FINANCIAL PLANNING
ASSOCIATION *of* AUSTRALIA

Summary of FPA Professional Framework

DATE: MAY 2014

Overview

In most professions, regulation is a dynamic interaction between government-imposed legal requirements, business-imposed rules of work, and the expectations of professional peers as manifested in professional obligations. Each of these systems of regulation have the potential for overlap with each other, but it is the goal of the FPA's Code of Professional Practice and Code of Ethics to respond to those issues that are not covered in law, or which the law does not provide a sufficient standard for professional financial planning practice.

The FPA's professionalism framework applies to all CFP® and AFP® practitioner members as a directly enforceable form of professional regulation. It also provides a foundation of expectations and norms for wider industry application and provides a vital link between overarching statutory regulation, licensee obligations, and expected professional behaviour.

In order to fulfill our obligations as a professional body the FPA has not only led the global community in the development of professional regulation, but as an organisation we ourselves undergone substantial changes. Since 2009, the FPA has undertaken the following initiatives to strengthen the professional obligations on our members:

- Effective 1 July 2012, the FPA changed its membership structure (with the support of members) to move to a professional body with a membership solely of financial planner practitioners (this received a 94% yes vote from membership at our EGM in April 2011).
- The membership change ensured the accountability to adhere to professional obligations sits with the financial planner when providing services to consumers, which complements the regulatory and licensee obligations to enhance consumer protections.
- The FPA has moved to higher standards of membership which will require, for all new members, a minimum degree qualification and one year experience from 1 July 2013.
- Continued to build a Professional Framework for financial planners, as evidenced by the introduction of a new Code of Professional Practice;
- Put new disciplinary regulations in place for enforcing the FPA's Code and professional practice obligations;
- In October 2009 (prior to FoFA), the FPA launched a Remuneration Policy for our members, banning investment commissions on new business from July 2012;
- Updated the FPA's Continuing Professional Development (CPD) policy, ensuring a qualitative approach is taken for ongoing training of financial planners.

All these initiatives served to change the professional landscape under which members of the FPA operate in Australia.

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The FPA has harmonised nine separate layers of obligation for members into a Code of Professional Practice, with all rules and regulations being captured through:

1. Code of Ethics – enshrines the high standards of professional behaviour that a member presents in the course of the provision of professional services.

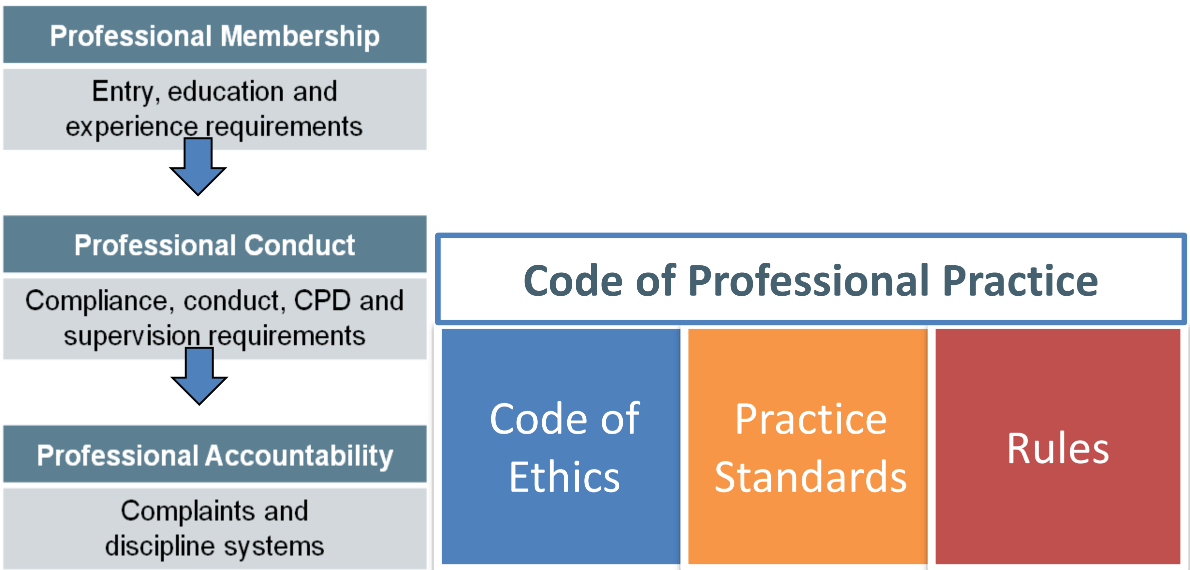
2. Practice Standards – establishes the benchmark of expectations in professional practices, and promotes the six-step financial planning process in delivering quality advice and the professional conduct of FPA members that enhances the reputation of the profession.

