

|| CODE
COMMITTEE

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

19 August 2010



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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 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 *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*~~*Authorised Financial Advisers*, including specifying requirements that an *AFA* must meet for the purpose of continuing professional training. *AFAs* may be disciplined for breaches of the *Code*.

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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*. ~~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, 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 this ~~Code Standard~~ **Code** is determined by what is reasonable in the circumstances, including any regulatory obligations binding on the *AFA* in addition to the *Code*.

~~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 **Compliance with this Code Standard** does not require an *AFA* to provide *financial adviser services* in relation to *financial products* or matters 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.~~
at scope in order to comply with this **Code Standard**.

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** ~~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 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

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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* 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 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**
- **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*.

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*.

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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 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 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 any 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.*

The purpose of this **Code Standard** is to protect the interests of *retail clients* in the rare situations where a *retail client* may hold, or lawfully be offered the opportunity to acquire, a *financial product* that is not offered to the *public*. Accordingly, this **Code Standard** is very limited in its application. It does not enable an AFA to provide *financial advice* to a *retail client* in relation to the acquisition of a *financial product* that is not able to be lawfully offered to the *client*.

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.

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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) make recommendations only in relation to *financial products* that have been analysed assessed or reviewed by the *AFA* to a level that provides the *AFA* with a reasonable basis for any such recommendation, or by analysed by another person if it is reasonable in all the circumstances for the *AFA* to rely upon that other person's assessment or review. upon whose analysis it is reasonable, in all the circumstances, for the *AFA* to rely.~~

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Communicating 'effectively' for the purposes of ~~this the Code Standard~~ 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* ~~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 (but is not limited to) *written* information about the scope of the *AFA's financial adviser services*, any limits on ~~the that~~ scope ~~of the *AFA's financial adviser services*, or 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 ~~the any~~ interests the *AFA* is required to communicate under **Code Standard 5** ~~benefits the *AFA* or any related person of the *AFA* will or may receive, and any conflicts of interest the *AFA* may have~~, in relation to the *AFA's financial adviser services* provided to the *client*.~~

~~In many circumstances an *AFA* will satisfy~~ 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*. ~~However,~~ 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 ~~tolerance for~~ 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 *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 ~~provides written confirmation~~ to the *client* that the underlying transaction has been completed or advised upon without determining suitability, to that extent; or
- (c) instructs an *AFA* (or an *AFA's* employer or *principal*) not to determine the suitability of the *financial adviser service* provided, 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 that includes a clear acknowledgement from the *client* as to the advantages of the *AFA* determining suitability based on the provision of all the information contemplated under this **Code Standard**.

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 ~~the extent of~~ 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 a-written~~ explanation of the service provided that is

~~sufficient to enable the *client* to make an informed decision about the *financial adviser service*, to the *client* of the basis on which those services are provided. The *Authorised Financial Adviser* must also take reasonable steps to ensure the *client* is aware of the principal benefits and risks involved in following any *financial advice* provided as part of that service, having regard to the characteristics of the *personalised 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: ~~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
- 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.

~~The extent of any explanation required under this **Code Standard** is determined by what a *retail client* would reasonably require for the purpose of deciding whether to follow any advice or guidance provided by the *AFA*.~~

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 [Securities Commission 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.

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

~~(a) — information about:~~

~~(i) — any personalised service provided or any financial product recommended to the client that is sufficient to evidence the AFA's compliance with the Code; and~~

~~— the AFA's compliance with **Code Standard 5**; and~~

~~(ii) — any required suitability assessment carried out in relation to any personalised service provided to the client; and~~

~~(iii) — any required explanation, and advice as to suitability, given to the client in relation to a financial adviser service or financial product; and~~

~~— the results of any all enquiries under Code Standard 8; and~~

~~(iv) — or any oral confirmation from the client declining or limiting a an explanation or suitability assessment under **Code Standards 8** or declining a written explanation under **Code Standard 9**; and~~

~~(b) —~~

~~copies of all information and documents provided to or received from the client in writing, or received from the client, in connection with the AFA's personalised 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 9; and~~

~~(iv) — any instructions from the client declining to provide information or declining an explanation under Code Standards 8 or 9; 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 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 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 (or the AFA's previous employer, where applicable) are consistent with the measures contemplated under this Code Standard.~~

~~Where an AFA transfers the AFA's financial advisory relationship with a client to 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.~~

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 attain *Unit Standard Set B*, and 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 *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 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
- ~~(b) may provide a *discretionary investment management service* for a *client* without having attained *Unit Standard Set C*; and~~
- ~~(c) 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~~
- ~~(d) 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.~~

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).

