

Financial Services News Alert

30 July 2010

Commissioner for financial advisers receives draft code

Commissioner to review

The Commissioner for Financial Advisers, David Mayhew, today received from the Code Committee the draft code of professional conduct for authorised financial advisers under the Financial Advisers Act 2008 (**Act**). A copy of the new version of the code is available [here](#).

The next step is for the Commissioner to review the code against the Act. If he approves it, then he must forward the draft code to the Minister of Commerce for approval. The Act does not provide for further or separate consultation. Under the Act, the Commissioner has up to 90 days to review the code. Mr Mayhew expects to complete his review by **mid-August**.

Changes to the code

There have been a number of changes to the code, including:

- addition of a reasonableness qualification to:
 - Code Standard 1 (AFA must place the interests of the client first, and must act with integrity) – this now states that what is required to place a client's interests first is determined by what is reasonable in the circumstances;
 - Code Standard 6 (AFA must behave professionally in all dealings with a client, and communicate clearly, concisely and effectively) – for example the requirement to analyse financial products is now "to a level that provides a reasonable basis for any .. recommendation";
 - Code Standard 10 (When providing a class service to a retail client, an AFA must take reasonable steps to ensure the client is aware of the limitations of the service provided)

- for the purposes of Code Standard 6, an AFA providing services to a wholesale client must take reasonable steps to ensure the client is aware they are regarded as a wholesale client
- the requirement under Code Standards 7 and 8 for retail clients to receive certain information in writing has been removed (meaning, for example, that information can be given over the phone)
- there is a new Code Standard 9 requiring a written statement to a retail client who receives an investment planning service or advice in relation to a category 1 product – the AFA must also take reasonable steps to ensure the client is aware of the principal benefits and risks in following any advice
- Code Standard 11 has been amended to make it clear that an internal client complaints process is required, in addition to the mandatory external dispute resolution scheme
- a seven-year minimum period to keep records for information relating to a financial product transaction entered into by the client has been added to Code Standard 13, commencing on the date that all benefits for the client have been realised
- eligibility dates with respect to educational requirements under Code Standard 16 have changed.

This is intended as a brief summary of the principal changes only.

How can we help you?

We have been advising clients in New Zealand, and offshore, on the implications of the Act. We can talk to you about how the Act may affect your business and what steps you should be taking now to ensure you are ready for the new regime.

Further information



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