



IFA Submission on Code Committee Paper on Proposed Minimum Standards of Competence, Knowledge and Skills for Authorised Financial Advisers

Introduction

1. The Institute of Financial Advisers (IFA) welcomes the opportunity to formally comment on this paper. In making comments, we have been mindful of the likely overall impact of regulation of financial advisers and the potential impact on the availability of Authorised Financial Advisers (AFA) to consumers of financial advice. Balance is required over setting minimum standards that are adequate for consumer protection while also ensuring that the transition to new standards is done in a practical manner that doesn't result in a significant reduction in the number of advisers, which could reduce the availability of advice to consumers.

Key points

2. The main points in this submission are:
- IFA accepts the proposed minimum competency standard, but recommends also requiring a period of practical experience.
 - The competency requirements need to add some form of "provisional" status to cover new advisers while they can gain the necessary qualifications which require practical experience in giving advice, but recommend this be while under supervision.
 - The proposals for recognition of other than the National Certificate, are considered too rigid and do not adequately recognise prior learning and experience. In particular, we consider that the small group of advisers who gained professional status in the 1990s should be treated more liberally. There are also other examples where IFA considers existing qualifications and experience should be recognised. We recommend greater flexibility.
 - IFA strongly recommends that the Code include a requirement that AFAs restrict their advice to areas where they are able to demonstrate competence. IFA also recommends that consideration be given to creating a class for "Comprehensive Financial Planning" that requires a higher level of demonstrated competence through holding the CFP^{CM} professional designation.

Overall view

3. IFA's overall view is that the proposed minimum standard is acceptable but could be strengthened by also requiring a period of practical experience. We recommend adding a requirement for either one year of supervised/mentored experience or three years of unsupervised experience. We recognise that to gain the National Certificate does require some practical experience, but consider that this is insufficient in terms of quantity as there is a significant difference between what is required to gain a unit-standard based qualification and working with clients for an extended period.

4. The proposed alternates to the National Certificate take a restrictive approach which disadvantages those who were early in seeking qualifications and professional status and have been members of IFA (and its predecessors) for periods of 10-20 years. This is a small group of some of the industry leaders. Our view is that as a group, these are not advisers likely to provide less than competent advice to their clients. We commend a more liberal approach to this small group, especially if they have been a member of a proper professional association and required to follow professional practice standards, including ongoing CPD. In many cases they have themselves been mentors to others.

5. IFA does support full application of assessment processes for those who have been operating without formal qualifications or membership of a professional body and so have not been required to undertake CPD or follow any professional standards. This is the group where the gains to consumers, in terms of raising minimum standards through regulation, are most likely to occur.

6. We consider the suggested transitional provisions for recognition of existing qualifications and professional designations is too rigid and will lead to anomalies. For example, there are existing advisers who are CFP^{CM} professionals who have gained this status other than through taking one of the two university diplomas, e.g. the same courses may have been gained by completing a degree in financial planning, there are advisers who have become CFP^{CM} professionals in other countries (e.g. Australia, Canada, South Africa, UK) who have become certified in NZ after completing a course in NZ taxation plus a period of mentored experience.

7. We consider there needs to be greater flexibility with provision for acceptance of those with equivalent qualifications and relevant experience, including immigrants. While we understand the desire for objective tests of competence, based upon easily applied rules, IFA's view is that during the transition there should be greater flexibility and the ability to apply judgement about equivalency of a wider range of qualifications than those listed in the paper. We also consider that demonstrated relevant experience should play a greater role in the transition. The current proposal seems to make it unnecessarily difficult for experienced advisers who gained qualifications before current ones existed.

8. IFA has concerns about the use of the term "unrestricted" and the inference that anyone who is AFA will be able to provide advice on any category 1 product or provide a financial planning service, irrespective of their qualifications or experience. Our own Code of Ethics has an explicit requirement that members practice only within their areas of competence. The

proposed minimum standard National Certificate is necessarily constrained in terms of the breadth of what can be covered within a 50 credit qualification. It is designed to provide a base qualification in the advice process with specialisation in either investment or risk insurance but does not attempt to cover areas such as comprehensive financial planning.

