


# Code of Professional Practice

November 2009





financial planning is the process of developing strategies to assist clients in managing their financial affairs to meet life goals, which involves reviewing all relevant aspects of a client's situation across a large breadth of financial planning activities, including inter-relationships among often conflicting objectives.

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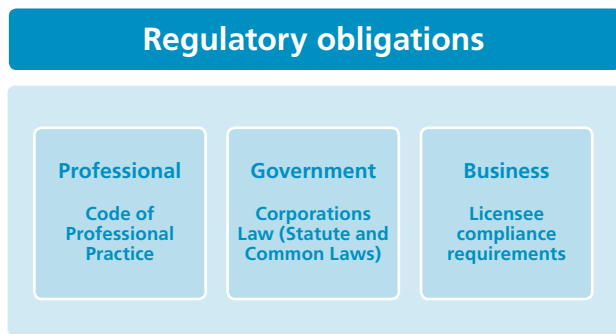
# Introduction/Preamble

The Financial Planning Association’s (FPA) Code of Professional Practice (“the Code”) is the key document detailing the obligations of FPA members in the financial planning profession.

The FPA Code of Professional Practice includes three enforceable components: **Code of Ethics**; **Practice Standards**; and **Rules of Professional Conduct**; together with any **Guidance** issued by the FPA in relation to the whole or any part of the Code.

## Professional Regulation

As a form of professional regulation, the Code of Professional Practice is intended to operate alongside government regulation and inform licensee compliance requirements as outlined in the diagram below.



Professional regulation is designed to reflect the perspective of your peers and aligned professionals on the quality of professional practice in financial planning.

In the FPA’s view, better integration of professional regulation into the system of regulatory obligations will achieve greater consumer, regulator and marketplace benefits.

The structure of the Code of Professional Practice is summarised in the following diagram.



**Professionalism is a measure of clear expectations of professional conduct, individual commitment to those obligations and preparedness to be held accountable by peers and the community.**

## FPA Professional Framework

The Code of Professional Practice complements the FPA Professional Framework. The Framework consists of three components:

### Professional Membership

Professional Membership ensures that only the right people can become members of the FPA.

### Professional Conduct

Professional Conduct ensures that members adhere to the Code of Professional Practice: the high standards set for the profession, and that they are supported in following professional ideals.

### Professional Accountability

Professional Accountability protects the reputation of all members by putting in place an independent, peer-driven disciplinary mechanism.

These components are set out in the diagram below.



## Conflicts of Duties

Where conflicts arise between duties enunciated in the FPA's Code of Professional Practice or between such duties and the member's legal obligations, the FPA encourages members to seek guidance from the FPA Professional Standards Department, from suitably experienced peers, or from other qualified professionals. Talking through the potential conflict of professional duties helps FPA members to accurately identify their professional obligations, engage with these principles, and contribute to the development of an ethical profession.

## Financial planning and other professional services covered by the Code

The FPA's Code of Professional Practice establishes professional obligations for the conduct of members in the provision of professional services and therefore applies to all types of services provided by the member in his or her professional capacity. The services covered are not necessarily limited to the financial planner/client relationship but potentially extend to dealings with other members of the profession and with other professionals and third parties. In addition, the Code may apply to the marketing of financial planning and other professional services. The application of the Code is therefore not limited to the provision of financial services or advice as defined by the Corporations Act 2001, as amended from time to time.

## Application of the Code of Professional Practice to Principal Members

Principal Members of the FPA are responsible under FPA Regulations for the conduct of their employees and representatives. Principal Members must ensure staff and representatives comply with the Code whether those staff and representatives are FPA Members or not. In addition, there is a positive obligation on Principal Members to create the environment for the professional obligations established in the Code to be put into practice.

## Reviews of the Code of Professional Practice

The Code of Professional Practice is subject to regular review to maintain its currency and effectiveness as professional regulation. The next review is scheduled to take place after 1 July 2010.

## Transition and Enforcement

The final components of the Code of Professional Conduct approved by the FPA Board in November 2009 are subject to some transitional arrangements to enable members the time to adjust to new requirements.

Practice Standards 7 and 8 and revised Rules of Professional Conduct come into effect on 1 July 2010, with a 12-month conditional moratorium on enforcement under FPA Disciplinary Regulations applicable from that date for members who are able to demonstrate reasonable steps towards compliance.

### Transitional arrangements

Component	Adoption	Enforcement	End of conditional moratorium
Code of Ethics	November 2008	1 July 2009	30 June 2010
Practice Standards 1–6	November 2008	1 July 2009	30 June 2010
Practice Standards 7–8	November 2009	1 July 2010	31 December 2010
Rules of Professional Conduct	November 2009	1 July 2010	31 December 2010

In the meantime, some existing FPA requirements remain in force in combination with more recently introduced components of the Code of Professional Practice:

### Currently in force

Component	Enforcement
Code of Ethics	1 July 2009
Practice Standards 1-6	1 July 2009
Rules of Professional Conduct	1997

# Code of Professional Practice

## Definitions

Word or Phrase	Meaning
Associate	for the purposes of these rules, an associate of the Member includes: <ul style="list-style-type: none"><li>(a) an agent of the Member;</li><li>(b) an associated entity (as defined in section 50AAA of the Corporations Act 2001);</li><li>(c) an authorised representative of the Member;</li><li>(d) an authorising licensee of the Member;</li><li>(e) a director of the Member's company;</li><li>(f) an employee of, or person paid in connection with the Member;</li><li>(g) a partner of the Member (in the case of a partnership) in the provision of professional services;</li><li>(h) a responsible manager of the Member's company.</li></ul>
Authorising Licensee	a Licensee that provides the Member with the legal authority to provide professional services.
Category	has the same meaning as is given in the FPA Constitution.
Charging model	the Member's method of charging a client for the provision of professional services.
Client Asset	means any asset of value which the client has legal and beneficial ownership, whether personally or on behalf of another person.
Communicating	includes discussing, advertising or promoting, whether orally, in written form or in any other medium.
Confirmed objectives, needs and priorities	means the client specific objectives, needs and priorities established with the Member during the financial planning engagement.
Disqualified person	means a person who: <ul style="list-style-type: none"><li>(a) is or was subject of a banning order issued by the Australian Securities and Investments Commission pursuant to the Corporations Act 2001 (as amended) that was not set aside by a court or tribunal of competent jurisdiction;</li><li>(b) was a Member of the FPA and whose Membership was terminated by the FPA pursuant to the FPA Constitution or its regulations;</li><li>(c) was a Member of an affiliate body of the Financial Planning Standards Board and whose Membership was terminated by the affiliate body pursuant to its regulations;</li><li>(d) was convicted of an offence that involves dishonesty and was punishable by imprisonment for at least 3 months;</li><li>(e) was convicted of any offence that was punishable by imprisonment for at least 6 months;</li><li>(f) becomes an Insolvent under Administration or was an Insolvent under Administration in the 5 years preceding the Member engaging in business with the person;</li><li>(g) is disqualified from managing corporations; or</li><li>(h) is subject of a category or class as prescribed by the FPA Board.</li></ul>
Engage in business with a disqualified person	means when a Member <ul style="list-style-type: none"><li>(a) engages the services of the disqualified person in the course of, or in the provision of financial planning or other professional services, whether as agent, consultant, employee, director, officer or otherwise;</li><li>(b) provides authorisation to, or arranges for, the disqualified person to obtain authorisation to be an authorised representative of an Australian Financial Services Licensee;</li><li>(c) works in partnership with the disqualified person.</li></ul>
Financial planning	the process of developing strategies to assist clients in managing their financial affairs to meet life goals. It involves reviewing all relevant aspects of a client's situation across a large breadth of financial planning activities, including inter-relationships among often conflicting objectives.

Word or Phrase	Meaning
Financial planning recommendation	a recommendation, statement of opinion or report provided to the client in the course of the financial planning engagement and includes a strategy and/or product or service recommendation.
Financial planning service	is a service of which the Member or his or her associates does one or more of the following for a client: <ul style="list-style-type: none"> <li>(a) Provides a recommendation, an opinion or a report, that is intended to influence a prospective client or client in making a decision in relation to: <ul style="list-style-type: none"> <li>i. a particular product or class of products, or an interest in a particular product or class of products; and/or</li> <li>ii. a particular strategy in the management of the client's financial circumstances.</li> </ul> </li> <li>(b) Deal in a product or products as a result of a recommendation, opinion or report provided by the Member or his or her associates; and</li> <li>(c) Deal in a product or products pursuant to an authority provided by the client and includes the authority or power of attorney to operate managed discretionary accounts.</li> </ul>
FPA's requirements	the Membership, ethical and professional requirements that govern Members' professional conduct and include the FPA Constitution, Code of Ethics, Practice Standards, Rules of Professional Conduct, Disciplinary Regulations and other regulations established pursuant to the FPA Constitution.
Licensee	a person holding an Australian Financial Services Licence.
Member	unless otherwise stated, has the same meaning as is given in the FPA Constitution.
Notifiable event	has the same meaning as is given in the FPA Constitution.
Portfolio Monitoring Service	a service consisting of evaluating the current composition and performance over time of the client's portfolio.
Principal Member	has the same meaning as is given in the FPA Constitution.
Product	any tangible or intangible item of value and includes, <ul style="list-style-type: none"> <li>(a) a financial product as defined under Division 3, Part 7.1 of Chapter 7 of the Corporations Act 2001 (Cth);</li> <li>(b) a legal structure;</li> <li>(c) a mortgage or credit facility;</li> <li>(d) money;</li> <li>(e) property, including personal and real property; or</li> <li>(f) a scheme.</li> </ul>
Professional services	services provided by a Member or the Member's associate including financial planning services and transaction-only services.
Representative	a person authorised by a Member to provide professional services, whether as authorised representative, agent, employee, consultant or otherwise.
Review service	a service consisting of evaluating the client's situation against the objectives, strategies and financial planning recommendations previously identified for and agreed by the client in the provision of financial planning services.
Terms of engagement	a written document that sets out the scope of the Member engagement with the client for the provision of professional services.
Transaction-only service	a service provided by a Member or his or her associate in the dealing in a product as directed by the client and that no recommendation, opinion or report has or had been provided by the Member or his or her associate in relation to the specific dealing(s).

