



# Report on the review of the Code for Financial Advertising and the draft Financial Advertising Code

17 November 2021

# CHAIR'S STATEMENT

The Advertising Standards Authority (ASA) Codes Committee (the Committee) is responsible for reviewing and updating the ASA Codes which set the standards for responsible advertising in New Zealand. The Committee has advertiser, agency, media and public representatives.

It is the ASA's policy to regularly review all of its Codes. The review of the Code for Financial Advertising was scheduled work for the Committee during 2021 and a new Financial Advertising Code (the Code) has been developed with Principles, Rules and Guidelines. This was a routine review of the standards for Financial Advertising to ensure they are fit for purpose in 2022 and beyond. Since the last review, there have been changes to legislation affecting Financial Advertising, and the ASA has redesigned its Codes to provide clearer guidance to consumers and industry.

The ASA consulted twice with the public and a wide range of organisations and agencies. First, submitters were asked for feedback on the current Code for Financial Advertising. The issues raised by submitters during this consultation helped inform the content of the new draft Code. The second consultation asked for feedback on the new draft Code. The feedback from submitters on this draft Code helped inform the final Code. We acknowledge and thank submitters for their time, expertise and effort in taking part in this process to help ensure the Code supports responsible advertising.

The Committee acknowledges the finance sector is highly regulated and some submitters argued that an ASA Financial Advertising Code was not required. The Committee considered the ASA Code is an important part of the regulation of Financial Advertising. The Codes (including the Advertising Standards Code) cover issues relating to social responsibility such as decency and offensiveness, and safety, which are not addressed by other regulatory bodies. The Code also provides an additional avenue for consumers to report potentially misleading and harmful advertising, and the ASA deals with complaints about individual advertisements within short timeframes.

The Committee has considered all the issues raised in submissions, and this report provides a summary of these considerations. In making the final recommendations, the Committee recognised the need to provide standards that are achievable in the context of the self-

regulatory system in New Zealand. There are aspects of Financial Advertising, including mandatory disclosure requirements, which are outside the ASA's jurisdiction.

The Committee has made every effort in a challenging year to provide a robust set of standards to support responsible Financial Advertising in 2022 and beyond.

**Ashleigh Harding**  
**Chair, Codes Committee**

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*Please note: The definitions in the Code have been adopted in this report*

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# CODES COMMITTEE RECOMMENDATIONS

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1. The ASA accepts this report.
2. The ASA adopts the Financial Advertising Code (Appendix 1) in place of the Code for Financial Advertising.
3. The ASA develops and delivers comprehensive training on the new Code to support responsible advertising.

# BACKGROUND

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## The Advertising Standards Authority (ASA)

Self-regulation of advertising in New Zealand is the mandate of the ASA.

The Committee of Advertising Practice was established in 1973 by the Newspaper Publishers' Association, the New Zealand Broadcasting Commission and the Accredited Advertising Agencies Association. It became an incorporated society in 1990 and changed its name to the Advertising Standards Authority. It has 14 member organisations representing advertisers, agencies and media companies. The ASA sets standards and supports compliance in all forms of media, including, but not limited to, television (including on-demand television), radio, print, out-of-home (for example, billboards, bus shelters and buses), cinema, digital, email, websites, social media (including user-generated content [UGC]), influencers, video, apps, advergames, addressed and unaddressed mail, brochures and point-of-sale material.

Self-regulation encourages the advertising industry to take responsibility to ensure legal, decent, honest and truthful advertising communications to consumers and respect for the principles of fair competition.

The three main objectives of the ASA are:

1. To seek to maintain at all times and in all media a proper and generally acceptable standard of advertising and to ensure that advertising is not misleading or deceptive by statement or implication.
2. To establish and promote an effective system of voluntary self-regulation with respect to advertising standards.
3. To establish and fund an Advertising Standards Complaints Board (the Complaints Board) and an Advertising Standards Appeal Board (the Appeal Board), both of which have a public member chair and a public member majority.

The [Advertising Standards Code](#) applies to all ads in all media, and there are five sector codes which apply additional restrictions to advertising where there may be a vulnerable audience or where a product could cause harm if misused. A high standard of social responsibility applies in the sector codes. They cover advertising to children and young

people, advertising therapeutic and health products and services, gambling, financial services and products and alcohol advertising and promotion.

