



Association of  
Financial Advisers

AFA  
Principles  
of Practice

**Consultation Paper**

**July, 2012**

# Consultation Paper on a New Code of Conduct for the AFA



Dear Members,

Last year the AFA commenced work on a new code of conduct. As the FoFA debate has unfolded, it has become increasingly clear that the future of the Financial Advice industry would be based upon an increased level of professionalism and that this would be largely driven by professional associations and the need to comply with a code of conduct. This approach to professionalism and codes of conduct is reflected in other professions. Our industry has been impacted by the Global Financial Crisis and the resultant effect upon the level of trust that the community has in the industry. Certainly some of this is misplaced, however we need to deal directly with this perception.

In March 2012, when the Government finally got the FoFA legislation through the House of Representatives, the landscape on Codes of Conduct changed drastically. At that time the Government announced changes that would give ASIC the powers to exempt licensees from the legislative obligation to get clients to Opt-in, if they were bound by a code of conduct approved by ASIC, which obviated the need for Opt-in. At present there is a great deal of uncertainty as to what the implications of this announcement are and what a code might need to contain in order to get an exemption. Some groups have wrongly assumed that Opt-In will no longer be an issue for the industry.

What has been made clear since this time is that the code would need to be comprehensive, positioned at a level above the law and involve an obligation to service clients akin to the Opt-in obligation. ASIC have also made it particularly clear that, whilst they are now working on the requirements for Codes of Conduct, it will take them at least until the end of the year to provide finalised regulatory guidance in this area. After that point, associations will need to finalise their codes and submit them to ASIC for approval. There is much still to evolve in this space, but what is very clear is that the exemption from Opt-In will involve a significant commitment from the professional association, licensee and adviser. In this context, the AFA has decided to release this draft new code of conduct (Principles of Practice), for consultation with members. The Principles of Practice in its current form has not been designed with the intent of meeting the likely ASIC requirements. This document is intended to commence the dialogue with members and through a consultative approach shape the future direction. We invite members to make a submission by 31 August 2012 with respect to the Principles of Practice. The AFA will leverage these submissions and the release of the ASIC guidelines as part of the finalisation of a new code in 2013. The establishment of a leading edge code and the ongoing maintenance of this code will remain a critical focus area for the AFA.

We look forward to your feedback on the Principles of Practice consultation paper. Submissions should be either emailed to [info@afa.asn.au](mailto:info@afa.asn.au) or mailed to the Association of Financial Advisers Ltd, P.O. Box Q279, Queen Victoria Building, NSW, 1230.

Regards,

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Association of Financial Advisers

Richard Klipin  
Chief Executive Officer  
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## About the AFA

The Association of Financial Advisers is a professional organisation that has been serving the financial advising industry since 1946. Its aim is to provide members with a robust united voice with respect to issues in financial services, continually improve practices and focus firmly on the exciting, dynamic future of the financial advice profession.

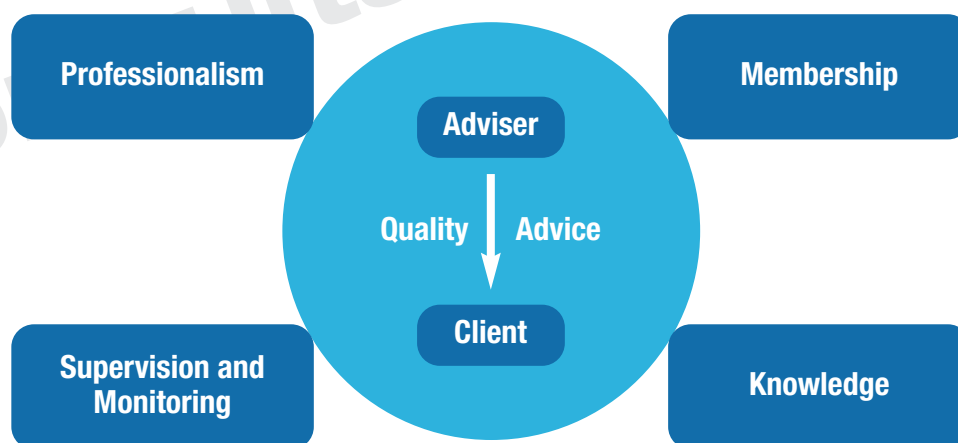
With six decades of success behind it, the association's ongoing relevance is due to its philosophy of being an association "of advisers run by advisers". This means advisers set the agenda, decide which issues to tackle and shape the organisation's strategic plan.