# FPA Code of Ethics

## Introduction

The Code of Ethics is the top layer of professional regulation. It establishes the ethical foundation for the other FPA standards of professional conduct including Practice Standards and Rules of Professional Conduct. Under the FPA Constitution, the FPA's professional standards apply to all members regardless of their membership category, i.e. all Principal, Practitioner and General Members of the FPA.

## Eight Principles of Code of Ethics

The eight principles in the Code of Ethics serve as minimum benchmarks for professional behaviour. Accordingly, the principles act as a point of reference for all stakeholders including members, users of financial planning services, regulators and government. The FPA, Australia's leading professional body for financial planning professionals, recognises and encourages other industry participants (e.g. non-members who provide financial planning services, licensees etc.) to adopt the principles as a reference to good ethical practice.

The principles are directly enforceable as members' obligations established in FPA Regulations. Peer professional standards established by the leading financial planning professional body will ultimately influence the interpretation of professional standards of practice by courts, tribunals and external dispute resolution schemes.

The principles were developed with the intention that they should sit comfortably and consistently with the many legal obligations that apply to Members in the practice of financial planning in Australia. However, the FPA recognises that legal obligations evolve, and from time to time Members may be required to consider their legal obligations in conjunction with compliance with these ethical principles. Compliance with the law is fundamental to the good reputation of the profession. Typically, legal obligations are imposed on practitioners not only under the Corporations Act 2001 and common law, but also through employment and other contractual arrangements with Australian Financial Services Licensees.

**FPA Guidance may be issued in relation to the whole or any part of the Code of Professional Practice and may elaborate on the application of the Code of Ethics.**

## FPA Code of Ethics

### Principle 1: Client First

#### Place the client's interests first

Placing the client's interests first is a hallmark of professionalism, requiring the financial planner to act honestly and not place personal and/or employer gain or advantage before the client's interests.

### Principle 2: Integrity

#### Provide professional services with integrity

Integrity requires honesty and candour in all professional matters. Financial planners are placed in positions of trust by clients, and the ultimate source of that trust is the financial planner's personal integrity. Allowance can be made for legitimate differences of opinion, but integrity cannot co-exist with deceit or subordination of one's principles. Integrity requires the financial planner to observe both the letter and the spirit of the Code of Ethics.

### Principle 3: Objectivity

#### Provide professional services objectively

Objectivity requires intellectual honesty and impartiality. Regardless of the services delivered or the capacity in which a financial planner functions, objectivity requires financial planners to ensure the integrity of their work, manage conflicts and exercise sound professional judgment.

## Principle 4: Fairness

### **Be fair and reasonable in all professional relationships. Disclose and manage conflicts of interest**

Fairness requires providing clients what they are due, owed or should expect from a professional relationship, and includes honesty and disclosure of material conflicts of interest. It involves managing one's own feelings, prejudices and desires to achieve a proper balance of interests. Fairness is treating others in the same manner that you would want to be treated.

## Principle 5: Professionalism

### **Act in a manner that demonstrates exemplary professional conduct**

Professionalism requires behaving with dignity and showing respect and courtesy to clients, fellow professionals, and others in business-related activities, and complying with appropriate rules, regulations and professional requirements. Professionalism requires the financial planner, individually and in cooperation with peers, to enhance and maintain the profession's public image and its ability to serve the public interest.

## Principle 6: Competence

### **Maintain the abilities, skills and knowledge necessary to provide professional services competently**

Competence requires attaining and maintaining an adequate level of knowledge, skills and abilities in the provision of professional services. Competence also includes the wisdom to recognise one's own limitations and when consultation with other professionals is appropriate or referral to other professionals is necessary. Competence requires the financial planner to make a continuing commitment to learning and professional improvement.

## Principle 7: Confidentiality

### **Protect the confidentiality of all client information**

Confidentiality requires client information to be protected and maintained in such a manner that allows access only to those who are authorised. A relationship of trust and confidence with the client can only be built on the understanding that the client's information will not be disclosed inappropriately.

## Principle 8: Diligence

### **Provide professional services diligently**

Diligence requires fulfilling professional commitments in a timely and thorough manner, and taking due care in planning, supervising and delivering professional services.

# FPA Practice Standards

## Introduction

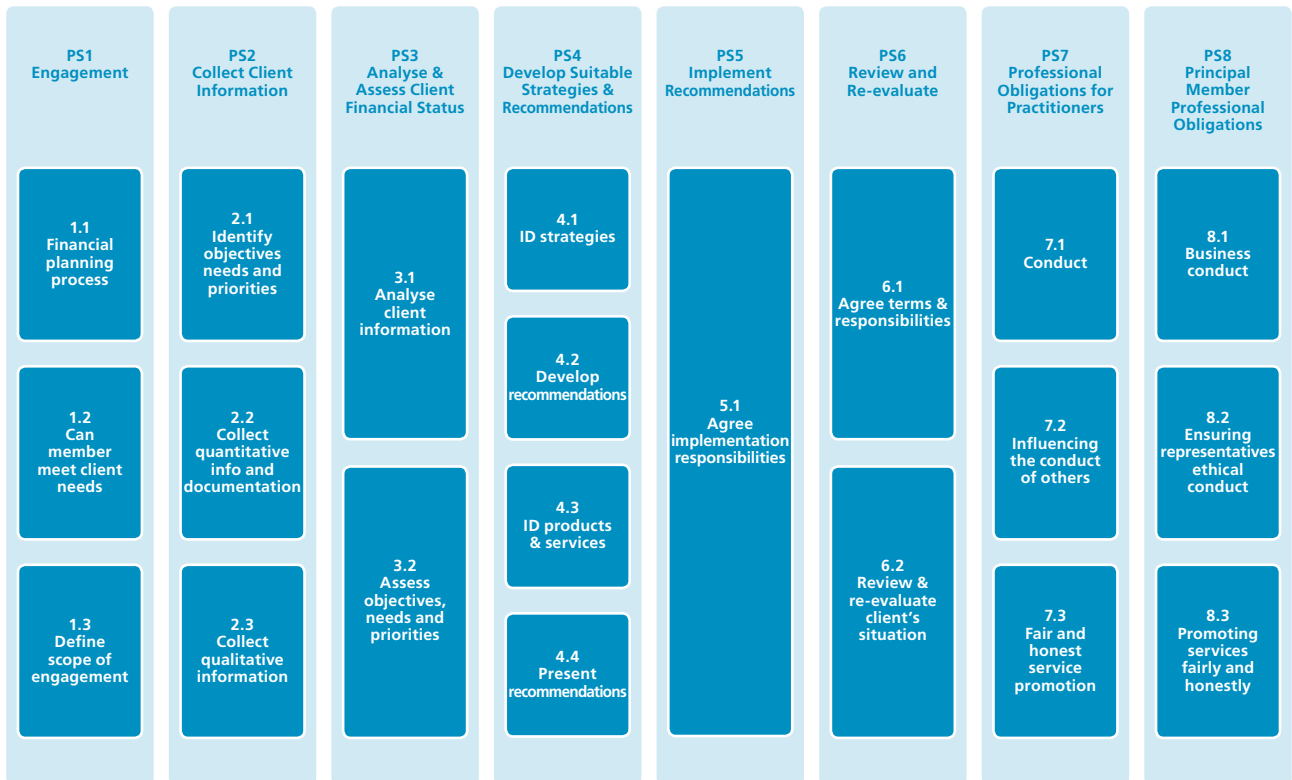
The Practice Standards are the middle layer of professional regulation. The Code of Ethics outlines the ethical principles for the profession and the Practice Standards describe expectations of practice for FPA Members. The Practice Standards must be read in conjunction with the FPA Code of Ethics as the Code of Ethics applies to all Member activities and is enforceable by the FPA.

The FPA Practice Standards represent the broad-based thematic rules of financial planning while the FPA Rules of Professional Conduct are an elaboration of these rules, providing more detail.

FPA Member Guidance will be introduced as required. Member Guidance will not be enforceable like the Code, but is intended to: aid members and other stakeholders in the interpretation of the Code; include practical ideas for compliance with the Code; identify best practice; and introduce business tools to assist in compliance with professional obligations.

The FPA has adapted and adopted the Practice Standards developed by the international Financial Planning Standards Board Ltd (FPSB). The FPSB Practice Standards include the 6 Step Financial Planning Process.

