

Recognition of Australian adviser qualifications

About this consultation

The Financial Services Legislation Amendment Act 2019 (FSLAA) will introduce a new regulatory regime for financial advice. The start date for the new regime will be 15 March 2021. When the new regime is in force, a new [Code of Professional Conduct for Financial Advice Services](#) (the Code) will set the standards of competence, knowledge and skill that will apply for persons who give regulated financial advice to retail clients.

Broadly, the competence, knowledge and skill requirements in the Code will set competency at the qualification outcomes for Level 5 of the New Zealand Certificate in Financial Services version 2 (NZ Certificate). Particular qualification outcomes required depend on the advice to be given.

We propose to recognise that individual Australian advisers demonstrate the competence, knowledge and skill standards set by the Code if they hold certain Australian adviser qualifications, and to confirm this in a statement on our website. We invite your comments on our proposal and draft statement. Please use the feedback form provided. Your feedback will be considered in the development of our proposals. If you have questions, please email questions@fma.govt.nz or call us on 0800 434 566 (or +64 3 962 2698 if calling from outside New Zealand).

Submissions close at 5pm on **Friday 20 November 2020**.

About this guidance note:

This guidance note is for any person who gives regulated financial advice, and their advisers and interested parties.

It seeks feedback on proposed recognition of certain Australian adviser qualifications.



Recognition of Australian adviser qualifications	1
<hr/>	
Background	3
<hr/>	
Overview	3
New Zealand competence, knowledge and skill requirements	3
Australian qualifications	4
Australian qualifications recognised under the Financial Advisers Act regime	4
Proposed recognition of Australian qualifications	5
<hr/>	
Australian qualifications we propose to recognise	5
Experience and continuing professional development	6
All other obligations will apply	6
Why we propose to recognise these Australian qualifications	7
Trans-Tasman Mutual Recognition	7
Consultation questions	8
<hr/>	
Schedule – Draft statement on recognition of Australian adviser qualifications	9
<hr/>	
Draft statement	9
Terms and conditions	9
Definitions	11
Feedback form	13
<hr/>	



Background

Overview

There is demand from time to time from individual Australian financial advisers to work in New Zealand. Some Australian qualifications are equivalent to, or exceed, the standards of competence, knowledge and skill that will apply in New Zealand under the Code. Requiring individual Australian financial advisers with these qualifications to retrain in New Zealand would be expensive and may impose unnecessary compliance costs. We are therefore considering issuing a statement confirming the circumstances in which we will recognise that Australian qualifications satisfy the competence, knowledge and skill requirements that apply in New Zealand. Australian advisers will still need to comply with all other requirements in New Zealand applicable to financial advice services and giving financial advice.

New Zealand competence, knowledge and skill requirements

Under the FMC Act (once amended by the FSLAA) any person who gives regulated financial advice to retail clients will need to meet the standards of competence, knowledge and skill in the Code.

Broadly speaking, the competence, knowledge and skill requirements in standards 6 to 8 of the Code set competency at the qualification outcomes for the various strands of Level 5 of the NZ Certificate¹. Different strands apply for different types of advice. All persons who give advice must have general competence and for this they will need to meet the qualification outcomes for the core module of the NZ Certificate (Level 5). They will also need to meet the qualification outcomes for one or more of the specialist strands of the NZ Certificate (i.e. investment, life, disability and health Insurance, general insurance, residential property lending, personal lending or banking) depending on the advice they will provide (i.e. investment planning advice or product advice) and financial advice products they will give advice on.

The Code provides for various ways that a person who gives financial advice can demonstrate the required standard (e.g. being an authorised financial adviser immediately before the commencement of the Code).

The Code provides a flexible framework for demonstrating competence, knowledge and skill. It specifies ways of demonstrating that each standard is met. However, this does not prevent a person from demonstrating their competence, knowledge or skill in a way that is not specifically set out in the Code. Where a person references an alternative qualification to demonstrate that they have capabilities equivalent to those set by the competency standards in the Code, they are required to do so in an objective, measurable and independently verifiable manner.

1. The Code of Professional Conduct for Authorised Financial Advisers under the current regime also references components of the NZ Certificate in setting the minimum competence, knowledge and skill requirements for those wanting to become authorised financial advisers.



Australian qualifications

New professional standards

In March 2017, reforms were introduced in Australia to raise standards for financial advisers. New qualifications required for personal advice on complex products in Australia (applicable from January 2019) have been set. These are broadly equivalent to NZQA Level 7 or higher. Required components are:

- relevant bachelor or higher degree, or equivalent qualification²
- exam
- a year of supervised work and training (not applicable to existing advisers)
- continuing professional development requirements each year; and
- compliance with a code of ethics and being covered by a compliance scheme that monitors and enforces compliance with the code of ethics.