Competence Alternatives Schedule

~~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 the Schedule, provided the AFA has completed at least 20 hours CPD in the 12 months immediately before first becoming authorised, including at least 10 hours of structured training as described in **Code Standard 18**; and~~
- ~~• references to a qualification paper or designation being ‘subject to the eligibility sunset’ mean the relevant qualification, paper or designation must be fully attained at the time the AFA seeks authorisation for the first time, and the qualification, paper or designation will only be recognised for authorisations that come into effect prior to 1 January 2014.~~

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* ~~he or she~~ 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)~~ (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 ~~ensuring 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.

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 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 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

~~(a)–(e) whether it constituted structured training; and~~

- (e) in relation to structured professional development, training, documentation to verify the AFA's undertaking of the relevant third party verification of the successful completion of structured professional development 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

~~References in this Schedule to a qualification, paper or designation being ‘attained’ or ‘subject to the eligibility sunset’ are explained under the ‘Competence Alternatives Schedule’ heading in Code Standard 16~~

	Alternative Qualification	Alternative Designation
<p>National Certificate in Financial Services (Financial Advice) (Level 5)</p> <p><i>Unit Standard Sets</i></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 <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) 	<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>) • <i>NZFMA Accredited individual</i> • <i>NZX Advisor</i> • <i>NZX Associate Advisor</i> • <i>Registered Legal Executive</i>

	Alternative Qualification	Alternative Designation
National Certificate in Financial Services (Financial Advice) (Level 5) <i>Unit Standard Sets</i>	For the purposes of the <i>Code</i> , a person who has attained one of the following qualifications is treated as having satisfied the requirements of the specified <i>Unit Standard Set</i>	For the purposes of the <i>Code</i> , a person who has attained one of the following designations is treated as having satisfied the requirements of the specified <i>Unit Standard Set</i>
	<ul style="list-style-type: none"> NZX Diploma * 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	<u>No recognised alternative</u> <ul style="list-style-type: none"> Certificate in Financial Services from Adviserlink Learning Limited, attained prior to 1 January 2010 	<u>No recognised alternative</u> <ul style="list-style-type: none"> Associate Chartered Accountant Chartered Accountant Certified Financial Planner CFA Charterholder Chartered Life Underwriter NZX Advisor in each case subject to the <i>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)*, subject to the <i>eligibility sunset</i> Postgraduate Diploma in Personal Financial Planning (Waikato University)*, subject to the <i>eligibility sunset</i> New Zealand Stock Exchange Diploma (NZSE Diploma) NZX Diploma, subject to the <i>eligibility sunset</i> * in each case, including their respective predecessor diploma qualifications	<ul style="list-style-type: none"> CFA Charterholder

	Alternative Qualification	Alternative Designation
<p>National Certificate in Financial Services (Financial Advice) (Level 5)</p> <p><i>Unit Standard Sets</i></p>	<p>For the purposes of the <i>Code</i>, a person who has attained one of the following 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 person 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 E</p> <p>(Comprising either <i>units</i> 25644 and 25645, or <i>units</i> 25646 and 25647)</p> <p>Insurance Unit Standards</p> <p>OR</p> <p>Residential Property Lending Unit Standards</p>	<ul style="list-style-type: none"> Graduate Diploma in Business Studies (Personal Risk Management OR Personal Financial Planning) (Massey University)*, provided the Diploma includes a paper on personal risk management, subject to the eligibility sunset <p>* in each case, including their respective predecessor diploma qualifications</p>	<p><u>No recognised alternative</u></p> <ul style="list-style-type: none"> Associate Life Underwriter or Chartered Life Underwriter who has completed four papers from the Graduate Diploma in Business Studies (Personal Risk Management) (Massey University)* including a paper on personal risk management, subject to the eligibility sunset Associate Financial Planner or Certified Financial Planner who has completed four papers from the Graduate Diploma in Business Studies (Personal Financial Planning) (Massey University)* including a paper on personal risk management, subject to the eligibility sunset Chartered Life Underwriter who, prior to 1 January 2010, has attained the New Zealand Diploma in Life Assurance, the New Zealand Certificate in Life Insurance (Open Polytechnic), an Associateship of the Insurance Institute of New Zealand (Life), or has completed the personal risk management course provided by Adviserlink Learning Limited * in each case, including their respective predecessor diploma qualifications

