

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

Draft for Consultation

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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 one or more of the following *financial adviser services*:

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

Financial advisers may also elect to become authorised under the *Act* in other situations specified in regulations made under the *Act*. As at the date of this *Code* no such regulations have been made.

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 *AFA*s) 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*, *AFA*s 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 *authorised financial advisers*, including specifying requirements that an *AFA* must meet for the purpose of continuing professional training. *AFA*s may be disciplined for breaches of the *Code*.

A number of the **Code Standards** include reference to legal obligations that would apply to *AFA*s 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 *AFA*s. *AFA*s 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 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*. The *Commissioner* may specify different dates for the commencement of different provisions of this *Code*.

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. AFA's 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.

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

An *AFA*'s obligation to place a *client's* interests first will not be breached by reporting to the Securities Commission 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 bring or would 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 and 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 other financial adviser, financial adviser group or financial service provider 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* 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 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 wrap account services, platforms, or other portfolio administrative or custodial services, where the use of such services and the *AFA*'s arrangements with any third party permit access to a wide range of *financial products* or *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) *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 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*.

An *AFA* may 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 an *AFA's* employer or principal to borrow from or lend money or valuable property to a *client*, other than in the ordinary course of the employer's or principal's business.

Code Standard 5

An *Authorised Financial Adviser* must not provide *financial advice* to a *retail client* in relation to a *financial product* that is not offered to the public if the *Authorised Financial Adviser* is a *related person* of the *product provider* of that *financial product*.

This **Code Standard** does not apply:

- (a) If the *client* is a *related person* of the *AFA*, or is a *related person* of the *AFA's* employer or principal; or
- (b) If the *AFA* is satisfied on reasonable grounds that the *AFA's financial advice* is appropriate for the *client* and, before the *client* makes a decision in relation to the *financial product* to which the *financial advice* relates, the *AFA* is satisfied the *financial advice* is appropriate for the *client* and provides to the *client in writing*:
 - (i) an explanation of the *AFA's* relationship with the *product provider* of the *financial product*, the risks of the *financial product*, and details of how the *AFA* manages the conflict of interest arising as a result of that relationship; and
 - (ii) a recommendation that the *client* takes *financial advice* from another *AFA* who is not a *related person* of the *product provider*.

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) transparently manage any conflicts of interest that may arise in providing the services; and
- (d) recommend only *financial products* that have been analysed properly by the *AFA* or by a third party upon whose analysis it is reasonable, in all the circumstances, for the *AFA* to rely.

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 Standard 8**).

Code Standard 7

An *Authorised Financial Adviser* must ensure each *retail client* is provided sufficient written information to enable the *client* to make an informed decision about whether to use the *Authorised Financial Adviser's financial adviser services* and/or to follow any *financial advice* provided by the *Authorised Financial Adviser*.

The information an *AFA* may be required to provide a *retail client* under this **Code Standard** includes information about:

- (a) the *financial adviser services* that are provided by the *AFA*; and
- (b) any limits on the scope of the *financial adviser services*, including any limits on the *financial products* or range of *financial products* in respect of which the *AFA* is contractually permitted to provide *financial adviser services*; and
- (c) the *AFA*'s competence to provide the *financial adviser services*, including the *AFA*'s qualifications to provide, and experience in providing, the services; and
- (d) the *AFA*'s fees, and any other payments, the *client* must make for, or in relation to, the *financial adviser services* and when those fees and other payments are payable; and

- (e) any employment arrangement or other relationship, contractual obligation, or *benefit* that, under **Code Standard 3**, prevents the *AFA* from stating or implying that the *AFA* or the *AFA's* provision of *financial adviser services* is independent; and
- (f) details of any *benefits* the *AFA*, or any *related person* of the *AFA*, will or may receive in relation to any *financial product* recommended to the *client*; and
- (g) the *AFA's* *internal complaints handling process*; and
- (h) how a *client* may make a *complaint* to an *external dispute resolution scheme*; and
- (i) any conflicts of interest the *AFA*, or any *related person* of the *AFA*, has in providing the *financial adviser services* and arrangements the *AFA* has made to manage those conflicts of interest.

The information required under in 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*. The *Authorised Financial Adviser* must also provide a written explanation to the *client* of the basis for any *financial advice* provided as part of the *personalised service*, and of the risks and potential benefits involved in following that *financial advice*.

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 tolerance for risk having regard to the nature of the *personalised service* being provided.

A *client* may:

- (a) decline to provide some or all of the information required under this **Code Standard**. When this occurs, an *AFA* must, as part of the explanation to be provided to the *client*, note that the advice is limited and specify those limitations; or
- (b) instruct an *AFA* not to determine the suitability of the *personalised service* provided. When this occurs, the *AFA* is relieved from the obligation to determine suitability to the

extent provided for in that instruction. However, this relief is only available if the instruction is provided in a document that is signed and dated by the *client*, and acknowledges the advantages of the *AFA* determining suitability based on the provision of all the information contemplated under this **Code Standard**.