3. Rules of Professional Conduct – underpins the minimum requirements with which a member must conform in order to demonstrate professionalism.

4. Guidance – provides guidance to members in interpreting elements of the single Code framework and establishes best practice models that assist the members' day to day activities in providing professional services.

This is world-leading, but in itself it is not enough. A profession must also have a professional framework. The FPA has a framework for:

- professional membership
- professional conduct
- professional accountability



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Binding professional obligations

The FPA first adopted a binding Code of Ethics and Rules of Professional Conduct on 5 February 1992. In 1997, in anticipation of the introduction of the FPA's revised Code of Ethics and Rules of Professional Conduct on 1 May 1997, the FPA Compliance Handbook noted:

> *As a condition of FPA membership, members sign a declaration agreeing to abide by the FPA Code of Ethics.*
>
> *Principal and Practitioner members acknowledge and agree that the substance and contents of any charge for violation of FPA Code of Ethics and Rules of Professional Conduct against a member and the action taken in respect of such a charge, may be notified to any relevant government or statutory authority, and the disciplinary finding published with or without disclosure of the name of the member in the official publication of the Association by notification to the members of the Association.*[1]

The FPA completed a further round of modifications to the Code of Ethics and Rules of Professional Conduct effective from 1 July 2009. These changes developed and aligned FPA professional standards into a 'single code of practice', committing financial planning in Australia to the FPSB global Code of Ethics and new global Practice Standards, and introduced a revised set of 122 Rules of Professional Conduct effective from 1 July 2010. In July 2011, the FPA completed an historic restructure of its membership to refocus on the individual practitioner professional, dissolving the Principal (AFS Licensee) Member category and bringing further changes to its Code of Professional Practice. Most recently, in October 2012 the FPA embarked on an ambitious further update of its professional code to reflect the profession's response to the legislative enactment of the Future of Financial Advice reforms to the Corporations Act 2001.

Just like the application of statutory regulation, professional regulation is a combination of stated rules and supporting regulations. As the governing entity of a professional association the FPA Board is empowered by the FPA Constitution to make rules and regulations that govern member behaviour. In addition to governing member behaviour, these rules place obligations on the FPA to monitor behaviour and enforce the regulations according to specific requirements. This activity is undertaken by the FPA's Professionalism Division (Policy and Conduct, Professional Standards, Professional Designations). The division oversees the development and application of standards, as well as the active investigation of complaints and general investigation of malpractice risks in the membership. In addition to a Professional Accountability team, the FPA has a formally constituted and independently chaired Conduct Review Commission which follows a private tribunal model for disciplinary proceedings against members.

It is currently best practice for AFS Licensees to map their own adviser requirements and business rules to the expectations established in the FPA Code of Professional Practice.

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[1] FPA Compliance Handbook- A Handbook of Compliance Best Practice for Financial Planners 5.2 Apr/97

The Financial Ombudsman Service (FOS) has publicly recognised the FPA Code of Professional Practice, providing evidence of the normative status of the Code for financial planners as an industry standard upheld by the leading External Dispute Resolution Scheme in financial planning disputes.

Client Conduct – Putting Client First

Rule 1 of the FPA's Code of Ethics is a requirement for "Putting the Client First", and was introduced by the FPA in 2009, before the Future of Financial Advice reforms.