9. IFA strongly recommends that the Code include a requirement that AFAs restrict their advice to areas where they are able to demonstrate competence. IFA also recommends that consideration be given to creating a class for “Comprehensive Financial Planning” that requires a higher level of demonstrated competence through holding the CFP^{CM} professional designation. At present in New Zealand, the majority of advisers who call themselves “financial planner” are actually investment advisers who do not provide comprehensive financial planning.

New Financial Advisers

10. IFA also considers that the proposal does not address the issue of how new advisers dealing with category 1 products or providing a financial planning service are to become AFA. This is important as gaining the proposed qualifications requires practical experience in the provision of financial advice, yet once regulation takes effect, nobody will be able to give advice unless they are AFA. IFA suggests that some form of “provisional” status be created, during which time someone is allowed to provide advice provided this is subject to detailed supervision by someone who is already AFA. This is consistent with our earlier recommendation that a minimum of a year of supervised/mentored experience be required to gain AFA.

11. We suggest that “provisional” status be limited to a period no longer 2 years, as the National Certificate in Financial Services (Financial Advice) Level 5 (NCFS) will take 12-18 months if study is part time. The Diploma Courses take a minimum of 2 years part time.

Responses to the questions in the discussion paper

Question One:

Do you think the proposed minimum standards for competence, knowledge and skills are appropriate? If not, what should the minimum standards for competence, knowledge and skills be?

Response

12. IFA’s overall view is that the proposed minimum standard is acceptable as a start point but could be strengthened by also requiring a period of practical experience. We recommend adding a requirement for either one year of supervised/mentored experience or three years of unsupervised experience. We recognise that to gain the National Certificate does require some practical experience, but consider that this is insufficient in terms of quantity as there is a significant difference between what is required to gain a unit-standard based qualification and working with clients for an extended period.

13. The National Certificate is only 50 credits and it provides a basic grounding in the environment for financial advice as well as the advice process that an adviser should follow. (As IFA was involved in the development of the National Certificate we know that the standards for the advice process were developed from the global competency standards for

financial planning approved by the Financial Planning Standards Board – which are also the basis for IFA professional practice standards.) However, the National Certificate is designed to provide a qualification with knowledge of only some of the potential areas of advice that a financial adviser may require, e.g. either investments or risk insurance (with a choice of areas of specialisation).

14. What this means is that while an adviser with the National Certificate will have demonstrated essential advice processes, they may not be knowledgeable across the full range of advice areas. For example, while someone may have completed the investment unit standards, they may not have knowledge of risk insurance or trustee issues and would not be equipped to provide comprehensive financial planning advice.

15. The initial implementation of minimum competency standards allows those with AFA to operate as “unrestricted” advisers. IFA considers that there need to be requirements within the Code that require an adviser to provide advice only in relation to areas where they are able to demonstrate competency. IFA’s own Code of Ethics has this requirement for members. We understand that this may well be proposed as part of the requirements for Code and may be covered in a future discussion paper. We view this as a very important aspect of consumer protection to ensure that those with AFA do not get into areas where they do not have expertise.

16. In practical terms, this means that an AFA may need to gain additional formal qualifications beyond those required to become AFA. Alternatively, they may gain expertise through experience, especially in specialty areas of advice that are unlikely to be covered in depth as part of formal qualifications, e.g. UK pension transfers.

17. IFA recommends that additional classes of AFA are developed in the future so that it is clear to members of the public exactly which areas of advice an AFA has expertise. In particular, IFA recommends that there should be a “class” for comprehensive financial planning which will require a Level 7 qualification. We commend the existing CFP^{CM} professional status as suitable since it has international recognition, is based upon global standards and subject to external quality audit.

Question Two:

Do you think the division between those AFAs who can provide unrestricted financial adviser services (Part 3 Table A) and those AFAs who can only provide financial adviser services to wholesale financial services providers (Part 3 Table B) is appropriate?

Comment

18. We assume that the intention to separate out advice to wholesale financial service providers, is to enable the broad AFA requirements to focus on the requirements for retail clients. The argument seems to be that wholesale financial service providers have the expertise to assess the competency of their advisers so have less need for minimum competency standards to be set in the Code.

19. IFA agrees with the concept outlined, but urges caution about the definitions that are to be used to segregate “wholesale” from “retail”. (See comments under question 5 below.)

