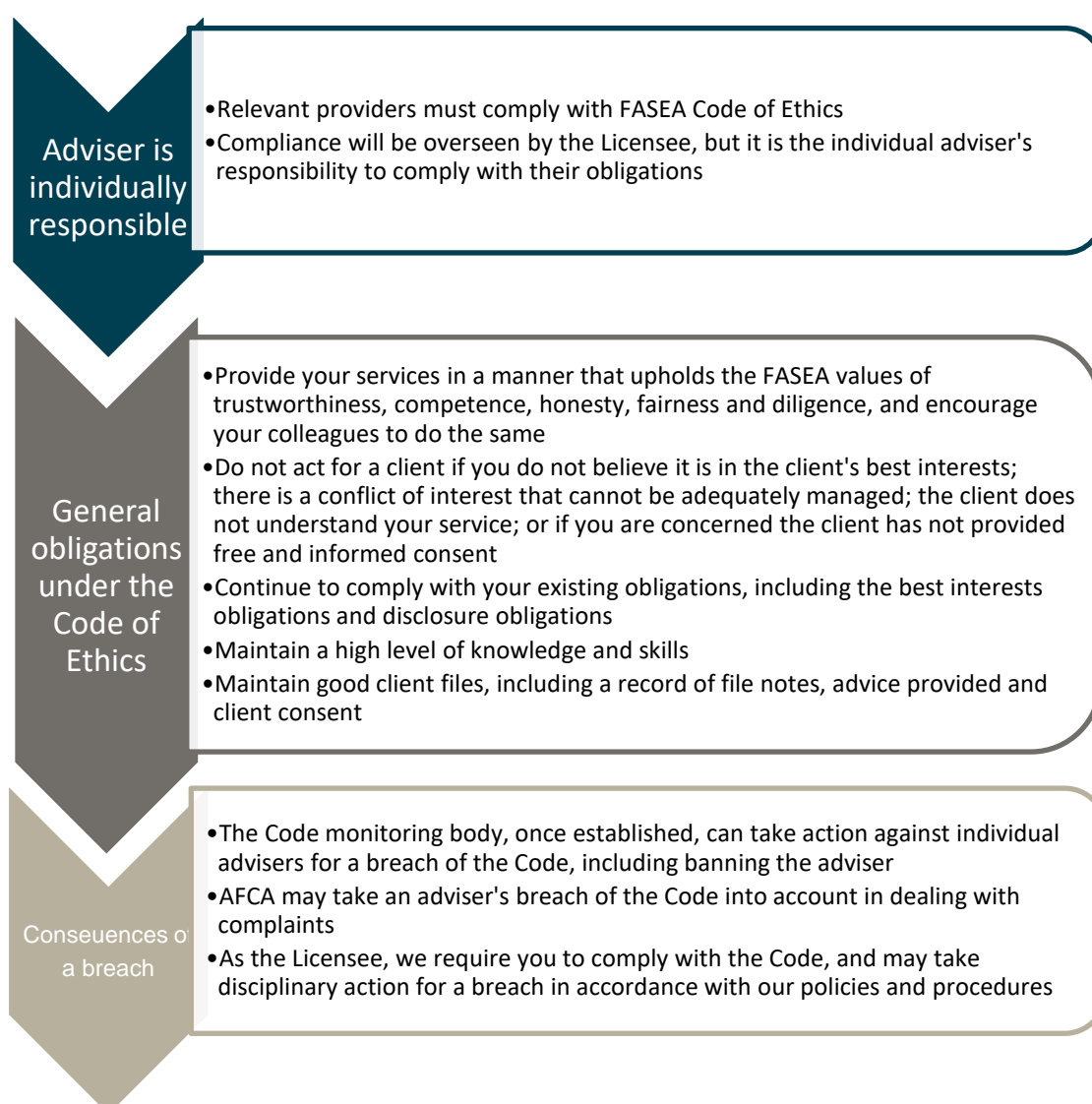


FASEA Code of Ethics Policy

Version 1.01
Last Updated 25.01.21

At a glance



Key Requirements

Licensee

WHAT YOU MUST DO
Ensure advisers are aware of their obligations under the FASEA Code of Ethics
Seek feedback from advisers to ensure they are facilitating, not hindering, compliance with the Code
Have adequate arrangements in place to assist advisers comply with their Code obligations, including the obligation to manage conflicts of interest
Monitor, supervise and enforce advisers' compliance with the FASEA Code of Ethics