## FPA's Eight Practice Standards



## Purpose and Function of Practice Standards

FPA Practice Standards have been developed to:

- ▲ Set out the 6 Step Financial Planning Process for delivering quality advice;
- ▲ Assist Members to identify, understand and address clients' objectives, needs and priorities;
- ▲ Assist Members to provide professional advice and services to their clients;
- ▲ Assist Members to identify, avoid, disclose and manage conflicts of interest;
- ▲ Assist Members to demonstrate their professionalism to their clients and other external stakeholders ( e.g. ASIC, FOS); and
- ▲ Assist Members by recognising and balancing commercial factors such as cost and availability of services, and sustainability of advice practices.

The Practice Standards aim to:

- ▲ Establish the level of practice expected of a Member engaged in the provision of financial planning services to a client;
- ▲ Establish standards of professional practice to ensure consistent provision of financial planning services by a Member;
- ▲ Clarify the roles and responsibilities of Members and their clients in financial planning engagements;
- ▲ Ensure all clients receive quality advice and services; and
- ▲ Align with global standards and expectations.

The Practice Standards are not intended to prescribe the services to be provided or step-by-step procedures for providing any particular service. The financial planning process is an integrated one; functions may be combined and/or revisited based on the ongoing relationship between the Member and the client.

## Application of the Practice Standards

Unless expressly stated, Practice Standards apply to all members of the FPA in the conduct of their financial planning business and in the provision of financial planning services. These standards are not limited to the provision of financial product advice and extend to the provision of any professional service by the Member in his or her professional capacity.

In applying these Practice Standards, Members are expected to comply with any applicable requirement of law. Practice Standards are not intended to indicate or imply any additional legal duty upon Members. They are intended to state the expectations of practice at the level of the reasonably diligent financial planner acting competently and to provide confidence and certainty about the professional obligations that Members have with their clients, their profession and their community. Where those expectations are in conflict with the law and/or the employment relationship, the FPA would expect that Members will adhere to the requirements of those legally empowered and authorised obligations.

FPA Guidance may be issued in relation to the whole or any part of the Code of Professional Practice and may elaborate on the application of particular Practice Standards.

## Format of the Practice Standards

Each Practice Standard has the following components:

Component	Example
Title	PS 5 Implement the Client's Financial Planning Recommendations
Element Title	PS 5.1 Agree on Implementation Responsibilities
Element	The Member and the client agree on implementation responsibilities that are consistent...
Element Explanation	The Member gains the client's agreement on implementation of the recommendation...

# Rules of Professional Conduct

## Introduction

The Rules of Professional Conduct are the third layer of professional regulation. The Code of Ethics outlines the ethical principles for the profession and the Practice Standards describe expectations of practice for FPA Members. The Rules of Professional Conduct ('the Rules') establish detailed obligations attaching to FPA professional membership.

## Purpose and Function of Rules of Professional Conduct

The Rules of Professional Conduct have been substantially revised from the Rules of Professional Conduct first introduced as FPA Regulation in 1997. The Rules have been modified and expanded to:

- ▲ Complement the new FPA Code of Ethics and Practice Standards introduced in November 2008;
- ▲ Align with global standards and expectations;
- ▲ Elaborate on the professional obligations arising from the 6 Step Financial Planning Process; and
- ▲ Individual Rules may prescribe acceptable limits to specific practices, or the detailed application of Practice Standards. Some Rules may be designed to encourage particular behaviours or to curb perceived risks of malpractice. The Rules related to Practice Standards 1–6 have been designed to follow the 6 Step Financial Planning Process and guide members in meeting professional obligations at each key step. The Rules in relation to Practice Standards 7 and 8 address general obligations of conduct as well as ongoing obligations that apply throughout the financial planning process. The Rules have also been designed to assist Members to concurrently meet professional and legal obligations.

## Application of Rules of Professional Conduct

Unless expressly stated, the Rules of Professional Conduct apply to all members of the FPA in the conduct of their financial planning business and in the provision of financial planning services. These standards are not limited to the provision of financial product advice and extend to the provision of any professional service by the Member in his or her professional capacity.

In applying these Rules of Professional Conduct, Members are expected to comply with any applicable requirement of law. The Rules are not intended to indicate or imply any additional legal duty upon Members. They are intended to state the expectations of practice at the level of the reasonably diligent financial planner acting competently and to provide confidence and certainty about the professional obligations that Members have with their clients, their profession and their community. Where those expectations are in conflict with the law and/or the employment relationship, the FPA would expect that Members will adhere to the requirements of those legally empowered and authorised obligations.

The Rules of Professional Conduct are enforceable.

The definitions provided on page 4 and 5 include words and terms that are used in the Code of Ethics, Practice Standards, and Rules of Professional Conduct.

FPA Guidance may be issued in relation to the whole or any part of the Code of Professional Practice and may elaborate on the application of particular rules.

## Format of Rules of Professional Conduct

The table below shows how the each rule is formatted:

Component	Example
Rules relating to Practice Standard 5	Rule 5.1 A Member must meet any legal requirements to identify his or her client...

# FPA Practice Standards with Rules of Professional Conduct

## PS 1 Engagement

### PS 1.1 Inform the Client about Financial Planning and the Member's Professional Competencies

**The Member informs the client about the financial planning process, the services the Member offers, and the Member's competencies and experience.**

#### Explanation

Prior to entering a financial planning engagement with the client, the Member helps the client to understand the financial planning process and the nature of financial planning engagements, and provides information on the Member's qualifications. This information may include: how financial planning can help the client to meet objectives; a description of the Member's methodology used to provide financial planning; and information about the Member's licenses, experience and expertise. The Member provides to the client, as required, information about the services the Member provides as well as what charges may be incurred by the client.

### PS 1.2 Determine whether the Member can meet the client's needs

**The Member and the client determine whether the services offered by the Member and his or her competencies meet the needs of the client. The Member considers his or her skills, knowledge and experience in providing the services requested or likely to be required by the client. The Member determines if he or she has, and discloses, any conflict(s) of interest.**

#### Explanation

The Member considers if he or she, or his or her staff, has the appropriate abilities, skills and knowledge to meet the client's expectations. The Member considers if there are any personal conflicts that would affect his or her ability to work successfully with the client. The Member determines if there are any other circumstances, relationships or facts that would place the interest(s) of the Member in conflict with the client's interest(s), or the interest(s) of one client in conflict with another client. The Member discusses the confidentiality of the client's information.

### PS 1.3 Define the Scope of the engagement

**The Member and the client agree on the services to be provided. The Member describes, in writing, the scope of the engagement before any financial planning is provided, including details about: the responsibilities of each party (including third parties); the terms of the engagement; and remuneration and actual or potential conflict(s) of interest of the Member. The scope of the engagement is set out in writing in a formal document signed by both parties and includes a process for terminating the engagement.**

#### Explanation

Mutually defining the scope of the engagement establishes realistic expectations for both the client and the Member. The Member and the client may agree that the scope of the engagement covers one, several or all of the financial planning components (financial management, asset management, risk management, tax planning, retirement planning and estate planning).

A written document ensures mutual understanding and agreement between the Member and the client about the terms of the financial planning engagement. In setting out the terms in an engagement letter or disclosure document, the Member includes the following:

- ▲ specific services to be included or excluded, such as implementation and review;
- ▲ the Member's remuneration arrangements with respect to the engagement, including fees to be paid by the client;
- ▲ existing conflicts of interest, including those involving remuneration arrangements with third parties, and agreement to disclose subsequent conflicts of interest if or when they occur;
- ▲ specific parties to the engagement, including details of any legal and agency relationships which may exist;
- ▲ assurance of protection of client confidentiality;
- ▲ duration of the engagement;
- ▲ the client's responsibilities, including the full and timely disclosure of information;
- ▲ the Member's responsibilities;
- ▲ provisions for terminating the client engagement; and
- ▲ procedures for resolving the client's claims and complaints against the Member.

Additional information that may form part of the formal written document includes:

- ▲ the potential need to use other professionals during the engagement;
- ▲ an explanation of qualifications, licences and experience of individuals who will work with the client;
- ▲ specific limitations on the use of client information; and
- ▲ any other information necessary to adequately inform the client.

Circumstances may change the Member's ability to provide services to the client, or the client may decide to terminate services or transfer to another professional. The Member disengages the client or facilitates the client's transfer to another adviser in a professional manner.

Where the client voluntarily elects to utilise a transaction-only service rather than to receive financial planning services, Practice Standards 2 to 4 do not apply to the Member.

## Rules relating to Practice Standard 1

### Pre-Engagement

Rule 1.1. In engaging with a client, a Member must:

- (a) inform the client of:
  - i. the financial planning process;
  - ii. the nature of engagements to provide financial planning services;
  - iii. the full range of professional services which can be offered by the Member;
  - iv. the capacity (including any limitation) in which the Member is able to provide professional services;
- (b) make reasonable enquiries of the prospective client's circumstances and expectations in seeking professional services from the Member; and
- (c) decline to accept any engagement which may lead to a breach of the FPA's requirements or bring the profession into disrepute, including engagement in any illegal, deceptive or misleading activities.

Rule 1.2. A Member must not, in the course of engaging with a client, by any act or omission, misrepresent any skill, competency, experience, expertise, capacity, association, or remuneration or benefit received or receivable.

### Differentiating Financial Planning Services from Transaction-Only Services

Rule 1.3. A Member must ensure, prior to providing transaction-only services, that the client understands the difference between financial planning services and transaction-only services.

### Limiting the Scope of the Engagement to Provide Professional Services

Rule 1.4. Subject to the Member's capacity to provide professional services, a Member will limit the scope of the services to be provided in accordance with Rule 1.1 at the request of the client.