The future success of the financial advice industry is dependent upon enhancing the level of professionalism, by raising the standards of education and behaviour. The Australian community is looking for evidence that the financial advice industry can be trusted. In this context, professional associations, like the AFA, play a critical role in leading this change. The AFA believes it best serves the future of the financial advice industry for all advisers to relentlessly maintain high standards of ethical conduct and professionalism.

## Principles of Practice Overview

AFA members are professionals who provide trusted and quality financial advice to consumers. The consumer / financial adviser relationship is at the centre of everything we do and the AFA has established a strong governance framework to ensure consumers' interests are safeguarded.

**The AFA's Principles of Practice has its foundations in four professional pillars.**



<b>Professionalism</b>	Sets out the AFA Code of Professionalism, Ethics and Conduct
<b>Membership</b>	Sets out minimum requirements for membership
<b>Professional Pathway</b>	Mandates minimum educational standards and promotes ongoing formal and practical professional development activities
<b>Supervision and monitoring</b>	Creates a formal framework for monitoring advisers, and the complaints and disciplinary procedures

# Principles of Practice Overview Cont

The Principles of Practice have been developed in consultation with the AFA Board and members.

The AFA recognises the role that Licensees play in setting standards for advisers and supervising and monitoring their conduct. The role of the AFA Principles of Practice is to complement the requirements of the licensees, not to duplicate. Accordingly, these Principles of Practice have been designed at a level appropriate for a professional association.

The AFA also recognises the legislative framework that advisers operate within and the role of ASIC in overseeing this framework. The Principles of Practice does not seek to duplicate legislative obligations, though it recognises the critical importance for advisers to comply with the legislation.

The AFA acknowledges the FoFA legislation's reference to a code of conduct and the potential opportunity for financial advisers, in certain circumstances, to obtain an exemption from the Opt-in obligation. The Principles of Practice document has been developed in the absence of ASIC guidance on the specific requirements of this code. In this context, the Principles of Practice is being released for consultation, however will be subject to variation, once ASIC has updated Regulatory Guide 183 – 'Approval of financial services sector codes of conduct' to specifically address financial advice.

## Professionalism

### **AFA Code of Professionalism, Ethics and Conduct**

The AFA has a Code of Professionalism, Ethics and Conduct (Code) to which members must adhere. The Code has been developed with central consideration given to consumer outcomes and also has the objective of fostering and maintaining a good reputation for the financial advisory profession. The code sets out a framework for minimum professional practice standards for AFA members. Members need to comply with the AFA Constitution and By-Laws in addition to this code. The ten key principles are as follows:

#### **Principle 1 - Best Interests**

Act in the best interest of your clients in seeking to extend and secure their financial life and abide by the laws and regulations applying to financial advice businesses.

The position of the financial adviser is unique. The financial adviser owes a professional duty of care towards clients and must act at all times in their best interest, including at all times complying with both the letter and the spirit of the law, regulations and professional association requirements.

#### **Principle 2 - Conflicts of Interest**

Not allow conflicts of interest to inappropriately influence your actions. Client interests are paramount in all decisions and transactions.

Conflicts should be identified and managed to ensure that the interests of both client and adviser are considered. Where a conflict arises, the interests of the client must be placed ahead of the adviser.

# Professionalism Cont

## **Principle 3 - Remuneration**

Ensure that all remuneration received represents fair value for your clients and is explicitly disclosed and agreed to prior to providing personal financial advice. Where a conflict of interest exists, it is essential to ensure that a fair outcome is achieved in terms of remuneration and its relationship to the value of advice provided to the client.

