

**CODE OF PROFESSIONAL CONDUCT  
FOR AUTHORISED FINANCIAL ADVISERS**

**EXPOSURE DRAFT**

**[NB: Marked up edits on this Exposure Draft of the Code released for consultation on 21 January 2016 reflect changes to the Code proposed by the Code Committee following consideration of feedback received in response to the Consultation Paper released by the Code Committee on 28 October 2015.**

**Please refer to the accompanying Issues Response Paper for background commentary on the proposed changes.]**

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## A. BACKGROUND

This is the Code of Professional Conduct for Authorised Financial Advisers for the purposes of the Financial Advisers Act 2008.

This section of the *Code* provides a brief overview of the scope and aims of the *Code*. The remainder of the *Code* contains the operative provisions which must be complied with by all *Authorised Financial Advisers*.

*Financial advisers* are required to be authorised under the Financial Advisers Act in order to provide a *personalised service* to a *retail client* that is:

- (a) *financial advice* or a *discretionary investment management service* in relation to a *category 1 product*; or
- (b) an *investment planning service*.

*Financial advisers* may also elect to become authorised under the *Act* in relation to *financial adviser services* provided in respect of any *category 2 product*, and in any other situations specified in regulations made under the *Act*. The overarching purpose of the Financial Advisers Act is “to promote the sound and efficient delivery of financial adviser and broking services, and to encourage public confidence in the professionalism and integrity of financial advisers and brokers”.

One of the key ways the *Act* seeks to achieve its purposes in relation to *financial adviser services* is by requiring all *Authorised Financial Advisers* (also referred to as *AFAs*) to comply with a code which provides for minimum standards of professional conduct. The overarching purpose of the *Act* provides the spirit underpinning the *Code*. When considering their conduct and disclosure obligations under the *Act* and the *Code*, *AFAs* should have that spirit in mind.

The *Act* requires the *Code* to contain minimum standards of competence, knowledge and skills, of ethical behaviour, and of *client* care. The *Code* is also required to provide for continuing professional training for *AFAs*, including specifying requirements that an *AFA* must meet for the purpose of continuing professional training. *AFAs* may be disciplined for breaches of the *Code*.

A number of the **Code Standards** include reference to legal obligations that would apply to *AFAs* irrespective of the *Code* requirements. Such references are included largely for the sake of completeness. However, the *Code* does not refer to all legal obligations of *AFAs*. *AFAs* must comply with all applicable laws, whether or not referred to in the *Code*.

This *Code* has been approved by the *Minister* under the Financial Advisers Act 2008 and comes into force either in part or in full, on a date or dates specified by *Gazette* notice under section 94 of the *Act*.

## **B. INTRODUCTION**

Each standard in this *Code* consists of an overarching principle identified as a **Code Standard** together with additional provisions that contain further detail about the application of the **Code Standard**.

Unless otherwise stated, the additional provisions do not limit the application of the overarching principle under which they are stated, or the application of any other **Code Standard**. AFAs must apply the **Code Standards** in a way that encourages public confidence in the professionalism and integrity of financial advisers.

Terms used in this *Code* that appear in italics are defined in the definitions schedule.

This *Code* does not limit an *AFA's* legal obligations, including those under the *Act*.

## C. MINIMUM STANDARDS OF ETHICAL BEHAVIOUR

### Code Standard 1

**An Authorised Financial Adviser must place the interests of the *client* first, and must act with integrity. These obligations are paramount.**

This **Code Standard** applies to any activity of an *AFA* that relates to the *AFA's financial adviser services*.

The obligation to place the interests of the *client* first, and act with integrity in accordance with the overarching purpose of the *Act*, applies irrespective of the application and effect of any other **Code Standard**.

What is required to place a *client's* interests first for the purposes of the *Code* is determined by what is reasonable in the circumstances, including any regulatory obligations binding on the *AFA* in addition to the *Code*.

Compliance with this **Code Standard** does not require an *AFA* to provide services that are not within the scope of the *AFA's* services, as advised to the *client in writing*, or provide *financial adviser services* in relation to *financial products* that are outside of that scope of service.

An *AFA's* obligation under this **Code Standard** to place a *client's* interests first will not be breached by reporting to the Financial Markets Authority any breaches of the *Act* that the *AFA* reasonably believes to have occurred.

### Code Standard 2

**An Authorised Financial Adviser must not do anything or make an omission that would or would be likely to bring the financial advisory industry into disrepute.**

This **Code Standard** prohibits an *AFA* from conduct that would undermine public confidence in the professionalism or integrity of the financial advisory industry. However, this **Code Standard** does not prevent an *AFA* from commenting in good faith on the business, actions, or inactions of any *person* (including any other *financial adviser*, financial adviser group, financial service

provider or industry body) or from exercising the *AFA*'s reporting powers under section 45A of the Act.

### Code Standard 3

**An *Authorised Financial Adviser* must not state or imply that the *Authorised Financial Adviser* is independent, or that any *financial adviser services* provided are independent, if a reasonable person in the position of a *client* would consider that the *Authorised Financial Adviser* or the services provided are not independent.**

The following are examples of circumstances where neither the *AFA* nor the *AFA*'s provision of *financial adviser services* may be described as 'independent':

- (a) a *related person* of the *AFA*, or a *related person* of the *AFA*'s employer or *principal*, is the *product provider* of a *financial product* (other than a *discretionary investment management service*) relevant to the *financial adviser service* provided; or
- (b) the *AFA* is subject to a contractual obligation to:
- recommend a particular *financial product* or *financial products*; or
  - limit the *AFA*'s recommendations or *discretionary investment management services* to a particular *financial product* or *financial products*; or
  - attain or maintain a target in relation to a particular *financial product* or *financial products*.

However, the contractual obligations falling within this paragraph (b) do not include the use of *discretionary investment management services*, wrap account services, platforms, or other portfolio administrative or custodial services, where the use of such services and the arrangements the *AFA* is able to put in place for the *AFA*'s *clients* permit access to a wide range of *financial products* and *product providers*; or

- (c) the *AFA* or a *related person* of the *AFA* will or may directly or indirectly receive a *benefit* from a *person* other than the *client* for providing the services or from the *client*'s acquisition of a *financial product* or products.

However, for the purposes of this paragraph (c) the following *benefits* do not affect an *AFA*'s ability to describe the *AFA* or the *AFA*'s services as independent:

- those that are paid, credited, or transferred to the *client*; and
- those that are remote or insignificant; and
- those that are received by the AFA in the form of salary or wages as an employee, or in the form of fees as a contractor, that are not determined in whole or in part by reference to volume or other targets relating to a particular *financial product* or *product provider*; and-
- those that are received by the AFA (or by a *related person* of the AFA) for the provision of a *discretionary investment management service*, provided neither the AFA nor any *related person* of the AFA is a *product provider* of any *financial product* acquired through the *discretionary investment management service* or receives any benefit from the *product provider* of any *financial product* acquired through the *discretionary investment management service*.

An AFA must not state or imply that a researcher or other third party service provider used by the AFA in relation to the AFA's *financial adviser services* is independent unless the AFA has reasonable grounds to believe the third party would be able to describe themselves as independent under this **Code Standard**, if the third party were an AFA.

