

**INVESTMENT SAVINGS & INSURANCE ASSOCIATION OF NZ
INC**

**SUBMISSION
TO THE
SECURITIES COMMISSION
ON THE**

**STAFF PAPER ON AUTHORISED FINANCIAL
ADVISER COMPETENCE**

29 May 2009



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INVESTMENT SAVINGS AND INSURANCE ASSOCIATION OF N.Z. INC.

1.0 Introduction

- 1.1 The Investment Savings and Insurance Association ("ISI") is the industry association representing the companies which issue or manage life insurance, superannuation and managed funds.
- 1.2 ISI members are also the leading providers of KiwiSaver funds and all six default providers are members of ISI.
- 1.3 A list of ISI members is given at the end of this submission.
- 1.4 ISI member companies use a range of different distribution channels and have an interest in the regulation and competence requirements of advisers who may be employees, agents, advisers for a number of issuers, or brokers.
- 1.5 ISI has a preference for the Qualifying Financial Entity ("QFE") model to have a prominent role in the regulation of financial adviser competence. We have outlined our views of the QFE model to provide some context for our more detailed comments on the specific points raised in the Staff Paper on setting and assessing compliance with competence levels for AFAs.

2.0 The QFE Model

- 2.1 ISI favours a regime that would facilitate advisers operating under a QFE, with the QFE acting as the first level of regulation, particularly in the attainment and maintenance of adviser competence. The reasons for this preference include:
 - The maintenance of standards for the benefit and protection of consumers will be more easily achieved within a QFE.
 - A financial service provider that uses advisers who are agents or employees to deliver its financial adviser services will be responsible for the advice given by them, so the expense of training and compliance monitoring will be incurred whether or not it is a QFE.
 - It would assist with the significant organisation that will be needed to ensure that what could be as many as 15,000 financial advisers needing to be authorised meet the initial competence standards.
 - The Securities Commission will need to set up a process to monitor QFEs but that will be a much simpler, more effective and timely process than directly monitoring thousands of advisers.
 - The administrative processes of dispute resolution schemes will be simplified if those schemes have a limited number of QFE members rather than thousands of individual members.

- 2.2 A potential QFE should be required to demonstrate that it meets certain criteria and they are likely to include requirements such as:
- To take responsibility for ensuring its employees and agents are trained to the competence level required by the Code;
 - To take responsibility for the performance (including ethics and business practices) of its employees and agents and accept liability for the advice given;
 - To undertake membership of an approved dispute resolution scheme on behalf of all its employees and agents;
 - To maintain a register of its employees or agents who are advisers;
 - To demonstrate financial and organisational capacity (either by size or insurance cover).
- 2.3 For this approach to be attractive to potential QFEs, a streamlined process for the granting of authorisation should be a feature of QFE status. That would include allowing QFEs to be responsible for ensuring advisers meet authorisation and registration requirements, including competence levels, so that authorisation and registration of advisers can be completed on the basis of a certificate from the QFE.

3.0 AFA Competence Standards

- 3.1 National Certificate in Financial Services Levels 4 and 5 have been registered on the NZQA National Qualifications Framework. We agree with the Staff Paper proposal that Level 5 should be the baseline level of competence for people giving personal financial advice. Level 4 should be the competence standard for people working in a support or ‘para planner’¹ role or for employees or agents giving limited advice on Category 2 products within QFEs.
- 3.2 Employees of a QFE who are giving advice on Category 1 products issued by the QFE will not need to be registered or authorised but should still need to be qualified to at least Level 5.
- 3.3 Advisers other than those covered by section 17 of the Financial Advisers Act (including an adviser advising on risk insurance, operating independently without supervision or review) will need to be authorised and should be qualified to Level 5. That requires competence to the level of independently analysing and implementing insurance and investment plans, i.e. without reliance on templates or predetermined guidelines other than professional standards and ethics.
- 3.4 ISI believes that the broad scope of the definition of ‘financial planning service’ in the Financial Advisers Act will mean that most life insurance advisers who conduct a needs analysis for risk products will be considered to be acting as financial planners and will therefore need to be authorised.

