



1 May 2018

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For the attention of:  
Code Secretariat  
Code Working Group  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand

By electronic submission

Dear Sirs

**Submission:**  
**Code of Professional Conduct for Financial Advice Services**

Please find below a joint submission on behalf of Kiwibank Limited (Kiwibank) and Kiwi Wealth Limited (Kiwi Wealth). We welcome the opportunity to submit feedback on the consultation.

As a member of the New Zealand Bankers' Association (NZBA), we have seen and support the NZBA's response. The key areas we wish to emphasise are:

- **Competence level** - Applying an expected minimum competence level equivalent to Level 5 to all products and situations is too onerous and unnecessary both for General and Particular Competence Knowledge and Skill.

- We propose that simple products, such as bank accounts and term deposits warrant identification (paragraph 23 in the consultation paper) for lower minimum standards in both general and particular competence, knowledge and skill. This would facilitate continued easy access to these products by consumers. Should the much higher competency standards be applied, then a considerable investment in fully automated advice will be required to maintain access, which we would expect to take many years to complete.

We recognise that an FAP might be able to tailor the required competence level for these products, by taking the 'If not, why not' approach envisaged in the consultation. However, this creates an administrative burden on the whole industry and risks reducing consistency.

- We do not believe that in most cases a general background in the financial advice related legal, Code and consumer protection obligations (by completion of a unit standard similar to 26360) is a necessary pre-requisite for individuals giving advice. The level of awareness needed will vary by role according to the products and the processes that support the giving of advice. Responsibility should lie with the FAP to ensure it is up to date and complies with relevant legislation and to determine the level of awareness relevant for particular roles.

- We would suggest that there should be an option to grandfather existing QFE advisers based on experience - particularly if grandfathering is allowed for RFAs. This reflects that QFE advisers have been subject to the QFE's own competence requirements for a number of years (taking into account the context of its processes) and supervised against that requirement. If a specific qualification is to be required, the cost/benefit of imposing that qualification on existing QFE advisers is less clear.
- The qualification level required for financial planning requires significant time and investment and may be too high: it is likely to create problems for access to financial planning advice (given that only a small number of individuals have opted to become AFAs and this has a lower competence requirements); it may be difficult for prospective planners to find course providers given the financial viability issues where demand is low; it will be more difficult for overseas advisers to achieve this level, without an easy and cost efficient route to recognition of their qualifications and experience (likely to include the concept of equivalent overseas qualifications).
- **Aggregated competence** - We support the aggregated competence approach, but complexity in judging this in practice should be considered in further developing the Code and in any guidance given. As digital tools develop, customers will often obtain information from a number of channels and sources during their path to acquiring a product. The paths that might need to be considered to determine aggregated competence could therefore be many and varied within one FAP. The Code should be flexible without requiring detailed analysis of all potential paths.
- Disclosure – We believe that the code should not address the information to be provided to allow the customer to make an informed decision (CS-7). This should be left to the disclosure regulations to avoid the confusion and potential duplication inherent in the current code.
- **Timetable for implementation** - We are concerned that there should be a realistic timetable for implementation of the Code. As part of the next consultation, we suggest the Code Working Group should also seek feedback on the time needed to implement its proposals. For example, changes to advice suitability requirements and hence record keeping may require IT changes which have long lead times. Regulators should have early warning that powers available in the Act to delay implementation of requirements may need to be used. Certainty for industry that there will be adequate time to implement is important to ensure quality of implementation, to deliver the anticipated of the benefits of the regime.

If you have any further questions regarding the above, please feel free to contact Julie Bottomley at

**S 9 (2) (a)**

Yours faithfully

**S 9 (2) (a)**

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**Ian Burns**  
Chief Executive  
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Cc Julie Bottomley, Senior Manager, Compliance