#### **Code Standard 4**

***An Authorised Financial Adviser must not borrow from or lend to a retail client.***

This **Code Standard** does not apply if the *client* is

- (a) a *related person* of the AFA; or
- (b) in the business of borrowing or lending money or valuable property and the AFA's borrowing or lending is in the ordinary course of the *client's* business on terms consistent with the *client's* normal business terms.

This **Code Standard** does not prevent an AFA or an AFA's employer or *principal* from entering into financial arrangements on behalf of a *client* as the *client's* agent to meet settlement obligations in relation to any *financial product*.

An AFA must not arrange for the AFA's employer or *principal* to borrow from or lend to a *retail client*, other than in the ordinary course of the employer's or *principal's* business.

## Code Standard 5

**An *Authorised Financial Adviser* must effectively manage any conflicts of interest that may arise when providing a *financial adviser service*.**

Effective management for the purposes of this **Code Standard** includes a requirement for the *AFA* to identify, and clearly and effectively communicate to the *client*, all interests of the *AFA* or a *related person* that might influence the services the *AFA* provides to the *client*. Where a conflict of interest that arises when providing a *financial adviser service* is such that an *AFA* is unable to manage the conflict so as to place the interests of the *client* ahead of the interests of the *AFA* or a *related person*, the *AFA* must decline to act.

## D. MINIMUM STANDARDS OF CLIENT CARE

### Code Standard 6

**An *Authorised Financial Adviser* must behave professionally in all dealings with a *client*, and communicate clearly, concisely and effectively.**

When providing *financial adviser services* to a *client*, an *AFA* must:

- (a) provide only services that the *AFA* has the competence, knowledge, and skill to provide; and
- (b) provide the *services* and perform the *AFA's* obligations in a timely way; and
- (c) make recommendations only in relation to *financial products* that have been assessed or reviewed by the *AFA* to a level that provides the *AFA* with a reasonable basis for any such recommendation, or by another *person* if it is reasonable in all the circumstances for the *AFA* to rely upon that other *person's* assessment or review.

Communicating 'effectively' for the purposes of the *Code* requires an *AFA* to take reasonable steps to ensure the *client* understands the communication.

When transmitting the *financial advice* of another *person* to a *client*, an *AFA* must take reasonable care to ensure that the *person* providing the *financial advice* has an appropriate level of competence, knowledge, and skill to provide that advice, and either:

- ensure the *client* is aware that the *AFA* has not prepared the *financial advice* or assessed its suitability for the *client*; or
- accompany the *financial advice* with the *AFA's* own *financial advice* in relation to the same subject matter (in which case the *AFA* may have further obligations under **Code Standards 8 and 9**).

When providing *financial adviser services* to a *wholesale client*, an *AFA* must take reasonable steps to ensure the *client* is aware that the *client* is regarded as a *wholesale client* for the purposes of the *Act* and the *Code*, and also is aware of the consequences of that status.

## Code Standard 7

**An *Authorised Financial Adviser* must ensure each *retail client* has sufficient information to enable the *client* to make an informed decision about whether to use the *Authorised Financial Adviser's financial adviser services*.**

The information an *AFA* may be required to provide a *retail client* under this **Code Standard** includes (but is not limited to) *written* information about the scope of the *AFA's financial adviser services*, any limits on that scope of the *AFA's* authorisation, the *AFA's* qualifications to provide those services, the basis on which those services are provided, the fees the *client* must pay, and any interests the *AFA* is required to communicate under **Code Standard 5**, in relation to the *AFA's financial adviser services* provided to the *client*.

The requirements of this **Code Standard** may be satisfied in whole or in part by complying with the *AFA's* disclosure obligations under the *Act*. In some circumstances additional information may need to be provided to a *retail client* to ensure the *client* has sufficient information to be able to make an informed decision.

The information required under this **Code Standard** must be updated when there is any change in the *AFA's* circumstances that is material to the *financial adviser services* provided by the *AFA* to the *client*.

## Code Standard 8

**When providing a *personalised service* to a *retail client* an *Authorised Financial Adviser* must take reasonable steps to ensure that the *personalised service* is suitable for the *client*.**

An *AFA* is only required to determine suitability under this **Code Standard** based on the information provided by the *client* and information otherwise known to the *AFA*. However, an *AFA* must make reasonable enquiries to ensure the *AFA* has an up-to-date understanding of the *client's* financial situation, financial needs, financial goals, and risk profile, having regard to the nature of the *personalised service* being provided.

Where a *client*:

- (a) declines to provide some or all of the information required under this **Code Standard**, an *AFA* must take reasonable steps to ensure the *client* is aware that the *personalised service* is limited and specify those limitations; or
- (b) ~~instructs an *AFA* (or an *AFA*'s employer or *principal*) to provide *limited advice*, the *AFA* is relieved from the obligation to determine suitability~~ entitled to do so, to the extent provided for in that instruction, and from determining is not required to determine whether or not *limited advice* is appropriate for the *client*. However, this relief is only available if:
- The *client* initiates the identification of the *financial product* or *financial products* in question, or already holds the *financial product* or *financial products* in question; and
  - The *AFA* is satisfied that any *financial product* recommended is suitable to address any stated goal of the *client*; and
  - The *AFA* expressly confirms to the *client* in writing the extent to which the suitability of the *financial advice* has not been fully determined, and warns the *client* in writing that the *financial advice* provided may have been different if the *client* had not instructed the *AFA* to provide *limited advice*;<sup>1</sup> or

~~instructs an *AFA* (or an *AFA*'s employer or *principal*) to provide *transactional advice* without determining the suitability of the *financial advice* provided, the *AFA* is relieved from the obligation to determine suitability to the extent provided for in that instruction, provided the *AFA* expressly confirms to the *client* that the underlying transaction has been completed or advised upon without determining suitability, to that extent; or~~

- (c) ~~instructs~~ agrees with an *AFA* (or an *AFA*'s employer or *principal*) ~~not to determine~~ that the scope of the *AFA*'s engagement does not extend to determining the suitability of ~~the~~ a *financial adviser service* provided by the *AFA*, the *AFA* is relieved from the obligation to determine suitability to the extent provided for in that ~~instruction~~ agreement. However, this relief is only available if the instruction is provided in a document that is signed and dated by the *client*, and that includes a clear acknowledgement from the *client* as to the advantages of ~~the~~ an *AFA* determining suitability based on the provision of all the information contemplated under this **Code Standard**.

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<sup>1</sup> Please refer to commentary in the Issues Response Paper released with this Exposure Draft of the Code for a discussion on this new *limited advice* relief

An *AFA* must not direct or influence a *client* to instruct the *AFA* not to determine the suitability of a *financial adviser service* to be provided for the *client*, or direct or influence a *client* to decline to provide any of the information contemplated under this **Code Standard**. However, this restriction does not prevent an *AFA*:

- drawing the *client's* attention to the *client's* ability to opt out of having suitability determined as contemplated under this **Code Standard**; or
- quoting or estimating a reasonable fee for determining suitability under this **Code Standard**.

If an instruction given by a *client* under paragraph (b) or (c) of this **Code Standard** is such that the *financial adviser service* provided by the *AFA* to the *client* is not or will no longer be a *personalised service*, the *AFA* will then need to comply with **Code Standard 10**.

