

FASEA Code of Ethics

InterPrac Business Guidelines



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Version	1.0
Description	Standards, Values, FAQ, Consequences
Author	Compliance Team

Scope

The FASEA Code of Ethics (the Code) applies to all financial advisers, existing and new entrants to the industry.

The Code imposes ethical duties that go above the requirements of the law and it is a set of principles and core values. 5 values are a paramount and 12 Standards provide the framework to promote/demonstrate those values.

Standards of Ethical behaviour

Standard 1

You must act in accordance with all applicable laws, including this Code, and not try to avoid or circumvent their intent.

Standard 2

You must act with integrity and in the best interests of each of your clients.

Standard 3

You must not advise, refer or act in any other manner where you have a conflict of interest or duty.

Standards of Client care

Standard 4

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.

Standard 5

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.

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.

Standard 6

You must take into account the broad effects arising from the client acting on your advice and actively consider the clients broader, long-term interests and likely circumstances.

Standards of Quality process

Standard 7

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 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.

Standard 8

You must ensure that your records of clients, including former clients, are kept in a form that is complete and accurate.

Standard 9

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.

Standards of Professional commitment

Standard 10

You must develop, maintain and apply a high level of relevant knowledge and skills.

Standard 11

You must cooperate with ASIC and monitoring bodies in any investigation of a breach or potential breach of this Code.

Standard 12

Individually and in cooperation with peers, you must uphold and promote the ethical standards of the profession, and hold each other accountable for the protection of the public interest.

Our values

A relevant provider must always act to realise and promote the values of:

- **Trustworthiness**
- **Competence**
- **Honesty**
- **Fairness**
- **Diligence**

Purpose

The FASEA Code of Ethics (the Code) commences from 1/1/2020 and we have had a number of calls from advisers who are concerned about the continuation of their business models under the new Code.

Unfortunately, there has been wide spread misreporting and misinterpretation of the Code which has come under fire during the consultation phase and whilst there will be further guidance to be issued following the consultation we need to prepare for its impact.

Based on the requests and discussions with our advisers I will commence with some FAQ's and will have these and as we get the final guidance add to them.

Frequently asked questions

Q. The FASEA Code of Ethics puts different requirements on advisers than Corporations Law, if it is permissible under Corporations Law (Corps Law) can I ignore the requirements of the Code?

A. Both Corps Law and the Code are both laws. The Code is providing an ethical overlay to Corps Law and both must be adhered to after 1/1/2020. The ethical overlay can be considered as, prioritising the clients' interests over the adviser or other party, the advice and the fee charged represents fair value and that the client entered into the arrangement with informed consent.

Q. A lot is being said about the Code requiring advisers to avoid conflicts of interest when Corps Law requires advisers to identify and manage Conflicts of Interest.

A. This is probably the biggest change, under the Code you are required on an ethical basis to avoid Conflicts of Interest. This will place more importance on identifying actual and perceived conflicts of interest. Under Corps Law we were able to spend less time in identifying whether a Conflict of Interest (actual or perceived) existed because it could be managed by disclosure. This is not the case under the Code as they must be avoided not managed once identified.

Q. The Code Standard 3 is looking to ban referrals. I operate both an Accounting and Financial Planning business. Does this mean I can no longer undertake both advising and providing accounting services to my clients?

A. No. The Code does not intend to restrict the provision of multiple services to a client from a related entity. The Code requires that the process of having the client receive and pay for different services by different entities is done in an ethical manner. It is permissible to have a related entity provide the accounting services even where you may receive a share of profits from that entity provided the requirements for the advice that has led to the referral, prioritises the clients' interests before the advisers, represents fair value and was entered into in an informed consent manner.

Q. What referrals are prohibited?

A. It is not the referral that is prohibited but the receipt of a payment which is made for the referral rather than for advice or service provided. A mere referral to a mortgage broker, property developer that results in a referral fee being paid is against the Code whereas a referral to another professional such as an Estate Planning specialist that you work with to put in place the advice and are remunerated for that work is not, provided it meets the ethical tests of prioritising the clients interest, representing fair value and undertaken with informed consent.

Q. People are saying that the Code is banning Commissions, FUM based fees and Brokerage. How can I get paid?

A. The Code does not ban or approve particular forms of remuneration, it simply requires them to be ethical. If applying a FUM based fee meets the ethical tests then it is permitted. The same with Life Insurance commissions and Brokerage for our equity's traders. The major change is the Grandfathered Commissions which under the changes to the Corps Act are to finish on 1/1/2021. Under the Code Grandfathered Commission payments will be unlikely to meet the ethical test and are required to be avoided from 1/1/2020. Advisers will have a reasonable time to review whether they can change the arrangements to provide service for the fee paid and the definition of a reasonable time will depend on the number of clients to be considered.

Q. How do I demonstrate that I am acting in accordance with the Code and who will monitor this now that the Code Monitoring Bodies legislation has been scrapped?

A. In the same manner that Safe Harbor provides for actually demonstrating that the requirements of Best Interest have been met. The requirement for meeting the Code is that the file must demonstrate that you have considered and avoided conflicts of interest and that in providing advice you have considered the ethical overlay.

It would not be considered to have met the ethical overlay if in replacing a product you provided the reason that the new product was cheaper. Therefore, prioritising the client's best interest is important, if the saving to the client is \$100 p.a. and you are charging them a \$1,500 fee for the advice, as it would take them 15 years to break even.

The Code applies to advisers not the AFSL and as such the licensee is being required to monitor the adherence to the Code for the next 3 years.

Consequences

The Code is to be monitored and enforced, by one or more monitoring bodies, under a compliance scheme approved and supervised by ASIC. It is a personal responsibility of each adviser and not InterPrac's to comply with the Code. InterPrac can only monitor advisers, but not be responsible for the breaches. Failure to comply with the code will result in exclusion from coverage of the monitoring body's compliance scheme and as each relevant provider must be covered by an approved compliance scheme we may suspend or terminate you as an authorised representative.

Support

If in doubt, contact a member of the Compliance team to assist you.

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Guidance and Associated Documentation

Further guidance in support of Code of Ethics and related obligations can be seen in additional business rules including:

- Code of Ethics: [Legislative Instrument & Explanatory Statement](#)
- FG002 Code of Ethics [Guidance](#)
- FASEA [FAQ](#)
- Corporations Act 2001