All remuneration received must be clearly and concisely explained to the client, both in terms of the amount being charged and the service to be provided. The client must expressly consent to all remuneration, including an acknowledgement that they understand the service they are to receive.

## **Principle 4 - Product Selection and Replacement**

In recommending a product to a client, the adviser must give due consideration to the needs of the client, any conflicts that exist and the product options that are available.

In recommending the replacement of an existing product, the adviser needs to be able to demonstrate that there is a material benefit to the client in making the change. In the context of life insurance, this would mean either an improvement in policy terms in an area that is relevant to the client or a noticeable reduction in premiums. It may also be necessary to recommend the replacement of an existing product where the client's needs have changed significantly and the existing product is unable to meet those needs. Material benefit must be assessed from an overall perspective.

There are potentially significant implications for a client in changing insurance products, including the time and effort involved in underwriting. Any change must only be where there is a material benefit for the client.

## **Principle 5 - Professional Conduct**

Maintain high standards of personal and professional conduct to reflect favourably upon the financial advisory profession and serve as an example to others.

In all business interactions, act with respect toward clients and business associates and promote the value of advice, and do nothing that will bring the financial advisory industry or the AFA into disrepute.

## **Principle 6 - Relevant Information**

Present accurately, honestly and completely, every fact known to you which is essential to your clients' decision making.

Provide clients all pertinent information, in such a way as allows them to exercise clear informed choice in relation to their financial decisions.

## **Principle 7 - Educate Clients**

Take all reasonable steps to educate your clients about their present and future financial needs.

Where relevant to the advice you provide, ensure that clients are aware of what they need to do to grow and protect their financial future and that they understand the implications of not adequately protecting themselves and the likely outcomes of the investment risk they adopt.

# Professionalism Cont

## **Principle 8 - Confidential Information**

Hold in strictest confidence all business and personal information pertaining to your clients' affairs.

Maintain the integrity of client information by ensuring that access is controlled. Always act with discretion, utilising professional skills and judgment when dealing with client information.

## **Principle 9 - Service Standards**

Provide service to your clients that is appropriate to their circumstances and your agreement with them.

Ensure that whenever a service is promised to a client, that care and attention is taken to provide that service in an appropriate and timely manner.

## **Principle 10 - Professional Competence**

Strive to achieve high standards of professional competence by maintaining and improving your knowledge and skills, and those of your employees. Always meet or exceed the minimum training standards that apply to advisers under relevant legislative guidelines (e.g. RG146: Licensing: Training of financial product advisers).

Demonstrate a commitment to professional competence through a combination of qualifications, designations and ongoing professional development.

Only provide advice in areas where you are qualified, authorised and skilled.

Provide appropriate training, guidance and supervision of employees to ensure they are aware of their professional obligations when dealing with clients and have the capability to act accordingly.

# Membership Requirements

The AFA is passionate about helping Australians secure their financial future and we achieve this through providing leadership, support and inspiration to financial advisers.

AFA members enjoy the benefits of being part of an association committed to their chosen profession.

At the time of application, all members are subject to an application and screening process requiring:

- Confirmation of qualifications
- References from two current AFA members
- Commitment to observe the Code of Professionalism, Ethics and Conduct
- Response to screening questions relating to fitness for membership
- Checks of ASIC registers
- Review and endorsement of membership by the AFA Board

Should any of these screening processes identify a matter of concern, the circumstances are subject to review and investigation by the CEO and AFA Board Executive prior to the approval of membership.

## **Practitioner members**

Current practising financial advisers are eligible to apply for Practitioner Membership status.

From 1 July 2013, all new practitioner members will be classified as “Provisional Members” until they have completed the Associate Chartered Financial Practitioner (AChFP), which requires completion of the ethics module from the FChFP Program. Provisional members will be required to attain this qualification within 18 months of first joining the AFA as a Practitioner Member.

