

# Code comparison with the Corporations Act 2001 and FASEA Standards

From the time you register with the Tax Practitioners Board (TPB), you are required to comply with obligations under the Code of Professional Conduct (Code) as contained in section 30-10 of the *Tax Agent Services Act 2009* (TASA).

## Obligations under the Corporations Act

Many of the obligations under the Code are similar to the obligations of Australian financial services (AFS) licensees and their representatives under the *Corporations Act 2001* (Corporations Act).

## FASEA standards

All financial advisers are required to comply with the Code of Ethics set by the Financial Adviser Standards and Ethics Authority (FASEA) from 1 January 2020.

You must be aware of the requirements under both the Code and Standards to ensure you are compliant when providing services to clients. This is in addition to your obligations under the Corporations Act.

## Comparing the TPB's Code with the Corporations Act and FASEA Standards

The following table provides a brief summary comparison of the TPB's Code with relevant obligations under the Corporations Act and FASEA Standards. This table does not aim to comprehensively cover all the relevant obligations under the Corporations Act and FASEA's Standards. For further information, please visit the ASIC and FASEA websites.

TPB Code of Professional Conduct	FASEA Code of Ethics	Corporations Act 2001
<p><b>Code item 1</b></p> <p>You must act honestly and with integrity.</p> <p><b>Code item 2</b></p> <p>You must comply with the taxation laws in the conduct of your personal affairs.</p> <p><b>Code item 10</b></p> <p>You must take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client.</p>	<p><b>Standard 1</b></p> <p>You must act in accordance with all applicable laws, including this Code, and not try to avoid or circumvent their intent.</p> <p><b>Standard 2</b></p> <p>You must act with integrity and in the best interests of each of your clients.</p>	<p><b>Sections 912A, 913B, 915C, 991A, 1041E, 1041G and 1041H</b></p> <p>Obligations are similar. In particular, the following is noted:</p> <ul style="list-style-type: none"> <li>• Licensees have a general obligation to ensure that the financial services covered by their licence are provided efficiently, honestly and fairly.</li> <li>• In the course of carrying on a financial services business, a person must not engage in dishonest conduct (according to the standards of ordinary people) in relation to a financial service.</li> <li>• A licensee must not engage in conduct that is, in all the circumstances, unconscionable. Further, there are also obligations in relation to false or misleading statements or conduct under Part 7.10 of the <i>Corporations Act 2001</i>.</li> <li>• ASIC may suspend or cancel an AFS licence if no longer satisfied that the licensee or the licensee's representatives are of good fame or character.</li> </ul>

TPB Code of Professional Conduct	FASEA Code of Ethics	Corporations Act 2001
<p><b>Code item 5</b></p> <p>You must have in place adequate arrangements to manage conflicts of interest that may arise in relation to the activities that you undertake in the capacity of a registered tax practitioner.</p> <p><b>Code item 4</b></p> <p>You must act in the best interests of your client.</p> <p><b>Code item 9</b></p> <p>You must take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of the client.</p>	<p><b>Standard 2</b></p> <p>You must act with integrity and in the best interests of each of your clients.</p> <p><b>Standard 3</b></p> <p>You must not advise, refer or act in any other manner where you have a conflict of interest or duty.</p> <p><b>Standard 4</b></p> <p>You may act for a client only with the client's free, prior and informed consent. If required in the case of an existing client, the consent should be obtained as soon as practicable after this Code commences.</p> <p><b>Standard 5</b></p> <p>All advice and financial product recommendations that you give to a client must be in the best interests of the client and appropriate to the client's individual circumstances.</p> <p>You must be satisfied that the client understands your advice, and the benefits, costs and risks of the financial products that you recommend, and you must have reasonable grounds to be satisfied.</p> <p><b>Standard 7</b></p> <p>The client must give free and informed consent to all benefits you and your principal will receive in connection with acting for the client, including any fees for services that may be charged. If required in</p>	<p><b>Sections 912A, 961B, 961G, 961J and 961H</b></p> <ul style="list-style-type: none"> <li>• Licensees must have in place adequate arrangements for the management of conflicts of interest that may arise (either wholly or partially) in relation to activities undertaken by the licensee or a representative in the provision of financial services.</li> <li>• If there are competing interests between the advice provider and the client, the provider must give priority to the client's interests when giving advice.</li> <li>• Providers of financial advice must only provide advice to clients that is appropriate to the clients and in their best interests.</li> <li>• If it is reasonably apparent that the information on which the advice is based is incomplete or inaccurate, the person providing the advice must warn the client that: <ul style="list-style-type: none"> <li>○ the advice is, or may be, based on incomplete or inaccurate information relating to the client's relevant personal circumstances, and</li> <li>○ that the client should consider the appropriateness of the advice before acting on it.</li> </ul> </li> </ul> <p>Note: Section 961B outlines steps a provider can follow for the purpose of satisfying the best interest duty.</p>

the case of an existing client, the consent should be obtained as soon as practicable after this Code commences.

Except where expressly permitted by the *Corporations Act 2001*, you may not receive any benefits, in connection with acting for a client, that derive from a third party other than your principal.

You must satisfy yourself that any fees and charges that the client must pay to you or your principal, and any benefits that you or your principal receive, in connection with acting for the client are fair and reasonable, and represent value for money for the client.