Representative

Do
Act in accordance with the FASEA values of trustworthiness, competence, honesty, fairness and diligence, and speak up if you believe a fellow adviser is not upholding these values
Speak to Compliance if any process, procedure or template is hindering your compliance with the Code
Ensure clients give free, prior and informed consent, and understand the advice they receive and the fees they will pay
Continue to manage conflicts of interest and prioritise clients' interests when giving advice
Continue to comply with, and have regard to, your Best Interests Duty (BID) obligations
Maintain good record keeping practices

WHAT YOU MUST NOT DO
Try to circumvent the FASEA Code of Ethics, or any other law, to avoid compliance
Provide advice if the dominant purpose of providing that advice is to receive a financial or other benefit, or if an objective person may reasonably conclude the advice did not prioritise the clients' interests above your own
Shy away from testing your understanding and discussing the application of the FASEA Code of Ethics to different fact scenarios with colleagues and Compliance
Turn a blind eye to poor behaviour of colleagues
Waive your legal protections or rights when dealing with ASIC

Introduction and scope

This policy outlines how we expect advisers who are “relevant providers” under the FASEA Code of Ethics (**Code**) (**you, adviser**) to address and comply with the Code. A relevant provider is an individual adviser that is authorised to provide personal financial product advice to retail clients.

The measures in this policy are intended to help the Licensee meet its legal and licensing requirements, and to help advisers meet their legal obligations.

Responsibility

As an adviser, you have the obligation to comply with the Code. In particular, you have a responsibility:

- not to act if, using your professional judgment, you believe it would not be in the best interests of the client
- not to act if there is an actual conflict of interest (a potential conflict of interest that cannot be managed)
- to ensure your records of clients are kept in a form that is complete and accurate
- to ensure your client understands the service you provide and gives free, prior and informed consent before you act, including the fees payable
- to maintain the required level of knowledge and skills

As a licensee, we have an obligation to monitor and supervise your compliance with the Code. Our Compliance Manager is responsible for ensuring that you comply with this policy. Our Compliance Manager is also responsible for ensuring that the policy is reviewed.

What is the Code and how does it apply?

Purpose of the Code and expectations

The Code promotes the ethical conduct of individual advisers in the financial services industry. Accordingly, the obligations under the Code are owed by the individual adviser and not the Licensee. The Code is in addition to your best interests obligations.

We expect all representatives to act in an ethical manner that complies with the Code and promotes the FASEA values of trustworthiness, competence, honesty, fairness and diligence. We also see this to be part of our licence condition and statutory obligation to provide our services honestly, efficiently and fairly.

Who and what does the Code apply to?

The Code applies to all relevant providers and is compulsory when providing personal financial advice and services to retail clients.

The Code is ambiguous about whether or not it applies to all advice and services provided by relevant providers – that is, to personal and general advice provided to retail and wholesale clients – or just to personal advice provided to retail clients. FASEA guidance, which is not law, states that the Code is for advisers “when providing personal advice and services to retail clients. It does not apply to other forms of advice.”¹

As a licensee, we have a conservative risk appetite and we require you to act in accordance with the Code in relation to all advice and services you provide to clients.

FASEA guidance and terminology

FASEA guidance is not law. We consider FASEA guidance, but ultimately base our approach, policies and procedures on the wording of the Code.

Whilst Ethics, and therefore the Code, need to be consistently adhered to, the circumstances in which they are applied are many and varied. FASEA provides a number of examples to assist our understanding of how the Code may be applied in specific fact scenarios. However, these examples cannot be extrapolated or used to extract rules to apply to all situations.

Some of the terminology in the Code overlaps with terms used in chapter 7 of the *Corporations Act 2001* (Cth). However, the terminology is not used consistently. Terms used in this policy have the meaning given to those terms in the Code.

How will the Code be enforced?

The Code will be enforced by:

- the Code monitoring body, which has not yet been established
- licensees

Once established, the Code monitoring body may suspend or ban an adviser from providing financial product advice for a breach of the Code.

As a licensee, it is a statutory requirement and a condition of our licence that we take reasonable steps to ensure our representatives comply with the financial services laws. The Code is a financial services law and we will monitor and enforce your compliance with it. ASIC may take action against the Licensee for an adviser’s breach of the Code if it failed to take reasonable steps to ensure compliance, but ASIC cannot ban an individual adviser for the breach.

A client cannot take action against you for a breach of the Code. If you have breached one of your Code obligations, it is likely you have also breached your BID obligations). However, AFCA will consider the Code in determining any complaint made against you or the Licensee by a client that relates to conduct that occurred post 1 January 2020.

How will we help you comply with the Code?