## Code Standard 9

**Where an *Authorised Financial Adviser* provides a *personalised service* to a *retail client* that is an *investment planning service* or that relates to a *category 1 product*, the *Authorised Financial Adviser* must provide an explanation of the service provided that is sufficient to enable the *client* to make an informed decision about the *financial adviser service*.**

The extent of any explanation required under this **Code Standard** is determined by what a *retail client* would reasonably require in the circumstances to make an informed decision, including:

- (a) sufficient information to enable the *client* to make an informed decision as to the suitability of the *financial adviser service* provided by the *AFA*, and
- (b) a concise description of the principal benefits and principal risks relevant to any *financial advice* provided as part of the *AFA's financial adviser services*, having regard to the characteristics of those services.

All explanations required under this Code Standard must be provided *in writing* to the *client* at the time the personalised service is provided, or as soon as practicable after that time, unless:

- the *AFA* has previously provided the *client* with an explanation under this **Code Standard** that is sufficient to cover the *personalised service* provided; or
- the *client* has either instructed the *AFA* (or the *AFA's* employer or *principal*) or confirmed a prior instruction that an explanation under this **Code Standard** is not required, or that any such explanation need not be *in writing*. Any such instruction or confirmation need not be *in writing*, but must reflect an unambiguous, active instruction or confirmation that is relevant to the *personalised service* currently being provided.

An *AFA* must not direct or influence a *client* to decline the explanation contemplated under this **Code Standard**. However, this restriction does not prevent an *AFA* from:

- drawing the *client's* attention to the *client's* ability to opt out of receiving the explanation contemplated under this **Code Standard**; or
- quoting or estimating a reasonable fee for providing an explanation under this **Code Standard**.

### **Code Standard 10**

**When providing a *class service* to a *retail client*, an *Authorised Financial Adviser* must take reasonable steps to ensure the *client* is aware of the limitations of the service provided.**

### **Code Standard 11**

**An *Authorised Financial Adviser* must ensure there is an appropriate internal process in place for resolving *client complaints* in relation to the *Authorised Financial Adviser's financial adviser services*.**

The complaint resolution process under this **Code Standard** must ensure that:

- (a) the *client* is, as soon as reasonably practicable after making a *complaint*, provided with acknowledgement of the *complaint*, information about the *AFA's internal complaints handling process*, and how to complain to the Financial Markets Authority and to any applicable *external dispute resolution scheme*; and
- (b) a register is kept recording all *complaints*, and action taken towards resolving those *complaints*.

The complaints resolution process required under this **Code Standard** is required in addition to the *AFA's external dispute resolution scheme* (if any).

## Code Standard 12

**An Authorised Financial Adviser must record in writing adequate information about any personalised services provided to a retail client.**

The information required to be recorded under this **Code Standard** in relation to each *retail client* must be sufficient to demonstrate compliance with **Code Standards 5-9**, and must include copies of all information and documents provided to, or received from, the *client in writing*, in connection with the *AFA's personalised services*.

An *AFA* who is an employee may satisfy the *AFA's* obligations under this **Code Standard** by taking reasonable steps to ensure that relevant measures taken by the *AFA's* employer are consistent with the measures contemplated under this **Code Standard**.

An *AFA* must comply with all obligations under the Privacy Act 1993. Without limitation, this includes obligations in relation to the use and disclosure of *clients'* personal information and the protection of that information from loss and unauthorised access, use, modification, or disclosure.

## Code Standard 13

**An Authorised Financial Adviser must ensure that records of all information and documents required under this Code are kept for a minimum of 7 years.**

The 7-year minimum period required under this **Code Standard** generally commences on the last date that the *AFA* provides a *financial adviser service* to the *client*. However, for information relating to a *financial product* transaction entered into by the *client*, the 7-year minimum period for that information commences on the date that all benefits potentially available to the *client* from the *financial product* have been realised, if that date is earlier than the date that would otherwise apply. The records required under this **Code Standard** may be kept in electronic form, provided the records are readily retrievable.

An *AFA* may satisfy the *AFA's* obligations under this **Code Standard** by arranging for records or information and documents required under this **Code Standard** to be held by a third party (for example, the *AFA's* employer, a platform provider, or a purchaser of the *AFA's* business) by taking reasonable steps to ensure the third party keeps the records contemplated under this **Code Standard** for at least as long as the *AFA* would otherwise have been required to keep them.

**E. MINIMUM STANDARDS OF COMPETENCE, KNOWLEDGE, AND SKILLS  
REQUIRED TO PROVIDE FINANCIAL ADVISER SERVICES**

**Code Standard 14**

**Before providing a *financial adviser service*, an *Authorised Financial Adviser* must have the competence, knowledge, and skills to provide that service.**

This **Code Standard 14** applies in addition to the requirements of **Code Standards 15 and 16** that relate to particular qualifications an *AFA* must attain.

An *AFA* must be able to demonstrate that the *AFA* has a reasonable basis for believing that the *AFA* has the level of competence, knowledge, and skills required by this **Code Standard**.

**Code Standard 15**

**An *Authorised Financial Adviser* must have a knowledge of the *Act*, the *Code*, and other legal obligations relevant to the operation of the *Authorised Financial Adviser's* practice as a *financial adviser* (including relevant consumer protection laws), that is adequate for the proper operation of that practice.**

An *AFA* must:

(a) attain Unit ~~Standard Set B26360~~, and

(b) be able to demonstrate the adequacy of the *AFA's* knowledge of relevant legislative obligations.

## Code Standard 16

To be an *Authorised Financial Adviser*, a *financial adviser* must attain the *components of the New Zealand Unit Standard Sets within the National Certificate in Financial Services (Financial Advice) (Level 5)* that are relevant to the *financial adviser services* provided by the AFA.

For the purposes of the *Code*, an *Authorised Financial Adviser* is deemed to have attained a particular *Unit Standard Set Component of the New Zealand Certificate in Financial Services (Level 5)* where the *Authorised Financial Adviser* has attained an alternative qualification or designation to that *Unit Standard Set Component* as specified in the *Code's Competence Alternatives Schedule*.

~~An AFA who has attained Unit Standard Sets A, B, C, and D of the National Certificate in Financial Services (Financial Advice) (Level 5) is not restricted in the range of financial adviser services the AFA can provide or offer to provide, subject to Code Standard 14 and the terms of the AFA's authorisation under the Act.~~

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

- ~~(a) — may provide a class service for any client, and any form of financial adviser service for a wholesale client, without having attained Unit Standard Set C or Unit Standard Set D; and~~
- ~~▪ — may provide financial adviser services for a client without having attained Unit Standard Set D if the AFA has attained Unit Standard Set E and the financial products that might be included within the scope of the financial adviser services provided for the client concerned do not include any category 1 products; and~~
  - ~~▪ — may provide financial advice in relation to withdrawing from a KiwiSaver scheme for the purpose of purchasing a first home, without having attained Unit Standard Set D; and~~

~~An AFA must attain the New Zealand Certificate in Financial Services (Level 5) with the financial advice strand in order to provide a *personalised service* for a *retail client*.~~

~~Except where the personalised service provided by the AFA in relation to Category 1 products is limited to providing financial advice in relation to withdrawing from a KiwiSaver scheme for the purpose of purchasing a first home, an AFA must also attain the investment strand in order to provide a *retail client* with a *personalised service* involving category 1 products.~~

~~In order to provide a *retail client* with a *personalised service* involving category 2 products, an AFA must attain:~~

(a) The New Zealand Certificate in Financial Services (Level 5) with the financial advice strand and at least one other specialist strand relevant to the AFA's financial adviser services; or

(b) A recognised alternative specified qualification.