The Codes are reviewed regularly to ensure they are fit for purpose, reflect changing social norms and recognise changing technology and the increasingly diverse options for advertisers to target consumer audiences.

Code compliance is supported through a free consumer complaints process and industry training.

ASA's definition of advertising and advertisements states:

**Advertising and advertisement(s)** mean any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

This definition does not apply to content not controlled by the advertiser.

Any member of the public can make a complaint about any advertisement in writing via the ASA website, by email or post. There is no charge. Complaints are initially assessed by the Chair of the Complaints Board (a public member) and, if accepted, referred to the advertiser and, where appropriate, other parties to the advertisement, including the advertising agency and the media organisation, for their response. The complaints and responses are referred to the Complaints Board, which meets twice monthly to consider and adjudicate on Code breaches. If there is disagreement the content subject to complaint is not advertising, it is up to the advertiser to provide evidence to support their view.

In determining whether a Principle or Rule has been breached, the Complaints Board will have regard to all relevant matters, including:

- generally prevailing community standards
- previous decisions
- the consumer takeout from the advertisement
- the context, medium and intended audience
- the product or service being advertised.

If the Complaints Board decides a code has been breached, the advertiser and media are asked to withdraw the advertisement immediately. There is a high level of compliance with the requirement to remove the advertising and enforcement is supported by ASA media members. Written decisions are provided to all parties and released to the media.

Complaints Board decisions may be appealed. The Appeal Board has three members and like the full Complaints Board, has a public member chair and public member majority.

The Complaints Board and Appeal Board are the final arbiters of the interpretation of the Codes.

The ASA process is additional to legislation that restricts advertising in some way. There are many pieces of legislation that apply to advertising, including, for example, the Fair Trading Act 1986, the Medicines Act 1981, the Sale and Supply of Alcohol Act 2012, the Gambling Act 2003, Financial Markets Conduct Act 2013, Credit Contracts and Consumer Finance Act 2003, Credit Contracts and Consumer Finance Regulations 2004, the Food Act 2014, the Australia New Zealand Food Standards Code and the Major Events Management Act 2007.



## Codes Committee Code review process

The Committee is responsible for reviewing and updating the ASA Codes to support robust advertising standards. All Codes are subject to regular review. The Committee is responsible for managing these reviews. The Committee includes advertiser, agency, media and public representatives.

Committee members for this review included:

- Ashleigh Harding (Committee Chair), Legal Counsel, New Zealand Media and Entertainment
- Lindsay Mouat, member of the ASA Governance Board and Chief Executive, Association of New Zealand Advertisers
- Lucy Grigg, Managing Partner, Colenso BBDO
- Marj Noble, public member and member of the ASA Complaints Board
- Matthew Wilson, Corporate Affairs Director, DB Breweries (HEINEKEN)
- Hilary Souter, Chief Executive, ASA
- Claire Hofer (Secretariat), Education and Development Manager, ASA.

The Committee's work plan for 2021 included a routine review of the standards for Financial Advertising. The objective of this Code review was to ensure these standards are fit for purpose in 2022 and beyond. The current Code is the [Code for Financial Advertising](#).

Prior to embarking on a Code review, the Committee considered information such as relevant Complaints Board decisions, changes to legislation since the current standards were developed and the current structure of ASA Codes. The Committee began the review process in March 2021, and the review was expected to be completed by the end of 2021.

The ASA Governance Board is responsible for approving the Committee work plan, the review process and the final Code.

The Committee directly sought submissions from the public by advertising the review on the ASA website and by inviting submissions from a wide range of government agencies, non-government organisations, organisations within the finance sector, advertisers, agencies, media and other groups.

Submitters were provided with a [consultation document](#) in May 2021, which included questions to elicit issues with the current Code, background information and an outline of matters that are outside the jurisdiction of the ASA. Submitters were asked to respond by 30 June 2021 to the following seven questions designed to elicit the greatest amount of information and opinion:

1. Do you think there are any inconsistencies between the current Code and the current legislation that applies to the advertising of financial products and services? Please provide details.