Question Three:

Are there groups of financial advisers who it is proposed must complete the revised National Certificate in Financial Services (Financial Advice) (Level 5) that you think should not be required to complete it?

Comment

20. Yes. We have identified categories of IFA members who we consider have equivalent competency, but who do not fit within the proposed definitions. These include the following:

- a. Those who have a degree with a major in financial planning from either Massey or Waikato university. These people will have taken the same courses as are used for the diplomas leading to CFP^{CM} or CLU.
- b. CFP^{CM} professionals who have transferred from overseas jurisdictions and subsequently become CFP^{CM} NZ. There are current members from Australia, Canada, South Africa and UK. As the CFP^{CM} professional designation is required to meet standards set by the Financial Planning Standards Board, the curriculum is similar throughout the world. The majority of content is very similar (e.g. the advice process, professional skills) though there are differences in knowledge, especially relating to local laws and taxation. When IFA receives applications from immigrants to obtain the equivalent status in NZ, we do a formal assessment of the equivalency of their overseas qualifications. Typically we require them to take a course in Estate Planning and Taxation plus have six-months of mentoring plus complete the IFA case study exercise.
- c. Those with CLU but who gained this before the university diploma became the accepted qualification in 2003. All these people would have been through a process for recognition of prior learning, taken formal courses and passed examinations.
- d. Those with the full Adviserlink Certificate in Financial Services – the certificate that existed before the National Certificate was developed. The content of this qualification is similar to the National Certificate and it would be unreasonable to require those with it to undergo an assessment as they will also have practical experience as an adviser.
- e. IFA members who have Associate Financial Planner or Associate Life Underwriter professional designations and gained these through taking 4 university diploma papers, in addition to Adviserlink courses. We consider that this is equivalent to the National Certificate.

IFA’s view is that advisers in a. to e. above should only need to complete Standard Set B.

21. In addition, our view is that there should be a more general provision allowing existing experienced advisers to demonstrate equivalent educational qualifications combined with considerable practical experience as meeting the minimum standard, without requiring the formal full assessment of the National Certificate. There are many capable advisers with

relevant degrees, perhaps with majors in subjects such as accounting, economics or finance, who don't fit the precisely defined qualifications. Our view is that greater flexibility is required for this group.

Question Four:

Do you think the standards for financial advisers proposed as alternatives to attaining the National Certificate in Financial Services (Financial Advice) (Level 5) are appropriate (as set out in Table A in Part 3 of this Consultation Paper)?

Comment

22. We are disappointed to see that there has been no explicit recognition of membership of a professional association as contributing to the development of competence, knowledge and skills. IFA is a genuine professional association with formal requirements for membership including educational qualifications, mentored practical experience, ethical conduct and ongoing continuing professional development (CPD). While we concede that the minimum educational qualifications have changed over the years, advisers who have been members and who have demonstrably maintained CPD will have met Standard Sets A and C, especially since C is drawn directly from the global practice standards for financial advice that are the basis for IFA's professional standards. So, we consider that a current full practitioner IFA member should not need to attain Standard Sets A and C, irrespective of what other qualifications or professional status they hold.

23. Turning to the specific alternatives proposed, we will comment only on those relevant to IFA membership. The last option is covered under the response to question 6.

University diploma courses

24. We accept the need for Standard Set B, as a transitional requirement, but consider Standard Set C is adequately covered within the diploma courses. However, unless those with a diploma are members of a professional association, we consider that they should be required to have completed a period of practical experience as an adviser. We recommend adding a requirement for either one year of supervised/mentored experience or three years of unsupervised experience.

25. As for the future, we consider that the requirements need to encourage those seeking to become AFA to gain higher qualifications than the minimum, in particular to take the university diploma courses (120 credits) rather than the National Certificate (50 credits). We are sure that the universities will include whatever is in Standard Set B within their courses, so in future even that requirement should be dropped, but practical experience required.

CFPCM^{CM} or CLU

26. The requirement for this category of adviser to demonstrate a two-year period of mentoring is unnecessary and excessive, relative to the modest level of experience required by those gaining AFA through the National Certificate route.

27. Those who have a university diploma and who hold one of these professional designations will almost certainly have gained this within the past decade and be a member

of IFA. Ever since IFA was formed (as FPIA) in 1999, a two year period of mentoring has been required, so most advisers meeting this requirement would have met this aspect. In any case, these advisers have been members of IFA for over 10 years, will have been required to follow professional practice standards and undertake CPD so will have demonstrably exceeded minimum requirements for practical experience.