"Putting the Client First", together with the rest of the FPA's Code of Professional Practice has been shown to comply with the statutory "best interest duty" test introduced in the FoFA regulations. FPA members remain one step ahead of the curve, continuing to focus on delivering best in class financial advice to clients at a time when the wider industry is dealing with a rapidly shifting regulatory environment.

The FPA's 'client first' obligation was introduced and embedded by our members well before the 'best interests duty' was proposed by the Government to be mandated in the Corporations Law. While this shows the ability of professional bodies to respond to the consumer protection needs of specific professions, the fact that a best interests duty was legislated highlights how the voluntary nature of professional membership leaves many industry participants unaccountable to professional obligations. This shows the need for the regulatory design to facilitate a legislative environment that encourages industry participants to be members of professional bodies to ensure professional obligations are extended to all service providers.

Conflicted Remuneration

In October 2009, the FPA Board lead the industry by committing to ban conflicted remuneration. The FPA's Code of Professional Practice was amended according and since 1 July 2012, FPA members have committed that all new advice will be free from conflicted remuneration arrangements. Many of the recommendations published in FPA's Remuneration Committee Report now appear under the FoFA regulations.

Public Complaints System and Investigations Handling

The FPA has a formal complaints and investigation handling system codified in the FPA Disciplinary Regulations. The system works as a result of cooperation between the FPA's accountability team and Conduct Review Commission (CRC).

The accountability team is responsible for investigating complaints, gathering evidence, conducting preliminary investigations, inviting the member to assist and allowing the member every opportunity to give an explanation, and assisting complainants throughout the process. The aim is to deliver a recommendation to the Chair of the CRC as to whether FPA's Code of Professional Practice has been contravened and if the Chair should issue a breach notice.

The Conduct Review Commission (CRC), through its independent Chair, is responsible for reviewing the recommendation made to it by the FPA's accountability team, issuing a breach notice if satisfied that the evidence and legal arguments are sound, arranging and conducting hearings, and determining the most appropriate disciplinary action to take.

The FPA receives complaints by consumers regarding breaches made by FPA members. In the quarter from October - December 2012, there were 12 new investigations received and 13 investigations closed[2]. In the June 2013 quarter (April to June 2013), the FPA received five new complaints, finalised eight investigations and had nine ongoing investigations.[3] The FPA publishes quarterly Professional Standard reports on its complaints procedures, which includes the identification of any remedial tips for planners to help educate members in adhering to the Code obligations, and minimise the risk of breach reoccurrence for consumers.

Active Professional Disciplinary Panel

The CRC receives complaints, with almost half of them being Members providing unsuitable recommendations (44%)[4]. 21% of complaints regard misleading conduct, and 9% regard non-disclosure of fees, risks and conflicts of interest.[5] In 2011-12, the most common reason for a breach in which a determination was provided was Rule 111 - *providing explanation of risks in terms the client is likely to understand*[6].

There are a number of sanctions available for the CRC to enforce, depending on the extent of the breach and amount of Member cooperation. The most regular sanctions given by the CRC are admonitions, further education and supervised practice, and fines ranging from $1,500 to $20,000 per contravention[7]. Although expulsion and suspension are uncommon sanctions, as the CRC aims to promote ethical behaviour in the industry and reintegration into good standing, the CRC had 2 terminations of memberships and one suspension over the October-December 2012 quarter[8]. Where the CRC believes that the individual can provide good evidence that their experience and expertise can contribute to the financial planning industry and there remains some scope that the individual will regain adherence to the professional obligations, the CRC will be more encouraged to designate further education as a sanction rather than expelling or suspending the individual.