2. The current Advertising Standards Code includes the following definition for advertising and advertisement;

***Advertising and Advertisement(s)*** means any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

The current Code for Financial Advertising includes the following definition for financial advertisements;

***Financial advertisements*** are advertisements for the lending, saving or investment of money, financial instruments, financial transactions, offers of securities and includes category 1 and category 2 products as defined in the [Financial Advisers Act 2008](#). Advertisements for the provision of advice or services in respect of financial products, investments or securities are also deemed to be financial advertisements for the purposes of this Code.

Please comment on what financial products and services you understand are covered by the definition of 'financial advertisement'.

Please comment on whether there are financial products or services that need to be included or excluded from this definition and details to support your comments.

**Note: Outdated references to legislation will be amended. 'Category 1 and category 2 products' were defined as;**

**category 1 product** means—

- (a) an FMCA financial product (other than a product that is a category 2 product); or
- (b) a DIMS facility (other than a facility that is a category 2 product); or
- (c) an investment-linked contract of insurance; or
- (d) any other product specified by the regulations; or
- (e) a renewal or variation of the terms or conditions of an existing category 1 product

**category 2 product** means any of the following products:

- (a) a bank term deposit; or
- (b) a bonus bond; or
- (c) a call building society share; or
- (d) a call credit union share; or
- (e) a call debt security; or
- (f) a share in a co-operative company (as defined in [section 2\(1\)](#) of the Co-operative Companies Act 1996); or
- (g) a unit in a cash or term portfolio investment entity (as defined in the regulations); or
- (h) a consumer credit contract within the meaning of the [Credit Contracts and Consumer Finance Act 2003](#); or
- (i) a contract of insurance (other than an investment-linked contract of insurance); or
- (j) a life insurance policy (within the meaning of [section 2\(1\)](#) of the Securities Act 1978) issued before 1 January 2009; or
- (ja) a DIMS facility, if the investment authority covers only category 2 products; or
- (k) any other product specified by the regulations; or
- (l) a renewal or variation of the terms or conditions of any existing category 2 product

3.	In reference to question 2, which insurance products or services advertisements should be subject to this Code, if any? Please provide details.
4.	In reference to question 2, should advertising for crypto-currency be subject to this Code? Please provide details.
5.	Apart from your comments in relation to questions 2, 3 and 4, do you agree with the wording of the rest of the current code? If not, please outline the part or parts you disagree with and explain why.
6.	Are there any aspects of financial products and services advertising standards that are not captured in the current code? Please outline any additions you believe are required and why. (Please check Appendix 1 for issues outside the scope of this Code)
7.	You are welcome to provide any current financial product or service advertisements you consider are problematic and explain why. It would be helpful for you to include a copy of the advertisement or information on where and when you saw it so that we can source it if you are not able to provide a copy.

The Committee considered the feedback received from this consultation process and used it to help inform the development of a new draft Code. Other considerations in drafting the new Code were:

- The primary goal of ensuring the new Code is fit for purpose for use in 2022 and beyond
- Including references to current legislation in the update
- Using the same format of other recently reviewed ASA Codes.

Further consultation was undertaken to obtain submissions relating to this new Code. Submitters were provided with a [consultation document](#) in August 2021, which included questions to elicit possible issues with the new Code. Submitters were asked to respond by 12 October 2021 to the following four questions:

1.	The Codes Committee view is that the definition of 'Financial Product or Service' should be in a language that is easily understood by consumers. They should be able to easily recognise if an advertisement is for a Financial Product or Service based on the definition in the code. Please comment on the definition included in the new draft code.
2.	In reference to question 1, are there any other financial products, services or advice that should be included in the definition of 'Financial Product or Service'? Please provide details.
3.	Apart from your comments in relation to questions 1 and 2, do you agree with the wording of the rest of the new draft code? If not, please outline the part or parts you disagree with and explain why.
4.	Are there matters that are not covered in the code that you believe should be included? If yes, please let us know, and explain why.