H. DEFINITIONS SCHEDULE – Part 1

This Part of the Definitions Schedule shall apply 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 *Act* and the *Code*, 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 a <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 Securities Commission <i>Financial Markets Authority</i> 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) a <i>person</i> who receives a service from the <i>AFA</i> (whether or not on payment of a charge); but</p> <p>(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:</p> <p>(i) the same business; or</p> <p>(ii) the businesses of related bodies corporate; or</p> <p>(iii) the businesses of members of a QFE group,</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>
Commissioner for Financial Advisers and Commissioner	the person appointed under section 79(3) of the Act
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 st day of January following the <i>AFA's</i> authorisation
DAQ	an entity registered by ETITO as a delegated assessment organisation accredited for the provision of training and assessment for Unit Standard Set C

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>financial products</i> , and decides which <i>financial products</i> to acquire or dispose of on behalf of the <i>client</i>
eligibility sunset	part of the transitional measures explained at Code Standard 16 under the 'Competence Alternatives Schedule' heading
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	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
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 Code Standard 11

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investment planning service	<p>a service provided by an AFA under which the AFA 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
offered to the public	<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> <p>(a) — any section of the public, however selected; or</p> <p>(b) — individual members of the public selected at random; or</p> <p>(c) — a <i>person</i> if the <i>person</i> 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></p>
person	includes an individual, a corporation sole, a body corporate, and an unincorporated body (including the trustees of a trust)

personalised service

a *financial adviser service*:

- (a) given to or in respect of a *named client* or a *client* that is otherwise readily identifiable by the *AFA*; and
- (b) 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

principal

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

product provider

means:

- (a) the issuer, in the case of a *security*; 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

~~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

- (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

retail client

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

security

has the same meaning as in section 5 of the *Act*

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 ~~suitably~~ qualified educator or relevant subject matter expert; and

(b) _____ provides an ~~opportunity~~ for interaction and feedback; and

(c) _____ 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*

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<u>transactional advice</u>	<u><i>financial advice relating to the undertaking of a transaction involving a single financial product, or a sale of one financial product and the purchase of another, where the client initiates the identification of the financial product(s) in question</i></u>
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

DEFINITIONS SCHEDULE – Part 2

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This Part of the Definitions Schedule ~~shall apply~~ 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 Act and the Code, 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

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AFA an *Authorised Financial Adviser*

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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

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

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

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Authorised Financial Adviser a *person* described in section 51 of the Act who is authorised by the Financial Markets Authority under section 55 of the Act

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<u>Bank</u>	<u>has the same meaning as the term 'bank in New Zealand' in section 5 of the Act</u>	Formatted: Underline, Font color: Red
<u>benefit</u>	<u>any money, property, or other valuable consideration</u>	Formatted: Underline, Font color: Red
<u>business partner</u>	<u>a person who is a member of a partnership as defined in section 4 of the Partnership Act 1908</u>	Formatted: Underline, Font color: Red
<u>category 1 product</u>	<u>means any of the following products:</u> <u>(a) an FMCA financial product (other than a product that is a category 2 product); or</u> <u>(b) a DIMS facility (other than a facility that is a category 2 product); or</u> <u>(c) an investment-linked contract of insurance (as defined by regulations); or</u> <u>(d) any other product specified by regulations made under the Act;</u> <u>or</u> <u>(e) a renewal or variation of the terms and conditions of an existing category 1 product</u>	Formatted: Underline, Font color: Red