Rule 1.5. Where the client limits the scope of the services, the Member must record in the terms of engagement document:

- (a) that the scope of the services to be provided by the Member is limited;
- (b) the limitations on the scope of the services to be provided;
- (c) any limitations to the Member's responsibility in providing the services; and
- (d) the client's consent to such limitations.

This Rule applies in addition to the requirements in Rules 1.8 and 1.9.

### Identifying the Client

Rule 1.6. A Member must identify the client to whom professional services will be provided.

### Requirement to Document Terms of Engagement

Rule 1.7. A Member must, prior to providing any professional services to a client,

- (a) inform the client of the terms of the Member's engagement including any matter required to be disclosed by Rules 1.5, 1.8 and 1.9;
- (b) document the terms of the engagement with the client including any matter required to be disclosed by Rules 1.5, 1.8 and 1.9 in a manner that the client is likely to understand; and
- (c) provide a copy of the documented terms of engagement to the client.

Rule 1.8. If the engagement relates to the provision of a financial planning service, the terms of engagement document must include (but is not limited to) the following:

- (a) the name, contact details and Licence number of the person and the person's employer responsible for providing the financial planning services;

- (b) the name, contact details and Licence number of the Principal Member or Authorising Licensee legally responsible for the person's provision of financial planning services;
- (c) the name, contact details and Licence number (if applicable) of the Member;
- (d) the nature and type of the services to be provided;
- (e) service deliverables and timeframes;
- (f) expected frequency of contact;
- (g) remuneration, fees, commissions or any other pecuniary or non-pecuniary benefit whether direct or indirect, received or receivable by the Member or his or her associate in connection with the professional service;
- (h) any other benefit reasonably capable of influencing the making of a financial planning recommendation by the Member;
- (i) fee and billing arrangements;
- (j) how fees are calculated and charged;
- (k) the service standards that will apply;
- (l) any conflicts or material limitations;
- (m) the duration of the engagement and how the engagement can be terminated;
- (n) the client's responsibilities, including the full and timely disclosure of information and the dangers of providing insufficient information;
- (o) any benefit that a third party may receive in connection with the service;
- (p) any other costs borne by the client should they accept all or part of the service;
- (q) access to internal and external complaint handling mechanisms including the FPA's complaints handling system; and
- (r) any other information necessary to adequately inform the client or as required by law.

Rule 1.9. If the engagement relates to a transaction-only service, the terms of engagement document must also include a statement to the following effect:

- (a) No financial planning recommendations will be given in respect of the specific transaction; and
- (b) As no financial planning recommendation is given, the specific transaction may not be appropriate and that the client risks making a financial commitment to a transaction that may not be appropriate to the client's objectives, needs and priorities.

## PS 2 Collecting the Client's Information

### PS 2.1 Identify the Client's Personal and Financial Objectives, Needs and Priorities

**The Member and the client identify the client's personal and financial objectives, needs and priorities that are relevant to the scope of the engagement before making and/or implementing any recommendations.**

#### Explanation

The Member strives to clearly understand the client's current situation and financial objectives, needs and priorities. The client's financial objectives state intent, provide guidance and bring structure to the financial planning engagement. The Member assists the client in clarifying and prioritising his or her short and long-term objectives, and discusses with the client the merit and feasibility of any objectives that appear to be unrealistic.

### PS 2.2 Collect Quantitative Information and Documents

**The Member collects sufficient quantitative information and documents about the client relevant to the scope of the engagement and works with the client to resolve obvious omissions and inconsistencies in the information collected before making and/or implementing any recommendations.**

#### Explanation

The Member strives to collect complete and accurate client information and documents relevant to the scope of the engagement. The Member relies on information provided by the client and other sources to make appropriate recommendations and clearly communicates to the client the importance of collecting complete, current and accurate information. In return, the Member respects the confidentiality of, and safeguards, client documents. If the Member is unable to collect information necessary to develop and support recommendations, the Member discusses this with the client, explaining how these limitations impact the engagement and the financial plan. These limitations could result in a revised engagement document or in termination of the engagement.

## PS 2.3 Collect Qualitative Information

**The Member collects sufficient qualitative information about the client relevant to the scope of the engagement before making and/or implementing any recommendations.**

### Explanation

The Member gathers information to understand the client's values, attitudes, expectations and financial experiences. This includes asking questions of the client and employing appropriate listening skills. The Member determines the client's level of sophistication and financial literacy. These areas are subjective and the Member's interpretation may be limited by what the client reveals.

## Rules relating to Practice Standard 2

### Understanding Client Circumstances

- Rule 2.1. A Member must gain sufficient understanding of the client's objectives, needs and priorities, and relevant personal circumstances to establish and confirm with the client the scope of the financial planning engagement and form the basis for the development of any relevant recommendations.
- Rule 2.2. For the purposes of Rule 2.1, a Member must take reasonable steps and apply a demonstrable process to:
- (a) gather and record client quantitative and qualitative information;
  - (b) ensure that the client information is current, complete and accurate; and
  - (c) avoid omissions and inconsistencies in the client information.
- Rule 2.3. A Member must, during the process of collecting client information, inform the client that:
- (a) the development of relevant financial planning recommendations is based upon the Member having a reasonable understanding of the client's objectives, needs and priorities, and relevant personal circumstances;
  - (b) the client needs to ensure that information provided by him or her is current, complete and accurate and that any changes to the information provided must be communicated to the Member as soon as practicable; and
  - (c) if the client omits relevant information requested by the Member, any recommendations made may be inaccurate or inappropriate.

## PS 3 Analyse and Assess the Client's Financial Status

### PS 3.1 Analyse the Client's Information

**The Member analyses the client's information, subject to the scope of the engagement, to gain an understanding of the client's financial situation.**

### Explanation

The Member analyses the client's current situation and information. As part of this analysis, the Member uses client-specified, mutually agreed upon objectives and other reasonable assumptions, which may include the client's retirement age, life expectancy, income needs, risk factors, time horizon and special needs, as well as economic assumptions such as inflation rates, tax rates and investment returns.

### PS 3.2 Assess the Client's Objectives, Needs and Priorities

**The Member assesses the strengths and weaknesses of the client's current financial situation and compares them to the client's objectives, needs and priorities.**

### Explanation

The Member considers the opportunities and constraints presented by the client's financial situation and current course(s) of action, and determines the likelihood of the client reaching his or her objectives by continuing present activities or making anticipated changes. The Member may identify other issues that may impact the client's ability to achieve objectives, which he or she discusses with the client. It may be appropriate for the Member to amend the scope of the engagement and/or to obtain additional information.

## Rules relating to Practice Standard 3

### Analyse and Assess Client Circumstances

Rule 3.1. A Member must identify and confirm objectives, needs and priorities with the client to form the basis for the Member's development of appropriate strategies and financial planning recommendations.

Rule 3.2. For the purposes of Rule 3.1, a Member must:

- (a) inform the client on the extent to which any client stated objectives or client needs may be in conflict with another;
- (b) reach agreement on the client's priorities between conflicting objectives or needs; and
- (c) document the client's confirmed objectives, needs and priorities.

Rule 3.3. A Member must undertake sufficient analysis and assessment of a client's information including:

- (a) the client's confirmed objectives, needs and priorities;
- (b) the client's personal circumstances including the client's current financial resources;
- (c) the capacity of the client's current financial resources to tolerate risk of capital loss;
- (d) any reasonable assumptions based upon the client's known circumstances; and
- (e) whether the client's confirmed objectives, needs and priorities are likely to be satisfied by the client's current course;

prior to preparing any relevant strategy or financial planning recommendation.

## PS 4 Identify Suitable Financial Planning Strategies and Develop the Financial Planning Recommendations

### PS 4.1 Identify and Evaluate Financial Planning Strategies

**The Member considers one or more strategies relevant to the client's current situation that could reasonably meet the client's objectives, needs and priorities.**

#### Explanation

The Member identifies alternative strategies for achieving the client's confirmed objectives. The Member evaluates the ability of each strategy to reasonably address the client's objectives, needs and priorities. This evaluation may involve discussing with the client the importance, priority and timing of the client's objectives and needs; considering multiple assumptions; and/or conducting research or consulting with other professionals. In considering alternative strategies, the Member takes into account his or her legal and/or regulatory limitations or requirements and his or her competence to address each of the client's objectives, needs and priorities. This process may result in a single strategy, multiple strategies or no change to the client's current course(s) of action. More than one strategy may meet the client's objectives, needs and priorities. Strategies identified by the Member may differ from those of other practitioners or advisers, illustrating the subjective nature of exercising professional judgment.

## PS 4.2 Develop the Financial Planning Recommendations

**The Member develops the financial planning recommendations based on the selected strategies to reasonably meet the client's confirmed objectives, needs and priorities.**

### Explanation

After identifying and evaluating various strategies and the client's current course(s) of action, the Member develops financial planning recommendations that can reasonably meet the client's objectives, needs and priorities. The recommendations may be an independent action or a combination of actions which may need to be implemented collectively. The recommendations may be to continue the current course(s) of action. If the Member recommends a change, it may be general or specific in nature. It may be necessary for the Member to recommend that the client modify an objective, need or priority. The recommendations developed by the Member may differ from those of other practitioners or advisers, yet each may reasonably meet the client's objectives, needs and priorities. It is important that this part of the financial planning process be sufficiently documented.