## Complaints to the Advertising Standards Authority (ASA) about Financial Advertising

Advertisements complained about under the Code for Financial Advertising made up 2% of the total advertisements complained about in 2020, and a breakdown of the outcomes from the complaints received is set out below along with a snapshot over a five-year period.

All decisions are published and decisions from 2015–2021 can be viewed on the [Decisions](#) page of the ASA website.

It is not unusual for the ASA to receive complaints about advertising for Financial Products and Services that are not related to financial matters or claims – for example, an issue relating to driving safety or a taste and decency matter – and these issues are covered under the Advertising Standards Code. A high standard of social responsibility is required for all Financial Advertising when applying the Principles and Rules in the Advertising Standards Code. From a total of 65 complaints made under the Code for Financial Advertising over five years, eight were upheld or settled with five of these decisions in 2019 and 2020. Forty-three or 66% of the 65 complaints were ruled no grounds to proceed. The most common breaches relate to social responsibility and issues of truthful presentation (including misleading advertising and lack of disclosure of information).

	2020	2019	2018	2017	2016
<b>Total ads complained about</b>	591	463	425	453	434
<b>Ads complained about under the Code for Financial Advertising</b>	12	13	12	13	15
<b>% of Total Ads</b>	2.0%	2.8%	2.8%	2.8%	3.5%
<b>Decisions</b>					
<b>Upheld / Settled</b>	1	4	3	0	0
<b>Not Upheld</b>	2	3	2	3	4
<b>No Grounds to Proceed</b>	9	6	7	10	11

## Submissions

A total of nine submissions were received from the first period of consultation. Three were from industry bodies from the finance sector, four were from banks or investment companies and two were from organisations representing advertisers, agencies and media placement organisations, including the Association of New Zealand Advertisers, which represents many of New Zealand's major advertisers. A list of submissions, including links to each submission, is included in Appendix 2 of this report.

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*The Committee wishes to record its appreciation for the time and effort by individuals, organisations and businesses put into providing submissions for consideration. Many of the submissions were comprehensive and provided clear guidance and understanding of the issues involved.*

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A total of nine submissions were received from the second period of consultation. Five were from industry bodies from the finance sector, three were from banks or investment companies and one was from a media organisation. A list of submissions, including links to each submission, is included in Appendix 2 of this report.

The Committee wishes to record its appreciation for the time and effort by individuals, organisations and businesses put into providing submissions for consideration. Many of the submissions were comprehensive and provided clear guidance and understanding of the issues involved.

## Summary of issues raised in submissions

The following is a summary of the key issues raised in the submissions on the review of the Code for Financial Advertising:

- Most submissions acknowledged the inconsistency in the current Code with current legislation due to its age.
- All submissions recommended the Code should be consistent with the final Financial Markets Authority (FMA) guidance on the advertising of Financial Products.
- All submissions commented on the definition of 'Financial Advertising' and two provided suggestions to improve the current definition.
- Most submissions agreed that all insurance products and services should be included in the definition of 'Financial Advertising'.
- All submissions agreed that advertisements for cryptocurrency should be included in the definition of 'Financial Advertising'. Most submissions agreed that the new Code should cover regulated and unregulated Financial Products and Services.
- Some submissions suggested the Code was intended for consumers and that it should be limited to advertisements intended for consumers.
- Some submissions commented on the definition of an advertisement. Some media platforms (e.g. digital media) have limited space to disclose required information and this is made available through direct links to, for example, a website. Given this issue, some submissions suggested an advertisement should include all parts of the ad, including the content available through a direct link.
- Two submissions recommended consistency between how the Code defines 'vulnerable customers' when compared with the FMCA requirements that regulated documents be drafted for the 'prudent but non-expert investor'.
- One submission questioned the need for this Code given the regulatory framework that applies to Financial Advertising.

The following is a summary of the key issues raised in the submissions on the review of the draft Code:

- Most submissions questioned the guideline on UGC, including the extent to which advertisers were responsible for this content. Some raised an issue regarding the



difficulty of moderating and removing UGC that does not comply with the Code and is outside of the control of the advertiser.

