

Meeting your obligations under the new financial advice regime

If you provide regulated financial advice to clients under the new regime, you will need to fulfil a number of duties. These duties aim to ensure all New Zealanders have access to quality financial advice, and to help build public confidence in advisers – a good thing for everyone.

You can read these duties in sections 431I to 431P of the [Financial Markets Conduct Act 2013](#) (FMC Act), as inserted by the Financial Services Legislation Amendment Act 2019.

The duties below apply to anyone giving regulated financial advice to clients, even if you're providing advice on behalf of someone else. If you're a licensed financial advice provider engaging others to work with you, you have some additional duties (see sections 431Q and 431R). Read [Your obligations as a financial advice provider](#) to learn more.

Your duty	Why it matters	What this means
Meet competence standards	You need to have appropriate knowledge, skills and competence before you can give your clients advice that meets their individual needs.	<p>You must meet the relevant competence standards and comply with continuing professional development requirements in the code of professional conduct.</p> <p>The competence standards are equivalent to the qualification outcomes of the New Zealand Certificate in Financial Services (Level 5).</p> <p>The qualification outcomes you need vary based on the type of advice you're giving.</p> <p>While many people will choose to get the standard Level 5 qualification, you may demonstrate you have met the standard in other ways, as long as you can do so in an objective, measurable and independently verifiable manner.</p>
Comply with ethical behaviour, conduct and client care standards	To participate with confidence in financial advice services, your clients need to be treated fairly and professionally, receive suitable financial advice that they understand, and have their information protected.	<p>The code of professional conduct sets out the following ethical behaviour, conduct and client care standards:</p> <ul style="list-style-type: none"> • treat clients fairly • act with integrity • give financial advice that is suitable • ensure the client understands the financial advice • protect client information.

Your duty	Why it matters	What this means
Ensure your client understands the nature and scope of your advice	Your clients understand the products you can advise on and what you can or can't do in your role.	Your client must be clear about what sort of advice they will receive from you and what will not be covered. This duty recognises the advice can be limited – for example, you may only cover a client's life insurance needs or you may only consider certain providers' products when making recommendations. You must take reasonable steps to ensure your client understands any limits before giving advice.
Give priority to your client's interests	Your clients receive quality advice that is suitable for them.	<p>You must put your client's interests first when giving advice. If you know (or you should reasonably know) about a conflict between your interests and those of your client, you must give priority to your client's interests.</p> <p>This duty also applies to conflicts between your clients' interests and the interests of those connected with the giving of the advice. This will include your associates, the financial advice provider you give advice for and the provider's associates.</p> <p>For example, you should only recommend products most suitable for your client, regardless of the level of commission you receive from them.</p> <p>A useful question to ask is 'would the advice be the same in the absence of the conflict?'</p>
Exercise care, diligence and skill	Helps to ensure professional standards, and that clients have access to quality advice that is suitable for them. This promotes confident participation in financial advice services.	When you give advice you must exercise the same care, diligence and skill that a prudent person in the same occupation would exercise in the same circumstances.
Disclose prescribed information	Ensures clients get timely, accurate and understandable information to help them make decisions about financial products and financial services.	The information you must disclose will be set in regulations. We expect draft disclosure regulations to be released for consultation soon.

Your duty	Why it matters	What this means
Not disclose information that is false or misleading	Helps ensure the information clients receive is accurate and they can rely on it when they make decisions about financial products or financial services.	<p>When you disclose prescribed information, you must not make information available if it includes a statement that is (or is likely to be) false or misleading, or it leaves out required information that is materially adverse from the client's point of view.</p> <p>A statement about something in the future (for example whether or not something will be done or happen) would be misleading if you had no reasonable basis for making that statement.</p> <p>This duty applies to any method of disclosing prescribed information.</p>
Not recommend products offered under a regulated offer that contravenes the FMC Act	Makes sure clients are not recommended products where usual retail investor protections required under the FMC Act regime are not available.	You must not recommend your client buys a product if you know (or should know) the regulated offer requirements under the FMC Act or FMC Regulations for that product were not complied with.

Duties that apply when providing advice to wholesale clients

The duties in the table above apply where regulated advice is given to retail clients. If you give regulated advice to wholesale clients the following duties apply:

- Give priority to your client's interests
- Exercise care, diligence and skill
- Do not recommend products offered under a regulated offer that contravenes the FMC Act
- Disclose prescribed information (if any requirements apply to wholesale advice)
- Do not disclose information that is false or misleading

Where to get help

When planning how to comply with these new duties, you should apply your professional judgement, considering the type of financial advice you offer and how you engage with your clients.

If you're providing advice on behalf of a financial advice provider, ask them to explain how to comply with these duties while working on their behalf. If you're the financial advice provider, you may choose to seek expert advice on how to comply with your obligations.

If you have questions about the information in this factsheet, you can email questions@fma.govt.nz or call 0800 434 567 (+64 3 962 2698 if calling from overseas).