## PS 4.3 Identify Product(s) and Service(s) for Implementation

**Based on the scope of the engagement, the Member identifies appropriate product(s) and service(s) that are consistent with the financial planning recommendations.**

### Explanation

The Member investigates products or services that are suitable for the client's financial situation and reasonably address the client's objectives, needs and priorities. The Member uses professional judgment in identifying the products and services that are in the client's interest. Professional judgment incorporates both qualitative and quantitative information. Solutions identified by the Member may differ from those of other professionals since more than one product or service may meet the client's needs. The Member makes all disclosures to the client required by applicable regulations.

## PS 4.4 Present the Financial Planning Recommendations to the Client

**The Member presents the financial planning recommendations and the supporting rationale in a way that allows the client to make an informed decision.**

### Explanation

When presenting the financial planning recommendations, the Member helps the client understand the client's current situation, the factors and assumptions that were critical to the recommendation(s), the risks of the recommended strategy(ies) and the likely impact of the recommendation(s) on the client's ability to meet his or her objectives. The Member avoids presenting his or her opinion as fact. The Member informs the client that the financial planning recommendations will likely need to be modified as the client's personal, economic and other conditions change. The Member discloses to the client any conflict(s) of interest not previously disclosed, and explains how such conflicts impact the financial planning recommendations. At this stage of the financial planning process, the Member can further assess whether the financial planning recommendations meet the client's expectations, whether the client is willing to act on the recommendation(s), and whether modifications are necessary.

## Rules relating to Practice Standard 4

### Identifying Suitable Strategies

- Rule 4.1. A Member must not recommend a financial planning strategy unless the Member understands its characteristics, risks and key features.
- Rule 4.2. In selecting a financial planning strategy or strategies for inclusion in a financial planning recommendation to a client, a Member must identify and evaluate strategies, including the client's current course, that reasonably address:
- (a) the client's personal circumstances, including but not limited to the client's attitude to, or tolerance for risk;
  - (b) one or more of the client's confirmed objectives, needs and priorities as established during the financial planning engagement; and
  - (c) any reasonable assumption established during the financial planning engagement.
- Rule 4.3. For the purposes of Rule 4.2, a Member's obligation to identify and evaluate a suitable strategy is separate from, but complementary to, the Licensee's processes.

Rule 4.4. Where a Member is unable to identify a suitable strategy in accordance with Rule 4.2, the Member must as soon as practicable inform the client in writing:

- (a) that the Member is unable to identify and select a suitable strategy;
- (b) the reasons the Member is unable to do so with reference to the criteria in Rule 4.2(a) to (c); and
- (c) any proposed course of action for the client's consideration.

### **Development of Suitable Financial Planning Recommendations**

Rule 4.5. Any financial planning recommendation developed by a Member for the client must be consistent with:

- (a) the client's personal circumstances, including but not limited to the client's attitude to, or tolerance for risk;
- (b) one or more of the client's confirmed objectives, needs and priorities as established during the financial planning engagement;
- (c) any reasonable assumption established during the financial planning engagement; and
- (d) any suitable strategy or strategies identified during the financial planning engagement.

### **Identifying Products and Services for Implementation**

Rule 4.6. A Member must not recommend a product or service unless the Member understands its characteristics, risks and key features.

Rule 4.7. In making a financial planning recommendation to a client which includes a recommendation to acquire, sell, cancel or hold a particular product or service, a Member must identify and evaluate products or services, including any existing products and services held by the client, that reasonably address:

- (a) the client's personal circumstances, including but not limited to the client's attitude to or tolerance for risk;
- (b) one or more of the client's confirmed objectives, needs and priorities as established during the financial planning engagement;
- (c) any reasonable assumption established during the financial planning engagement; and
- (d) any suitable strategy or strategies identified during the financial planning engagement.

Rule 4.8. For the purposes of Rule 4.7, a Member's obligation to identify and evaluate a product or service is separate from, but complementary to, the Licensee's processes.

Rule 4.9. Where a Member is unable to identify or recommend a suitable product or service in accordance with Rule 4.7, the Member must as soon as practicable inform the client in writing:

- (a) that the Member is unable to identify or recommend a suitable product or service;
- (b) the reasons the Member is unable to do so with reference to the criteria in Rule 4.7; and
- (c) any proposed course of action for the client's consideration.

Rule 4.10. The Member must only make a financial planning recommendation to a client requiring the client to dispose of, cancel, or replace one product or service with another where it is consistent with the requirements in Rule 4.7 and appropriate for the client having regard to any cost, benefit, risks or adverse consequence of:

- (a) acquiring the replacement product or service;
- (b) maintaining the existing service or holding the existing product; and
- (c) disposing of, or cancelling, the existing product or service.

### **Presenting Financial Planning Recommendations to the Client**

Rule 4.11. The Member must provide the financial planning recommendations and information to assist the client to understand the recommendations in writing to the client.

If the recommendations are provided orally, confirmation of the recommendations must be made in writing and provided to the client as soon as practicable after providing the recommendations to the client.

The requirement under this Rule for the financial planning recommendations and information provided to the client to be in writing does not apply to a recommendation to the extent it comprises financial product advice regulated under the Corporations Act and corresponding regulations ("the Act"), and the Act provides that the recommendation is not required to be provided to the client in a written statement of advice.

Note: Information that is likely to assist the client to understand the financial planning recommendations includes the following:

- (a) the client's confirmed objectives, needs, priorities and personal circumstances that the Member relies on in providing the recommendations;
- (b) the financial planning recommendations including details of any strategy, product or service recommended;
- (c) the basis for the financial planning recommendations including an explanation of:
  - i. how each selected strategy is intended to address one or more of the client's confirmed objectives, needs and priorities; and
  - ii. how any product or service identified and evaluated as suitable for implementation is consistent with the selected strategy; and
- (d) the reasonably foreseeable risks and consequences of each recommendation.

Rule 4.12. In providing the financial planning recommendations to the client as required by Rule 4.11, a Member must disclose to the client:

- (a) any remuneration, fees, commissions or any other pecuniary or non-pecuniary benefit whether direct or indirect, received or receivable by the Member or his or her associate in connection with the financial planning recommendations;
- (b) the Member's charging model;
- (c) the impact including any costs and benefits of the Member's charging model on:
  - i. the client's confirmed objectives, needs and priorities; and
  - ii. any selected strategy;if the recommendations are adopted and implemented;
- (d) any other benefit or association reasonably capable of influencing the making of the recommendations by the Member;
- (e) any benefit that a third party may receive in connection with the recommendations;
- (f) any other costs borne by the client should they accept all or part of the recommendations; and
- (g) the time period after which the recommendations may no longer be implemented.

## PS 5 Implement the Client's Financial Planning Recommendations

### PS 5.1 Agree on Implementation Responsibilities

**The Member and the client agree on implementation responsibilities that are consistent with the scope of the engagement, the client's acceptance of the financial planning recommendations, and the Member's ability to implement the financial planning recommendations.**

#### Explanation

The Member gains the client's agreement on implementation of the recommendations and provides the required documentation. The Member may change the scope of the engagement, as originally defined, based on the agreement reached with the client. The Member's responsibilities may include: identifying activities necessary for implementation; determining respective responsibilities of the Member and the client; referring to, and coordinating with, other professionals; sharing client information as authorised; and selecting and securing products and/or services. If there are conflicts of interest, sources of remuneration or material relationships with other professionals that have not been previously disclosed, the Member discloses these to the client. The Member explains the rationale for referrals and the qualification(s) of the referred professional(s). If a Member is engaged by the client to provide only the implementation step of the financial planning process, this is clearly defined in writing in the scope of the engagement. This scope may include the extent to which the Member relies on information, analysis or recommendations provided by others.

### Rules relating to Practice Standard 5

#### Identify the Client

- Rule 5.1. A Member must meet any legal requirements to identify his or her client prior to implementing any relevant financial planning recommendations or providing any transaction-only services to the client.
- Agreed Financial Planning Recommendations or Directions to Implement
- Rule 5.2. A Member must obtain the client's consent before implementing any financial planning recommendations.
- Rule 5.3. A Member must diligently implement all client-agreed financial planning recommendations or client directions to implement.

Where circumstances change, or where 30 days have passed since the provision of a financial planning recommendation, and implementation of the agreed financial planning recommendation or client direction is not in the interests of the client, the Member must:

- (a) not implement the recommendation or direction;
- (b) document the basis for declining to implement; and
- (c) advise the client in writing within 7 days that the recommendation or direction has not been implemented and the basis.

Rule 5.4. Where a client's direction to implement is likely to significantly impact upon the client's confirmed objectives, needs and priorities, or upon the client's previously implemented financial planning recommendations, a Member must inform the client in writing of any cost, benefit, risks or adverse consequences of implementing the direction upon the client's:

- (a) confirmed objectives, needs and priorities; or
- (b) previously implemented financial planning recommendations.

### Client Asset Register

Rule 5.5. Where a Member takes custody, is authorised to exercise investment discretion, or to exercise supervision of any Client Asset, the Member must, as soon as practicable, identify, record and maintain the following details in a register:

- (a) The date the Member took custody, received authority, or was granted discretion in respect of the Client Asset;
- (b) The name of the client in which the asset is held;
- (c) Particulars sufficient to identify the Client Asset;
- (d) The amount of the Client Asset; and
- (e) The date the Member's custody, authority or discretion ceased in respect of the client asset.

Under agreement from the client, the registers may be maintained or held by the authorising Licensee or other Licensee as long as full rights of client access are guaranteed and obligation for maintenance are diligently maintained.