- Apart from the UGC issue noted above, no other significant issue with the structure or the content of the Code was raised in the submissions.
- Most submissions offered minor additions or changes to parts of the definition of Financial Product or Service and to the Code Rules and Guidelines.
- One submission questioned the need for this new Code given the regulatory framework that applies to Financial Advertising. The submission stated that advertising of unregulated Financial Products and Services are regulated under the ASA's Advertising Standards Code.
- One submission provided grounds for specifically excluding from the definition of Financial Product or Service '*All investments or licence to occupy relating to a retirement village*'.

## Issues considered in depth by the Codes Committee

The Committee acknowledges the finance sector is highly regulated and some submissions argued that an ASA Code was not required. The Committee agreed the ASA Code is an important component to support responsible Financial Advertising. The Code (including the Advertising Standards Code) covers issues relating to social responsibility such as decency and offensiveness, and safety, which are not addressed by other regulatory bodies. The Code also provides an additional avenue for consumers to report potentially misleading and harmful advertising, and the ASA deals with complaints about individual advertisements within short timeframes.

The Committee considered in depth the following five issues that arose from the consultation processes and from the objectives of this Code review.

### 1. Protecting non-expert consumers

The Committee acknowledges the key purpose of the Code is to help ensure all Financial Advertising is responsible with particular regard to protecting consumers who may have very limited knowledge about Financial Products and Services or consumers who may be financially vulnerable. The Code's Rules and Guidelines are designed to protect consumers by ensuring the advertisement content meets a high standard of social responsibility and is not misleading. Rule 1 (a) states that Financial Advertising must be easily understood by consumers, so they are able to make reasonable decisions regarding accessing Financial Products or Services. Rule 2 (b) states that Financial Advertising must be truthful and must not be misleading. Rule 2 (c) states that when data are used in advertisements, they must not be used in a misleading or deceptive way. Social responsibility issues such as decency and offensiveness, and the harmful or offensive use of stereotypes are covered by the Advertising Standards Code, and a high standard of social responsibility will apply in the application of these Rules to Financial Advertising.

The Complaints Board can uphold a complaint based on a Principle in the Code, without the advertisement necessarily breaching any of the Rules. Advertisements deemed to be exploiting consumers may be upheld under the Principle requiring advertising to meet a high standard of social responsibility without necessarily breaching a specific Rule in the Code.

## 2. Definition of Financial Product or Service

The Committee agreed the Code is intended primarily for consumers. Given this, the Committee agreed the definition of a Financial Product or Service should be in a language that consumers can understand. Consumers should be able to look at this definition and easily determine if the Code applies to the advertisement in question. The new definition provides significant detail to consumers and gives as much information as possible to determine the application of this Code.

A number of submissions provided detailed input into this definition. The definition is therefore considered current, and the definition will apply to new and developing products and services given the use of the phrase ‘including, but not limited to’. The broad scope of the definition provides a level playing field across all forms of Financial Advertising, regardless of what product or service is being advertised.

All submissions agreed that all insurance products should be included in this definition. All submissions agreed new and evolving products such as cryptocurrencies should also be included in this definition.

## 3. Short-form advertisements

Some submissions raised the issue that there is a lack of space in a short-form advertisement to include the information required by law. For example, digital banner advertisements and some social media advertisements do not have space for adequate legal disclosure. Submissions suggested the definition of the advertisement could include the short-form advertisement along with the content this short-form advertisement is linked to (in order to fulfil appropriate disclosure of the information required by law). The Committee was of the view that each advertisement needed to withstand the scrutiny of the Principles and Rules in the Codes. Issues that arise regarding disclosure of information required by law would not be a matter for consideration by the ASA. Should a complaint about this be received by the ASA, the complainant would be referred to the appropriate Regulator.

## 4. Consistency with the Financial Markets Authority (FMA) *Guidance note: Advertising offers of financial products under the FMC Act*

Most submissions commented on the need for the Code to be consistent with the FMA *Guidance note: Advertising offers of financial products under the FMC Act*, which was

published on 13 October 2021. The Committee has considered this guidance and is of the view there are no inconsistencies in the Code.

## **5. Structure of the Code**

The Committee considered the format of other recently reviewed ASA Codes to ensure the format of the Code is consistent. Code structure and language common to all the ASA Codes are used in the Code where appropriate. In line with other ASA Codes, the Rules and Guidelines in the Advertising Standards Code are not repeated in the new Code. Additional Guidelines to Rules from the Advertising Standards Code that are specific to Financial Advertising have been included.