The new professional standards apply for new advisers (i.e. those not in the industry as at January 2019) who want to give personal advice on complex products in Australia.

Transition for existing advisers

Existing advisers in Australia who provide personal advice on more complex products are required to transition to the new professional standards by 1 January 2026. They also need to pass the exam (see above) by 1 January 2022.

Until they transition, existing advisers can rely on training and qualifications that meet the minimum standard required by the regulatory guide published by the Australian Securities and Investments Commission (ASIC): RG 146 *Licensing: Training of financial product advisers*. RG146 qualifications are currently recognised under the FMA's Australian Qualified Advisers exemption notice (see below).

RG146 has two levels of training and qualifications. Tier 1 (broadly equivalent to NZQA Level 5) for personal advice on more complex products and Tier 2 (broadly equivalent to NZQA Level 3) for general advice and personal advice on less-complex products (i.e. simple insurance and basic bank products). The precise standards under RG146 depend on an adviser's activities.

Australian qualifications recognised under the Financial Advisers Act regime

Certain Australian qualifications are currently recognised for the purposes of the Financial Advisers Act regime. The [Financial Advisers \(Australian Qualified Advisers\) Exemption Notice 2018](#)³ exempts individuals who meet certain Australian training requirements under RG146 and ASIC's RG206 *Credit licensing: Competence and training*, when they apply to be an authorised financial adviser (AFA) in New Zealand, from certain educational competency requirements under the current Code of Professional Conduct for Authorised Financial Advisers. Recognition is in relation to the products they are qualified to advise on in Australia, where New Zealand has an equivalent licence.

A total of 21 Australian advisers have applied to become AFAs in reliance on the exemptions in the notice (and predecessor notices) in the period from 2012 to October 2020.

² The Financial Adviser Standards and Ethics Authority has approved several degrees from a range of education providers covering bachelors and postgraduate degrees, generally with majors/specialisations in financial planning. Conditions for each degree are specified, for example, particular subjects must be completed.

³ This notice will be revoked on 15 March 2021 along with the Financial Advisers Act 2008.



Proposed recognition of Australian qualifications

Australian qualifications we propose to recognise

We are proposing to recognise the following Australian qualifications (together the **Australian qualifications**):

- New professional standards
- Qualifications under RG146 at Tier 1 level for existing advisers until 1 January 2026 (providing they have also passed the exam for the new professional standards by 1 January 2022).

You can find detailed information on our proposals in the Schedule.

New Australian professional standards

We propose that an individual Australian adviser who has met the new Australian professional standards will (subject to the conditions below) be regarded as having demonstrated that they have capabilities equivalent to the qualification outcomes referred to in standards 6 to 8 of the Code for advice and financial advice products covered by their Australian qualifications. This recognises that the new Australian standards exceed the standards under the NZ Certificate (i.e. they are broadly equivalent to NZQA level 7 or 8) and qualify Australian advisers to provide full advice services in Australia.

Transitional recognition for RG146 (Tier 1) qualifications

We are also proposing to continue recognition of some Australian qualifications currently recognised under FMA's exemption. We propose that an individual Australian adviser who has met the qualifications under RG146 at Tier 1 will (subject to the conditions below), for a transitional period up until 1 January 2026, be regarded as having demonstrated that they:

- have capabilities equivalent to the general qualification outcomes of the New Zealand Certificate under standard 6 of the Code
- have capabilities equivalent to the specified qualification outcomes for designing an investment plan under standard 7 of the Code if their Australian qualifications would allow them to provide financial planning advice to retail clients in Australia in relation to the financial advice products included in the investment plan
- have capabilities equivalent to the specified qualification outcomes for giving particular financial advice under standard 8 of the Code if their Australian qualifications would allow them to give personal financial advice on those financial advice products to retail clients in Australia.

Australian advisers relying on this transitional recognition from 1 January 2022 onwards will also need to have passed the exam referred to above (this is required in Australia).



RG146 (Tier 2) and RG206 qualifications not recognised

We don't propose to recognise Tier 2 qualifications under RG146 (i.e. qualifications that allow advisers to give general advice only or personal advice on less-complex products) or qualifications under RG206 relating to advice on credit contracts. The Tier 2 qualifications under RG146 are at NZQA Level 3 equivalent and the RG206 qualifications are at NZQA Level 4 equivalent, which is lower than the Level 5 requirement that will apply under the Code.