In order to provide a class service for any client, or any form of financial adviser service for a wholesale client, an AFA must attain the core component and Unit 26360, but provided the AFA satisfies **Code Standard 14** the AFA is not otherwise required to attain any other component of the New Zealand Certificate in Financial Services (Level 5).

An AFA— who first became authorised to provide a *financial adviser service* in reliance upon a competency pathway that is no longer available to new applicants for authorisation will continue to be regarded as complying with this **Code Standard** in relation to providing that *financial adviser service*, provided there has been no break in the AFA's authorisation and the AFA is able to demonstrate compliance with the AFA's CPD obligations under the *Code* over the course of the AFA's authorisation.

For the avoidance of doubt, any requirement under this **Code Standard** to attain one or more components or an ~~alternative qualification~~ alternative recognised in the *Competence Alternatives Schedule* or this **Code Standard** is in addition to the obligation to satisfy **Code Standard 14**. If an AFA has attained *Unit Standard Set D* this **Code Standard** does not also require the AFA to attain *Unit Standard Set E* in order to provide *financial adviser services* that involve *category 2 products*, so long as the AFA satisfies **Code Standard 14**.

For the purposes of this **Code Standard**, an AFA will be deemed to have attained *Unit Standard Set E* if the AFA has either passed both of the residential property lending *units* (*units 26286 and 26287*), or the AFA has passed *unit 25644* and at least one of *units 25645, 25646, or and 25647* (being *units* relating to insurance).

### Transition

Reference in the *Competence Alternatives Schedule* to a qualification being 'subject to the *eligibility sunset*' means the relevant qualification must have been fully attained at the time the AFA seeks authorisation for the first time, and will only be recognised for authorisations that come into effect prior to 1 January 2018.

## F. MINIMUM STANDARDS FOR CONTINUING PROFESSIONAL TRAINING

### Code Standard 17

**An *Authorised Financial Adviser* must maintain and keep current a professional development plan for each *CPD period*.**

An *AFA*'s professional development plan must:

- (a) identify any areas for improvement in the *AFA*'s competence, knowledge and skills in relation to the *financial adviser services* the *AFA* provides or intends to provide;
- (b) include the *AFA*'s proposals for making those improvements; and
- (c) where available, include details of courses, seminars, workshops and any other training or professional development planned to be undertaken; and
- (d) in relation to any *financial adviser service* the *AFA* provides or intends to provide, take into account the minimum level of competence, knowledge, and skills an *AFA* is required to be able to demonstrate to provide that service under **Code Standard 16** at the start of the *CPD period*, with a view to identifying any gaps in the *AFA*'s competence, knowledge, and skills when compared with that level.

### Code Standard 18

**An *Authorised Financial Adviser* must undertake sufficient continuing professional training to maintain the *Authorised Financial Adviser*'s competence at a level appropriate for the *financial adviser services* the *Authorised Financial Adviser* provides or intends to provide, and keep up to date with developments relevant to the *Authorised Financial Adviser*'s practice.<sup>2</sup>**

<sup>2</sup> Please refer to commentary on this Code Standard in the Issues Response Paper released with this Exposure Draft of the Code for a discussion on possible changes to the exclusion to the definition of structured professional development. The Code Committee is seeking feedback on the changes it is now contemplating.

In order to satisfy this **Code Standard**, an *AFA* must complete no less than 30 hours of *structured professional development* over the course of every two *CPD periods*.

In addition to that minimum *structured professional development* requirement, in each *CPD period* an *AFA* must undertake such additional training as is necessary to maintain the *AFA's* competence at the appropriate level required by this **Code Standard** or to satisfy the *AFA's* professional development plan for that *CPD period*, whether in the form of additional *structured professional development* or some other form.

An *AFA* must keep appropriate records of any *CPD* activity completed that is required by this **Code Standard** in a form suitable for demonstrating compliance with this **Code Standard**. The records contemplated under this **Code Standard** include:

- (a) the name of the *CPD* activity; and
- (b) the date of completion; and
- (c) how many hours of *CPD* it involved; and
- (d) a brief description of the *CPD* content covered by it; and
- (e) in relation to *structured professional development*, documentation to verify the *AFA's* undertaking of the *structured professional development*, such as confirmation by the training provider or by the *AFA's* employer or *principal*.

## G. COMPETENCE ALTERNATIVES SCHEDULE

For the purposes of the *Code*, a person wishing to be an AFA is treated as having satisfied the requirements of a particular ~~Unit Standard Set Component of the New Zealand Certificate in Financial Services~~ where the *person* has attained an alternative qualification or designation as specified in this Schedule

	Alternative Qualification	Alternative Designation
<p><del><b>National New Zealand Certificate in Financial Services (Financial Advice) (Level 5) Component</b></del> <del><i>Unit Standard Sets</i></del></p>	<p>For the purposes of the <i>Code</i>, a <i>person</i> who has attained one of the following qualifications is treated as having satisfied the requirements of the specified <del><u>Component Unit Standard Set</u></del></p>	<p>For the purposes of the <i>Code</i>, a <i>person</i> who has attained one of the following designations is treated as having satisfied the requirements of the specified <del><u>Unit Standard Set Component</u></del></p>
<p><del><b>Unit Standard Set A Core Component</b></del> <del><i>(Comprising units 24755, 25642, and 25643)</i></del></p> <p>Knowledge of <del>the industry, financial markets, the advice process and products financial services best practice, the regulatory environment for financial services, research and analysis processes, economic environment and financial system</del></p>	<ul style="list-style-type: none"> <li>• Any New Zealand issued tertiary qualification at degree level or above in or majoring in accountancy, business (including business administration and business analysis), commerce, economics, finance or management studies (including applied management)</li> <li>• Graduate Diploma in Business Studies (Personal Financial Planning) (Massey University)*</li> <li>• Graduate Diploma in Business Studies (Personal Risk Management) (Massey University)*</li> <li>• Postgraduate Diploma in Personal Financial Planning (Waikato University)*</li> <li>• <del>Certificate in Financial Services from Adviserlink Learning Limited</del></li> <li>• <u>Bachelor of Applied Management in Personal Financial Planning (Christchurch Polytechnic Institute of Technology)</u></li> <li>• <del>New Zealand Stock Exchange Diploma (NZSE Diploma)</del></li> <li>• <u>Graduate Diploma in Personal Financial Planning (Christchurch Institute of</u></li> </ul>	<ul style="list-style-type: none"> <li>• <del>Associate Financial Planner</del></li> <li>• <del>Associate Life Underwriter</del></li> <li>• Certified Financial Planner</li> <li>• CFA Charterholders</li> <li>• Chartered Life Underwriter</li> <li>• <del>Member of the New Zealand Institute of Chartered Accountants (Accounting Technician, Associate Chartered Accountant and Chartered Accountant)</del></li> <li>• NZFMA Accredited individual</li> <li>• NZX Advisor</li> <li>• NZX Associate Advisor</li> <li>• <del>Registered Legal Executive</del></li> </ul>