28. Mentoring was also part of the requirements of the predecessor financial planning organisation, though this was for less than 2 years. While noting that there may be a few with CFP^{CM} or CLU who were not required to do 2 years of mentoring, many of these advisers would themselves have been mentors to others. If a decision is taken to retain this requirement, we suggest that having been a mentor should be accepted as an alternative as a mentor gains skills throughout the process.

Question Five:

How do you think “wholesale” financial service provider should be defined in terms of the second class of AFA (as set out in Table B in Part 3 of this Consultation Paper)?

Comment

29. Defining wholesale financial providers is not an area that we are able to assist with. IFA considers any definition of a “wholesale” client should avoid treating all “corporate” entities as wholesale clients. There are many entities that should be considered as retail as they do not have expertise to assess the quality of an adviser. Examples include many small businesses (where the affairs of the owners and the business are closely linked), family trusts, most incorporated societies and small charities.

Question Six:

Do you think that the minimum standards of competence, knowledge and skills required for those financial advisers who have been deemed certified on the basis of long standing experience (see Part 3 Table A – last category of the table) are appropriate?

Comment

30. In terms of CFP^{CM} professionals who gained their professional status without completing one of the university diplomas, we wish to point out that nobody gained this professional status without formal recognition of prior experience, completing some courses and taking an exam. So, the statement “deemed certified on the basis of long standing experience” is incorrect, though it is true that there was a rigorous process for checking relevant experience and references at the time. We consider that what was required was similar to the proposed RPL “assessment” that will be required as part of the transition to AFA.

31. We have reviewed the IFA membership data base for those with CFP^{CM} professional status. The computer system did not exist in the period these advisers were awarded this status and administration relied upon paper files. This means that the IFA computer record does not necessarily include all educational qualifications for members from this early period. Of current CFP^{CM} professionals, only around 50-60 would come within this category. We have looked at some of the files of these members. Many have degrees and some are chartered accountants. They have all been members of a professional association for at least

12 years (some up to 20 years) and required to undertake continuing professional development and to follow professional practice standards.

32. IFA recommends that an assessment of Standard Set B would be adequate for this category.

Question Seven:

Do you have any comments to make regarding the practicalities of achieving the proposed minimum standards? Do you have any comments on appropriate timeframes for compliance with the minimum standards of competence knowledge and skills?

Comment

33. It is very difficult to comment on the practicalities of the proposed time frame without knowing a lot more about the content of Standard Set B and the assessment processes for those who need to gain the National Certificate through an assessment process. In particular, we need to know when the assessment processes will be available as well as what the requirements for assessors will be.

34. It is clear that the approval of some 5,000 individual AFAs (as estimated by the Securities Commission) is a significant task. In addition, advisers within QFEs who provide advice on category 1 products (but who may not need to be individually AFA) may also require assessment if the QFE is to be able to demonstrate that it has made sure that employees and nominated agents meet the minimum requirements.

35. If the 5,000 number is correct, our expectation is that the majority will need to undergo formal assessment of competency. There are currently around 450 advisers who are either CFP^{CM} professionals or CLU (or both). Adding in the likely numbers for other categories who may need to do less than a full assessment, suggests that the number requiring formal assessment will exceed 4,000.

36. Our view is that the constraint is likely to be the availability of trained assessors, able to conduct the necessary work which is likely to include file reviews and interviews. There will be issues of recruitment and training of assessors as well as availability throughout the country. Recruitment of assessors may be hindered by the fact that this will largely be a one-time exercise so potential assessors may be reluctant to undertake training for something that may last only 6 months. Also, assessors will need relevant industry experience so the pool of candidates will be limited.

37. In addition, a proportion of those being assessed will not pass the initial assessment and may need to take formal courses before becoming AFA. This could require a period of some months, especially as there is currently only a single educational institution authorised to assess the National Certificate, so there could be severe capacity constraints. If regulation is to come fully into force, then some mechanism will be required to enable those who need to undertake further study to continue in business and to earn income. We suggest that some form of supervision be required, similar to mentoring. Perhaps this could match what will need

to be developed to cover provisional status for new advisers seeking AFA.