TPB Code of Professional Conduct	FASEA Code of Ethics	Corporations Act 2001
<p><b>Code item 7</b></p> <p>You must ensure that a tax agent service you provide or that is provided on your behalf is provided competently.</p> <p><b>Code item 8</b></p> <p>You must maintain knowledge and skills relevant to the tax agent services that you provide</p> <p><b>Code item 9</b></p> <p>You must take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of the client.</p>	<p><b>Standard 5</b></p> <p>All advice and financial product recommendations that you give to a client must be in the best interests of the client and appropriate to the client's individual circumstances.</p> <p>You must be satisfied that the client understands your advice, and the benefits, costs and risks of the financial products that you recommend, and you must have reasonable grounds to be satisfied.</p> <p><b>Standard 6</b></p> <p>You must take into account the broad effects arising from the client acting on your advice and actively consider the client's broader, long-term interests and likely circumstances.</p> <p><b>Standard 9</b></p> <p>All advice you give, and all products you recommend, to a client must be offered in good faith and with competence and be neither misleading nor deceptive.</p> <p><b>Standard 10</b></p> <p>You must develop, maintain and apply a high level of relevant knowledge and skills.</p>	<p><b>Sections 912A, 961B and 961H</b></p> <ul style="list-style-type: none"> <li>• A licensee must maintain the competence to provide financial services and ensure that its representatives are adequately trained and are competent to provide financial services.</li> <li>• The person providing the advice must assess whether they have the expertise required to provide advice on the client's identified subject matter. If the provider does not have the expertise, they must decline to provide the advice.</li> <li>• The person providing the advice must make reasonable enquiries to obtain complete and accurate information relating to the client's relevant circumstances.</li> <li>• If it is reasonably apparent that the information on which the advice is based is incomplete or inaccurate, the person providing the advice must warn the client that: <ul style="list-style-type: none"> <li>○ the advice is, or may be, based on incomplete or inaccurate information relating to the client's relevant personal circumstances, and</li> <li>○ that the client should consider the appropriateness of the advice before acting on it.</li> </ul> </li> </ul>

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<p><b>Code item 6</b></p> <p>Unless you have a legal duty to do so, you must not disclose any information relating to a client's affairs to a third party without your client's permission.</p>	<p><b>Standard 1</b></p> <p>You must act in accordance with all applicable laws, including this Code, and not try to avoid or circumvent their intent.</p> <p><b>Standard 8</b></p> <p>You must ensure that your records of clients, including former clients, are kept in a form that is complete and accurate.</p>	<p>No similar obligation exists in the Corporations Act.</p>
<p><b>Code item 10</b></p> <p>You must take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client.</p>	<p><b>Standard 9</b></p> <p>All advice you give, and all products you recommend, to a client must be offered in good faith and with competence and be neither misleading nor deceptive.</p>	<p><b>Sections 912A, 961B and 961G</b></p> <ul style="list-style-type: none"> <li>• A licensee must comply with financial services laws and take reasonable steps to ensure that its representatives comply with financial services laws.</li> <li>• The person providing personal advice to a retail client is required to act in the best interests of the client in relation to the advice. The resulting advice must also be appropriate to the client.</li> </ul>

TPB Code of Professional Conduct	FASEA Code of Ethics	Corporations Act 2001
<p><b>Code item 11</b></p> <p>You must not knowingly obstruct the proper administration of the taxation laws.</p> <p><b>Code item 13</b></p> <p>You must maintain the professional indemnity insurance that the Board requires you to maintain.</p> <p><b>Code item 14</b></p> <p>You must respond to requests and directions from the Board in a timely, responsible and reasonable manner.</p>	<p><b>Standard 11</b></p> <p>You must cooperate with ASIC and monitoring bodies in any investigation of a breach or potential breach of this Code.</p>	<p><b>Sections 912A, 912B, 912C, 961B, 961G, 961H and 1310</b></p> <ul style="list-style-type: none"> <li>• A licensee must comply with financial services laws and take reasonable steps to ensure that its representatives comply with financial services laws.</li> <li>• The person providing personal advice to a retail client is required to act in the best interests of the client in relation to the advice. The resulting advice must also be appropriate to the client.</li> <li>• Licensees must have arrangements for compensating retail clients for losses or damage they suffer as a result of a breach by the licensee or its representatives of their obligations in Chapter 7 of the <i>Corporations Act 2001</i>.</li> <li>• While there is no requirement to respond to the TPB, there is an obligation for licensees to respond to ASIC.</li> </ul>

TPB Code of Professional Conduct	FASEA Code of Ethics	Corporations Act 2001
<p><b>Code item 12</b></p> <p>You must advise your client of the client's rights and obligations under the taxation laws that are materially related to the tax agent services you provide.</p>	<p><b>Standard 5</b></p> <p>All advice and financial product recommendations that you give to a client must be in the best interests of the client and appropriate to the client's individual circumstances.</p> <p>You must be satisfied that the client understands your advice, and the benefits, costs and risks of the financial products that you recommend, and you must have reasonable grounds to be satisfied.</p> <p><b>Standard 6</b></p> <p>You must take into account the broad effects arising from the client acting on your advice and actively consider the client's broader, long-term interests and likely circumstances.</p>	<p><b>Sections 912A, 961B and 961H</b></p> <p>No similar obligations exist in the Corporations Act. However, the following is noted:</p> <ul style="list-style-type: none"> <li>• The person providing the advice must make reasonable enquiries to obtain complete and accurate information relating to the client's relevant circumstances.</li> <li>• If it is reasonably apparent that the information on which the advice is based is incomplete or inaccurate, the person providing the advice must warn the client that: <ul style="list-style-type: none"> <li>○ the advice is, or may be, based on incomplete or inaccurate information relating to the client's relevant personal circumstances, and</li> <li>○ that the client should consider the appropriateness of the advice before acting on it.</li> </ul> </li> <li>• There is a general requirement that licensees must comply with financial services laws and that AFS licensees take reasonable steps to ensure that their representatives comply with financial services laws.</li> </ul>