Overview of the New Financial Advice Regulatory Regime

In March 2021, the provision of retail financial advice will be regulated by the Financial Markets Conduct Act 2013 and the amendments introduced by the Financial Services Legislation Amendment Act 2019.

The new regime removes distinctions between different types of advisers, ‘class’ or ‘personalised’ advice, and the category of financial products.

It introduces universal duties, obligations and competency requirements.

The new duties are set in the legislation, a new Code of Conduct as well as regulations.

New Licensing

All retail advice will be covered by a license. All Financial Advice Providers (FAPs) will need to be licensed by the FMA and registered with the Financial Service Providers Register.

FAPs will be able to provide advice via three ways:

- **Financial Advisers**: Advisers engaged by a FAP to provide financial advice on its behalf
- **Nominated Representatives**: Individuals engaged by a FAP to provide advice on its behalf but have limited discretion and are tightly controlled by the firm
- **FAP’s own behalf**: FAP provides advice on its own account. This includes via a website platform ('robo-advice').

Financial advice providers will vary in size and composition, as these can range from large firms to single adviser business.

Universal Standards of Conduct and Competency

The new regime introduces universal conduct and client care duties. Anyone providing retail financial advice needs to operate under a FAP license, meet client care duties and comply with the Code of Professional Conduct for Financial Advice Services.

The new Code comes into force in March 2021. It sets minimum standards of ethical behaviour, conduct and client care, competence and knowledge and skills.

**Code of Professional Conduct for Financial Advice Services**

**Competence, Knowledge, and Skill**

1. Have general competence, knowledge and skill
2. Have particular competence, knowledge, and skill for designing an investment plan
3. Have particular competence, knowledge, and skill for product advice
4. Keep competence knowledge, and skill up-to-date

**Ethical Behaviour, Conduct, and Client Care**

1. Treat clients fairly
2. Act with integrity
3. Give financial advice that is suitable
4. Ensure that the client understands the financial advice
5. Protect client information
Fi360 Pacific provides education and training in investment governance best practices with reference to a global fiduciary standard. The new regime provides firms with the opportunity to assess and evaluate their compliance, processes and practices. Fi360 Pacific’s investment governance framework can help advisers and financial advice providers meet many of their new duties and obligations.

Advisers, as professionals who are responsible for providing investment advice and or managing investment decisions, are typically in a fiduciary role.

Information Disclosure

Under the new regime there are information disclosure requirements that apply. These are important as they enable consumers to make informed decisions when choosing where to receive financial advice, and when making financial decisions.

Firms or individuals who give financial advice will need to disclose information regarding:

- Licensing
- Duties that apply
- Services that can be provided
- Applicable fees
- Conflicts of interest
- Complaints handling
- Disciplinary history
- Convictions or proceedings
- Bankruptcy proceedings

FAPs will need to keep a record of the information disclosures. Information can be disclosed at different stages of the advice process and when it becomes relevant to do so.

Fi360’s Investment Governance Framework and the New Regime

Fi360 Pacific provides education and training in investment governance best practices with reference to a global fiduciary standard. The new regime provides firms with the opportunity to assess and evaluate their compliance, processes and practices. Fi360 Pacific's investment governance framework can help advisers and financial advice providers meet many of their new duties and obligations.

Advisers, as professionals who are responsible for providing investment advice and or managing investment decisions, are typically in a fiduciary role.

What is a fiduciary?

Investment fiduciaries are people who either give investment advice or oversee the assets of another party and who stand in a special relationship of trust, confidence or legal responsibility.

What is investment governance?

Investment governance focuses on the legal duties of care and loyalty (fiduciary obligations) owed by investment fiduciaries. It seeks to define what systems and processes advisers should have in place to meet their fiduciary obligations. It involves working to a defined fiduciary standard, and being able to demonstrate that this is consistently and effectively applied.

Fi360’s 4-step Process

1. Organise
2. Formalise
3. Implement
4. Monitor

The Fi360 Pacific Adviser Handbook has 20 Prudent Practices that form the framework of a disciplined investment process. The Practices are supported by 77 Criteria, that represent the details of the fiduciary standard. Investment Governance can be a driver for excellence, it is guided by the duties of care, loyalty and the commitment of placing the interests of clients first.

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