38. IFA members have raised concerns about client confidentiality in relation to assessment processes. They have pointed out that they have access to sensitive financial and personal information of their clients. Some have concerns that assessors may be other financial advisers who could potentially be advantaged by viewing their processes and client information. At the Wellington Code Committee consultation, the confidentiality issue was raised. The response was that client names could be “blacked out” for an assessment. This may alleviate client confidentiality concerns but does not address the issue in relation to the intellectual property embedded in an adviser’s systems and processes.

39. Overall, IFA is concerned that there is inadequate time for a seemly transition. We favour a staged implementation. This could begin by requiring all financial service providers to be registered along with those wishing to become AFA lodging initial applications. The period for assessment of competency may well need to extend beyond the 6 months allowed in the proposed timetable. Our view is that it would be better to commence implementation with many advisers being “provisional” in terms of having competency assessed, but at least subject to the new Code in terms of conduct requirements. Then, over a period of perhaps a year, assessment could be completed and advisers move from “provisional” to AFA.

Question Eight:

Do you have any comments on minimum standards of competence, knowledge and skills for foreign-regulated financial advisers?

Comment

40. IFA has limited knowledge of foreign regulated financial advisers, especially whether they are operating in NZ or would wish to do so in future.

41. We do have knowledge of issues relating to global standards for financial planning, though our involvement with the Financial Planning Standards Board. The competency requirements for financial advice contain a common core of the advice process and the professional skills required (e.g. analysis, communication). In addition there is knowledge required of products and the local environment – laws, government benefits policy, taxation, etc. The knowledge area is the one where there is greatest variation between countries. The differences are substantial and significant so are very relevant to the quality and content of advice. The differences may be marked, even between two similar economies, e.g. Australia and NZ have very different laws relating to taxation of investments and superannuation.

42. This means that any foreign adviser coming into NZ would need to demonstrate NZ knowledge of key content, especially taxation, if they were to be able to adequately advise NZ residents. There may be some instances where someone temporarily in NZ wishes to get advice on their financial affairs in their home country from a foreign-regulated adviser. This may not require knowledge of NZ laws, but there is potential risk to the client if they are not knowledgeable of both country’s laws.

Question Nine:

Are there any other matters you would like to comment on?

Comment

43. The proposed alternates to the National Certificate take a restrictive approach which disadvantages those who were early in seeking qualifications and professional status. This is a small group of some of the industry leaders. Our view is that as a group, these are not advisers likely to provide less than competent advice to their clients. We commend a more liberal approach to this small group, especially if they have been a member of a proper professional association and required to follow professional practice standards, including ongoing CPD. In many cases they will themselves have mentored others.

44. IFA does support full application of assessment processes for those who have been operating without formal qualifications or membership of a professional body and so have not been required to undertake CPD or follow any professional standards. This is the group where the gains to consumers, in terms of raising minimum standards through regulation, are most likely to occur.

Conclusion

45. IFA hopes these comments are useful. We are of course available to meet with either Code Committee members or their secretariat to discuss our suggestions and to explain any aspects that are unclear.

46. Contact details and background information on IFA follows.

Background information on the Institute of Financial Advisers

The Institute of Financial Advisers is the professional body for some 1,300 members, representing financial advisers in New Zealand. All members are individual members, not corporate members. We estimate that our members provide advice to some 200,000 New Zealanders each year, many of whom would be couples rather than individuals, with an overall client base of around 600,000.

Our members provide advice to their clients in the areas of insurance, investments, financial planning, work-based savings and insurance, retirement planning, estate planning and financial services generally. Their professional practices reflect the broad spectrum of New Zealand businesses – they operate as local SME's, are part of large regional or national dealer groups, are associated with strong financial organisations, services companies in banking, funds management, or insurance, work in employee benefits organisations, or sometimes practice as lawyers, accountants and other professional advisers.

The Institute reinforces compliance with a code of ethics and practice standards, runs a Professional Conduct Committee and Disciplinary Tribunal that are independently chaired, offers education pathways that can lead to professional designations and the attainment of internationally recognised adviser marks, maintains and ensures compliance with a continuing professional development programme, and provides networking, education, development, and business practice forums at a national and regional level for members.

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