¹ Back office role providing support to a qualified financial planner, including sorting and inputting data, preparing plans and reports.

- 3.5 To assist the objective of increasing the provision of professional advice over a wide range of financial needs we would support a requirement for any financial advisers advising on risk products without close supervision to have competence corresponding to level 5 on the NZQA framework.
- 3.6 We agree with the criteria in paragraph 21 of the Staff Paper.

4.0 Discussion Points

4.1 Discussion Point A

What qualifications do you consider would potentially meet those criteria (theoretical, practical, CPT)? For each qualification you list, please describe the type of financial advice activity for which it is suitable. Is the qualification you name the only one suitable for that type of financial advice activity?

We do not have a comprehensive knowledge of all possible qualifications that may meet the criteria for advice on life insurance, superannuation and managed funds. We believe that the following would fulfil at least some of the requirements, as long as the qualification was gained within the last 10 years and has been kept up-to-date with CPD:

- Massey University Graduate Diploma in Business Studies (Personal Financial Planning)
- Massey University Graduate Diploma in Business Studies endorsed in Personal Risk Management
- Waikato University Postgraduate Diploma in Personal Financial Planning
- Adviserlink National Certificate in Financial Services Level 4 (limited to people working under supervision)
- Adviserlink National Certificate in Financial Services Level 5
- Chartered Financial Analyst (CFA) qualification (an international designation recognised in New Zealand)
- Chartered Life Underwriter (CLU) designation
- The Certified Financial Planner (CFP) qualification.

4.2 Discussion Point B

Do you agree with the introduction, progressively, of NQF definitions for all adviser qualifications?

Yes, we do agree with the progressive introduction of NQF definitions for all adviser qualifications.

However, the two step approach that is proposed for existing advisers without substantiated qualifications will depend on there being sufficient education providers accredited to deliver courses and sufficient qualified assessors to assess the competence of those advisers before implementation of the new regime. We have a serious concern that there will not be sufficient course providers or assessors to enable all existing advisers to complete the process by the end of 2010.

The process for an adviser to prove competence will require:

- Assessment of current competence and any ‘gaps’
- Further work, either through a course provider or on-the-job training, to achieve the required level of competence
- Final assessment of competence.

We are concerned that the heavy demand for assessors and the low number available will create a bottleneck for advisers trying to achieve the competence level for authorisation.

4.3 Discussion Point C

Do you support the concept of a baseline standard? Do you support the proposal to assess applicants against the baseline standard? Do you consider Level 5 to be an appropriate baseline standard for AFAs?

Yes, we do support the concept of a baseline standard, with NQF Level 5 as the baseline standard for AFAs. The National Certificate in Financial Services (Financial Advice) (Level 5) focuses on the competencies required in the advice process, with elective sections covering basic skills in the specific areas of insurance advice and investment advice. This qualification (or an equivalent) would constitute step one of the proposed two step process, with additional competencies required for specialised classes of financial advice.

As noted above, the successful implementation of step one of the two step process will depend on there being sufficient accredited course providers and qualified assessors available when required. Completion and assessment on the Level 5 Certificate is estimated to take 500 hours in total.

ISI members do not have a unanimous view on the period that should be allowed from the date that the Code is gazetted until advisers must be fully compliant with the competency requirements. That is largely a result of the uncertainty about the number of course providers and assessors that will be available, the extent of competency gaps that will be found in existing advisers and the simple logistics of achieving the required competency level by the set date.

We note that the Minister’s 22 May speech to the Institute of Financial Advisers suggested that the date for full compliance may be December 2010. Some ISI members consider that is achievable but there is also a view that it will take at least two years from when the Code is gazetted to get accredited course providers and registered assessors in place and for advisers to go through the gap analysis, up-skilling and assessment necessary for authorisation.

ISI members are concerned at the possibility that pressurising the process may cause advisers to leave the industry, with a negative impact on the quality and quantity of advice available for consumers.

