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Meeting the Standards of Competence, Knowledge and Skill

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Important - This presentation provides a general background about the new financial advice regime as at the date set out above. This information is given in summary form and does not purport to be complete. Information included in this presentation should not be considered legal advice. If you have specific questions in relation to your situation, we encourage you to seek professional advice or speak with the financial advice provider that you engage with.

What we'll cover today

1. What has changed and why
2. Overview of your Obligations & FMA Expectations – Duty to meet standard of competence knowledge and skill
3. Myths and misconceptions

What has changed and Why?

What's **NEW** under the Financial Markets Conduct Act 2013

Section 431I of the FMC Act

A person must not give regulated financial advice to a retail client unless the person meets

- (a) the standards of competence, knowledge, and skill (including any continuing professional development requirements) **provided in the code of conduct for giving the advice**; and
- (b) any prescribed eligibility criteria in relation to the giving of the advice.

Part 2 of the Code of Conduct

Code Standard 6—Have general competence, knowledge, and skill

Code Standard 7—Have particular competence, knowledge, and skill for designing an investment plan

Code Standard 8—Have particular competence, knowledge, and skill for product advice

Code Standard 9—Keep competence, knowledge, and skill up-to-date

What has changed and Why?

What's gone as a result of the repealed Financial Advisers Act

Authorised Financial Advisers (AFAs)

Code of Professional Conduct for Authorised Financial Advisers (AFAs), section E – 'Minimum Standards for Competence Knowledge and Skill

- **Code Standard 14** – AFA must have the competence, knowledge, and skills to provide that service
- **Code Standard 15** - AFA must have a knowledge of the Act, the Code, and other legal obligations relevant to the operation of the AFA's practice
- **Code Standard 16** – AFA must attain the Components of the New Zealand Certificate in Financial Services (Level 5) that are relevant to the financial adviser services provided by the AFA. Alternative quals were considered
- **Code Standard 17-18** – Minimum Standards for Continued Professional Training

Qualified Financial Entity (QFE) Advisers ['nominated representatives]

- **s65(3) of the FA Act** – QFE must set out in its application the procedures for training and for setting standards for employees and nominated representatives
- **Compliance Principle**: Arrangements to support advisers and maintain right level of knowledge, skills, and competence
- **For QFE advisers on category 1 products**, compare the entity's own competence requirements with those of the Code of Professional Conduct for AFAs. Where these differ, it should fully explain why the entity's requirements are more appropriate

Registered Financial Advisers (RFAs)

- There were no minimum competency requirements for RFA's

What has changed and Why?

Why has it changed?

- The same level playing across the Financial Advice Industry
- Going from an industry to a profession
- Desired behaviours is willingness to learn, integrity and customer focus

Outcomes for New Zealanders

- Trust and Confidence
- Access to Quality Financial Advice
- Financial Resiliency for New Zealanders

Overview of your obligations

431I - Duty to meet standards of competence, knowledge & skill.

- A person must not give regulated financial advice to a retail client unless the person meets— (a) the standards of competence, knowledge, and skill (including any continuing professional development requirements) provided in the code of conduct for giving the advice; and
- (b) any prescribed eligibility criteria in relation to the giving of the advice.



Overview of your obligations

Code Standard 6 – Have general competence, knowledge and skill.

- A person must not give financial advice unless the person meets the standard of general competence, knowledge, and skill. A person may demonstrate their general competence, knowledge, and skill by any of the following ways: ›
- hold version 1 or 2 of the **New Zealand Certificate in Financial Services (Level 5)**
- › hold the National Certificate in Financial Services (Financial Advice) (Level 5)
- › was an authorised financial adviser immediately before 15 March 2021.
- › give financial advice only through an individual who satisfies any of the ways stated above.
- *There is a 2 year safe harbour rule for existing financial advisers who have been giving advice prior to 15 March 2021.*

FMA Expectations

- Does the FAP have an approved documented policy to ensure that all persons providing advice under this licence meet the competence knowledge and skill requirements of the Code?

At the individual level...