## Regulatory framework

### The scope of the ASA Codes

The ASA has oversight of self-regulation of advertising in New Zealand. As such, its role is to develop Principles, Rules and Guidelines for advertisers to ensure they meet the requirements of the advertising codes.

Financial services and products are subject to a range of legislative restrictions and industry codes.

Current legislative and industry controls include:

#### **Legislation**

[Financial Markets Conduct Act 2013](#)

[Related code and guidance](#)

[Guidance note: Advertising offers of financial products under the FMC Act](#)

[Credit Contracts and Consumer Finance Act 2003](#) and [Credit Contracts and Consumer Finance Amendment Act 2014](#)

[Related code and guidance](#)

[Responsible Lending Code](#)

#### **Professional Codes of Conduct**

For more information see:

Financial Services Federation: [Code of Conduct](#)

Financial Services Council: [Code of Conduct](#)

Financial Advice New Zealand: [Code of Ethics](#), [Practice Standards](#) and [Rules of Conduct](#)

Financial Advice Code: [Code of Professional Conduct for Financial Advice Services](#)

New Zealand Bankers Association: [The Code of Banking Practice](#)

Insurance Council of New Zealand: [Fair Insurance Code](#)

#### **Product or service structure and content vs advertising**

The structure and content of Financial Products or Services are outside the scope of the ASA Codes. Advertisements for these products or services are within the scope of the Codes.

# THE PROCESS GOING FORWARD

The Committee was appointed by the ASA Governance Board:

1. to undertake a routine review of the current Code for Financial Advertising to ensure the standards are fit for purpose in 2022 and beyond
2. to receive and review submissions on the current Code and on a new draft Code
3. to take into account:
  - a. legislative changes since the release of the current Code
  - b. complaints about Financial Advertising to the ASA
  - c. international standards and best practice
  - d. the structure of other recently updated ASA Codes
4. to recommend the final draft Code to the ASA Governance Board with a view to approve and release the final Code.

The Committee is required to report to the ASA Governance Board. This report, the new Code and related recommendations will be provided to the Governance Board for action in November 2021.

## Appendix 1 – Financial Advertising Code



# Financial Advertising Code

Effective 1 March 2022 for new ads  
Effective 1 June 2022 for all ads

Every ad a responsible ad  
[www.asa.co.nz](http://www.asa.co.nz)



### Advertising Standards Code

The Principles and Rules set out in the [Advertising Standards Code](#) apply to all advertising in all media. When applying the Advertising Standards Code to Financial Advertising, a high standard of social responsibility is required.

### Financial Advertising Code

In addition to the Advertising Standards Code, the Financial Advertising Code (the Code) applies to all Financial Advertising. The purpose of the Code is to ensure that all facets of Financial Advertising are conducted in a manner that demonstrates a high standard of social responsibility. The Code requires all Financial Advertising to be socially responsible with particular regard to protecting non-expert consumers. To support this, the high standard of social responsibility applies to all Principles and Rules in the Code.

All Financial Advertising must be legal, decent, honest and truthful and respect the principles of fair competition. The Advertising Standards Authority (ASA) Codes are a part of the regulatory framework that applies to the advertising of Financial Products or Services. There are a number of Acts that restrict advertising, and these are enforced by government agencies. Advertisers must observe the legal restrictions and requirements applicable at the time of advertising, along with any Financial Markets Authority guidance and the Responsible Lending Code.

Attention is drawn to the:

- [Financial Markets Conduct Act 2013](#)
- [Guidance note: Advertising offers of financial products under the Financial Markets Conduct Act 2013](#)

- [Credit Contracts and Consumer Finance Act 2003](#)
- [Credit Contracts and Consumer Finance Regulations 2004](#)
- [Responsible Lending Code](#)

### Application of the Financial Advertising Code

The Code, along with the Advertising Standards Code, applies to all advertising of Financial Products or Services placed in any media, including but not limited to: television (including on-demand television), radio, print, out of home (for example, billboards, bus shelters and buses), cinema, digital, email, websites, social media (including user-generated content), influencers, videos, apps, advergames, addressed and unaddressed mail, brochures and point-of-sale material.

