

Compliance Update Spring 2019



With raging bushfires through NSW & QLD and 40 degree days in Melbourne in November it feels more like Summer than Spring. We recently finalised the last of the State based PD days which were very successful. The feedback received (which has unfortunately been a little slow in being returned) was very positive and having at least **1 state-based PD day will be format going forward.**

We will shortly be asking for a commitment to attending the proposed **off-shore conference in Vietnam from the 20th May 2020** and hope that you will all look to take the opportunity to attend.

As I dealt with during my presentation the Industry is going through a period of almost unprecedented change and every day, we seem to hear another story about how the Banks and Institutions have got it wrong – whether it be the remediation or the failure to comply with AML/CTF requirements. The numbers are difficult to comprehend Westpac's maximum fine for 23m money laundering offences is somewhere above \$30 trillion and CBA paid a \$700m fine for less offences.

In this edition I have provided some FAQ's in regard to **the FASEA Code of Ethics**, there has been much uninformed commentary and the explanatory documents provided by FASEA have not always been clear. The key points are that the FASEA Code of Ethics is law and will commence on 1/1/2020, it provides an ethical overlay to and can be therefore more stringent than Corporations Law. It does not as many have interpreted put a blanket ban on referring business between Financial Planners and Accountants or ban life Insurance Commissions or Brokerage received for share transactions. If you have further questions forward them to Compliance@interprac.com.au and we will look to add commonly asked questions to our FAQ guidance.

This issue also discusses the **2020 LIF changes** and the **ASIC Levy**. We have also provided information on what advisers will need to supply for the **Professional Standard reforms**.

We have also released the latest in our **Business Principles** and all advisers should take the time to read these as they replace the individual sections of the Compliance Manual and these together with a lot of other helpful documents can be found on the [Adviser Resource Centre](#).

Sequoia Financial Group was very fortunate to secure the services of Tracy Byrne for the role of Head of Risk and Compliance and she will be based in Sydney with responsibility for the Market participant licences and the Risk Governance for the Sequoia Financial Group Ltd. Tracy is very experienced and comes to Sequoia from the Reserve Bank and together we will continue the process of continuous improvement for the Group.

As we come into the Christmas season from the team at Sequoia to all of the advisers and their staff, we wish you a happy and safe Christmas and please take the time to recharge and refresh for what will be another big year.

Over the Christmas period the **office will be closed from 21st December 2019 until 6th January 2020**. Any emergency queries call me on 0431 774 688.

Michael Butler
Head of Advice and Compliance
Sequoia Financial Group Ltd

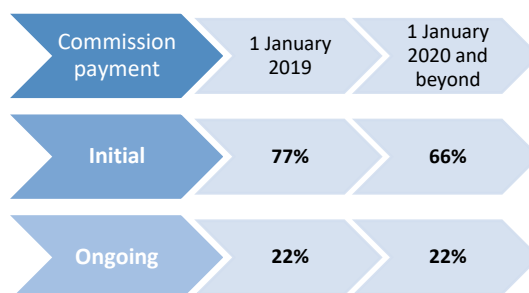
LIF reforms and new Insurance Business Principle

LIF Reform

The Life Insurance Framework (LIF) reforms have now been implemented, effective from 1 January 2018, and introduced changes to adviser commission arrangements and commission clawback obligations related to personal insurance products recommended through both personal and general advice models.

From 1 January 2019 the maximum upfront commission reduced to 77% and from 1 January 2020 the maximum upfront commission reduces to 66%. These rates are inclusive of GST.

Ongoing commission has been capped at a maximum of 22% per annum (incl. GST) from the point LIF reforms came into effect, with this cap expected to remain in place going forward.



Policies written on pre-LIF terms (Grandfathered commissions) will retain the commission terms on which they were originally written.

Commission Clawback

The LIF reforms introduced new rules regarding clawback of commission payments, enforcing a 2 year clawback period. This means the insurance provider is entitled to:

- clawback 100% of the commission if the policy lapses (i.e. the policy is cancelled or not continued, or the policy cost is reduced) in the first year, and to
- clawback 60% of the initial commission in the event of a lapse in the second year



The reforms provide formulae for working out clawback amounts depending on when the lapse occurs.

If you are receiving any commissions as a result of the implementation of insurance advice with any insurance company, you agree to abide by the relevant clawback provisions imposed by the regulations and by each provider. By successfully implementing insurance advice and a resulting policy being issued, you are deemed to have accepted, understood and agreed to these provisions.

Please note that clawback applies to the current licensee if you have implemented insurance advice under previous licensee. Therefore, any clawback will be deducted from your commission statement as per the terms of the Representative Agreement with InterPrac.

FASEA Code of Ethics FAQ

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, as the final guidance is released, we will add to these.