<u>category 2 product</u>	<p>means any of the following products</p> <p>(a) <u>a bank term deposit; or</u></p> <p>(b) <u>any bonus bond; or</u></p> <p>(c) <u>any call building society share; or</u></p> <p>(d) <u>a call credit union share; or</u></p> <p>(e) <u>a call debt security; or</u></p> <p>(f) <u>a share in a co-operative company (as defined in section 2(1) of the Co-operative Companies Act 1996); or</u></p> <p>(g) <u>a unit in a cash or term portfolio investment entity (as defined by regulations); or</u></p> <p>(h) <u>a consumer credit contract within the meaning of the Credit Contracts and Consumer Finance Act 2003; or</u></p> <p>(i) <u>a contract of insurance (other than an investment-linked contract of insurance); or</u></p> <p>(j) <u>a life insurance policy (within the meaning of section 2(1) of the Securities Act 1978) issued before 1 January 2009; or</u></p> <p style="padding-left: 20px;"><u>(ja) a DIMS facility, if the investment authority covers only category 2 products; or</u></p> <p>(k) <u>any other product specified by regulations made under the Act; or</u></p> <p>(l) <u>a renewal or variation of the terms and conditions of any existing category 2 product</u></p>	<p>Formatted: Underline, Font color: Red</p>
<u>Certified Financial Planner</u>	<p><u>an individual who has been awarded this designation by the Institute of Financial Advisers Inc.</u></p>	<p>Formatted: Underline, Font color: Red</p>
<u>CFA Charterholder</u>	<p><u>an individual entitled to use the chartered financial analyst designation granted by the CFA Institute</u></p>	<p>Formatted: Underline, Font color: Red</p>
<u>Chartered Accountant</u>	<p><u>has the same meaning as in Section 2 of the New Zealand Institute of Chartered Accountants Act 1996</u></p>	<p>Formatted: Underline, Font color: Red</p>
<u>Chartered Life Underwriter</u>	<p><u>means an individual who has been awarded this designation by the Institute of Financial Advisers Inc.</u></p>	<p>Formatted: Underline, Font color: Red</p>
<u>class service</u>	<p><u>a financial adviser service that is not a personalised service</u></p>	<p>Formatted: Underline, Font color: Red</p>