	Alternative Qualification	Alternative Designation
<p><del>National New Zealand Certificate in Financial Services (Financial Advice) (Level 5)</del> <u>Component Unit Standard Sets</u></p>	<p>For the purposes of the <i>Code</i>, a <i>person</i> who has attained one of the following qualifications is treated as having satisfied the requirements of the specified <del>Component Unit Standard Set</del></p>	<p>For the purposes of the <i>Code</i>, a <i>person</i> who has attained one of the following designations is treated as having satisfied the requirements of the specified <del>Unit Standard Set</del><u>Component</u></p>
	<p><u>Technology</u></p> <ul style="list-style-type: none"> <li>• <u>NZX Diploma</u></li> <li>• <u>National Certificate in Financial Services (Financial Advice) (Level 5), subject to the transition provisions of Code Standard 16</u></li> </ul> <p>* in each case, including their respective predecessor diploma qualifications</p>	
<p><u>Unit Standard Set B</u> (Comprising unit 26360) Knowledge of the <i>Code</i> and consumer protection laws</p>	<p>No recognised alternative</p> <p><u>Bachelor of Applied Management in Financial Planning (Christchurch Polytechnic Institute of Technology)</u></p>	<p>No recognised alternative</p>
<p><u>Unit Standard Set C</u> <u>Financial advice strand</u> (Comprising units 26360, 25650, 25651, 25652, and 25653) Professional practice advice process and complying with legislation</p>	<p>No recognised alternative</p> <ul style="list-style-type: none"> <li>• <u>Bachelor of Applied Management in Financial Planning (Christchurch Polytechnic Institute of Technology)</u></li> <li>• <u>Graduate Diploma in Personal Financial Planning (Christchurch Institute of Technology)</u></li> <li>• <u>Graduate Diploma in Business Studies (Personal Financial Planning) (Massey University), if attained after 31 December 2012</u></li> <li>• <u>Graduate Diploma in Business Studies (Personal Risk Management) (Massey University), if attained after 31 December 2012</u></li> <li>• <u>National Certificate in Financial Services (Financial Advice) (Level 5), subject to the transition provisions of Code Standard 16</u></li> </ul>	<p>No recognised alternative</p>

	Alternative Qualification	Alternative Designation
<p><del>National New Zealand Certificate in Financial Services (Financial Advice) (Level 5) Component Unit Standard Sets</del></p>	<p>For the purposes of the <i>Code</i>, a <i>person</i> who has attained one of the following qualifications is treated as having satisfied the requirements of the specified <del>Component Unit Standard Set</del></p>	<p>For the purposes of the <i>Code</i>, a <i>person</i> who has attained one of the following designations is treated as having satisfied the requirements of the specified <del>Unit Standard Set</del><del>Component</del></p>
<p><del>Unit Standard Set Investment strand (Comprising units 25648 and 25649) Investment Unit Standards</del></p>	<ul style="list-style-type: none"> <li>Graduate Diploma in Business Studies (Personal Financial Planning) (Massey University)*, <u>if attained after 31 December 2012</u></li> <li><del>Postgraduate Diploma in Personal Financial Planning (Waikato University)*</del></li> <li><u>Bachelor of Applied Management in Financial Planning (Christchurch Polytechnic Institute of Technology)</u></li> <li><u>Graduate Diploma in Personal Financial Planning (Christchurch Institute of Technology)</u></li> <li><u>Units 25648 and 25649 of the National Certificate in Financial Services (Financial Advice) (Level 5), subject to the transition provisions of Code Standard 16.</u></li> </ul> <p>* in each case, including their respective predecessor diploma qualifications</p>	<ul style="list-style-type: none"> <li>CFA Charterholder</li> </ul>
<p><del>Unit Standard Set E (Comprising either units 25644 and 25645, or units 25646 and 25647) Insurance Unit Standards OR Residential Property Lending Unit Standards</del></p>	<ul style="list-style-type: none"> <li><del>Graduate Diploma in Business Studies (Personal Risk Management OR Personal Financial Planning) (Massey University)*, provided the Diploma includes a paper on personal risk management</del></li> </ul> <p>* in each case, including their respective predecessor diploma qualifications</p>	<p>No recognised alternative</p>

## H. DEFINITIONS SCHEDULE — Part 1

This Part of the Definitions Schedule applies up to, and excluding, the date that section 12 of the Financial Markets (Repeals and Amendments) Act 2013 comes into effect.

In this *Code*, unless the context otherwise requires, the following terms have the meanings set out below. To assist, those terms are shown in *italics* wherever they appear in the body of the *Code*. Any term that is not defined in this Schedule, but is defined in the *Act* or in regulations made under the *Act*, has the same meaning in the *Code* as in the *Act* or in those regulations, as applicable. Where there is any inconsistency between the definition of a term defined in the *Act* and the definition of that term in the *Code*, the definition in the *Act* prevails.

Accounting Technician	a member of the New Zealand Institute of Chartered Accountants who, under the rules of the Institute, is entitled to use the designation accounting technician
Act	the Financial Advisers Act 2008
AFA	an <i>Authorised Financial Adviser</i>
Associate Chartered Accountant	a member of the New Zealand Institute of Chartered Accountants who, under the rules of the Institute, is entitled to use the designation Associate Chartered Accountant
Associate Financial Planner	an individual who has been awarded this designation by the Institute of Financial Advisers Inc
Associate Life Underwriter	an individual who has been awarded this designation by the Institute of Financial Advisers Inc
Authorised Financial Adviser	a <i>person</i> described in section 51 of the <i>Act</i> who is authorised by the Financial Markets Authority under section 55 of the <i>Act</i>
Bank	has the same meaning as the term ‘bank in New Zealand’ in section 5 of the <i>Act</i>
benefit	any money, property, or other valuable consideration
business partner	a <i>person</i> who is a member of a partnership as defined in section 4 of the Partnership Act 1908
category 1 product	means any of the following products (other than a product that is a category 2 product): (a) — a <i>security</i> ; or (b) — a land investment product (as defined by regulations); or (c) — a futures contract; or (d) — an investment linked contract of insurance (as defined by regulations); or

	(e) — any other product specified by regulations made under the Act; or
	(f) — a renewal or variation of the terms or conditions of an existing category 1 product
category 2 product	means any of the following products
	(a) — a <i>bank</i> term deposit; or
	(b) — any bonus bond; or
	(c) — any call building society share; or
	(d) — a call credit union share; or
	(e) — a call debt security; or
	(f) — a share in a co-operative company (as defined in section 2(1) of the Co-operative Companies Act 1996); or
	(g) — a unit in a cash or term portfolio investment entity (as defined by regulations); or
	(h) — a consumer credit contract within the meaning of the Credit Contracts and Consumer Finance Act 2003; or
	(i) — a contract of insurance (other than an investment-linked contract of insurance); or
	(j) — a life insurance policy (within the meaning of section 2(1) of the Securities Act 1978) issued before 1 January 2009; or
	(k) — any other product specified by regulations made under the Act; or
	(l) — a renewal or variation of the terms and conditions of any existing category 2 product
Certified Financial Planner	an individual who has been awarded this designation by the Institute of Financial Advisers Inc.
CFA Charterholder	an individual entitled to use the chartered financial analyst designation granted by the CFA Institute
Chartered Accountant	has the same meaning as in Section 2 of the New Zealand Institute of Chartered Accountants Act 1996
Chartered Life Underwriter	means an individual who has been awarded this designation by the Institute of Financial Advisers Inc.
class service	a <i>financial adviser service</i> that is not a <i>personalised service</i>