We structure our business in a way that facilitates compliance with the law. We impose various requirements on our advisers, and provide appropriate compliance guidance to manage the risks associated with our business and to satisfy our requirements as a licensee.

We monitor and supervise compliance with the Code in the same way we monitor and supervise general conduct and compliance with financial services laws, including but not limited to the best interest obligations. This includes:

- providing guidance on the Code
- considering Code requirements when drafting other policies
- compulsory annual training on the Code
- reviewing Code compliance in our regular file audits
- reviewing Code compliance in our regular conduct reviews
- annual attestations from advisers regarding conflicts of interest


We have set out guidance and expectations in relation to each Code standard in the table below.


If any of our systems, processes or other controls prevent you from complying with the Code, please inform your Compliance Manager as soon as possible so that we may address any issue.


We will continue to monitor developments and guidance released, and update this policy as necessary. We will also consider decisions published by the Code monitoring body once it has been established.


Complying with the 12 standards in the Code


The table below sets out guidance on each Code standard. Where relevant, we have included examples of the types of conduct that are consistent or inconsistent with the Code.


STANDARD	OUR EXPECTATIONS TO MEET THIS REQUIREMENT	DOCUMENTATION REQUIRED
1. You must act in accordance with all applicable laws, including this Code, and not try to avoid or circumvent their intent	<p>We expect you to comply with all applicable laws at all times. To us, this means acting in the spirit of the law. That is, just because you can, doesn't mean you should. Ask the question "should we?" not "can we?".</p> <p>If you are unsure about whether a particular course of action you would like to take is contrary to the Code or other law, speak your Compliance Manager.</p>	N/A
2. You must act with integrity and in the best interests of your clients	<p>It is unclear if this Standard applies to all dealings with all clients, or whether it is restricted to providing personal advice to retail clients. As a licensee, we expect you to act with integrity in all dealings with clients. We also expect you to act in the best interests of all clients. When providing advice, ask: "based on what I know, in my professional judgment will my advice and recommendations improve the client's financial wellbeing?"</p> <p> When providing personal advice to retail clients, this obligation is owed in addition to your best interests obligations in the <i>Corporations Act 2001</i> (Cth). Refer also to our <i>Best Interests Obligations Policy</i>.</p> <p>WARNING: FASEA provides a number of examples about the application of Standard 2. Examples are used to assist our understanding of how the Code is applied, but are specific to the fact scenario. A small change in the facts will change how the Code may apply.</p>	<ul style="list-style-type: none"> • File notes of correspondence with clients • Fact find • Research undertaken • SOA/ROA •


STANDARD	OUR EXPECTATIONS TO MEET THIS REQUIREMENT	DOCUMENTATION REQUIRED
<p>3. You must not advise, refer or act in any other manner where you have a conflict of interest or duty</p>	<p>Standard 3 does not prohibit you from acting for a client if there is a potential conflict of interest. Rather, it prohibits you from acting if there is a conflict of interest that <u>cannot be appropriately managed</u>.</p> <p>Before acting for a client, identify any conflicts of interest and make a professional assessment about whether your personal interests or duties are incompatible with the client's interests or the duties you owe to the client. When making that assessment, consider:</p> <ul style="list-style-type: none"> • any underlying drivers influencing the advice • if an objective reasonable person in possession of all the facts would conclude that the conflict may induce the adviser to act other than in the client's best interest <p>For example, you will breach Standard 3 where the dominant purpose of providing advice to clients is to derive profits from selling those clients' ancillary products or services from which you personally benefit.</p> <p> Refer also to our <i>Best Interests Obligations Policy</i> for guidance on managing conflicts of interest and prioritising clients' best interests. We will monitor and review compliance with Standard 3 in a similar way to how we monitor compliance with the existing conflicts priority obligation.</p> <p>NOTE: Good record keeping is vital. For example, record correspondence with clients, including any disclosures made about potential conflicts, and document the reasoning behind your recommendations, including any research conducted.</p>	<ul style="list-style-type: none"> • File notes of correspondence with clients • Disclosure documents • Fact find • Research • Annual conflict attestations •