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 enforceable. 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 clear and 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 Standard 3 of the Code 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 a manner that demonstrates the client's clear and informed consent.

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 mortgage broker, property developer or other professional adviser, that results in a referral fee being paid, is in conflict with 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 in conflict with the Code, provided it meets the ethical tests of prioritising the clients interest, representing fair value and undertaken with the client's clear and 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.

If you have further questions about the requirements of the Code forward them to our new email Compliance@interprac.com.au and we will look to add them to this FAQ page on the Adviser Resource Centre.

New Business Principles and Guidelines

We are introducing the new Business Principles which replace in part items from the Compliance Manual which has always been a mix between licensee rules and adviser requirements. We have aimed with the Business Principles to put in a single place and using a similar format the licensee expectations we hold for advisers. Further Business Principles has been issued since the last Compliance update.

You can find all Business Principles on the [Adviser Resource Centre](#)

New Business Principles

- *SMSF*
- *Continuous Professional Development*
- *FASEA code of Ethics FAQ*

Business Principles in Progress, but released before EOY

- *Insurance*
- *Client Transfers*
- *AML / CTF*

Business Principles issued in August

- *Advice Process*
- *Advice Documentation*
- *Fee Disclosure & Renewal Notice*
- *Best Interest Duty*
- *Authorisations and Adviser Obligation*
- *Marketing and Client Documents*
- *Tax practitioners Board*

Business Guidelines

- *IP Office*

Supporting Documents

- *Client Checklist*
- *Approved Product List*
- *Demonstrating Best Interest guidelines*
- *Ongoing Service Template*
- *FDS Template*
- *Invoice Template*

ASIC Levy Payments

The annual ASIC adviser levy is payable in January 2020. The ASIC levy is a user pays levy that is imposed on all Companies and Individuals that are governed by ASIC.

The levy is payable by all advisers who were on the FAR / ASIC register as at 30 June 2019 under InterPrac Financial Planning Pty Ltd.

If you were not on the register as at that date or were under a different licensee then you will not be levied under InterPrac and it will be for the other licensee (if applicable) to collect the levy from you.

The final amount has not yet been finalised however it is expected to be a similar amount to last year of approximately \$1000 and has components that include both the fixed levy and a transactional levy based on the overall transactions via the ASX (both buy and sell).

We propose to collect the payment from the December and January middle of the month commission runs.

ASIC Levy payments collection:

Commission run	Amount
December	\$475
January	\$475
February	Outstanding \$

IP Office

Some good news regarding the credit card transaction fees. AMEX has reduced credit card transactions fees from 2.5% down to 1.5%. They are now aligned with VISA and Mastercard transaction fees.

If you have any questions please contact Dilraj Sahni on 03 9209 9736 or dilraj.sahni@interprac.com.au

ASIC Professional Standards Reforms

AFSL's will be required to provide ASIC with information in regard to existing advisers on the FAR register and it is a breach of the obligations not to do so and penalties may apply.

Therefore, we advise you to check current information and update us on the ongoing basis regarding your Business addresses, Exam, Continues Professional Development and Qualification & Training courses.

To comply with the professional standards, **existing advisers must:**

- 1) Comply with the CPD requirements from 1 January 2019
- 2) Comply with the Code of Ethics from 1 January 2020
- 3) Pass the FASEA Exam by 1 January 2021*
- 4) Have an approved bachelor degree (AQF7 level) or above or equivalent by 1 January 2024*

**Extension for exam and qualification: On 30 August 2019, the Minister announced that the Government intends to give existing financial advisers more time to meet the exam and degree requirements. Once legislated, existing advisers have until:*

- 1 January 2022 to pass the Financial Adviser Standards and Ethics Authority (FASEA) exam
- 1 January 2026 to get an approved qualification.

The extension will apply once relevant legislation has been passed.

Timeline for the reforms

When	Information to add to the FAR by InterPrac
From 15 November to 31 December 2019 for existing financial advisers	<ul style="list-style-type: none"> • Principal place of business address • Email address • Adviser role type • Appoint financial advisers, including provisional financial advisers, authorised between 1 January and 14 November 2019 • Continuing professional development (CPD) year start date
From 15 November 2019 onwards for existing and new financial advisers	<ul style="list-style-type: none"> • Principal place of business address • Email address • Adviser role type • CPD year start date • FASEA exam pass date* • Qualification details* • Failure to comply with the Code of Ethics or CPD requirements (fees apply) • Appoint financial advisers, including provisional financial advisers, within 30 days of authorisation

InterPrac CPD year runs between 1 January 2019 until 30 June 2020. InterPrac will need to notify to ASIC of those advisers who will not meet the CPD requirement of 60 hours. ASIC fees apply and InterPrac will pass on the fees to Advisers that won't meet their CPD requirements.