client	<p>means, in relation to an <i>AFA</i>:</p> <p>(a) <del>— a person who receives a service from the <i>AFA</i> (whether or not on payment of a charge); but</del></p> <p>(b) <del>— does not include a person who receives any services from the <i>AFA</i> if the service is both provided and received in the course of, and for the purposes of:</del></p> <p style="padding-left: 40px;"><del>(i) — the same business; or</del></p> <p style="padding-left: 40px;"><del>(ii) — the businesses of related bodies corporate; or</del></p> <p style="padding-left: 40px;"><del>(iii) — the businesses of members of a QFE group,</del></p> <p>irrespective of whether the <i>person</i> providing or receiving the service is the <i>person</i> carrying on the business, a controlling owner, a director, an agent, or any other <i>person</i></p>
client information	information about a <i>client</i>
Code	the Code of Professional Conduct for Authorised Financial Advisers approved by the <i>Minister</i> and brought into force by <i>Gazette</i> notice under section 94 of the <i>Act</i>
Code Standard	a standard specified in the <i>Code</i>
competence alternatives schedule	the schedule to this <i>Code</i> named as such
complaint	an expression of dissatisfaction by a <i>client</i> to an <i>AFA</i> about the <i>AFA's financial adviser services</i> provided to the <i>client</i> , other than an expression of dissatisfaction that is trivial or vexatious or that the <i>client</i> indicates is not intended to constitute a complaint for the purposes of the <i>Code</i>
CPD	continuing professional development or training relevant to the <i>financial adviser services</i> the <i>AFA</i> provides or intends to provide
CPD period	in respect of an <i>AFA</i> , a 12-month period from the day of the year specified for this purpose in the <i>AFA's</i> terms of authorisation or, in the absence of any such day being specified, a calendar year with the first such period commencing on the 1 <sup>st</sup> day of January following the <i>AFA's</i> authorisation
director	has the meaning given by section 126 of the Companies Act 1993, but also includes, in relation to a body that is not a company, a <i>person</i> who occupies a position comparable to that of a <i>director</i> (such as a trustee or a partner)
discretionary investment management service	a service which an <i>AFA</i> , acting under an authority granted to the <i>AFA</i> (or to the <i>AFA's</i> employer or <i>principal</i> ) manages all or some of the <i>client's</i> holdings of <i>financial products</i> , and decides which <i>financial products</i> to acquire or dispose of on behalf of the <i>client</i>

external dispute resolution scheme	in respect of an <i>AFA</i> , the scheme under section 48 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 to which any complaint concerning the <i>AFA</i> must be referred
financial advice	<p>making a recommendation or giving an opinion in relation to acquiring or disposing of (including refraining from acquiring or disposing of) a <i>financial product</i>, noting that whether or not advice is financial advice is not affected by how the advice is given or communicated</p> <p>The mere provision of information, or making a recommendation or giving an opinion relating to a class of <i>financial products</i>, or making a recommendation or giving an opinion about the procedure for acquiring or disposing of a <i>financial product</i>, or transmitting the financial advice of another or recommending that a <i>person</i> consult a <i>financial adviser</i>, does not amount to financial advice</p>
financial adviser	a <i>person</i> who provides a <i>financial adviser service</i>
financial adviser service	giving <i>financial advice</i> , or providing an <i>investment planning service</i> , or providing a <i>discretionary investment management service</i> , in the ordinary course of business
financial product	a <i>category 1 product</i> or a <i>category 2 product</i>
internal complaints handling process	an <i>AFA</i> 's internal process for handling and resolving <i>complaints</i> as described in <b>Code Standard 11</b>
investment planning service	<p>a service provided by an <i>AFA</i> under which the <i>AFA</i> designs, or offers to design, a plan for an individual that:</p> <p>(a) — is based on, or purports to be based on, an analysis of the individual's current and future overall financial situation (which must include his or her investment needs) and identification of the individual's investment goals; and</p> <p>(b) — includes 1 or more recommendations or opinions on how to realise those goals (or 1 or more of them);</p> <p>regardless of whether the analysis and identification is of the individual's particular financial situation and goals or of the financial situations and goals attributable to a class of <i>persons</i> that the individual is identified as coming within</p>
Minister	has the same meaning as in section 5 of the <i>Act</i>
NZFMA Accredited individual	an individual who has achieved accredited individual status following the completion of the New Zealand Financial Markets Association Financial Services Accreditation Program
NZX Advisor and NZX Associate Advisor	an individual who has been accredited and approved by NZX as an NZX Advisor or NZX Associate Advisor (as applicable) as provided in the NZX Participant Rules

person	includes an individual, a corporation sole, a body corporate, and an unincorporated body (including the trustees of a trust)
personalised service	<p>a <i>financial adviser service</i>:</p> <p>(a) — given to or in respect of a <i>named client</i> or a <i>client</i> that is otherwise readily identifiable by the AFA; and</p> <p>(b) — the AFA has taken into account the <i>client's</i> particular financial situation or goals (or any one or more of them) in providing the service, or the <i>client</i> would, in the circumstances in which the service is provided, reasonably expect the AFA to take into account the <i>client's</i> particular financial situation or goals (or one or any more of them),</p> <p>however a service is not personalised merely because the <i>client</i> comes within a class of <i>persons</i> having predefined characteristics and the AFA takes the fact that the <i>client</i> comes within that class into account</p>
principal	a <i>person</i> who is the principal in an agency relationship
product provider	<p>means:</p> <p>(a) — the issuer, in the case of a <i>security</i>; or</p> <p>(b) — the creditor, in the case of a consumer credit contract (within the meaning of the Credit Contracts and Consumer Finance Act 2003); or</p> <p>(c) — the insurer, in the case of a contract of insurance (other than an investment-linked contract of insurance); or</p> <p>(d) — the <i>person</i> specified by regulations or in any other case</p>
QFE	an entity that is registered and has QFE status or a number of partner entities that are each registered and jointly have QFE status
Registered Legal Executive	an individual who is entitled, under the Rules of the New Zealand Institute of Legal Executives Inc, to use the designation registered legal executive
related person	<p>(a) — in relation to an individual, a parent, child, sibling, spouse, de facto spouse, civil union partner, employer or <i>business partner</i> of that individual, or a <i>principal</i> on whose behalf the individual provides <i>financial adviser services</i> by way of a contract for services; and</p> <p>(b) — in relation to a body corporate A:</p> <p style="padding-left: 40px;">(i) — a <i>person</i> who</p>

