

#58

COMPLETE

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**Q1** Overall, do you agree or disagree with [standard 1] and proposed commentary? **Agree**

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**Q2** Please provide any comments on [standard 1] and the proposed commentary.

No further comments.

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**Q3** Overall, do you agree or disagree with [standard 2] and proposed commentary? **Agree**

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**Q4** Please provide any comments on [standard 2] and the proposed commentary.

No further comments.

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**Q5** Overall, do you agree or disagree with [standard 3] and proposed commentary? **Agree**

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**Q6** Please provide any comments on [standard 3] and the proposed commentary.

We agree with this principle but do not agree with the inclusion of 'where practicable' prior to 'avoid conflicts of interests'. We consider proper conflict procedures should be implemented to avoid acting in situations where a conflict exists.

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**Q7** Overall, do you agree or disagree with [standard 4] and proposed commentary? **Agree**

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**Q8** Please provide any comments on [standard 4] and the proposed commentary.

We agree with the fundamental premise behind this principle. However use of terms such as 'reasonable' and 'ensure' leave the interpretation of the obligation unclear. For example, how can one 'ensure' the client understands the financial advice? Instead we consider that steps must be taken so that a client 'should' understand the financial advice.

In addition, the second bullet point in the commentary suggests that the fees must be acceptable to the client. We agree the client must be aware of all associated fees and agree to proceed based on their knowledge and understanding of those fees. However it is the Business/Adviser that sets the fees and not the client. The wording therefore requires further refinement because it suggests the Code Working Group is leaning towards an approach where the client can influence the level of fees set by the Business.

The example in Standard 4 states that you do not need a comparison however this is contradictory to Code Standard 5.

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**Q9** Overall, do you agree or disagree with [standard 5] and proposed commentary? **Agree**

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**Q10** Please provide any comments on [standard 5] and the proposed commentary.

We agree with this principle however we do not consider that it appropriately addresses class advice.

In addition, we suggest that 'risk capacity' should be inserted into the third paragraph after 'client's situation, needs, goals and risk tolerance.'

The second paragraph in the commentary section creates ambiguity. It does not address complex financial advice and how to deal with those that fit into that category.

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**Q11** Overall, do you agree or disagree with [standard 6] and proposed commentary? **Disagree**

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**Q12** Please provide any comments on [standard 6] and the proposed commentary.

This principle largely reflects the New Zealand privacy legislation and therefore it is unnecessary to include it separately within the Code. We do not consider it expands beyond legal obligations and consider that it may be better to refer to 'confidentiality' which is a contractual obligation.

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**Q13** Overall, do you agree or disagree with [standard 7] and proposed commentary? **Agree**

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**Q14** Please provide any comments on [standard 7] and the proposed commentary.

The last paragraph of the commentary refers to an independent assessment and investigation of the complaint. Whilst this will ensure fairness, it may not be possible for small businesses and sole traders who lack the resourcing to do so. In such cases, the complaint would need to be referred immediately to an external dispute resolution scheme rather than having the opportunity to be resolved internally (which is more cost effective).

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**Q15** Overall, do you agree or disagree with [standard 8] **Agree** and proposed commentary?

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**Q16** Please provide any comments on [standard 8] and the proposed commentary.

No further comments.

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**Q17** Overall, do you agree or disagree with [standard 9] **Neither agree nor disagree** and proposed commentary?

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**Q18** Please provide any comments on [standard 9] and the proposed commentary.

We recognise the grandfathering provision which will allow for existing Authorised Financial Advisers to remain Authorised Financial Advisers without necessarily having to retrain in order to meet the specific competency requirements under the new regime. However, our concern is that these standards do not take into account particular investment strands. For example, their existing expertise may only extend to insurance and not investment planning.

The standard also lacks clarity around which overseas qualifications will be considered commensurate with the required standards and how this will be assessed.

Finally, the Nominated Representative standard creates an uneven playing field and will not necessarily improve on current levels of competency.

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**Q19** Overall, do you agree or disagree with [standard 10] **Agree** and proposed commentary?

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**Q20** Please provide any comments on [standard 10] and the proposed commentary.

We are of the view that a minimum number of hours should be enforced at some level, however appreciate that the Code should be principle based and the core focus should be on the quality and relevance of the training undertaken.

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**Q21** Overall, do you agree or disagree with [standard 11] and proposed commentary?

**Neither agree nor disagree**

**Q22** Please provide any comments on [standard 11] and the proposed commentary.

Further to our comments set out under standard 9, the specific and required investment strand should be referenced when referring to the grandfathering of existing Authorised Financial Advisers.

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**Q23** Overall, do you agree or disagree with [standard 12] and proposed commentary?

**Neither agree nor disagree**

**Q24** Please provide any comments on [standard 12] and the proposed commentary.

Once again, if this is going to refer to an investment strand it should determine which strand is relevant.

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**Q25** Is there anything missing from the draft Code?

**No**

**Q26** If you answered yes, what is missing?

**Respondent skipped this question**

**Q27** Do you have any feedback on the examples, or suggestions on other examples that should be included in the draft Code?

No further comments.

**Q28** Is there anything else you want to say?

It would be helpful to include more guidance on what will happen if the Code is breached. In addition, to better understand the reasoning behind this draft Code, we consider it would be useful for a full summary of the initial round of submissions to be released.

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**Q29** Name

s 9(2)(a)

**Q30** Your role or professional title

s 9(2)(a)

Code Working Group - Online Submission Form

**Q31** Individual or organisational submission

**This is a submission on behalf of an organisation (eg employer)**

**Q32** If you give financial advice...

**I am not an AFA, RFA or QFE adviser**

**Q33** My organisation or I give the following types of advice...

**Investments**

**Q34** Organisation Name

Perpetual Guardian

**Q35** Type of organisation

**Estate planner**

Other (please specify):

Perpetual Guardian is the trading name of The New Zealand Guardian Trust Company Limited and Perpetual Trust Limited. Both companies are registered statutory trustee companies pursuant to the Trustee Companies Act 1967.

**Q36** Size of organisation

**Large firm (50+ staff)**

**Q37** If there are other things we should know about you or your business that would provide context to your answers, please provide details below.

Perpetual Guardian is the result of the coming together of Perpetual Trust and Guardian Trust. As two of New Zealand's oldest trustee companies, we have over 130 years of experience in providing estate planning options for New Zealanders. Perpetual Guardian has offices nationwide; with over 140,000 Will relationships and administering or supervising assets valued over \$100 billion.

**Q38** Please indicate whether your submission contains any information that is confidential or whether you do not wish your name or any other personal information to be included in a summary of submissions.

Please do not publish my individual name and job title. Please publish only the name of the business on behalf of which these submissions are made.

**Q39** Please provide your contact details (email and/or phone number) This is the only question that requires an answer. This information would not be released publicly. We may get in touch with you in order to help us understand particular points from your submission.

s 9(2)(a)