



CFA Society of New Zealand
P O Box 105 083, Auckland

18 December 2009

Proposed Minimum Standards of Ethical Behaviour and Client Care for Authorised Financial Advisers

To the Code Committee

Introduction

The CFA Society of New Zealand was formed to promote awareness of the aims of CFA Institute and the CFA Program, and to lead the investment profession in New Zealand by setting the highest standards of education, integrity and professional excellence.

Our Society is an association of local investment professionals. Consisting of portfolio managers, security analysts, investment advisers, and other financial professionals, we:

- Promote ethical and professional standards within the investment industry;
- Encourage professional development through the CFA Program and continuing education;
- Facilitate the exchange of information and opinions among people within the local investment community and beyond; and
- Work to further the public's understanding of the CFA designation and investment industry.

Our Society is the only local body affiliated to CFA Institute. Most members hold the prestigious CFA (Chartered Financial Analyst) designation and those who do not are either completing the CFA Program or are already sufficiently experienced professionals who have met strict ethics prerequisites.

We welcome the opportunity to respond to the Commission's call for submissions on regulating and supervising financial advisers, consisting of a number of discussion questions.

We would be pleased to appear before the Commission to speak to our submission and/or assist in any way we can the progression of the work being undertaken.

If you wish to contact us, please either call the Society's Administration Manager, Ms Ginette Clarke, at 021 226 7611 or email her at info@cfasociety.org.nz.

Board of Directors:

*Katrina Kruger CFA (President), Charles Widdicombe CFA (Vice-President), Louis Boulanger CFA,
David McCallum CFA, Dr Ian Nield, Clare Memmory CFA and Mark Brighthouse CFA*

General Comments

Review of the discussion paper released by the Code Committee for Financial Advisers leads us to conclude that the Commission is proposing a prescriptive model that dictates behaviours and processes rather than principles.

The CFA Society of New Zealand's believes that a principles-based model is superior to that of a prescriptive model. We believe that emphasising broad principles will eliminate the legalistic focus that rules may encourage, and behaviour would be more ethical and uniformly so. We acknowledge that a principles based approach requires more professional judgement than a rules based approach but feel that the fundamental advantage of a principles based system, namely that its guidelines can be practical for a variety of circumstances, far outweighs the downside.

Specific examples of where the proposed standards are potentially too prescriptive in our view include, but are not limited to, advice in writing and dispute resolution.

Advice in writing (proposed standards 15 and 20)

We believe that the requirement to put all advice in writing is not practical, since advice is often given verbally. We recognise that you are seeking to reduce any misunderstanding by clients of advice received when given verbally, especially in the situation where that advice later on becomes subject to challenge by the client. It would provide the benefit of having clear evidence of (any inappropriate) advice, which in turn would enable more effective enforcement.

The decision of whether or not to put the advice in writing should be discussed and agreed to between the professional adviser and the client. The conduct of the adviser, with respect to the manner with which such a matter is to be decided can and should still be governed by the minimum standards.

Dispute resolution (proposed standard 21)

Individuals should not have to maintain their own dispute resolution mechanism. This would seem to be counterproductive. Such a matter would seem better dealt with outside the proposed minimum standards. This is a procedural matter; complying with the proposed standard would not in our view guarantee any greater level of professionalism of advisers.

We believe that proposed standards 22 and 23 are sufficient in relation to dispute resolution.

CFA Institute worldwide and we promote overarching basic principles, summarised in a Code of Ethics that our members and charter holders affirm annually:

1. Act with integrity, competence, diligence, respect, and in an ethical manner with the public, clients, prospective clients, employers, employees, colleagues in the investment profession, and other participants in the global capital markets.
2. Place the integrity of the investment profession and the interests of clients above their own personal interests.
3. Use reasonable care and exercise independent professional judgment when conducting investment analysis, making investment recommendations, taking investment actions, and engaging in other professional activities.
4. Practice and encourage others to practice in a professional and ethical manner that will reflect credit on themselves and the profession.
5. Promote the integrity of, and uphold the rules governing capital markets.
6. Maintain and improve their professional competence and strive to maintain and improve the competence of other investment professionals.

We also attach a copy of our Standards of Practice Handbook, as well as a summary of the Code of Ethics and Standards of Professional Conduct. The Standards of Practice Handbook includes case studies and practical examples.

CFA Institute guidelines state that, when confronted with an ethical issue, that a charter holder should consider the following questions:

1. What are the important facts?
2. To whom is a duty owed?
3. What are the issues?
4. What are the ethical principles involved?
5. Are there any conflicts of interest?
6. How are the conflicts managed?

The guidelines go further to encourage members to consider the following basic ethical principles when confronted with an ethical issue:

- Client interest comes first.
- Maintain independence and objectivity.
- Avoid/manage conflicts of interest.

- Make full and fair disclosure.
- Maintain client confidentiality.
- Engage in fair dealing among clients.
- Exercise reasonable care and prudent judgement.

Yours faithfully

Katrina Kruger CFA
President

For and on behalf of Directors and Members of CFA Society of New Zealand