## **Associate members**

To accommodate applicants with a career interest in the financial services industry, but who are not practising as an adviser (such as Business Development Managers), the AFA offers the option of Associate membership status.

## **Support members**

Employees of advice businesses, licensees or other financial services companies who provide support to practitioners or businesses can apply for Support membership status.

## **Student members**

The AFA actively encourages those undertaking full time university study and interested in becoming a financial adviser, to apply for membership as a Student member. Becoming a Student member provides new entrants to the industry with a unique opportunity to gain access to the insight and experience of our members via networking and professional development opportunities.

## **Corporate members**

Corporate membership is available to Licensees, Fund Managers, Product Providers and Service Providers.



# Knowledge

Education allows financial advisers to continually build technical skills and knowledge throughout their careers in order to provide consumers with the best financial advice outcome.

## **Professional Pathway**

The AFA Professional Pathway supports the mandatory practitioner membership entry level qualification (AChFP) from 1 July 2013 and promotes ongoing professional development activities and formal qualifications.

The AFA's Formal Education offer is encapsulated within Campus AFA, an interactive home for all components of the AFA's education offer. It recognises that financial advisers require a variety of education solutions to provide great outcomes to consumers.

The AFA formal education pathway is made up of three designations recognised through the Asia Pacific Financial Services Association (APFinSA).

These options do not focus solely on technical capabilities, but seek to provide holistic skills for the advice professional, including ethics, client relationship skills and business management.

## **Associate Chartered Financial Practitioner (AChFP)**

The AChFP designation is the entry level qualification in the pathway and will be required for all new AFA members from 1 July 2013. It will also be available for completion by existing members.

This has a prerequisite of the Diploma of Financial Services (Financial Planning) qualification with the additional requirement to complete the Ethics and Compliance module from the FChFP course.

## **Chartered Life Practitioner (ChLP)**

The ChLP designation is a specialist business framework for risk advisers; it forms the professional pathway for risk advisers who are looking for formal recognition in this specialist area.

## **Fellow Chartered Financial Practitioner (FChFP)**

The FChFP designation is designed to provide advisers with a comprehensive framework, covering ethics, advice practices and business management skills.

The pre-requisite to attain this designation is the Advanced Diploma of Financial Planning or equivalent.

## **Continuing Professional Development**

The AFA expects Practitioner members to maintain their professional knowledge and skills via the completion of Continuing Professional Development.

Practitioner members are required to complete a minimum of 30 points of CPD per year. This training record must be produced to the AFA as and when requested.

# Supervision and Monitoring

The AFA expects its members to uphold the highest standards of conduct and professionalism as detailed in the AFA Code of Professionalism, Ethics and Conduct.

The AFA supervision and monitoring of its members to ensure that the Code is being met, includes:

- monitoring of regulatory notifications against membership
- monitoring of media against membership
- random audit of CPD adherence
- annual commitment to the Code by each members; and
- investigation of client complaints.

Should the association become aware that a member may have failed to adhere to these standards; either via monitoring or by receipt of a complaint, there is a disciplinary process to investigate and then respond.

## Complaints Handling

Consumers have a range of options when seeking to complain about the services or conduct of a financial adviser. Complaints to the adviser's Licensee and an External Dispute Resolution service may lead to compensation. Consumers may also wish to complain to an adviser's professional association.

Complaints about the conduct of AFA members will be investigated, and if required, will be referred to either the AFA disciplinary committee or the AFA Board for determination. Where appropriate, disciplinary actions can be taken, including sanctions, suspension or termination of membership.

Except where it relates to a criminal matter, the member will be provided with the opportunity to provide a response to any allegations. Any criminal matters will be dealt with in accordance with legal principles.

The AFA Complaints and Disciplinary processes operate under the following principles.

- **Commitment**

The AFA is committed to the efficient, timely and fair resolution of complaints.

- **Accessible**

The complaints process is accessible to both AFA members and consumers and the Complaints and Disciplinary processes are made available on the AFA website.