	<ul style="list-style-type: none"> <li>▪—is also a body corporate; and</li> <li>▪—either has substantially the same shareholders as A; or</li> <li>▪—is under the control of the same <i>person</i> or <i>persons</i> as A; or</li> </ul> <p>(ii) — a <i>person</i> who is able, directly or indirectly, to—</p> <ul style="list-style-type: none"> <li>▪—exercise, or control the exercise, of 25% or more of the voting at a meeting of the shareholders of A; or</li> <li>▪—appoint or control 25% or more of a governing body of A</li> </ul>
retail client	a <i>client</i> who is not a <i>wholesale client</i>
security	has the same meaning as in section 5 of the Act
structured professional development	<p>training that has identifiable aims and with outcomes relevant to the learning needs identified in the <i>AFA's</i> professional development plan, and:</p> <p>(a) — is provided by a qualified educator or relevant subject matter expert; and</p> <p>(b) — provides for interaction and feedback; and</p> <p>(c) — is verifiable by documentation</p> <p>Structured professional development may include technical product training but excludes training provided for the principal purpose of promoting a particular <i>financial product</i></p>
transactional advice	<i>financial advice</i> relating to the undertaking of a transaction involving a single <i>financial product</i> , or a sale of one <i>financial product</i> and the purchase of another, where the <i>client</i> initiates the identification of the <i>financial product(s)</i> in question
unit	a unit standard forming part of the National Certificate in Financial Services (Financial Advice) (Level 5) on the National Qualifications Framework
Unit Standard Set	a set of <i>units</i> specified in the National Certificate in Financial Services (Financial Advice) Level 5, with Unit Standard Sets A, B, C, D and E comprising the respective <i>units</i> specified in the Competence Schedule
wholesale client	a <i>client</i> classified as a <i>wholesale client</i> under section 5C of the Act

~~written or in writing~~

~~includes in electronic form~~

## H. DEFINITIONS SCHEDULE –Part 2

~~This Part of the Definitions Schedule applies from and including the date that section 12 of the Financial Markets (Repeals and Amendments) Act 2013 comes in to effect.~~

In this *Code*, unless the context otherwise requires, the following terms have the meanings set out below. To assist, those terms are shown in *italics* wherever they appear in the body of the *Code*. Any term that is not defined in this Schedule, but is defined in the *Act* or in regulations made under the *Act*, has the same meaning in the *Code* as in the *Act* or in those regulations, as applicable. Where there is any inconsistency between the definition of a term defined in the *Act* and the definition of that term in the *Code*, the definition in the *Act* prevails.

<del>Accounting Technician</del>	<del>a member of the New Zealand Institute of Chartered Accountants who, under the rules of the Institute, is entitled to use the designation accounting technician</del>
Act	the Financial Advisers Act 2008
AFA	an <i>Authorised Financial Adviser</i>
<del>Associate Chartered Accountant</del>	<del>a member of the New Zealand Institute of Chartered Accountants who, under the rules of the Institute, is entitled to use the designation Associate Chartered Accountant</del>
<del>Associate Financial Planner</del>	<del>an individual who has been awarded this designation by the Institute of Financial Advisers Inc</del>
<del>Associate Life Underwriter</del>	<del>an individual who has been awarded this designation by the Institute of Financial Advisers Inc.</del>
Authorised Financial Adviser	a <i>person</i> described in section 51 of the <i>Act</i> who is authorised by the Financial Markets Authority under section 55 of the <i>Act</i>
Bank	has the same meaning as the term ‘bank in New Zealand’ in section 5 of the <i>Act</i>
benefit	any money, property, or other valuable consideration
business partner	a <i>person</i> who is a member of a partnership as defined in section 4 of the Partnership Act 1908
category 1 product	means any of the following products: <ul style="list-style-type: none"><li>(a) an <i>FMCA financial product</i> (other than a product that is a <i>category 2 product</i>); or</li><li>(b) a <i>DIMS facility</i> (other than a facility that is a <i>category 2 product</i>); or</li><li>(c) an investment-linked contract of insurance (as defined by regulations); or</li><li>(d) any other product specified by regulations made under the</li></ul>

Act; or

- (e) a renewal or variation of the terms and conditions of an existing category 1 product

category 2 product

means any of the following products

- (a) a *bank* term deposit; or
- (b) any bonus bond; or
- (c) any call building society share; or
- (d) a call credit union share; or
- (e) a call debt security; or
- (f) a share in a co-operative company (as defined in section 2(1) of the Co-operative Companies Act 1996); or
- (g) a unit in a cash or term portfolio investment entity (as defined by regulations); or
- (h) a consumer credit contract within the meaning of the Credit Contracts and Consumer Finance Act 2003; or
- (i) a contract of insurance (other than an investment-linked contract of insurance); or
- (j) a life insurance policy (within the meaning of section 2(1) of the Securities Act 1978) issued before 1 January 2009; or
- (ja) a *DIMS facility*, if the investment authority covers only category 2 products; or
- (k) any other product specified by regulations made under the Act; or
- (l) a renewal or variation of the terms and conditions of any existing *category 2 product*

Certified Financial Planner

an individual who has been awarded this designation by the Institute of Financial Advisers Inc.

CFA Charterholder

an individual entitled to use the chartered financial analyst designation granted by the CFA Institute

~~Chartered Accountant~~

~~has the same meaning as in Section 2 of the New Zealand Institute of Chartered Accountants Act 1996~~

Chartered Life Underwriter

means an individual who has been awarded this designation by the Institute of Financial Advisers Inc.

class service

a *financial adviser service* that is not a *personalised service*

client	means, in relation to an <i>AFA</i> :
	(a) a <i>person</i> who receives a service from the <i>AFA</i> (whether or not on payment of a charge); but
	(b) does not include a <i>person</i> who receives any services from the <i>AFA</i> if the service is both provided and received in the course of, and for the purposes of:
	(i) the same business; or
	(ii) the businesses of related bodies corporate; or
	(iii) the businesses of members of a QFE group,
	irrespective of whether the <i>person</i> providing or receiving the service is the <i>person</i> carrying on the business, a controlling owner, a director, an agent, or any other <i>person</i>
client information	information about a <i>client</i>
Code	the Code of Professional Conduct for Authorised Financial Advisers approved by the <i>Minister</i> and brought into force by <i>Gazette</i> notice under section 94 of the <i>Act</i>
Code Standard	a standard specified in the <i>Code</i>
<del>e</del> Competence <del>a</del> Alternatives <del>s</del> Schedule	the schedule to this <i>Code</i> named as such
complaint	an expression of dissatisfaction by a <i>client</i> to an <i>AFA</i> about the <i>AFA's financial adviser services</i> provided to the <i>client</i> , other than an expression of dissatisfaction that is trivial or vexatious or that the <i>client</i> indicates is not intended to constitute a complaint for the purposes of the <i>Code</i>
<u>Component</u>	<u>a Unit or graduate outcome or set of graduate outcomes forming part of the New Zealand Certificate in Financial Services (Level 5) identified as a component of that qualification in the Competence Alternatives Schedule</u>
<u>Core Component</u>	<u>the core compulsory Component of the New Zealand Certificate in Financial Services (Level 5) that all certificate holders are required to have attained</u>
CPD	continuing professional development or training relevant to the <i>financial adviser services</i> the <i>AFA</i> provides or intends to provide
CPD period	in respect of an <i>AFA</i> , a 12-month period from the day of the year specified for this purpose in the <i>AFA's terms of authorisation</i> or, in the absence of any such day being specified, a calendar year with the first such period commencing on the 1 <sup>st</sup> day of January following the <i>AFA's</i> authorisation
DIMS facility	<del>means</del> an agreement, arrangement, or understanding for the