Experience and continuing professional development

In addition to holding the Australian qualifications, we are proposing that Australian advisers will need to have at least 12 months' experience working in Australia. In the case of the new Australian professional standards, all new industry entrants are required to undertake in Australia a (supervised) professional year of one year full-time equivalent comprising 1600 hours, of which at least 100 hours must be structured training. They will only be qualified under Australian law as a financial adviser to provide personal financial advice to retail clients at the completion of this year. We are proposing that they will need to have completed this professional year to be recognised in New Zealand. FMA's exemption notice currently requires that an Australian adviser with RG146 qualifications has at least six consecutive months' adviser experience in Australia within the previous three years. We are proposing that Australian advisers with RG146 Tier 1 qualifications will need to have 12 months' experience working in Australia, consistently with requirements for Australian advisers meeting the new Australian professional standards.

Australian advisers, like New Zealand advisers, will be subject to continuing professional development requirements under standard 9 of the Code. Standard 9 requires anyone who gives advice to complete learning activities designed to ensure they maintain:

- 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.

We consider that this will require Australian qualified advisers to complete training on the New Zealand regulatory framework before they give advice in New Zealand. Australian advisers (like New Zealand advisers) will also need to ensure that they complete training before they give advice on any new area or financial advice product that is not covered by their existing competence, knowledge and skill.

All other obligations will apply

We note that the proposed recognition will only relate to the standards of competence, knowledge and skill in standards 6 to 8 of the Code. Australian advisers will still need to comply with all other requirements under the Code and financial markets legislation applicable to financial advice services and giving financial advice (including being licensed or operating under someone else's licence).



Why we propose to recognise these Australian qualifications

RG146 (Tier 1) qualifications have already been assessed as broadly equivalent to the NZ Certificate through FMA's exemption. The new Australian professional standards exceed the standard under the NZ certificate, helping ensure that Australian advisers will give quality advice.

Australian advisers will only be able to give financial advice they are qualified to give in Australia, they will need to have at least 12 months' experience and they will be required (like New Zealand advisers) to meet continuing professional development requirements under the Code (including having an up-to-date understanding of the regulatory framework for financial advice in New Zealand). This will help ensure that they do not have any gaps in their competence, knowledge and skill.

We consider that recognising the Australian qualifications is desirable to avoid unnecessary compliance costs that would be faced by individual Australian advisers if they were required to retrain in New Zealand. In addition, this may help ensure the availability of quality advice (through an increased pool of qualified advisers).

Trans-Tasman Mutual Recognition

The proposed recognition will not affect any rights that an individual Australian financial adviser who holds an Australian licence may have under the Trans-Tasman Mutual Recognition Act 1997 (TTMRA). Under TTMRA a person who is registered to practise an occupation in Australia is entitled to practise an equivalent occupation in New Zealand (and vice versa) without additional training or qualifications. However, we note that TTMRA is likely to have very limited application for financial advisers. In both Australia and New Zealand most licences are held by entities, which means most individual advisers will be ineligible for TTMRA.



Consultation questions

1. Do you support the proposal in this paper to recognise Australian qualifications? Please give reasons for your view.
2. Do you agree that the Australian qualifications provide evidence of competence, knowledge and skill that is equivalent to or exceeds the competence, knowledge and skill standards set in standards 6 to 8 of the Code? Please give reasons for your view.
3. Do you agree that Australian qualified advisers should have at least one year's experience working as a financial adviser in Australia? Please give reasons for your view.
4. Do you agree that recognising the Australian qualifications will avoid unnecessary compliance costs, and may help ensure the availability of quality advice? Please give reasons for your view.
5. Do you see any material risks for New Zealand retail clients or the market in New Zealand for provision of financial advice services if we recognise the Australian qualifications? If yes, please explain what the risks are.
6. Do you recommend any changes to the proposals in this paper? Please give reasons and details for your recommendations.
7. Do you have any comments on the wording of the draft statement in the Schedule?
8. Do you have any other comments?



Schedule – Draft statement on recognition of Australian adviser qualifications

Draft statement

We will consider that an Australian individual adviser in Group A or Group B of the table below has demonstrated, in an objective, measurable and verifiable manner, capabilities equivalent to the required qualification outcomes in standards 6 to 8 of the Code as specified for that Group in the table below where the Australian adviser:

- a) has attained or met the Australian qualifications and Australian experience specified for that Group in the table below; and
- b) complies with the terms and conditions below.

Terms and conditions

1. Australian qualifications and Australian experience must be attained or met before the Australian adviser first gives financial advice to a retail client in New Zealand. Australian qualifications must not be attained or met through an exemption or any other form of relief.
2. The Australian adviser must not be banned, disqualified or subject to an enforceable undertaking under the Corporations Act.
3. Australian advisers must comply with continuing professional development requirements in Standard 9 of the Code. This will require them to plan for and progressively complete learning activities designed to ensure they maintain:
 - 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.