All explanations required under this **Code Standard** must be provided to the *client* at the time the *personalised service* is provided or as soon as practicable after that time. However, the requirement to provide an explanation under this **Code Standard** does not apply where:

- the *AFA* has previously provided the *client* with an explanation under this **Code Standard** that is sufficient to cover the *personalised service* provided; or
- within the previous 12 months, the *client* has either instructed the *AFA* or confirmed a prior instruction that an explanation under this **Code Standard** is not required. Any such instruction or confirmation need not be in writing, but must reflect an unambiguous, active opt out of receiving the explanation.

An *AFA* must not direct or influence a *client* to:

- instruct the *AFA* not to determine the suitability of any *personalised service* provided for the *client*; or
- decline to provide any of the information contemplated under this **Code Standard**; or
- decline the explanation contemplated under this **Code Standard**.

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 or opt out of having suitability determined as contemplated under this **Code Standard**, or from quoting or estimating a reasonable fee for determining suitability or providing an explanation under this **Code Standard**.

Code Standard 9

When providing a *class service* to a *retail client*, an *Authorised Financial Adviser* must provide an appropriate statement as to the limitations of the service provided.

When providing a *class service* to a *client*, the *AFA* must take reasonable steps to ensure the *client* is aware that the service does not take into account the *client's* financial situation or any of the *client's* financial goals.

Code Standard 10

An *Authorised Financial Adviser* must ensure there is an appropriate 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 *AFA's* the *internal complaints handling process*, and how to complain to the Securities Commission 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 11

An *Authorised Financial Adviser* must record *in writing* adequate information about the *financial adviser services* he or she provides.

The information required to be recorded under this **Code Standard** in relation to each *client* must include:

- (a) information about:
 - (i) any *financial adviser service* provided or any *financial product* recommended; and
 - (ii) any *required explanation*, and advice as to suitability, given to a *retail client* in relation to a *financial adviser service* or *financial product*; and
 - (iii) the results of any enquiry or any oral confirmation from a *retail client* declining an explanation or suitability assessment under **Code Standard 8**; and

- (b) copies of all information and documents provided to the *client in writing*, or received from the *client*, in connection with the *AFA's financial adviser services* including-
 - (i) any information provided under **Code Standard 7**; and
 - (ii) any provision or confirmation of *financial advice*, and
 - (iii) any explanation provided in accordance with **Code Standard 8**; and
 - (iv) any instructions from the *client* declining to provide information or an explanation required under **Code Standard 8**; and
 - (v) any instructions from the *client* declining or acknowledging any limitations of a suitability analysis in accordance with **Code Standard 8**; and
 - (vi) details of any *complaint* received in relation to the *AFA's 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 12

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** commences on the last date that the *AFA* provides a *financial adviser service* to the *client*.

The records required under this **Code Standard** may be kept in electronic form, provided the records are readily retrievable.

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**.

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

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

Code Standard 13

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

This **Code Standard 13** applies in addition to the requirements of **Code Standards 14 and 15** 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 14

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 attain *Unit Standard Set B*, and be able to demonstrate the adequacy of the *AFA*'s knowledge of relevant legislative obligations.

Code Standard 15

To be an *Authorised Financial Adviser*, a *financial adviser* must attain the *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* where the *Authorised Financial Adviser* has attained an alternative qualification or designation to that *Unit Standard Set* 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 13** and the terms of the *AFA's* authorisation under the *Act*.

However, provided the *AFA* satisfies **Code Standard 13** 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
- (b) may provide a *discretionary investment management service* for a *client* without having attained *Unit Standard Set C*; and
- (c) 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*.

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 13**. 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).

For the purposes of the *Competence Alternatives Schedule*, a designation previously attained that has not been retained at the time an *AFA* seeks authorisation will still be recognised for the purposes of this Schedule, provided the *AFA* has maintained membership of a *professional body* for a continuous period of at least 12 months immediately before first becoming authorised.

F. MINIMUM STANDARDS FOR CONTINUING PROFESSIONAL TRAINING

Code Standard 16

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* he or she 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 to be undertaken.

Code Standard 17

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.

An *AFA* must in each *CPD period* complete a minimum of 20 hours of professional development relevant to the *financial adviser services* the *AFA* provides or intends to provide.

That professional development must, in each *CPD period*, comprise at least 10 hours of structured training.

To be structured training, the training must form part of the requirements for a qualification on either the National Qualifications Framework or the national register of quality assured qualifications, or be part of a structured continuing professional development programme managed by a *DAO*, *QFE*, or *professional body*.