### Expired Recommendations

Rule 5.6. A Member must decline to implement a financial planning recommendation that is no longer current, whether the recommendation was provided by the Member or otherwise.

## PS 6 Review the Client's Situation

### PS 6.1 Agree on Responsibilities and Terms for Review of the Client's Situation

**The Member and client mutually define and agree on terms for reviewing and re-evaluating the client's situation.**

#### Explanation

The Member communicates to the client that financial planning is a dynamic process that may require updates due to changes in the client's personal, economic or other conditions. The Member and the client mutually agree on, and understand, their respective roles, if any, in ensuring that the client's situation is being adequately reviewed. The Member defines and communicates to the client the nature and scope of the reviewing activities that the Member will provide. The reviewing process may require the Member to modify the original scope of engagement or initiate a new engagement.

### PS 6.2 Review and Re-evaluate the Client's Situation

**If conducting a review, the Member and the client review the client's situation to assess progress toward achievement of the objectives of the financial planning recommendations, determine if the recommendations are still appropriate, and confirm any revisions mutually considered necessary.**

#### Explanation

The review process may include: confirming that the financial planning recommendations agreed on by the client and the Member have been implemented; assessing progress toward and achievement of the objectives of the financial planning recommendations to date; re-evaluating initial or subsequent assumptions made by the Member for reasonableness; determining whether changes in the client's circumstances or objectives require adjustments to the financial plan; and mutually agreeing on any required changes. As circumstances and needs change, a Member may need to revisit earlier steps in the financial planning process.

## Rules relating to Practice Standard 6

### Engaging to Provide Review or Portfolio Monitoring Services

- Rule 6.1. A Member must, prior to providing any review or portfolio monitoring service to a client:
- (a) inform the client the difference between those services and the purpose and scope of the services proposed;
  - (b) provide the client with the opportunity to review any operative terms of engagement including the cost of a review or portfolio monitoring service; and
  - (c) comply with Rule 1.7 in respect of any engagement to provide ongoing professional services.
- Rule 6.2. A Member must not misrepresent the nature of any review or portfolio monitoring service to a client or prospective client.

### Conduct of Reviews

- Rule 6.3. In conducting a review, a Member must evaluate the client's current situation against the client confirmed objectives, needs and priorities and previously implemented financial planning recommendations.
- Rule 6.4. In evaluating the client's current situation for the purposes of a review, a Member must gather quantitative and qualitative information in accordance with Practice Standard 2 and Rules 2.1 to 2.4 and analyse and assess such information in accordance with Practice Standard 3 and Rules 3.1 to 3.3.
- Rule 6.5. In conducting a review, if the Member's financial planning recommendations vary from the client's implemented recommendations, a Member must comply with Practice Standard 4 and Rules 4.1 to 4.12 in identifying, developing and presenting any new or amended financial planning recommendations.
- Rule 6.6. A Member must confirm in writing to a client at the conclusion of a review service:
- (a) any changes to the client's:
    - i. confirmed objectives, needs and priorities;
    - ii. personal circumstances; and
    - iii. implemented financial planning recommendations;
  - (b) any recommendation to the client to continue the implemented financial planning recommendations (if applicable); and
  - (c) any additional financial planning recommendations made.

### Conduct of Portfolio Monitoring

- Rule 6.7. A Member must diligently implement any portfolio monitoring service agreed with the client.

## PS 7 Professional Obligations for Practitioners

### PS 7.1 Practitioner Members conduct themselves in a professional and ethical manner

**The Practitioner Member conducts him or herself in accordance with high standards of professional and ethical conduct within the financial planning profession and as a Member of the FPA.**

#### Explanation

The Practitioner Member understands, abides by and upholds applicable laws, the FPA's Constitution, Code of Ethics, Practice Standards, Rules of Professional Conduct, Disciplinary Regulations and other associated regulations, collectively known as the FPA's requirements. The Member ensures that his or her professional and ethical conduct, including relationships with clients, fellow Members, and third parties presents professionalism and enhances the good reputation of the profession. The Practitioner Member acknowledges that good professional conduct extends beyond the Member's obligations to his or her clients, and includes prospective clients, fellow Members, employees, colleagues, the FPA and the public in general. For example, the Member presents a true and fair impression of the Member's competencies, services and relationships with other financial services providers to the public in general.

### PS 7.2 Practitioner Members influence other practitioners to conduct themselves in a professional and ethical manner

**The Practitioner Member encourages and influences other financial planners to demonstrate the high standards of professional and ethical conduct in the provision of financial planning services.**

#### Explanation

As a Member of the financial planning profession, the Practitioner Member encourages and influences other financial planners to demonstrate high standards of professional and ethical conduct in the provision of financial planning services. The Practitioner Member does this by acting in accordance with the FPA's requirements, and by encouraging other Practitioner Members to do the same. In this way, the Practitioner Member's conduct encourages and influences managers and responsible managers, colleagues, peers, employees and subordinates to demonstrate and apply high standards of professionalism in the provision of financial planning services.

### PS 7.3 Practitioner Members present and promote their services fairly and honestly

**The Practitioner Member undertakes fair and honest communication of its services to the public. The Member provides sufficient disclosure to enable consumers to appreciate the financial planning and related services offered, including any third party relationships or influences.**

#### Explanation

The Practitioner Member, in the course of the provision of financial planning or related services, may advertise or promote its services to a client, a prospective client, a targeted audience, or the public. The Member ensures that any communication, including advertising or promotional material, is fair and honest in any representation of service offering, competencies, experience, expertise, capacity or limitations, financial association with product providers or third parties, remuneration or benefit received or receivable and charging model, or any other material representation that would reasonably influence a person to acquire the Member's services.

For example, it is unprofessional conduct for the Member to make unsubstantiated comparisons of its services against another financial services provider.

Similarly, it is unprofessional conduct for a Member to communicate past performance data in the promotion of a particular strategy/product, where such communication may give a false and misleading impression of the benefits, costs or risks of the strategy/product.

#### Rules relating to Practice Standard 7

##### General Conduct

- Rule 7.1. A Member must treat other persons with courtesy, respect and candour.
- Rule 7.2. A Member must not, in the conduct of professional and business activities, engage in any act or omission of a misleading, deceptive, dishonest or fraudulent nature, nor must the Member engage in any act or omission that is likely to mislead or deceive.
- Rule 7.3. A Member must not engage in any conduct which reflects adversely on his or her integrity or fitness as a financial planner, his or her Membership of the FPA, or on the FPA.
- Rule 7.4. A Member who is a Representative of a Principal Member must provide professional services in accordance with the lawful directions of the Principal Member and the FPA's requirements.

##### Client Service

- Rule 7.5. A Member must ensure that all professional services are provided in an efficient, honest and fair manner.
- Rule 7.6. A Member must only provide professional services including financial planning with proper legal authorisation, and in accordance with legal, regulatory and the FPA's requirements.
- Rule 7.7. A Member must ensure that his or her personal biases or interests do not adversely affect his or her services to clients.
- Rule 7.8. A Member must only make and/or implement recommendations that are suitable for the client.

##### Ongoing Disclosure

- Rule 7.9. A Member must advise his or her client in writing, within 20 business days, of any changes to the financial planning engagement which reasonably could adversely impact the client's interest(s) including (but not limited to) changes:
- (a) to the professional services provided;
  - (b) to the Member's capacity or authority to provide professional services; or
  - (c) which increase the Member's remuneration received or receivable under the engagement.
- It is sufficient compliance with this Rule if the Member's authorising Licensee advised the client within the above timeframe.

##### Conflicts of Interest – Continuous Disclosure

- Rule 7.10. A Member must advise the client in writing of any actual, potential, or perceived conflict(s) of interest(s) that developed after the commencement of a financial planning engagement. The Member must make such disclosure prior to the provision of any (further) financial planning recommendation impacted by the conflict, and in any case, within 20 business days of becoming aware of the conflict(s).
- Rule 7.11. A Member must not recommend a product or service in which the Member has a direct or indirect material personal interest without disclosing in writing to the client at the time the recommendation is made the Member's direct or indirect material personal interest in the product or service.

Rule 7.12. A Member must not implement a product or service in which the Member has a direct or indirect material personal interest without:

- (a) disclosing in writing to the client at the time the product or service is implemented the Member's direct or indirect material personal interest in the product or service; and
- (b) holding the client's written authority to undertake the transaction or service including acknowledgment that:
  - i. the client has received the disclosure of the Member's interest; and
  - ii. the client has received independent advice recommending the product or service, or has declined to receive independent advice recommending the product or service.

### Client Engagement

Rule 7.13. A Member must, upon becoming aware that the client had a previous financial planning services engagement with another financial planning business or financial planner, undertake the following (but no later than providing any financial planning recommendations to the client):

- (a) Obtain authority from the client to communicate and facilitate the transfer of documentation from the previous financial planning business or financial planner;
- (b) Request in writing any information that may indicate that the engagement to provide professional services would be contrary to the client's interest(s).

In the absence of any authority from the client, the Member should consider whether to accept the engagement and document the decision to accept/decline engagement.

### Communication

Rule 7.14. A Member must ensure, in the course of the provision of professional services, any communication (whether oral or written):

- (a) is courteous;
- (b) avoids offensive or provocative language or conduct; and
- (c) is not misleading or deceptive, or likely to mislead or deceive.

Rule 7.15. A Member must not misrepresent the status of their Membership with the FPA.