CALL TO ACTION for all Advisers

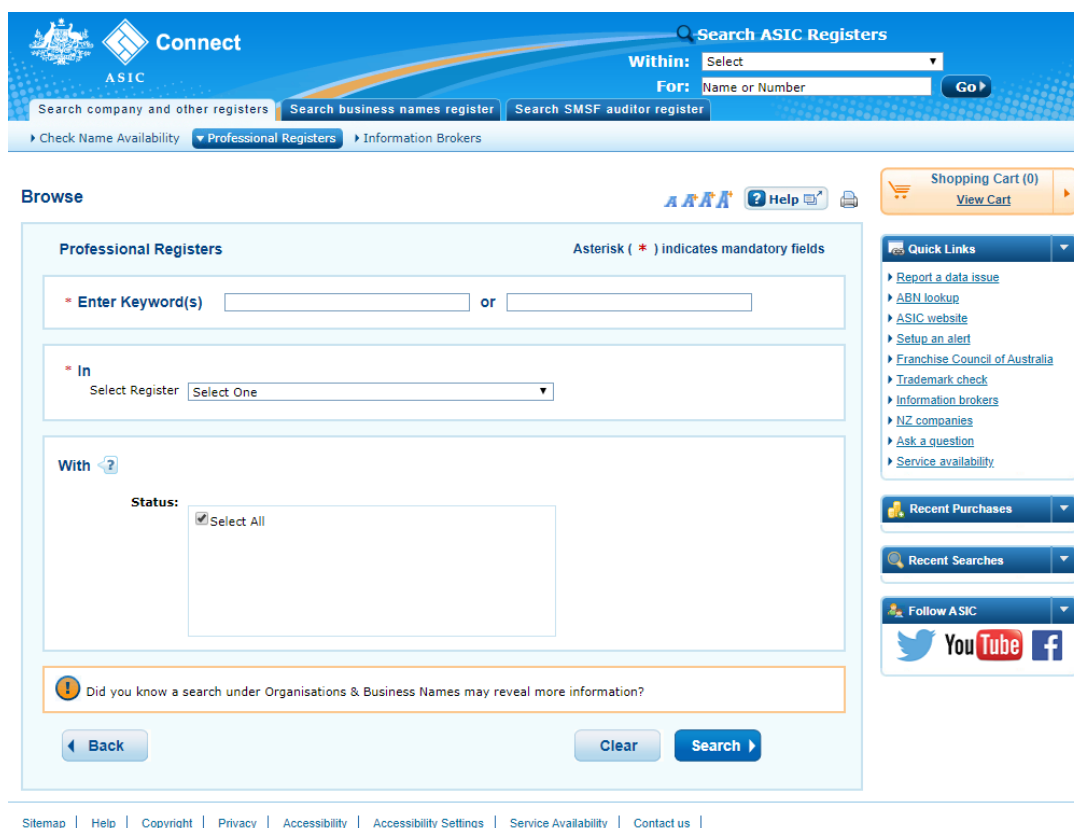
Notify us by 1 December

1) Principal place of business address

How to check your principal place of Business if incorrect information is displayed on ASIC

Step 1:

- Go to ASIC Register following this link
- https://connectonline.asic.gov.au/RegistrySearch/faces/landing/ProfessionalRegisters.jspx?_adf.ctrl-state=6nuw2812g_23



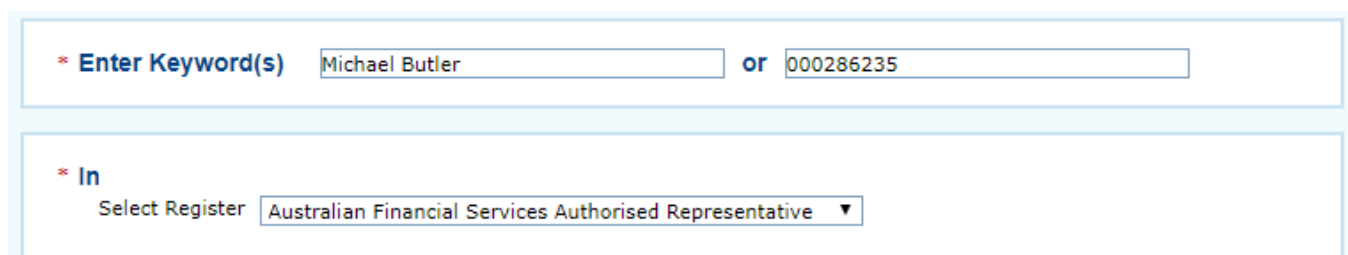
The screenshot shows the ASIC Connect website interface for searching Professional Registers. The page includes a search bar with 'Search ASIC Registers' and fields for 'Within:' (a dropdown menu) and 'For:' (a text input field with 'Name or Number' entered). Below the search bar are navigation tabs: 'Check Name Availability', 'Professional Registers' (selected), and 'Information Brokers'. The main content area is titled 'Professional Registers' and contains several search criteria sections:

- 'Enter Keyword(s)' with two text input fields separated by 'or'.
- 'In' with a 'Select Register' dropdown menu currently set to 'Select One'.
- 'With' section with a 'Status:' dropdown menu set to 'Select All'.