[2] http://www.financialplanningmagazine.com.au/analysis/quarterly-complaints-and-discipline-report-oct-1
[3] http://www.financialplanningmagazine.com.au/analysis/quarterly-complaints-and-discipline-report-april-t
[4] From Bad Practice to Good Practice and the FPA's Conduct Review Commission - Dimity Kingsford-Smith's article
[5] From Bad Practice to Good Practice and the FPA's Conduct Review Commission - Dimity Kingsford-Smith's article
[6] http://www.fpa.asn.au/media/FPA/FPA%20Standards/FPA_ProfessionalStandardsReport2012-FINAL.pdf - FPA Annual Report 2011-12 p20
[7] From Bad Practice to Good Practice and the FPA's Conduct Review Commission - Dimity Kingsford-Smith's article
[8] http://www.financialplanningmagazine.com.au/analysis/quarterly-complaints-and-discipline-report-oct-1

Once a decision is made by the Panel, the decision can be appealed. The CRC has had only one appeal of its determinations to date, which was dismissed[9], demonstrating that the decisions are fairly and accurately made and the sanctions provided are reasonable.

The powers and activity of the CRC demonstrate the significant role professional bodies can play in the regulatory design, particularly in responding to consumer complaints and ensuring appropriate action is taken against inappropriate conduct of individual providers.

The FPA notes the civil penalty provisions within the Corporations Act as an alternative to criminal prosecution and to give ASIC sanctions to meet non-fraudulent contraventions. However, the Corporations Act is specific and express that they are to be civil in procedure, rules of evidence and standard of proof. While the FPA understands the need for such legal requirements for ASIC, in contrast the FPA's Conduct Review Commission Disciplinary Panel may inform itself as it deems necessary and is not restricted to the rules of evidence. It must make its determination on the basis of the material before it and on the balance of probabilities. This enhances our ability to respond to consumer complaints and allows for flexible solutions to be implemented to enhance the protection of the public and the profession.

The FPA has a demonstrated capacity to act promptly to inappropriate behaviour that puts consumers at risk, with sufficient flexibility to achieve results.

Publication of Disciplinary Decisions with Reasons

Under Part 10 of the FPA Disciplinary Regulations, the CRC is required to produce a statement of reasons for its determination regarding a breach. Part 13 allows the FPA to publish the outcome of the determination on the FPA's website and in the Financial Planning Magazine. Publication can be following a special breach due to non-cooperation, following a Disciplinary Panel determination or following a summary dismissal. The Member's name is published in the case of expulsions and the name of the complainant withheld.

The FPA also acts to incorporate the reasons for the determination into training and feedback to members. This ensures that recurrences of common breaches are significantly reduced, and members are made aware of areas in which they have to take extra care.

Complaint procedures and the activity of the CRC is one strategy the FPA uses for reducing infringements of the Code of Professional Practice. In addition, the FPA uses training, continuing professional development (CPD) obligations, and improvements to the Code of Professional Practice itself, to continuously improve the professional conduct of individual members and enhance consumer protection.

[9] http://www.fpa.asn.au/media/FPA/FPA%20Standards/FPA_ProfessionalStandardsReport2012-FINAL.pdf - FPA Annual Report 2011-12 p20

Supervision and Oversight of Members

A key aspect of consumer protection is the accountability of financial services providers through compliance monitoring and complaints management. A vital element of this process is the ability to identify and track trends and systemic issues, and to modify regulatory requirements to ensure consumer protection is improved. Professional bodies play a key role in this regard.

In addition to acting on complaints from consumers, the FPA also has the power to initiate investigations of its own under its supervisory and oversight capacity.

The FPA analyses information from its complaints procedures and compliance monitoring to identify and address issues affecting consumers and the quality of advice. This could range from planner education initiatives, to a review of the adequacy of professional obligations in extreme cases.

Managing these arrangements in-house also provides for the efficient use of member information and market intelligence to screen new applicants and to maintain an effective member registry.

Entry Requirements

Membership of the FPA requires a qualifying degree.[10] This is on top of requiring at least one year's supervised experience and set well above the minimum standards in the law (eg. compliance with RG146 Licensing: Training of Financial Product Advisers).

Training and Competence

Members have minimum ongoing training requirements in line with FPA's Continuing Professional Development (CPD) Policy. Compliance is mandatory and audited annually. Failure to demonstrate compliance can result in disciplinary sanction including expulsion.