Rule 7.16. A Member must not misstate their authority to represent the FPA. Specifically a Member must not write, speak or act in such a way as to lead another to believe that the Member is officially representing the FPA, unless the Member has been duly authorised to do so by the officers, directors or regulations of the FPA.

Rule 7.17. Unless compelled to by law, or required to fulfil a legal obligation, any person who by reason of their Membership of the FPA or connection with the FPA is exposed to, learns of or has access to information and knowledge concerning the FPA and/or Members must comply with the FPA's Privacy Policy and keep confidential all such information and knowledge and is not entitled to communicate or divulge that information or knowledge or any part thereof.

Rule 7.18. A Member must notify the FPA of any of the following changes in the circumstances of the Member, within 28 days of the effective date of the change:

- (a) address, email, telephone and other contact details;
- (b) employment or authorised representative status details; and
- (c) any other details which may affect the eligibility of the Member to belong to a Category of Membership.

It is sufficient compliance with this Rule if the Member effects the change(s) on the FPA website.

Rule 7.19. A Member must advise the FPA in writing within 7 days of becoming aware of the occurrence of any notifiable event.

Rule 7.20. A Member must comply with the FPA's requirements in respect of complaints handling, dispute resolution, disciplinary procedures and compliance review, as well as maintain adherence with all regulations made from time to time by the FPA.

### Market Representation

Rule 7.21. A Member must not, when communicating his or her professional services:

- (a) misrepresent:
  - i. any service offered;
  - ii. any skill, competency, experience, expertise, or capacity;
  - iii. any association;
  - iv. any remuneration or benefit received or receivable;
  - v. any charging model for financial planning services provided by the Member, his or her associates and any other party.

- (b) make unsubstantiated comparisons of the Member's services against another;
- (c) falsely advertise, or advertise in a way that is misleading or deceptive, or is likely to mislead or deceive; or
- (d) mislead or deceive any person.

Rule 7.22. A Member must comply with the FPA's requirements in using the FPA's name, logos, Membership category descriptions and professional designations.

### Document Administration and Confidentiality

Rule 7.23. A Member must ensure that any personal information or documents given to or gathered by the Member in the course of or in connection with the provision of financial planning services are securely retained and kept confidential. This rule applies to personal information and documents belonging to or related to the Member's client or to other persons.

Rule 7.24. A Member must not use any information or documents given to or gathered by the Member in the course of or in connection with the provision of financial planning services for his or her direct or indirect personal benefit, whether or not it causes detriment to the client.

Rule 7.25. A Member must open and maintain separate and independent files and records for each client to whom any financial planning service is provided. A Member may rely on the files and records of his or her authorising Licensee in compliance with this rule.

Rule 7.26. For the purposes of Rule 7.23:

- (a) A Member must keep the information and/or relevant documents (or copies of such information/document), whether in electronic form or otherwise, for 7 years from the date of the finalisation of the matter. It is sufficient compliance with this rule if the information and/or documents are kept by the Member's employer or the Member's authorising Licensee; and
- (b) A Member must not charge the client for the costs for retaining information and/or documents as required by Rule 7.23.

Rule 7.27. A Member must keep confidential:

- (a) all client information obtained in the provision of professional services; and
- (b) all commercial information belonging to the Member's authorising Licensee or obtained in the course of the Member's employment with a particular Licensee.

### Client Terminations and Transfers

Rule 7.28. A Member must take all reasonable steps, consistent with a client's interest(s), to facilitate the orderly transfer of the client's business to another professional upon receipt of written advice from the client or another person authorised by the client advising that the client has retained another professional in substitution for the Member.

Rule 7.29. A Member must, upon receiving a written request by the client, and subject to the legal requirements of the Member's employer or authorising Licensee, provide the client or a person authorised by the client, any original documents and electronic files related to the provision of professional services within 21 days from the date of the request. Unless compelled by law, this does not include documents which have been prepared or received by the Member in the provision of professional services, such as internal notes, memoranda, quotes or other working documents.

### Members in positions of authority and/or with supervisory responsibilities

Rule 7.30. A Member who is personally legally responsible for the management or conduct of a financial services business or the supervision of Representatives, including principals, managers or responsible managers, must ensure that he or she exercises his or her legal, managerial or supervisory authority in a manner that is not inconsistent with the FPA's requirements.

Rule 7.31. A Member must provide reasonable and prudent professional supervision of, or direction to, any subordinate or third party to whom the Member assigns responsibility for any professional services.

### Competencies

Rule 7.32. A Member must satisfy all continuing professional development requirements set by the FPA from time to time.

Rule 7.33. A Member must offer advice only in those areas in which the Member is professionally competent. In areas where the Member is not professionally competent, the Member shall seek the counsel of qualified individuals and/or refer clients to such parties.

## Client Assets

Rule 7.34. A Member must not commingle the client's property with the property of the Member, the Member's employer, or with other clients' property unless the commingling is permitted by law, is explicitly authorised and defined in a written agreement between the parties, and the Member has sufficient record-keeping to track each client's assets accurately.

Rule 7.35. A Member must not borrow money from a client. This Rule does not apply when:

- (a) the client is a Member of the Member's immediate family; or
- (b) the client is an institution in the business of lending money and the borrowing is unrelated to the professional services performed by the Member.

Rule 7.36. A Member must not lend money to a client. This Rule does not apply when:

- (a) the client is a Member of the Member's immediate family; or
- (b) the Member is a Representative of an institution in the business of lending money and the money lent is that of the institution, not the Member.

## Providing Representative Good Fame and Character Information

Rule 7.37. A Member must be truthful in the disclosure of past investigations, and any current binding legal obligation to the FPA, a current or prospective authorising Licensee, or employer subject to any operative lawful constraint.

## PS 8 Principal Member Professional Obligations

### PS 8.1 Principal Members Conduct Themselves in a Professional and Ethical Manner

**The Principal Member conducts its business in accordance with high standards of professional and ethical conduct within the financial planning profession and as a Member of the FPA.**

#### Explanation

The Principal Member abides by and upholds applicable laws, the FPA's Constitution, Code of Ethics, Practice Standards, Rules of Professional Conduct, Disciplinary Regulations and other associated regulations, collectively known as the FPA's requirements. By ensuring high standards of professional and ethical conduct are applied to all persons, the Member demonstrates professionalism and enhances the good reputation of the profession.

For example, the Principal Member places the client's interest first by ensuring that any financial planning recommendations are developed in accordance with Practice Standards 1 to 6.

### PS 8.2 Principal Members ensure Representatives Conduct Themselves in a Professional and Ethical Manner

**The Principal Member develops and maintains effective systems and culture to ensure its Representatives provide financial planning and related services to clients with high standards of professional and ethical conduct, and in accordance with the FPA's requirements.**

#### Explanation

As a Member of the financial planning profession, the Principal Member develops, maintains and applies systems, processes and business rules which support and are not inconsistent with the FPA's requirements for Practitioner Members.

The Principal Member facilitates and encourages an organisational culture that fosters the professional practice of financial planning by its representatives and others.

Together, the Principal Member's systems and culture enable and influence its representatives to provide financial planning and related services to high standards of professional and ethical conduct and in accordance with the FPA's requirements.

For example, the Principal Member requires all its representatives, whether they are Practitioner Members of the FPA or not, to adhere to the FPA's Code of Ethics, Practice Standards 1 to 6 and 7 and the accompanying FPA Rules of Professional Practice in the representative's provision of financial planning and related services on behalf of the Principal Member.

### PS 8.3 Principal Members Present and Promote their Services Fairly and Honestly

**The Principal Member undertakes fair and honest communication of its services to the public. It provides sufficient disclosure to enable consumers to appreciate the financial planning and related services offered, including any third party relationships or influences.**

#### Explanation

The Principal Member, in the course of the provision of financial planning or related services, may advertise or promote its services to a client, a prospective client, a targeted audience, or the public. The Member ensures that any communication, including advertising or promotional material, is fair and honest in any representation of service offering, competencies, experience, expertise, capacity or limitations, financial association with product providers or third parties, remuneration or benefit received or receivable and charging model, or any other material representation that would reasonably influence a person to acquire the Member's services.

For example, it is unprofessional conduct for the Member to make unsubstantiated comparisons of its services against another financial services provider.

Similarly, it is unprofessional conduct for a Member to communicate past performance data in the promotion of a particular strategy/product, where such communication may give a false and misleading impression of the benefits, costs or risks of the strategy/product.

#### Rules relating to Practice Standard 8

Unless Otherwise Stated, Member Means Principal Member for the Purposes of Rules for Practice Standard 8

The FPA holds Principal Members accountable for their corporate conduct in breach of the FPA's requirements including the FPA Code of Ethics, Practice Standards 1 to 6, Practice Standard 8 and accompanying Rules of Professional Practice directed to Principal Members.

The FPA holds Principal Members accountable for the conduct of the Member's representatives in breach of the FPA's requirements including the FPA Code of Ethics, Practice Standards 1 to 6, Practice Standard 7 and accompanying Rules of Professional Practice, directed to Practitioner Members, whether the representative is a Member of the FPA or not.