An *AFA* must keep appropriate records of the professional development the *AFA* has undertaken. The records required under this **Code Standard** include:

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

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* where the *person* has attained an alternative qualification or designation as specified in this Schedule

	Alternative Qualification	Alternative Designation
<p>National Certificate in Financial Services (Financial Advice) (Level 5)</p> <p>Unit Standard Sets</p>	<p>For the purposes of the <i>Code</i>, a <i>person</i> who has attained one of the following New Zealand qualifications is treated as having satisfied the requirements of the specified <i>Unit Standard Set</i></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 <i>Unit Standard Set</i></p>
<p>Unit Standard Set A</p> <p>(Comprising <i>units</i> 24755, 25642, and 25643)</p> <p>Knowledge of the industry, financial markets, the advice process and products</p>	<ul style="list-style-type: none"> • 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). • Graduate Diploma in Business Studies (Personal Financial Planning) (Massey University)* • Graduate Diploma in Business Studies (Personal Risk Management) (Massey University)* • Postgraduate Diploma in Personal Financial Planning (Waikato University)* • Certificate in Financial Services from Adviserlink Learning Limited • New Zealand Stock Exchange Diploma (NZSE Diploma) • NZX Diploma 	<ul style="list-style-type: none"> • <i>Associate Financial Planner</i> • <i>Associate Life Underwriter</i> • <i>Certified Financial Planner</i> • <i>CFA Charterholders</i> • <i>Chartered Life Underwriter</i> • Member of the New Zealand Institute of Chartered Accountants (<i>Accounting Technician, Associate Chartered Accountant and Chartered Accountant</i>) • NZFMA Accredited individual • <i>NZX Advisor</i> • <i>NZX Associate Advisor</i> • <i>Registered Legal Executive</i>

	* in each case, including their respective predecessor diploma qualifications	
Unit Standard Set B (Comprising <i>unit</i> 26360) Knowledge of the <i>Code</i> and consumer protection laws	No recognised alternative.	No recognised alternative.
Unit Standard Set C (Comprising <i>units</i> 25650, 25651, 25652, and 25653) Professional practice advice process and complying with legislation	<ul style="list-style-type: none"> • Certificate in Financial Services from Adviserlink Learning Limited 	<ul style="list-style-type: none"> • <i>Associate Chartered Accountant</i> • <i>Chartered Accountant</i> • <i>Certified Financial Planner</i> • <i>CFA Charterholders</i> • <i>Chartered Life Underwriter</i> • <i>NZX Advisor</i> in each case <i>subject to the eligibility sunset</i>
Unit Standard Set D (Comprising <i>units</i> 25648 and 25649) Investment Unit Standards	<ul style="list-style-type: none"> • Graduate Diploma in Business Studies (Personal Financial Planning) (Massey University)*, <i>subject to the eligibility sunset</i> • Postgraduate Diploma in Personal Financial Planning (Waikato University)*, <i>subject to the eligibility sunset</i> • New Zealand Stock Exchange Diploma (NZSE Diploma) • NZX Diploma, <i>subject to the eligibility sunset</i> * in each case, including their respective predecessor diploma qualifications	<ul style="list-style-type: none"> • <i>CFA Charterholders</i>
Unit Standard Set E (Comprising either <i>units</i> 25644 and 25645, or <i>units</i> 25646 and 25647)	<ul style="list-style-type: none"> • New Zealand Diploma in Life Assurance • Graduate Diploma in Business Studies (Personal Risk Management OR Personal Financial Planning) (Massey) 	<ul style="list-style-type: none"> • <i>Associate Life Underwriter</i> who has completed four papers from the Graduate Diploma in Business Studies (Personal Risk Management) (Massey University)* including a paper on personal risk

<p>Insurance Unit Standards</p> <p>OR</p> <p>Residential Property Lending Unit Standards</p>	<p>University)*, provided the Diploma includes a paper on personal risk management, <i>subject to the eligibility sunset</i></p> <p>* in each case, including their respective predecessor diploma qualifications</p>	<p>management, <i>subject to the eligibility sunset.</i></p> <ul style="list-style-type: none"> • <i>Associate Financial Planner</i> who has completed four papers from the Graduate Diploma in Business Studies (Personal Financial Planning) (Massey University)* including a paper on personal risk management, <i>subject to the eligibility sunset.</i> • <i>Certified Financial Planner or Chartered Life Underwriter</i>, provided the person has passed a paper on personal risk management from the Graduate Diploma in Business Studies (Personal Risk Management OR Personal Financial Planning) (Massey University)*, <i>subject to the eligibility sunset.</i> <p>* in each case, including their respective predecessor diploma qualifications</p>
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H. DEFINITIONS SCHEDULE

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.