STANDARD	OUR EXPECTATIONS TO MEET THIS REQUIREMENT	DOCUMENTATION REQUIRED
<p>4. You may act for a client only with the client's free, prior and informed consent. If required in the case of an existing client, the consent should be obtained as soon as practicable after this Code commences</p>	<p>We expect advisers to clearly explain their services at the point of engagement with clients. For existing clients, we expect advisers to explain their services, and seek consent if the service to be provided changes in scope.</p> <p>You must make it clear to the client:</p> <ul style="list-style-type: none"> • what services will be provided, including any limitations (for example, the limits of general advice should be explained if providing general advice) • the terms on which they will be provided, including fees • how your advice will be recorded and how their personal and confidential information will be treated. <p>We expect you to take reasonable steps to satisfy yourself that the client understands the service being provided. If you are unsure, ask the client to repeat their understanding of your service and the terms. Be sure to keep a file note of the conversation.</p> <p>NOTE: You are not required to service every client. If you believe that a client is not capable of giving free, prior or informed consent, or presents a business risk, consider whether it is appropriate to act for that client. If in doubt, speak with your Compliance Manager.</p>	<ul style="list-style-type: none"> • File note • Signed authority to proceed • Signed SOA • Signed ongoing fee arrangement • Written and signed consent • Disclosure documents • Privacy policy
<p>5. All advice & financial product recommendations you give to a client must be in the best interest of the client and appropriate to the client's individual circumstances</p> <p>You must be satisfied that the client understands your advice, and the benefits, costs and risk of</p>	<p>Best interest and appropriate</p>  <p>This obligation is similar to advisers' existing best interests duty obligation, which applies when providing personal advice to retail clients, and we expect advisers to continue complying with the best interests duty safe harbour steps. Refer also to our <i>Best Interests Obligations Policy</i> for further guidance.</p>	<ul style="list-style-type: none"> • File notes of correspondence with clients • Fact find • Research undertaken • Disclosure documents • SOA/ROA

STANDARD	OUR EXPECTATIONS TO MEET THIS REQUIREMENT	DOCUMENTATION REQUIRED
<p>the financial products that you recommend and you must have reasonable grounds to be satisfied</p>	<p> You must gather sufficient information to satisfy yourself that your advice and recommendations are in the client's best interest. The subject matter of the advice will determine what information is required – you do not necessarily need to conduct an extensive fact find each time you provide advice. For example, advice that is limited to stocks will not require information about a client's life insurance. It is, therefore, vital that the subject matter of the advice is clearly set out in the scope section of the SOA, and appropriately tailored to accurately reflect what the client is asking you to address. Refer to our <i>Best Interests Obligations Policy</i> and <i>Giving Financial Product Advice Policy</i> for guidance on scoping.</p> <p>Client's understanding</p> <p>We expect you to test the client's understanding, and take reasonable steps to satisfy yourself that the client understands the advice, recommendations and risks. If you are unsure, ask the client to repeat their understanding. Be sure to keep a file note of the conversation.</p> <p>Be clear on who the client is, and if the client is a couple, make sure both people understand the advice. Sometimes one person in the couple is the dominant communicator and there is a risk that you allow that person to speak for their spouse. File notes and signature clauses need to show that both people individually understand the advice benefits, costs and risks.</p> <p>A signed statement saying the client understands the advice will not be sufficient to prove compliance with this obligation.</p> <p>WARNING: FASEA provides a number of examples about the application of Standard 5. Examples are used to assist our understanding of how the Code is applied, but are specific to the fact scenario. A small change in the facts may change how the Code may apply.</p>	



STANDARD	OUR EXPECTATIONS TO MEET THIS REQUIREMENT	DOCUMENTATION REQUIRED
<p>6. You must take into account the broad effects arising from the client acting on your advice, and actively consider the clients broader, long-term interests and likely circumstances</p>	<p>We expect advisers to conduct reasonable enquiries when providing advice to a client. This requires you to turn your professional mind to the implications <u>of the advice</u>, including the effects it may have on family members.</p> <p>Remember that you owe the duty to your client, in relation to the advice. When you scope the advice, consider the client's longer-term requirements and ask relevant questions. For example, insurance advice should include confirmation that the client understands the long-term cashflow implications, and you should be satisfied that the client has appropriate funds to pay the premium currently and in the future.</p> <p>Your consideration is limited to the scope of the advice and the broader, long-term interests of acting on the advice for your client. Although these interests will often include the client's family, the Code does not impose duties on you that are enforceable against you by the client's family.</p> <p> Refer also to our Best Interests Obligations Policy and Giving Financial Product Advice Policy for guidance.</p> <p>WARNING: FASEA provides a number of examples about the application of Standard 6. Examples are used to assist our understanding of how the Code is applied, but are specific to the fact scenario. A small change in the facts may change how the Code may apply.</p>	<ul style="list-style-type: none"> • File notes of correspondence with clients • Fact find • Research undertaken • Disclosure documents • SOA/ROA •
<p>7. The client must give free and informed consent to all benefits you and your principal will receive in connection with acting for the client, including any fees for services that may be charged</p>	<p>We expect our advisers to clearly disclose and explain all fees and charges, and any benefits that they or the Licensee will or may receive, as a result of dealing with the client. This includes financial and other benefits.</p> <p>It is not sufficient to rely on the provision of a Financial Services Guide, Product Disclosure Statement and/or fees disclosures made in an SOA.</p>	<ul style="list-style-type: none"> • Files note • Signed authority to proceed/written and signed consent • Signed SOA

