regulate foreign advisers who worked at the wholesale level.

Other options

One submitter supported the submission made by another submitter that foreign regulated financial advisers should be subject to the conduct requirements of the code but not “accreditation requirements”.

QUESTION NINE

Any other matters to comment on?

SUMMARY

A number of submitters suggested changes to the Financial Advisers Act 2008 or requested clarification in relation to the definition of “financial planning service”, “financial advice” and s 12 exemptions for accountants and lawyers.

It was also suggested that the following groups of advisers should not be caught by the Act:

- employees or agents of AFAs;
- credit union employees;
- real estate agents and mortgage brokers;
- trustees;
- KiwiSaver advisers; and
- wholesale advisers.

Comments in relation to QFEs were made including several that suggested that those working within QFEs should be required to attain the same standards of competence, knowledge and skills as those not working within QFEs. Others disagreed with this view. Comments were also made in relation to ongoing monitoring of AFAs by the Securities Commission.

The issue of Australian and international mutual recognition was discussed. Several submitters also discussed the importance of continuing professional training and made suggestions as to how this could be implemented.

Only individual submissions relating to the standards of competence, knowledge and skills are recorded below as submissions on matters such as amendments to the Financial Advisers Act and QFE regime are outside the Code Committee’s ambit.

Although mutual recognition is also not a matter for the Code Committee, submissions in relation to this topic have been set out in this document as it is intimately linked to the issue of competence, knowledge and skills.

INDIVIDUAL SUBMISSIONS

Australian mutual recognition

One submitter stated that in order to further the purposes of the mutual recognition scheme that exists between Australia and New Zealand and to enhance the appeal of the New Zealand market to offshore financial service providers generally, exemptions should apply in relation to financial adviser services provided in New Zealand by Australian financial advisers where the following circumstances exist:

- (a) there is no inducement for New Zealand clients to use the service;

- (b) the financial adviser services are predominantly provided outside the New Zealand jurisdiction;
- (c) the financial adviser service is provided to a client who is located outside New Zealand;
- (d) the financial adviser service is carried out in relation to persons who themselves hold financial adviser services authorisations; or
- (e) the Australian financial adviser provides financial adviser services only to wholesale investors and is regulated by the Australian Securities and Investments Commission.

International mutual recognition

One submitter commented that efforts should be made to ensure that the standards adopted are portable to international jurisdictions, not just Australia.

Overseas securities markets

One submitter stated that it is vital for the success of New Zealand's securities markets that financial advisers and overseas intermediaries who are regulated by recognised regulators (egg the Commodities Futures Trading Commission (CFTC) and the Securities and Exchange Commission in the United States or the Financial Services Authority in the UK) are not captured by either the Code or the Financial Advisers Act 2008 to the extent that:

- (a) the overseas entity transacts in New Zealand markets on their own behalf and for and on behalf of clients (including individuals) in their home jurisdiction; and/or
- (b) the financial adviser is advising its clients in foreign jurisdictions about trading on New Zealand securities markets.

That submitter stated that this needs to be explicitly recognised in the Code and legislation with specific exclusions. It was submitted that this could be achieved by either publishing a list of countries with acceptable regulatory regimes or by publishing a list of countries whose regimes do not meet the required standard.

That submitter stated that research analysts who are appropriately accredited in their home jurisdiction should not be subject to the Code when visiting New Zealand.

Identification of causes of poor financial advice

Three submitters suggested that before making final decisions about the proposed minimum standards the Code Committee should gather data about the causes of the poor investment advice offered in recent years.

Confidence in the AFA brand and public education

One submitter stressed the importance of building public confidence in the AFA "brand" so that it stands for something in public opinion.

One submitter stressed the importance of educating the public about the value of the new requirements and the standards required of advisers under the new regime.

Future Standards

One submitter agreed in principle with the comments in relation to future standards (ie that competence standards may be raised in the future by the Code Committee). However they note that it will be necessary to ensure that advisers are given an appropriate period of time to obtain the relevant skills and knowledge.

One submitter stated that advisers should be encouraged to gain higher qualifications in the future in order to become an AFA. They suggest that the university diploma courses should be the minimum standard rather than the National Certificate.

Appendix: Table of proposed recognised alternatives from the Consultation Paper on Competence Knowledge and Skills⁵

	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	<p>Alternative 1</p> <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	<p>Alternative 2</p> <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 planner⁶; or ➤ a Chartered Life Underwriter⁷; 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);
OR	<p>Alternative 3</p> <ul style="list-style-type: none"> ○ be a Chartered Financial Analyst (CFA)⁸; and ○ have attained Standard Sets B and C (as described in Part 4 of this Consultation Paper);
OR	<p>Alternative 4</p> <ul style="list-style-type: none"> ○ be a Chartered Accountant; and

⁵ Released on 23 October 2009 see <http://www.financialadvisercode.govt.nz>.

⁶ For more information on certified financial planners see www.ifa.org.nz.

⁷ For more information on chartered life underwriters see www.ifa.org.nz.

⁸ For more information on chartered financial analysts (CFAs) see www.cfasociety.org.nz.

	<ul style="list-style-type: none"> ○ 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	<p>Alternative 5</p> <ul style="list-style-type: none"> ○ have an NZX Diploma⁹; and ○ have attained Standard Sets B, C and D (as described in Part 4 of this Consultation Paper);
OR	<p>Alternative 6</p> <ul style="list-style-type: none"> ○ be an NZX Advisor; and ○ have attained Standard Sets B, C and D (as described in Part 4 of this Consultation Paper);
OR	<p>Alternative 7</p> <ul style="list-style-type: none"> ○ have an NZX Diploma¹⁰; and ○ be an NZX Advisor; and ○ have attained Standard Set B (as described in Part 4 of this Consultation Paper);
OR	<p>Alternative 8</p> <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).

⁹ For more information on the NZX Diploma see www.nzx.com.

¹⁰ For more information on the NZX Diploma see www.nzx.com.