 At the bottom of the search area are 'Back', 'Clear', and 'Search' buttons. A warning message states: 'Did you know a search under Organisations & Business Names may reveal more information?'. On the right side, there is a 'Quick Links' menu with various options like 'Report a data issue', 'ABN lookup', and 'ASIC website', along with 'Recent Purchases', 'Recent Searches', and social media links for Twitter, YouTube, and Facebook.

Step 2:

- Enter your Adviser Number or Full Name
- Select Australian Financial Services Authorised Representative
- Press "Search"



This screenshot shows the search form from Step 1 with example input. The 'Enter Keyword(s)' field contains 'Michael Butler' and the second field contains '000286235'. The 'In' dropdown menu is now set to 'Australian Financial Services Authorised Representative'.

Step 3:

- View Summary

Professional Registers

[Hide all details](#)

▼ Australian Financial Services Authorised Representative - MICHAEL BUTLER 000286235

▼ Representative Summary 

Name: MICHAEL BUTLER
AFS Representative Number: 000286235
Status: Current
Commenced: 18/03/2005
Other role: Financial adviser [Go to the Financial Adviser register](#)

 [View Summary \(PDF\)](#)

Licensees Represented 

Name	Number	ABN	Commenced as Representative	Ceased as Representative	Appointed by type	Appointed by number
INTERPRAC FINA...	000246638	14 076 093 680	18/12/2018		AFS Licensees	000246638

Step 4:

- Check your address
- Notify Planning@interprac.com.au if details are incorrect and changes need to be made

Licensee Represented	
INTERPRAC FINANCIAL PLANNING PTY LTD	
Licensee Details	
Name:	INTERPRAC FINANCIAL PLANNING PTY LTD
Licence Number:	246638
ACN:	076 093 680
ABN:	14 076 093 680
Commenced:	01/02/2004
Representative Details	
Name:	MICHAEL BUTLER
AFS Representative Number:	000286235
Commenced:	18/12/2018
Classes:	Provide financial product advice Deal in a financial product/Apply for, acquire, vary or dispose of financial products on behalf of another
Principal Business Address:	Level 8 525 Flinders St Melbourne VIC 3000
A C N 055 706 211 LIMITED	

2) Email address

How to check your email address if InterPrac holds wrong information

Email address isn't displayed on ASIC register, but you should receive about a dozen of emails from InterPrac in the last 6 months. Check your inbox and notify us if you didn't receive any, we could possibly have a wrong

email address on our files and therefore it would be also wrong on ASIC. Please notify us by sending an email to planning@interprac.com.au

Notify us on an ongoing basis or respond to our direct enquiries asap

3) FASEA Exam

Once you receive results for FASEA exam send the completion date and result to cpd@interprac.com.au

4) Qualification details

Existing financial advisers must bring their qualifications up to an approved degree or equivalent level to meet the education requirements and InterPrac must update the Financial Advisers Register when the financial advisers they have authorised complete the approved qualifications.

Information that needs to be added exists of:

1. Name of course
2. Provider / Institution
3. Year attained
4. Type of course at an AQF level – Doctoral Thesis, Masters Degree, Bachelor Honours Degree, Grad Dip, Grad Certificate, etc.
5. whether the qualification is FASEA approved

About a half of advisers have already sent through their Academic transcripts or Certificates of Completion as part of their Onboarding and completed education assessment with Kaplan. InterPrac has worked with Kaplan to receive a copy of all advisers' assessment.

For those who haven't completed Kaplan Assessment please do it asap or if unsure how to, let us know.

InterPrac training team will gradually update your up to date completed education on ASIC register over the quiet period. Please respond to any emails within reasonable time if you receive a request to provide information.

We also call for all advisers to send Certificates of Completion on an ongoing basis for all courses that you are currently studying or will study to complete your new education requirements.

InterPrac needs to ensure that by the deadline of 1 January 2024* you have completed your education and it's updated on ASIC, otherwise we will have to cease you as an Authorised Representative.

All Exam and Education information must be sent to cpd@interprac.com.au.

Contact Details

InterPrac Compliance Team

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