	provision of a <i>discretionary investment management service</i> under an investment authority
director	has the meaning given by section 126 of the Companies Act 1993, but also includes, in relation to a body that is not a company, a <i>person</i> who occupies a position comparable to that of a <i>director</i> (such as a trustee or a partner)
discretionary investment management service	a service which an <i>AFA</i> , acting under an authority granted to the <i>AFA</i> (or to the <i>AFA</i> 's employer or <i>principal</i> ) manages all or some of the <i>client</i> 's holdings of <i>FMCA financial products</i> , and decides which <i>FMCA financial products</i> to acquire or dispose of on behalf of the <i>client</i>
external dispute resolution scheme	in respect of an <i>AFA</i> , the scheme under section 48 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 to which any complaint concerning the <i>AFA</i> must be referred
financial advice	making a recommendation or giving an opinion in relation to acquiring or disposing of (including refraining from acquiring or disposing of) a <i>financial product</i> , noting that whether or not advice is financial advice is not affected by how the advice is given or communicated  The mere provision of information, or making a recommendation or giving an opinion relating to a class of <i>financial products</i> , or making a recommendation or giving an opinion about the procedure for acquiring or disposing of a <i>financial product</i> , or transmitting the financial advice of another or recommending that a <i>person</i> consult a <i>financial adviser</i> , does not amount to financial advice
<a href="#"><u>financial advice strand</u></a>	<a href="#"><u>the specialist strand of that name within the New Zealand Certificate in Financial Services (Level 5)</u></a>
financial adviser	a <i>person</i> who provides a <i>financial adviser service</i>
financial adviser service	giving <i>financial advice</i> , or providing an <i>investment planning service</i> , or providing a <i>discretionary investment management service</i> , in the ordinary course of business
financial product	a <i>category 1 product</i> or a <i>category 2 product</i>
FMCA financial product	has the same meaning as in section 5 of the Act
internal complaints handling process	an <i>AFA</i> 's internal process for handling and resolving <i>complaints</i> as described in <b>Code Standard 11</b>

investment planning service	a service provided by an AFA under which the AFA designs, or offers to design, a plan for an individual that: <ul style="list-style-type: none"> <li>(a) is based on, or purports to be based on, an analysis of the individual's current and future overall financial situation (which must include his or her investment needs) and identification of the individual's investment goals; and</li> <li>(b) includes 1 or more recommendations or opinions on how to realise those goals (or 1 or more of them),</li> </ul> regardless of whether the analysis and identification is of the individual's particular financial situation and goals or of the financial situations and goals attributable to a class of <i>persons</i> that the individual is identified as coming within
<u>investment strand</u>	<u>the specialist strand of that name within the New Zealand Certificate in Financial Services (Level 5)</u>
<u>limited transactional advice</u>	<u>financial advice relating to the undertaking of a transaction involving a single or more financial products, not including a sale of one financial product and the purchase of another, in each case not being a DIMS facility, where the client initiates the identification of the financial product(s) in question the suitability of the financial advice is not comprehensively determined in light of the client's overall financial position, but on a limited basis in light of the financial product or financial products identified by the client</u>
Minister	has the same meaning as in section 5 of the Act
<u>National Certificate in Financial Services (Financial Advice) (Level 5)</u>	<u>the qualification of that name that has been approved by the New Zealand Qualifications Authority (NZQA reference 1476 5)</u>
<u>New Zealand Certificate in Financial Services (Level 5)</u>	<u>the qualification of that name that has been approved by the New Zealand Qualifications Authority (NZQA reference 2315)</u>
NZFMA Accredited individual	an individual who has achieved accredited individual status following the completion of the New Zealand Financial Markets Association Financial Services Accreditation Program
NZX Advisor and NZX Associate Advisor	an individual who has been accredited and approved by NZX as an NZX Advisor or NZX Associate Advisor (as applicable) as provided in the NZX Participant Rules
person	includes an individual, a corporation sole, a body corporate, and an unincorporated body (including the trustees of a trust)
personalised DIMS	has the same meaning as in section 15(2A) of the Act
personalised service	(a) <i>financial advice or an investment planning service:</i> <ul style="list-style-type: none"> <li>(i) given to or in respect of a <i>named client</i> or a <i>client</i> that is otherwise readily identifiable by the AFA; and</li> </ul>

- (ii) the *AFA* has taken into account the *client's* particular financial situation or goals (or any one or more of them) in providing the service, or the *client* would, in the circumstances in which the service is provided, reasonably expect the *AFA* to take into account the *client's* particular financial situation or goals (or one or any more of them),

however a service is not personalised merely because the *client* comes within a class of *persons* having predefined characteristics and the *AFA* takes the fact that the *client* comes within that class into account; or

- (b) a *personalised DIMS*

principal

a *person* who is the principal in an agency relationship

product provider

means:

- (a) the issuer, in the case of an *FMCA financial product*; or
- (b) the creditor, in the case of a consumer credit contract (within the meaning of the Credit Contracts and Consumer Finance Act 2003); or
- (c) the insurer, in the case of a contract of insurance (other than an investment-linked contract of insurance); or
- (d) the *person* specified by regulations or in any other case

QFE

an entity that is registered and has QFE status or a number of partner entities that are each registered and jointly have QFE status

~~Registered Legal Executive~~

~~an individual who is entitled, under the Rules of the New Zealand Institute of Legal Executives Inc, to use the designation registered legal executive~~

~~recognised alternative specified qualification [to be moved to alphabetic order]~~

~~a qualification at Diploma level or above granted by Massey University, Waikato University, or the Christchurch Polytechnic Institute of Technology, specifically identified as an alternative to the *Core Component* in the Competence Alternatives Schedule~~

related person

- (a) in relation to an individual, a parent, child, sibling, spouse, de facto spouse, civil union partner, employer or *business partner* of that individual, or a *principal* on whose behalf the individual provides *financial adviser services* by way of a contract for services; and
- (b) in relation to a body corporate A:
  - (i) a *person* who
    - is also a body corporate; and
    - either has substantially the same shareholders as

- A; or
  - is under the control of the same *person* or *persons* as A; or
- (ii) a *person* who is able, directly or indirectly, to –
  - exercise, or control the exercise, of 25% or more of the voting at a meeting of the shareholders of A; or
  - appoint or control 25% or more of a governing body of A: and
- (c) in any case, includes an associated person or a related body corporate, as those terms are defined under section 12 of the Financial Markets Conduct Act 2013.

retail client

a *client* who is not a *wholesale client*

specialist strand

a strand forming part of the *New Zealand Certificate in Financial Services (Level 5)*

structured professional development

training that has identifiable aims and with outcomes relevant to the learning needs identified in the *AFA's* professional development plan, and:

- (a) is provided by a qualified educator or relevant subject matter expert; and
- (b) provides for interaction and feedback; and
- (c) participation is verifiable by documentation.

*Structured professional development* may include technical product training but excludes training provided for the principal purpose of promoting a particular *financial product*<sup>3</sup>

unit

a unit standard forming part of the National Certificate in Financial Services (Financial Advice) (Level 5) or the *New Zealand Certificate in Financial Services (Level 5)* on the National Qualifications Framework

Unit Standard Set

a set of *units* specified in the *National Certificate in Financial Services (Financial Advice) Level 5*, with Unit Standard Sets A, B, C, D and E comprising the respective *units* specified in the

<sup>3</sup> Please refer to commentary on Code Standard 18 in the Issues Response Paper released with this Exposure Draft of the Code for a discussion on possible changes to the exclusion to this definition. The Code Committee is seeking feedback on the changes it is now contemplating.

Competence Schedule

wholesale client

a *client* classified as a *wholesale client* under section 5C of the *Act*

written or in writing

includes in electronic form