

NAVIGATING REGULATION

Financial Services Council.
Growing and protecting the wealth of New Zealanders

2018



This is the second message from the Financial Services Council about future changes coming to financial advice regulation. *The FSC's goal is to highlight key things you need to know about the Financial Services Legislation Amendment Bill (FSLAB), its regulations and the Code of Professional Conduct for Financial Advice Services.*

The Code Working Group (CWG) seeks submissions about the Code of Professional Conduct for Financial Advice Services.

The CWG released a [consultation paper](#) on 12 March. Submissions are due on 30 April 2018. We encourage you to submit your views, to ensure a broad range of ideas contribute to developing this important regulatory Code. This message outlines key areas of the document.

The Code won't be like the current [AFA Code](#), which is limited to Authorised Financial Advisers (AFAs). It will apply to *everyone* who gives financial advice to retail clients. (It will also apply to "robo-advice".)

Areas of interest to smaller businesses and sole traders

The consultation paper contains a summary (pages 8-11), so you can quickly focus on the sections that interest you most. Here are things that may interest small businesses and sole traders in particular:

1. "Good advice outcomes" are an "overarching theme" in the proposed Code. How should such outcomes be measured? Is a principles-based regime, with little prescription, the right balance? (Pages 17-18)
2. Ethical behaviour: financial advice providers (FAPs) may be required to have their own code of ethics, documented ethical processes, ethics training, a dedicated compliance function, and create and maintain conduct process documentation. This is the least well-developed area of thinking in the paper so the CWG will be interested in a wide range of ideas in this area. (Pages 22-32)
3. Conduct and client care: the paper proposes two layers of standards. First, advice-giving standards (like the current AFA Code). Second, a new set of standards for FAPs. The CWG says, it wants "to hear from advice businesses of all sizes and business models, so that any documentation requirements imposed by the Code are proportionate to the way those businesses operate." (Pages 33-40)
4. One concept suggested in the paper is holistic advice delivery from the combined expertise of advisers/nominated representatives and their FAPs – how should/can this be practically assessed? (Pages 41-46)
5. Competence, knowledge, and skill requirements may increase greatly. A Level 7 degree and a Level 6 certificate may be required for "financial planning". For "product advice" a Level 5 Certificate is suggested as the "reference point". At this stage, the distinction between product advice and financial planning is not clear, which gives rise to some uncertainty as to the level of upskilling that would be required of many of today's RFAs. (Pages 47-51)

Submissions close 30 April 2018

There may be many other areas of interest to you or your business, so check out the Consultation document and submit your views to the CWG on the issues that would impact and/or concern you. The template for submissions is [available here](#). Here are a few tips for submissions:

- The CWG sincerely want feedback. Submissions *will be considered*, so get involved.
- Include an introduction to explain who you are and what you do for clients. For example, do you seek to understand client needs and recommend the best mix of products for their circumstances.
- Don't answer every question. Focus on the areas that concern you most.
- Try to write concisely and clearly – don't waffle.
- Try to be objective, not emotive. How will the suggested framework affect CWG objectives (high quality advice, access to advice, reasonable compliance burden).
- When answering a question, include with what you disagree, why you disagree, any likely consequences they may not expect, evidence (if you can), and an alternative you think could achieve their goals more effectively.

Further information

- The CWG held a webinar about the paper in March. The video is [available here](#).
- You can subscribe to updates from the CWG [here](#).