Ultimately, the responsibility to comply with all aspects of advertising regulation is shared between all the parties to an advertisement, including the advertiser, agencies and media organisations.

The Code is made up of three parts:

- Principles: the standards expected in advertising
- Rules: how the Principles are to be interpreted and applied
- Guidelines: information and examples to explain a Rule

## Interpreting the Financial Advertising Code

Social responsibility is embodied in the Principles and Rules of the Code. In interpreting the Code, emphasis must be placed on compliance with both the spirit and intention of the Code.

It is possible for advertising to be in breach of one or more of the Principles in the Code without being in breach of a specific Rule.

In determining whether a Principle or Rule has been breached, the Complaints Board will have regard to all relevant matters, including:

- generally prevailing community standards;
- previous decisions;
- the consumer takeout from the advertising;
- the context, medium and intended audience; and
- the product or service.

For the avoidance of doubt, where relevant legislation that affects this Code has been updated and if a conflict occurs in relation to legislative and Code requirements, legislative requirements will prevail.

## Definitions for the purposes of this Code

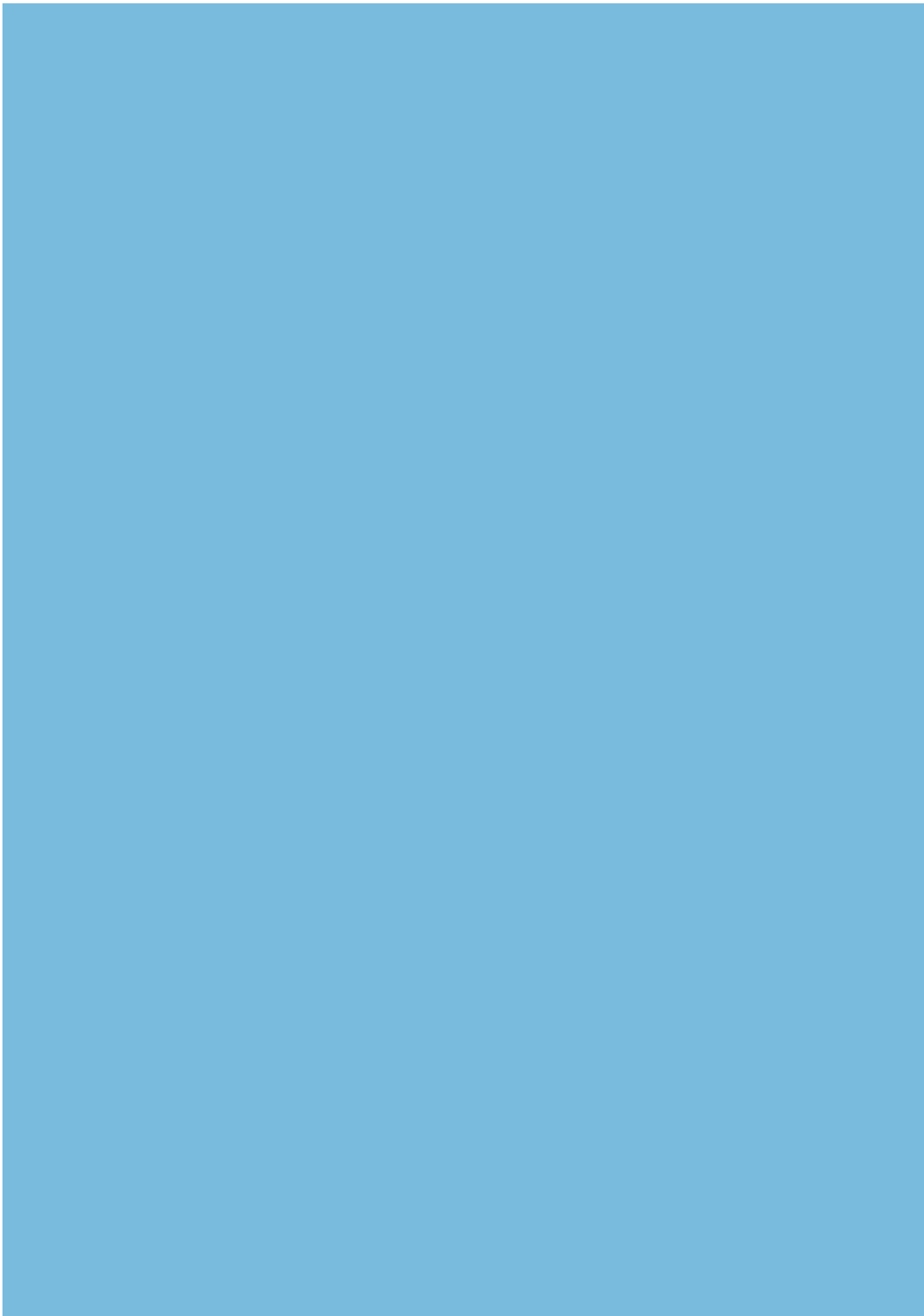
**Financial Product or Service** means any product or service relating to insurance, banking, credit, investment, payment services, financial or risk management, funds management, foreign exchange, or advice or educational services in relation to any of those things, including but not limited to:

