

Title	Demonstrate understanding of the legislative framework for financial advisers		
Level	5	Credits	5

Purpose	<p>People credited with this unit standard are able to demonstrate understanding of:</p> <ul style="list-style-type: none"> – participants and terms in the legislative framework for financial advisers; – consumer legislation, and disclosure and conduct obligations of financial advisers; – the Code of Professional Conduct for Authorised Financial Advisers; and – the participant roles and responsibilities for complaint resolution and implications for financial advisers.
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Classification	Financial Services > Financial Advice
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Available grade	Achieved
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Explanatory notes

- 1 For the purposes of authorisation of a financial adviser under the requirements of the Financial Advisers Act 2008, the Financial Markets Authority will only recognise assessment conducted by the ElectroTechnology Industry Training Organisation (ETITO) through its centrally-administered assessment system. Therefore, the only valid assessment tool for this unit standard is an examination administered by ETITO.

- 2 References
 Consumer Guarantees Act 1993;
 Fair Trading Act 1986;
 Financial Advisers Act 2008;
 Financial Advisers (Code of Professional Conduct for Authorised Financial Advisers) Notice 2010;
 Financial Advisers (Definitions, Voluntary Authorisation, Prescribed Entities, and Exemptions) Regulations 2011;
 Financial Advisers (Disclosure) Regulations 2010;
 Financial Markets Authority Act 2011;
 Financial Service Providers (Exemptions) Regulations 2010;
 Financial Service Providers (Registration and Dispute Resolution) Act 2008;
 Trustee Act 1956;
 and all subsequent amendments.

3 Definitions

AFA – authorised financial adviser.

Category 1 and 2 products – financial service products as defined in the Financial Advisers Act 2008.

FMA – Financial Markets Authority.

QFE adviser – an adviser who is not an AFA and who is an employee or nominated representative of a qualifying financial entity (QFE), for whom the QFE ensures compliance responsibility for each employee and nominated representative of the QFE.

Register – the register of financial service providers established and maintained under section 24 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

Registrar – the Registrar of Financial Service Providers.

RFA – registered financial adviser.

The Code – Financial Advisers (Code of Professional Conduct for Authorised Financial Advisers) Notice 2010, prepared in accordance with the Financial Advisers Act 2008.

Outcomes and evidence requirements

Outcome 1

Demonstrate understanding of participants and terms in the legislative framework for financial advisers.

Evidence requirements

- 1.1 Terms used in the Financial Advisers Act 2008 are interpreted in accordance with the Act.

Range terms may include but are not limited to – financial advice, financial adviser, financial adviser service, investment planning service, discretionary investment management service, personalised service, class service, wholesale client, retail client, eligible investor, incidental service, broker, broking service.

- 1.2 Types of financial adviser are explained in terms of the type of financial adviser service they are permitted to provide in accordance with the Financial Advisers Act 2008.

Range types of financial adviser may include but are not limited to – RFA, AFA, QFE adviser;
type of financial adviser service may include but is not limited to – category 1 product, category 2 product, investment planning service, discretionary investment management service.

- 1.3 Function of FMA is described in accordance with Section 9 of the Financial Markets Authority Act 2011.

- 1.4 The purpose of the register is explained in relation to the Financial Service Providers (Registration and Disputes Resolution) Act 2008.

Outcome 2

Demonstrate understanding of consumer legislation, and disclosure and conduct obligations of financial advisers.

Evidence requirements

- 2.1 Disclosure obligations are explained in accordance with the Financial Advisers Act and the Financial Advisers (Disclosure) Regulations 2010.
- Range may include but is not limited to – RFA, AFA, QFE adviser.
- 2.2 Conduct obligations are explained in accordance with the Financial Advisers Act.
- Range may include but is not limited to – RFA, AFA, QFE adviser.
- 2.3 Requirements of the Fair Trading Act 1986 and its enforcement are explained for a given financial advice situation.
- Range requirements may include but are not limited to prohibitions related to – misleading and deceptive conduct, false or misleading representations.
- 2.4 Requirements of the Consumer Guarantees Act 1993 and its enforcement are explained for a given financial advice situation.
- Range requirements may include but are not limited to those related to – reasonable care and skill in providing a service, nature and quality of a service or product, provision of service or product ‘reasonably fit for purpose’.
- 2.5 Requirements of the Trustee Act 1956 and its enforcement are explained for a given financial advice situation.
- Range requirements may include but are not limited to those related to – exercising the care, diligence, and skill requirements (the Prudent Person Rule).

Outcome 3

Demonstrate understanding of the Code of Professional Conduct for Authorised Financial Advisers.

Evidence requirements

3.1 Standards of ethical behaviour described in the Code are explained in terms of the requirements for authorised financial advisers and applied to a given financial advice situation.

Range standards may include but are not limited to – Code Standard 1, Code Standard 2, Code Standard 3, Code Standard 4, Code Standard 5.

3.2 Standards of client care described in the Code are explained in terms of the requirements for authorised financial advisers and applied to a given financial advice situation.

Range standards may include but are not limited to – Code Standard 6, Code Standard 7, Code Standard 8, Code Standard 9, Code Standard 10, Code Standard 11, Code Standard 12, Code Standard 13.

3.3 Standards of competence, knowledge and skills; and continuing professional training, are explained in terms of the requirements for authorised financial advisers.

Range standards may include but are not limited to – Code Standard 14, Code Standard 15, Code Standard 16, Code Standard 17, Code Standard 18.

Outcome 4

Demonstrate understanding of the participant roles and responsibilities for complaint resolution and implications for financial advisers.

Evidence requirements

4.1 Participant roles and responsibilities in resolving complaints are described in accordance with the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Disputes Resolution) Act 2008.

Range participants may include but are not limited to – financial adviser, internal complaints processes, dispute resolution scheme, FMA, Disciplinary Committee.

4.2 Offences and corresponding penalties under the Financial Advisers Act 2008 are explained for a given financial advice situation.

Range financial advice situation may include but is not limited to those related to – RFA, AFA, QFE adviser.

4.3 The inspection powers of the Registrar are explained in terms of the requirements of a financial adviser, and penalties for non-compliance in accordance with the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

Planned review date	31 December 2015
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Status information and last date for assessment for superseded versions

Process	Version	Date	Last Date for Assessment
Registration	1	16 April 2010	30 September 2011
Rollover	2	21 July 2011	

Consent and Moderation Requirements (CMR) reference	0003
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This CMR can be accessed at <http://www.nzqa.govt.nz/framework/search/index.do>.

Please note

Providers must be granted consent to assess against standards (accredited) by NZQA, before they can report credits from assessment against unit standards or deliver courses of study leading to that assessment.

Industry Training Organisations must be granted consent to assess against standards by NZQA before they can register credits from assessment against unit standards.

Providers and Industry Training Organisations, which have been granted consent and which are assessing against unit standards must engage with the moderation system that applies to those standards.

Requirements for consent to assess and an outline of the moderation system that applies to this standard are outlined in the Consent and Moderation Requirements (CMRs). The CMR also includes useful information about special requirements for organisations wishing to develop education and training programmes, such as minimum qualifications for tutors and assessors, and special resource requirements.

Comments on this unit standard

Please contact the ElectroTechnology Industry Training Organisation at reviewcomments@etito.co.nz if you wish to suggest changes to the content of this unit standard