4.4 **Discussion Point D**

Should existing advisers whose baseline assessment is unsuccessful be allowed to practice as AFAs for a short period to enable them to further develop their skills? If so, what restrictions should be imposed (for example, work under supervision)? How many months do you consider reasonable?

Existing advisers will have until the date set for full compliance with the Code to meet the level of competence set by the Code for qualification as an AFA.

We agree that any of those advisers who do not meet the necessary level of competence by that date should be able to work under supervision while they develop their skills and we do not consider that there should necessarily be a limitation on that period.

We would also expect that to be the process for new advisers coming into the industry after the new regime is in place.

The proposal is dependent on there being suitably qualified supervisors available from the date on which the competency requirements become effective.

4.5 **Discussion Point E**

Should existing advisers who successfully pass baseline assessment, but do not meet the requisite “top-up” requirements for a particular class of work, be allowed to practice as AFAs in that class for a short period while they develop the additional skills? If so, what restrictions should be imposed? How many months do you consider reasonable?

We would **not** support the proposal that existing AFAs who fail to meet “top up” requirements for specialist advice by the date set for full compliance with the competency requirements should be able to give advice in the specialist area under supervision. We believe that the potential for client harm is too high in such specialist areas (likely to be advice in specialist investment types) unless the adviser has proven competence.

4.6 **Discussion Point F**

We are interested in your views on the use of NQF standards more broadly than for only AFAs.

As noted earlier, we believe that most personal risk advisers who do a basic needs analysis for risk products will come within the definition of ‘financial planning service’ and need to be AFAs and therefore qualified to Level 5.

QFEs will need to be able to demonstrate that their employees and advisers who are not AFAs are qualified to an appropriate level of competence and we consider that the NQF provides a consistent yardstick for measuring competence.

The Dispute Resolution Schemes will also need a yardstick against which to measure the competence of registered but not authorised advisers when a complaint is made. The NQF standards will be useful in that context. It is likely that a “para planner” role will develop further in New Zealand, as a stepping stone to becoming a qualified adviser. In that case, a Level 4 qualification on the NQF would be an appropriate measure of competence.

4.7 **Discussion Point G**

We are interested in your ideas for regulatory or other strategies to help promote a culture of professionalism across the adviser industry.

It is difficult to promote culture change by regulation and we believe that developing a culture of professionalism in the financial adviser industry will depend on the demands of consumers as much as on specific regulation of advisers.

As consumers become more financially aware and more confident in the dealings with advisers they will select advisers who can demonstrate higher standards of competence, ethics and professionalism. Higher levels of financial literacy should make consumers more willing to pay a realistic amount for advice and thus create a viable and attractive career path for young graduates.

ISI fully supports moves to improve the general level of financial literacy along with AFA competence and improved investment disclosure.

List of ISI Members

ISI MEMBERS

AIG Life
AMP Financial Services
Asteron Life Ltd
AXA New Zealand
BNZ Investments and Insurance
CIGNA Life Insurance NZ Ltd
Dorchester Life
Equitable Group
Fidelity Life Assurance Co Ltd
Gen Re LifeHealth
Hannover Life Re of Australasia Ltd
ING New Zealand Ltd
Kiwibank Ltd
Medical Assurance Society NZ Ltd
Mercer
Munich Reinsurance Co of Australasia Ltd
Public Trust
RGA Reinsurance Co. of Australia Ltd
Sovereign Ltd
Southsure Assurance
Swiss Re Life & Health Australia Ltd
TOWER New Zealand
Westpac/ BT Funds Management Ltd

Associate Members

Bell Gully Buddle Weir
BNP Paribas
Bravura Solutions
Burrowes & Co
Chapman Tripp Sheffield Young
Davies Financial & Actuarial Ltd
Deloitte Touche Tohmatsu
Ernst & Young
InvestmentLink (New Zealand) Ltd
KPMG
Kensington Swan
Melville Jessup Weaver
Minter Ellison Rudd Watts
Morningstar Research Ltd
Phillips Fox
PricewaterhouseCoopers
Russell Investment Management
Russell McVeagh
Simpson Grierson