- You fully meet the requirement before providing regulated financial advice
- *Consider your eligibility of the competency safe harbour and be ready post 15 March 2023*
- Completing qualifications does take time – start early and ensure you are progressing steadily. Where possible, get qualification done early, so you can focus on your business
- Repercussions if you don't have it done: **You have to stop giving advice!**

Overview of your obligations

Code Standard 6-8 – Commentary

- A person may demonstrate competence, knowledge, and skill in a way **that is different from those listed above**, for example by reference to the financial advice provider's **procedures, systems and expertise**.
- If a person seeks to demonstrate competence, knowledge, and skill by reference to an alternative qualification or experience, they should do so in an **objective, measurable and independently verifiable manner**.

FMA Expectations

- Reach out to a training provider if you have an alternative qualification or experience
- Ensure you have evidence – so your experience can be demonstrated
- If relying on procedures, systems and expertise of the FAP, ensure this is documented and regularly reviewed for effectiveness

Overview of your obligations

Code Standard 7 – Have particular competence, knowledge and skill for designing an **investment plan**

- A person may demonstrate their particular competence, knowledge, and skill for designing an investment plan by any of the following ways:
 - › has achieved the qualification outcomes of the **investment strand** of version 1 or 2 of the NZ Certificate in Financial Services (Level 5) or of the National Certificate in Financial Services (Financial Advice) (Level 5)
 - › was an authorised financial adviser, permitted to provide investment planning services, immediately before 15 March 2021.
 - › give financial advice only through an individual who satisfies either of the ways stated above

FMA Expectations

- Are you designing an investment plan?
- The customer impacts of this type of advice are higher
- Keep up to date with any Code Committee updates on this standard

Overview of your obligations

Code Standard 8 – Have particular competence, knowledge and skill for **product advice**

- A person must not give financial advice that includes a recommendation or opinion about either:

- › acquiring or disposing of (or not acquiring or disposing of) a financial advice product

- › switching funds within a managed investment scheme unless the person meets the standard of particular competence, knowledge, and skill for product advice.

The standard of particular competence, knowledge, and skill for product advice is that the person has the capabilities equivalent to the qualification outcomes of the relevant strand of the New Zealand Certificate in Financial Services (Level 5) version 2.

The **relevant strand** means the specialist strand such as Residential Property Lending, Life Disability & Health Insurance, or Investment.

FMA Expectations

- Understand the products you advise
- If you are broadening your services, you may need to obtain the relevant strand and need to be mindful of this
- Think about meeting competency when purchasing a book of clients

Overview of your obligations

Code Standard 9 – Competence, knowledge and skill up to date

- A person who gives financial advice must undertake continuing professional development as follows:
- Individuals must, at least annually, plan for and progressively complete learning activities designed to ensure that they maintain:

› the competence, knowledge, and skill for the financial advice they give
› to the extent relevant to the financial advice they give, an up-to-date understanding of the regulatory framework for financial advice in New Zealand.

Entities must, at least annually, review their procedures, systems and expertise to ensure that they maintain the capabilities for the financial advice they give.

FMA Expectations

- This is the most critical standard, moving forward after receiving your qualification, we expect ongoing continued professional development
- the FAP, we expect to see Approved and documented processes and procedures that ensures accurate and full records of each individual's competency are kept and maintained. This includes:
 - A continuing professional development (CPD) plan
 - how any study completed, learning activities or course attendance is relevant to the type of service and products the individual provides advice on
- Upskilling in a way that aligns to changes landscape, for example if something changes in your business or products you advise on

Myths and Misconceptions

- Product provider accreditation
 - Lack of accreditation does not replace your duty to **have competence knowledge and skill**
- What will the FMA do if you don't meet the competency requirements
 - **We will take this seriously**, and may be an enforcement matter for us
- Competency is a set-and forget approach
 - We have issued your FAP licence in perpetuity, the expectation is you maintain the same level of competency **at all times**
- I have plenty of time to meet the competency requirement
 - You have **less than 12 months left!**

Summary

- **Focus is on the outcome** not just the input: the client experience must be equivalent to that given by a person holding Level 5.
- Meeting your obligations for Competency Knowledge and Skill is an **investment in you and your business.**
- **Get started early**, and progress your qualification to completion well in advance to 16 March 2023

Questions?

Licensing - a hurdle or an opportunity?

The FMA and Strategi are hosting a free 45-minute webinar to all FAP's who have not yet submitted their application for a full FAP licence.

When: Thursday 7 April at 1:30PM

By attending the webinar FAP's, their owners and managers will better understand what is required and be provided with practical next steps to obtain their full FAP licence.

Register at www.strategi.co.nz/webinars





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