- **Accountable**

The AFA commits that complaints will be dealt with transparently, in a way that is fair to both the complainant and the member complained against. The AFA protects consumers' rights to complain and will provide clear reasons for its decisions to the complainant, the member and their licensee. The AFA recognises that there is a need for independence in complaints handling and can refer matters to a Disciplinary Committee or the Board under its By-Laws.

- **Resourced**

The AFA has 'adequate resources' for complaint handling and seeks to resolve complaints in a timely manner.

- **Data Collection**

Complaints and determinations are recorded in the AFA Complaints Register located at AFA Head Office. Adverse findings will be listed on the AFA website for 6 months.

- **Review**

The AFA Complaints and Disciplinary processes will be reviewed regularly or at the request of the Board.

The AFA will inform the member's licensee of any adverse findings.

## **Making a Complaint**

Before making a complaint to the AFA, clients should attempt to resolve the matter directly with their financial adviser and their adviser's Licensee.

The AFA does not have any authority to order the payment of compensation in relation to complaints, however we will investigate matters and where appropriate will take disciplinary action against the adviser involved.

Complaints should be addressed as follows:

The Chief Executive Officer  
Association of Financial Advisers  
PO Box Q279, Queen Victoria Building, NSW, 1230

Complaints may also be submitted via email at [complaints@afa.asn.au](mailto:complaints@afa.asn.au)

Written or email complaints should:

- identify the member who the complaint is about;
- clearly state the nature of the complaint;
- provide details on the complaint made to the adviser (and licensee) and the response;
- include any relevant documentary evidence; and
- include the name, address and contact details of the person making the complaint.

Clients can find out if their financial adviser is a member of the AFA by using the "Search for an AFA Adviser" function on the AFA website ([www.afa.asn.au](http://www.afa.asn.au)) or by contacting the AFA on 1800 656 009.

## **Investigation Process**

Once a complaint has been received, the CEO of the AFA will appoint a Complaints Officer to review the complaint. The AFA will acknowledge receipt of all client complaints within 5 business days. Complaints will be recorded in the AFA Complaints Register which will be held at the AFA Registered Office.

The role of the Complaints Officer is to investigate the circumstances of the complaint and to prepare a preliminary report to the CEO as soon as practical, but in no more than 28 days.

The purpose of this investigation and subsequent report is to:

- determine if the complaint has substance, is not frivolous, or vexatious;
- establish if there is a reasonable basis to consider that the allegations are accurate.

This will include:

- considering the circumstances of the complaint;
- seeking a response from the adviser (and where appropriate their licensee) regarding the allegations made; and
- obtaining more information from the complainant if required.

Once this report has been received, the CEO will determine whether the complaint should be referred to the Board under the AFA By-Laws or responded to by the Complaints Officer.

Information on complaints will be regularly reported to the board.

## **Disciplinary Process**

In the event of a matter being referred to the Board for Disciplinary Proceedings, dependant on the nature of the allegation, these will either be considered by the Board itself or the Board can appoint an Investigating Officer. The Investigating Officer can recommend to the Board that a Disciplinary Committee be convened.

The Disciplinary Committee will have three members, one of whom must be a Director and all must be present to constitute a quorum. The disciplinary committee will be made up of people with the necessary skills who are sufficiently independent of the matter.

Following the investigation, should the allegation be upheld, the disciplinary process allows for the sanction, suspension or termination of the member.

For matters heard by the Disciplinary Committee, the member has the right to appeal the decision, which will be heard by a Review Committee whose members must not have served on the original Disciplinary Committee.

## **Complaint Responses**

The AFA seeks to respond to all complaints in no more than 45 business days from the date the complaint is received. In the case where a matter is referred to the Disciplinary Committee or Board, this timeframe may be extended. Any extension will be communicated to the complainant, including the reasons that the extension is required.

All complainants will receive a written response from the AFA detailing the outcome of their complaint and if appropriate the outcome of any disciplinary proceedings.