#### General Conduct

- Rule 8.1. A Member must ensure its conduct complies with any law or legal requirement applying to the provision of professional services.
- Rule 8.2. Where a Member is also a participant organisation of the Australian Securities Exchange (ASX), the FPA's requirements apply to its provision of financial planning services.
- Rule 8.3. A Member must not, in the conduct of professional and business activities, engage in any act or omission of a misleading, deceptive, dishonest or fraudulent nature, nor must the Member engage in any act or omission that is likely to mislead or deceive.
- Rule 8.4. A Member must not engage in any conduct which reflects adversely on its Membership of the FPA, or on the FPA.
- Rule 8.5. A Member must ensure, in the course of the provision of professional services, any communication (whether oral or written):
- (a) is courteous;
  - (b) avoids offensive or provocative language or conduct; and
  - (c) is not misleading or deceptive, or likely to mislead or deceive.

#### Client Service

- Rule 8.6. A Member must ensure that all professional services are provided in an efficient, honest and fair manner.
- Rule 8.7. A Member must only provide professional services with proper legal authorisation, and in accordance with legal, regulatory and the FPA's requirements.
- Rule 8.8. A Member must ensure that its interests and/or interests of its associated entities do not adversely affect its provision of professional services to its clients or the interests of its clients.
- Rule 8.9. A Member must only make and/or implement financial planning recommendations that are suitable for the client.

## Market Representation

Rule 8.10. In advertising or promoting the Member's professional services or products, including but not limited to, where the advertisement or promotional material associates the Member's services with a product, a Member must ensure the advertising or promotional material discloses:

- (a) the name and Licensee number of the product issuer;
- (b) the relationship between the Member and the product issuer;
- (c) any benefit received by the Member or an associate of the Member, in relation to the advertisement or promotion;
- (d) information about the association or relationship between the Member and a product issuer sufficient to identify:
  - i. any ownership of the Member by a product issuer;
  - ii. any joint ownership of the Member and the product issuer by another body corporate; and
  - iii. any remuneration or benefit received or receivable by the Member if a person acquires the product through the Member, or the Member's Representative.

Rule 8.11. A Member must, where any advertisement or promotional material associates the Member's professional services with a particular product and utilises the Member's brand, ensure the advertising or promotional material displays the brand of the product issuer with equal co-prominence to the Member's brand.

Rule 8.12. A Member must ensure the proper use of the FPA's name, logos, Category of Membership and professional designations in accordance with the regulations of the FPA.

## Ongoing Disclosure

Rule 8.13. A Member must advise its client in writing, within 20 business days, of any relevant changes to the financial planning engagement which reasonably could adversely impact the client's interests including (but not limited to) changes:

- (a) to the professional services provided;
- (b) to the Representative responsible for providing financial planning services;
- (c) to the Member's capacity or authority to provide professional services; or
- (d) which increase the Member's remuneration received or receivable under the engagement.

Rule 8.14. A Member must make disclosure in writing to the client of the approximate amount of remuneration received by the Member as a result of implementing a financial planning recommendation, where the approximate amount of remuneration received is materially higher than the estimates provided to the client at the time of presenting the financial planning recommendations. This written disclosure must be provided no later than 60 days after the first anniversary of the date of implementing the financial planning recommendation and then discussed in each subsequent review cycle.

## Conflicts of Interest – Continuous Disclosure

Rule 8.15. A Member must advise the client in writing of any actual, potential or perceived conflict(s) of interest(s) that develops after the commencement of a financial planning engagement. The Member must make such disclosure prior to the provision of any (further) financial planning recommendation impacted by the conflict, and, within 20 business days of becoming aware of an actual conflict of interest which materially impacts the relationship.

Rule 8.16. A Member must not recommend a product or service in which the Member has a direct, or indirect, material interest without disclosing in writing to the client, at the time the recommendation is made, the Member's direct, or indirect, material interest in the product or service.

Rule 8.17. A Member must not implement a product or service in which the Member has a direct, or indirect, material interest without:

- (a) disclosing in writing to the client at the time the product or service is implemented the Member's direct, or indirect, material interest in the product or service; and
- (b) holding the client's written authority to undertake the transaction or service including acknowledgment that:
  - i. the client has received the disclosure of the Member's interest; and
  - ii. the client has received advice independent of the Member recommending the product or service, or has declined to receive independent advice recommending the product or service.

## Client Assets

Rule 8.18. A Member must clearly identify with the client the assets (if any) over which the Member and/or its Representatives will take custody, exercise investment discretion, or exercise supervision and record the details of any such assets in a central register within 7 days from the date of instructions given by the client.

Under agreement from the client, the registers may be maintained or held by the representative or another Licensee as long as full rights of client access are guaranteed and obligation for maintenance are diligently maintained.

Rule 8.19. A Member must identify and keep updated records of all funds or other property of the client in the custody, or under the discretionary authority, of the Member or its Representatives.

Rule 8.20. A Member must ensure that the Member and/or its Representatives do not commingle the client's property with the property of the Member and/or its Representatives, or with other clients' property unless the commingling is permitted by law, is explicitly authorised and defined in a written agreement between the parties, and the Member has sufficient record-keeping to track each client's assets accurately.

Rule 8.21. A Member must not borrow money from a client. This Rule does not apply when the client is an institution in the business of lending money and the borrowing is unrelated to the professional services performed by the Member.

Rule 8.22. A Member must not lend money to a client. This Rule does not apply when the Member or its associated entity is an institution in the business of lending money and the money lent is that of the Member.

## Document Administration and Confidentiality

Rule 8.23. A Member must ensure that any personal information or documents provided to the Member or its Representative, for the purpose of providing financial planning services are securely retained and kept confidential. This rule applies to personal information and documents belonging to or related to the Member's client or to other persons.

Rule 8.24. A Member must not, without express written authority from the client, use any information or documents provided to the Member or its Representative, for the purpose of providing professional services for any other purpose, whether or not it causes detriment to the client.

Rule 8.25. A Member must ensure that its Representatives open and maintain separate and independent files and records for each client to whom any financial planning service is provided.

Rule 8.26. For the purposes of Rule 8.23, a Member must keep the information and/or relevant documents (or copies of such information/document), for 7 years from the date of the finalisation of the matter.

## Client Termination and Transfer

Rule 8.27. A Member must take all reasonable steps, consistent with the client's interest(s), to facilitate the orderly transfer of the client's business to another professional upon receipt of written advice from the client or another person authorised by the client advising that the client has retained another professional in substitution for the Member.

Rule 8.28. A Member must, upon receiving a written request by the client and subject to the Member's legal rights, provide the client or a person authorised by the client, any original documents and electronic files related to the provision of professional services within 21 days from the date of the request. This does not include documents which have been prepared or received by the Member in the provision of professional services, such as internal notes, memoranda, quotes or other working documents.

## Management of a Financial Planning Business

Rule 8.29. A Member must possess the organisational capacity to provide financial planning services to clients in accordance with the financial planning process established in FPA Practice Standards 1 to 6.

Rule 8.30. A Member must, in relation to its financial planning business, establish and maintain effective systems and organisational culture including:

- (a) corporate governance arrangements;
- (b) risk management systems; and
- (c) policies to manage alternative forms of remuneration received and/or provided, whether by the Member or product issuers, and whether passed through to the Member's Representatives or not.

Rule 8.31. A Member must take reasonable steps and apply a demonstrable process to manage conflicts of interests.

Rule 8.32. A Member must disclose any actual or potential conflict of interest or limitation that the Member's interest in another professional services business imposes upon the Member's capacity to provide financial planning services to the client, including the Member's capacity to provide financial planning services with objectivity to the client.

Rule 8.33. A Member must establish systems to ensure its natural person Representatives maintain the competence to provide professional services.

Rule 8.34. A Member must ensure its Practitioner Member Representatives satisfy all continuing professional development requirements as set by the FPA from time to time.

Rule 8.35. A Member must effect and maintain appropriate internal dispute resolution and external dispute resolution arrangements, as well as compensation arrangements in respect of the provision of professional services.

### **FPA Compliance Requirements**

Rule 8.36. A Member must advise the FPA in writing within 20 business days of any material change to its Licensee status.

Rule 8.37. A Member must advise the FPA in writing within 20 business days of becoming aware of the occurrence of any notifiable event, as outlined in Schedule D of the Disciplinary Regulations.

Rule 8.38. A Member must advise the FPA in writing within 20 business days of any change to the Member's business contact details, the name of the nominated Representative and any other information relevant to the Member's Membership.

Rule 8.39. A Member must comply with the FPA's requirements in respect of complaints handling, dispute resolution, disciplinary procedures and compliance review, as well as maintain adherence with all regulations made from time to time by the FPA.

### **Recruitment and Appointment of Representatives**

Rule 8.40. A Member must have reasonable and appropriate standards for the appointment of Representatives responsible for the provision of professional services.

Rule 8.41. A Member must have a written agreement with its Representatives which defines the rights and obligations of the Member and the Representative.

Rule 8.42. A Member must not, without prior approval of the FPA Board, engage in business with a disqualified person.

Rule 8.43. Having regard to the Member's obligations under Rule 8.13, the Member should consider notifying clients where the Member's Representative becomes the subject of a notifiable event, including notification of:

(a) the fact that the Representative is the subject of an FPA notifiable event; and

(b) the type of notifiable event as set out in the notifiable events schedule.

Provided that for the purposes of this rule, the Member may be excused from the requirement to notify the clients of its Representative under Rule 8.13 where it is able to demonstrate such notification would be unfair or unlawful.

### **Supervision of Representatives**

Rule 8.44. A Member is responsible for any conduct by its Representatives which relates to the conduct of the Member's financial planning business.

Rule 8.45. A Member must develop and maintain effective systems of supervision to ensure that its Representatives provide professional services that comply with the FPA's requirements.





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