STANDARD	OUR EXPECTATIONS TO MEET THIS REQUIREMENT	DOCUMENTATION REQUIRED
<p>If required in the case of an existing client, the consent should be obtained as soon as practicable after this Code commences</p>	<p>We expect to you take reasonable steps to satisfy yourself that the client understands applicable fees and/or other benefits. If you are unsure, ask the client to repeat their understanding of your service and the terms. Be sure to keep a file note of the conversation.</p>	<ul style="list-style-type: none"> • Signed ongoing fee arrangement • Disclosure documents • Privacy policy • List any other tools or work sheets that you require
<p>8. You must ensure that your records of clients, including former clients are kept in a form that is complete and accurate</p>	<p>We expect advisers to maintain clear and complete records in relation to each client of:</p> <ul style="list-style-type: none"> • all dealings and correspondence • advice provided • arrangements or agreements in place <p> Refer to our <i>Record Keeping Policy</i> for more guidance.</p>	<ul style="list-style-type: none"> • File notes of correspondence with clients • Fact find • Research undertaken • Disclosure documents • SOA/ROA • Ongoing fee arrangement • Authority to proceed/ other signed agreement •
<p>9. All advice you give, and all products you recommend to a client must be offered in good faith and with competence and be neither misleading nor deceptive</p>	<p>We expect all advisers to act with integrity and in good faith when dealing with all clients, and expect you to uphold the FASEA values of trustworthiness, competence, honesty, fairness and diligence.</p> <p>We refer to and repeat our comments above in relation to Standards 1, 2 and 3.</p>	<ul style="list-style-type: none"> • File notes of correspondence with clients • Fact find • Research undertaken • Disclosure documents • SOA/ROA

STANDARD	OUR EXPECTATIONS TO MEET THIS REQUIREMENT	DOCUMENTATION REQUIRED
10. You must develop, maintain and apply a high level of relevant knowledge and skills	<p>We expect advisers to have and maintain a high level of knowledge and skills and to apply this when advising clients.</p> <p> Refer to our <i>Training and Education Policy</i> for guidance on our training and CPD requirements.</p>	<ul style="list-style-type: none"> • Training register • CPD plan
11. You must cooperate with ASIC and monitoring bodies in any investigation of a breach or potential breach of this Code	<p>We expect advisers to deal with regulators in a cooperative and professional manner.</p> <p>If you receive any correspondence from ASIC, inform your Compliance Manager as soon as possible. After the initial contact, do not engage with or speak to ASIC without conferring with your Compliance Manager.</p> <p>WARNING: This Standard does not take away your current legal protections against self-incrimination, or require you to take additional steps to assist ASIC in their investigation. Do not provide information to ASIC without speaking to your Compliance Manager.</p>	N/A
12. Individually and in cooperation with peers, you must uphold and promote the ethical standards of the profession and hold each other accountable for the protection of the public interest	<p>We reiterate that we expect all advisers to act in accordance with the FASEA values of trustworthiness, competence, honesty, fairness and diligence.</p> <p>If you have any concern about your compliance with the Code, or if you find yourself in a situation where you are unsure about how to proceed, speak to your Compliance Manager.</p> <p>WARNING: Standard 12 does not require you to be a whistleblower, although that could be appropriate in some circumstances. If you see a colleague that is acting against the FASEA values, take it up with them. If you are particularly concerned, speak to your Compliance Manager.</p>	N/A

References

Related tools/policies

 Policies	Best Interest Duty, Giving Financial Product Advice, Advice & Disclosure Documents, Client Advice Fees, Conflicts of Interest, Training, Record Keeping
 Tools (including templates)	File Note Template, Fact Find

Keywords: Code, ethics, personal advice, FASEA, best interests duty, conflicts of interest

Legislative Requirements & References

Legislation	<i>Corporations Act 2001</i> (Cth) – Chapter 7
Legislative instruments	FASEA Code of Ethics
Regulatory guidance	FG002 Financial Planners and Advisers Code of Ethics 2019 Guidance, Preliminary Response to Submissions

Endnotes

¹ Preliminary Response to Submissions, FG002 Financial Planners and Advisers Code of Ethics 2019 Guidance, 20 December 2019, page 10.