Note: To comply with Standard 9 of the Code, Australian qualified advisers will need to complete training on the New Zealand regulatory framework to ensure that they have an up-to-date understanding of that framework. They will also need to ensure that they complete training before they provide any new type of advice or advice on any financial advice product that is not covered by their Australian qualifications.



		Group A Australian advisers who meet new Australian professional standards	Group B Australian advisers who have RG146 qualifications (Applicable until 1 January 2026)
1.	Australian adviser	<p>Relevant providers and former relevant providers</p> <p>An individual from Australia who is a relevant provider or was a relevant provider at any time within the previous three years</p>	<p>Existing providers</p> <p>An individual from Australia who is an existing provider</p>
2.	Australian qualifications	<p>Relevant bachelor or higher degree (or equivalent) and exam passed</p> <p>Educational and training standards referred to in:</p> <ul style="list-style-type: none"> • s921B(2) of the Corporations Act (or any equivalent educational or training standard permitted for existing providers under s1546B(1)(b) of the Corporations Act); and • s921B(3) of the Corporations Act. 	<p>RG146 qualifications and exam passed</p> <ul style="list-style-type: none"> • Training requirements set out in RG146, ASIC’s training register, and the competency standards in the Financial Services Training Package (referred to in RG146), that authorise that Australian adviser to provide personal advice or personal financial planning advice to retail clients on Tier 1 products; and • On and after 1 January 2022, the education and training standard in s921B(3) of the Corporations Act.
3.	Australian experience	<p>12-month professional year in Australia</p> <p>Has complied with s921B(4) of the Corporations Act (unless the Australian adviser is an existing provider who is not required to meet that standard under s1546B)</p>	<p>12 months’ work experience in Australia</p> <p>Has provided services to retail clients in Australia for which the person meets the Australian qualifications and requirements specified above either as an Australian representative or as the holder of an Australian licence, for at least 12 consecutive months within the previous three years.</p>
4.	Standards of Code met	<p>Standard 6 (General competence, knowledge and skill)</p>	<p>Yes</p>



		Group A Australian advisers who meet new Australian professional standards	Group B Australian advisers who have RG146 qualifications (Applicable until 1 January 2026)
	Standard 7 (Particular competence, knowledge, and skill for designing an investment plan)	Yes, if the Australian adviser also meets (or is recognised by this statement as meeting) the standards of particular competence, knowledge and skill under Standard 8 of the Code for the financial advice products covered in any investment plan.	Yes, if the Australian adviser is authorised to provide personal financial planning advice under RG146 to retail clients and also meets (or is recognised by this statement as meeting) the standards of particular competence, knowledge and skill under Standard 8 of the Code for the financial advice products covered in any investment plan.
	Standard 8 (Particular competence, knowledge, and skill for product advice)	Yes, for financial advice products covered by the Australian adviser’s Australian qualifications.	Yes, for financial advice products that are Tier 1 products under RG146 that are covered by the Australian adviser’s Australian qualifications.

Definitions

1. In this statement, unless the context otherwise requires:

AFS licence means an Australian financial services licence as defined in the Corporations Act

ASIC means the Australian Securities and Investments Commission

Australian experience means the requirement for Australian experience specified in the table

Australian qualifications means the education and training standards specified in the table

Australian representative means a person who is representative of a holder of an AFS licence

Code means the New Zealand Code of Professional Conduct for Financial Advice Services

Corporations Act means the Corporations Act 2001 of the Commonwealth of Australia

Existing provider has the same meaning as in paragraph (a) of the definition of existing provider in [s1546A](#) of the Corporations Act

Relevant provider has the same meaning as in [s910A](#) of the Corporations Act



RG146 means [Regulatory Guide 146](#) which is a document published by ASIC setting out training requirements for financial product advisers in Australia.

2. Any term or expression that is defined in the Financial Markets Conduct Act 2013 and used, but not defined in this statement, has the same meaning as in that Act.

Feedback form — Consultation paper: Recognition of Australian adviser qualifications

Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at consultation@fma.govt.nz with 'Recognition of Australian adviser qualifications: [your organisation's name]' in the subject line. Thank you. **Submissions close on Friday 20 November 2020.**

Date: _____ Number of pages: _____

Name of submitter: _____

Company or entity: _____

Organisation type: _____

Contact name (if different): _____

Contact email and phone: _____

Question number	Response

Feedback summary – *if you wish to highlight anything in particular*

Please note: Feedback received is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act.

Thank you for your feedback – we appreciate your time and input.