<u>client</u>	<p>means, in relation to an AFA:</p> <p>(a) <u>a person who receives a service from the AFA (whether or not on payment of a charge); but</u></p> <p>(b) <u>does not include a person who receives any services from the AFA if the service is both provided and received in the course of, and for the purposes of:</u></p> <p style="padding-left: 20px;">(i) <u>the same business; or</u></p> <p style="padding-left: 20px;">(ii) <u>the businesses of related bodies corporate; or</u></p> <p style="padding-left: 20px;">(iii) <u>the businesses of members of a QFE group.</u></p> <p><u>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</u></p>	<p>Formatted: Underline, Font color: Red</p>
<u>client information</u>	<u>information about a client</u>	Formatted: Underline, Font color: Red
<u>Code</u>	<u>the Code of Professional Conduct for Authorised Financial Advisers approved by the Minister and brought into force by Gazette notice under section 94 of the Act</u>	Formatted: Underline, Font color: Red
<u>Code Standard</u>	<u>a standard specified in the Code</u>	Formatted: Underline, Font color: Red
<u>Commissioner for Financial Advisers and Commissioner</u>	<u>the person appointed under section 79(3) of the Act</u>	Formatted: Underline, Font color: Red
<u>competence alternatives schedule</u>	<u>the schedule to this Code named as such</u>	Formatted: Underline, Font color: Red
<u>complaint</u>	<u>an expression of dissatisfaction by a client to an AFA about the AFA's financial adviser services provided to the client, other than an expression of dissatisfaction that is trivial or vexatious or that the client indicates is not intended to constitute a complaint for the purposes of the Code</u>	Formatted: Underline, Font color: Red
<u>CPD</u>	<u>continuing professional development or training relevant to the financial adviser services the AFA provides or intends to provide</u>	Formatted: Underline, Font color: Red
<u>CPD period</u>	<u>in respect of an AFA, a 12-month period from the day of the year specified for this purpose in the AFA's terms of authorisation or, in the absence of any such day being specified, a calendar year with the first such period commencing on the 1st day of January following the AFA's authorisation</u>	Formatted: Underline, Font color: Red
<u>DIMS facility</u>	<u>means an agreement, arrangement, or understanding for the provision of a discretionary investment management service under an investment authority</u>	Formatted: Underline
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<u>director</u>	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 who occupies a position comparable to that of a director (such as a trustee or a partner)</i>	Formatted: Underline, Font color: Red
<u>discretionary investment management service</u>	a service which an AFA, acting under an authority granted to the AFA (or to the AFA's employer or <i>principal</i>) manages all or some of the <i>client's</i> holdings of FMCA financial products, and decides which FMCA financial products to acquire or dispose of on behalf of the <i>client</i>	Formatted: Underline, Font color: Red
<u>external dispute resolution scheme</u>	in respect of an AFA, the scheme under section 48 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 to which any complaint concerning the AFA must be referred	Formatted: Underline, Font color: Red
<u>financial advice</u>	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	Formatted: Underline, Font color: Red
<u>financial adviser</u>	a <i>person</i> who provides a <i>financial adviser service</i>	Formatted: Underline, Font color: Red
<u>financial adviser service</u>	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	Formatted: Underline, Font color: Red
<u>financial product</u>	a <i>category 1 product</i> or a <i>category 2 product</i>	Formatted: Underline, Font color: Red
<u>FMCA financial product</u>	has the same meaning as in section 5 of the Act	Formatted: Underline, Font color: Red
<u>internal complaints handling process</u>	an AFA's internal process for handling and resolving <i>complaints</i> as described in Code Standard 11	Formatted: Underline, Font color: Red

<u>investment planning service</u>	<p>a service provided by an AFA under which the AFA designs, or offers to design, a plan for an individual that:</p> <p>(a) <u>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</u></p> <p>(b) <u>includes 1 or more recommendations or opinions on how to realise those goals (or 1 or more of them),</u></p> <p><u>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</u></p>	Formatted: Underline, Font color: Red
<u>Minister</u>	<p><u>has the same meaning as in section 5 of the Act</u></p>	Formatted: Underline, Font color: Red
<u>NZFMA Accredited individual</u>	<p><u>an individual who has achieved accredited individual status following the completion of the New Zealand Financial Markets Association Financial Services Accreditation Program</u></p>	Formatted: Underline, Font color: Red
<u>NZX Advisor and NZX Associate Advisor</u>	<p><u>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</u></p>	Formatted: Underline, Font color: Red
<u>person</u>	<p><u>includes an individual, a corporation sole, a body corporate, and an unincorporated body (including the trustees of a trust)</u></p>	Formatted: Underline, Font color: Red
<u>personalised DIMS</u>	<p><u>has the same meaning as in section 15(2A) of the Act</u></p>	Formatted: Underline, Font color: Red
<u>personalised service</u>	<p>(a) <u>financial advice or an investment planning service:</u></p> <p>(ai) <u>given to or in respect of a named client or a client that is otherwise readily identifiable by the AFA; and</u></p> <p>(bii) <u>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),</u></p> <p><u>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</u></p> <p>(b) <u>includes a personalised DIMS</u></p>	Formatted: Underline, Font color: Red
<u>principal</u>	<p><u>a person who is the principal in an agency relationship</u></p>	Formatted: Underline, Font color: Red
<u>product provider</u>	<p>means:</p> <p>(a) <u>the issuer, in the case of an FMCA financial product security;</u> <u>or</u></p>	Formatted: Underline, Font color: Red

- (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

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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

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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

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- (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

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security has the same meaning as in section 5 of the Act

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structured professional training that has identifiable aims and with outcomes relevant to

development 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*

transactional advice *financial advice* relating to the undertaking of a transaction involving a single *financial product*, or 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

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

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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

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

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written or in writing includes in *electronic form*

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