The FPA's dedicated in-house team of training development and delivery experts oversee the implementation of its world class CPD Program. Programs span 6 disciplines: Capability, Professional Conduct, Critical thinking, Reflective Practice, Interdependence, Attributes and Performance. Programs go beyond the requirements in RG146 (Licensing: Training of Financial Product Advisers) while achieving compliance.

Certification and Accreditation

The FPA administers a two tiered accreditation system through the certification of either an AFP® or CFP® mark which are both tightly integrated with the CPD Program.

The AFP® mark confirms that the financial planner is a professional, qualified and experienced member of the FPA, committed to the world-leading FPA Code of Professional Practice.

[10] http://www.fpa.asn.au/media/FPA/CFP/Education_2013ApprovedDegreeList1_13.pdf

The CFP® designtion is the highest level of certification that a financial planner can achieve. The CFP® mark is internationally recognised and represents standards of excellence. It demonstrates a commitment to professionalism in financial planning to the public and peers alike.

From a regulatory perspective, CFP® professionals account for over 35% of the financial planner population but only approximately 7% of ASIC enforcement action.[11] This exemplifies the effectiveness of FPA's systems, policies and vision to professionalise the industry, and the vital role professional bodies play in 'norming' good professional behaviour beyond legal minimum standards.

CERTIFIED FINANCIAL PLANNER™ Professionals (CFP®)

The CERTIFIED FINANCIAL PLANNER® designation is the peak certification for financial planners globally, with some 150,000 CFP® professionals operating in 24 countries around the world. United Kingdom, United States, Canada, France, Germany, Ireland, Japan, New Zealand, South Africa, Switzerland, Australia, Austria, Brazil, People's Republic of China, Chinese Taipei, Hong Kong, India, Indonesia, Malaysia, The Netherlands, Republic of Korea, Singapore, Thailand, and Columbia who is in the process of preparing to administer the CFP program.

To gain CFP certification, a planner must have completed an undergraduate degree, masters degree or PhD and have successfully completed all of the units of study in the CFP Certification Program. To enter the CFP program, at least three years of financial planning experience is also required. The CFP program is an advanced education program that covers the knowledge a financial planning professional must be able to draw on to deliver financial planning to clients, or when interacting with colleagues or others in a professional capacity.

The program consists of five units; four education units and one certification (examination) unit, which tests the ability to apply knowledge to financial planning situations in accordance with a globally recognised competency profile. The initial CFP certification process rests on the 'Four Es' (education, examination, experience and ethics). Importantly, there is a dedicated education unit on Ethics and Practice Standards.

Education: Candidates for CFP certification must master theoretical and practical financial planning knowledge by completing a comprehensive course of study that meets standards set by global Financial Planning Standards Board (FPSB).

Examination: Candidates for CFP certification must pass a comprehensive CFP Certification Examination that assesses their ability to apply integrated financial planning knowledge to real world client situations. Based on regular research of what planners do, the CFP Certification Examination covers the financial planning process, tax planning, employee benefits and retirement planning, estate planning, investment management and insurance.

[11] According to ASIC and FPA Data since 2009.

Experience: Candidates for CFP certification must meet relevant work experience standards (one-year supervised experience or a minimum of three years of unsupervised practice experience) in the financial planning process prior to being awarded CFP certification to ensure they possess financial counselling skills in addition to financial planning knowledge.

Ethics: Candidates for CFP certification must agree to abide by a strict Code of Ethics and Professional Responsibility that defines their ethical responsibilities to the public, clients and employers. CFP professionals must disclose any investigations or legal proceedings related to their professional or business conduct and agree to place the interest of clients first, act fairly, diligently and with integrity, and offer clients professional services that are objective and based on clients' needs. CFP professionals must disclose in writing to clients information about their sources of compensation and conflicts of interest.

In addition, CFP professionals are required to maintain technical competence and fulfil ethical obligations. In Australia, every three years, they must complete at least 120 hours of continuing professional development education to stay current with developments in the financial planning profession.