Accounting Technician	a member of the Institute of Chartered Accountants of New Zealand 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 Institute of Chartered Accountants of New Zealand 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 Act who is authorised by the Securities Commission under section 55 of the Act
Bank	has the same meaning as the term bank in New Zealand in section 5 of the Act
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; or (e) any other product specified by regulations made under

	the <i>Act</i> ; 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 in the 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 <i>Act</i> ; 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 Institute of Chartered Accountants of New Zealand 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	means, in relation to an <i>AFA</i> :
	(a) a person who receives a service from the <i>AFA</i> (whether or not on payment of a charge); but
	(b) does not include a person who receives any services from

	<p>the <i>AFA</i> if the service is both provided and received in the course of, and for the purposes of:</p> <ul style="list-style-type: none"> (i) the same business; or (ii) the businesses of related bodies corporate; or (iii) the businesses of members of a QFE group, <p>irrespective of whether the person providing or receiving the service is the person carrying on the business, a controlling owner, a director, an agent, or any other person</p>
client information	information about a <i>client</i>
Code	the Code of Professional Conduct for Authorised Financial Providers 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>
Commissioner for Financial Advisers and Commissioner	the <i>person</i> appointed under section 79(3) of the <i>Act</i>
competence alternatives schedule	the schedule to this <i>Code</i> named as such
complaint	an expression of dissatisfaction about an <i>AFA's financial adviser services</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 st day of January following the <i>AFA's</i> authorisation
DAO	an entity registered by <i>ETITO</i> as a delegated assessment organisation accredited for the provision of training and assessment for <i>Unit Standard C</i>
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 principal) manages all or some of the <i>client's</i> holdings of <i>financial product</i> , and decides which <i>financial products</i> to acquire or dispose of on behalf of the <i>client</i>
ETITO	Electrotechnology Industry Training Organisation Incorporated

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 person consult a financial adviser does not amount to financial advice</p>
<i>financial adviser</i>	a person 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 complaints as described in Code Standard 10
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 persons 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

offered to the public	<p>the NZX Participant Rules</p> <p>in relation to a <i>security</i> has the same meaning as the construction of references to offering securities to the public in section 3 of the Securities Act 1978; and</p> <p>in relation to any other <i>financial product</i> means the <i>financial product</i> is being or has been offered to:</p> <ul style="list-style-type: none"> (a) any section of the public, however selected; or (b) individual members of the public selected at random; or (c) a person if the person became known to the offeror as a result of any public advertising of the offeror that was intended to likely to result in the public seeking further information about the <i>financial product</i>.
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> <ul style="list-style-type: none"> (a) given to or in respect of a <i>named client</i> or a <i>client</i> that is otherwise readily identifiable by the <i>AFA</i>; and (b) the <i>client</i> would, in the circumstances in which the service is provided, reasonably expect the <i>AFA</i> to take into account the <i>client's</i> particular financial situation or goals (or any more of them), <p>however a service is not personalised merely because the <i>client</i> comes within a class of persons having predefined characteristics and the <i>AFA</i> 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> <ul style="list-style-type: none"> (a) the issuer, in the case of a security; (b) the creditor, in the case of a consumer credit contract (within the meaning of the Credit Contracts and Consumer Finance Act 2003); (c) the insurer, in the case of a contract of insurance (other than an investment-linked contract of insurance); (d) the person specified by regulations or in any other case

professional body	a membership-based organisation whose principal activities are associated with the financial services industry in New Zealand where ongoing membership requires compliance with continuing professional development or training requirements specified by the organisation
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; and</p> <p>(b) in relation to a body corporate A:</p> <p>(i) a <i>person</i> who</p> <ul style="list-style-type: none"> ▪ is also a body corporate; and ▪ either has substantially the same shareholders as A; or ▪ is under the control of the same <i>person</i> or <i>persons</i> as A; or <p>(ii) a <i>person</i> who is able, directly or indirectly, to –</p> <ul style="list-style-type: none"> ▪ 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
retail client	a client who is not a <i>wholesale client</i>
Security	has the same meaning as in section 5 of the <i>Act</i>
subject to the eligibility sunset	<p>in relation to an alternative qualification referred to in the <i>Competence Alternatives Schedule</i>, or in relation to a qualification or paper specified in an alternative designation description appearing in the <i>Competence Alternatives Schedule</i>, means:</p> <p>(a) the relevant qualification or paper must be fully attained at the time the <i>AFA</i> seeks authorisation for the first time, and is only available for authorisations that come into</p>

effect prior to the *sunset date*; and

- (b) if an *AFA* becomes authorised in reliance on a qualification or paper that is *subject to the eligibility sunset* and subsequently ceases to be an *AFA* for any reason, the qualification or paper will not be recognised for the purpose of any subsequent application for re-authorisation

sunset date

the date three years after the *Code* comes into force

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 *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 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