The certification unit of the CFP program consists of the preparation of a comprehensive financial plan incorporating Statement of Advice (SOA) requirements, written verification of the planner's communication and interpersonal skills by the planner's supervisor and a 3 hour multiple choice question examination. The program reflects the six step financial planning process of:

1. gathering client financial information;
2. identifying client goals;
3. identifying client's financial issues;
4. preparing client's financial plan;
5. implementing the recommendations based on the client's agreed financial plan;
6. reviewing and revise the plan at regular intervals, or when circumstances change.

CFP professionals must also adhere to the FPA Code of Professional Practice which includes the Code of Ethics, Rules of Professional Conduct and Practice Standards; and undertake 120 hours of quality on ongoing Continuing Professional Development (CPD) every three years.

Ongoing CPD requirements

Continuing Professional Development needs to be dynamic and up-to-date with the changes in the industry, financial services market, regulatory environment and economic conditions, and evolving consumer needs. Therefore, the FPA recommends the responsibility for setting, over-seeing and maintaining compliance with CPD requirements are being placed with industry rather than the Regulator.

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The industry is already well established in developing, maintaining and monitoring CPD requirements for financial advisers. For example, the following table summarises the key CPD requirements for practitioner members of the FPA.

CPD Points	**CFP® Professionals** 120 points/triennium with a minimum of 35 points each year	**Associate Financial Planners** 90 points/triennium with a minimum of 25 points each year
Non Accredited CPD	Capped at 60 points per triennium	Capped at 45 points per triennium
Ethics Points Requirement	Minimum of 3 points per triennium in the Professional Conduct specifically covering Ethics	
Content Requirements	• CPD activities undertaken *must* be captured in a Professional Development Record • Members are encouraged to take a holistic approach to CPD and as such should look to include CPD activities across all professional dimensions	
Record Keeping	The following records must be kept for 5 years • Professional Development Record (or CPD register) • Professional Development Plan • Additional Evidence for non accredited activity	

The FPA uses a Professional Dimensions Model for developing, maintaining and monitoring its CPD requirements. Being a professional is more than being technically competent. It's about being a rounded individual with ability to think critically and respond to client needs in a professional way. The Professional Dimensions describe the holistic skills and knowledge that it takes to be a professional.

The FPA's CPD Policy encourages members to identify development opportunities across the 6 professional dimensions. In our view any and all educational activity can fall under one or more of the dimension

Capability	The technical, legal, product and industry knowledge that it takes to advise clients and run a business
Professional Conduct	All the skills and knowledge that go into making good, informed and client centred decisions
Critical Thinking	The skills of how to process complex information and create new solutions
Reflective Practice	Skills in developing others and yourself - thinking about the professional and personal needs of others as well as your own
Interdependence	Engagement with the profession, the industry and peers in ways that instil consumer confidence
Attributes and Performance	Skills in building professional relationships and improving professional performance

CPD monitoring and enforcement

Adherence to the FPA's CPD Policy is a practitioner member requirement and failure to comply may ultimately result in suspension of membership.

The FPA undertakes audits of a random sample of Member Professional Development Records at the conclusion of each triennium. Members are be required to produce the following:

- An up-to-date Professional Development Plan
- A copy of their Professional Development Record
- Supporting materials for non accredited CPD (if requested)

To comply, the Professional Development Record should show evidence of CPD activity that:

- Links to the Professional Development Plan;
- Includes 3 points in the Professional Conduct Dimension specifically on Ethics
- A minimum of 25 points annually[12] with a minimum of 90 points over the triennium;
- No more than 45 points accumulated through non accredited activities; and
- No more than 15 points accumulated through non-accredited professional reading.

CFP Professionals may also be asked to provide a record of their CPD activity as part of the CFP professional membership renewal process. If a member's CPD record is found to be in deficit, the member will be given 90 days to rectify the deficit. Failure to cooperate with the audit process will result in disciplinary proceedings being brought against the member, which may lead to fines, cancellation of CFP Professional status or cancellation of FPA membership.

[12] The FPA measures CPD over financial years, from 1 July to 30 June.