- All insurance products, services and advice, including but not limited to:
  - › Life insurance
  - › Health insurance
  - › Income protection insurance
  - › Insurance for homes and contents, vehicles and other things you own
  - › Liability insurance
  - › Travel insurance
  - › Pet insurance
  - › Funeral insurance
- All banking, debt or credit products and services and advice, including but not limited to:
  - › Mortgages (including reverse mortgages) and other loans
  - › Credit cards, payday lenders and other registered or unregistered lending or credit services or facilities
  - › Buy now, pay later (BNPL) products
  - › Deposits and bank accounts, including term deposits and other monetary investments
  - › Debt management and debt consolidation products, services and advice

- All investments products, services and advice, including but not limited to:
  - › Share investments
  - › Managed funds, including KiwiSaver funds
  - › Services offered by non-bank deposit takers
  - › Discretionary Investment Management Services (DIMS)
  - › Real estate investment (properties or schemes)
  - › Syndicated investments such as forestry partnerships and property investment
  - › Timeshares
- Peer-to-peer investment
- All payment products, services and advice
- All financial or risk-trading or management products, services and advice, including but not limited to:
  - › Foreign exchange trading services
  - › Share trading platforms
  - › Cryptocurrencies
  - › Derivatives
  - › Binary options
- Financial training or courses directed to consumers, including courses on investments, foreign exchange, derivatives or share trading and wholesale investments, whether conducted by licensed or unlicensed service providers.
- For the avoidance of doubt, a Financial Product or Service includes any product the Financial Market Conduct Act 2013 or

Credit Contracts and Consumer Finance Act 2003 or any other legislation defines as a Financial Product or Service.

**Financial Advertising** means any message, the content of which is controlled directly or indirectly by the Advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed and is for the purpose of promoting a Financial Product or Service.



## Principle 1

# **Social Responsibility**

**Financial Advertising must be prepared and placed with a high standard of social responsibility to consumers and society.**

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**Rule 1 (a)****Social responsibility**

**Financial Advertising  
must be easily  
understood by  
consumers.**

**Guidelines**

1. Information and claims in Financial Advertising must be easily understood by consumers. All relevant and required information must be disclosed.
2. Key information must be legible and/or audible with care taken to ensure the level of disclosure is in proportion to the importance of the information. Examples include:
  - i. Written text must be large enough, clear enough and present long enough to be easily read.
  - ii. Spoken language must be clear and at a speed able to be understood by consumers.
3. Financial Advertising content posted online or otherwise distributed by individuals or entities who are not licensed financial advice providers (e.g. influencers and other content creators) must also comply with the Principles and Rules in this Code.

Financial advice (for example, recommending particular Financial Products or producing a personalised investment plan) may only be included in Financial Advertising content from those individuals or entities who operate under a licence granted by the Financial Markets Authority.

Advertisers and their agents, including influencers or other content creators, have primary responsibility for ensuring user-generated comments, reviews, testimonials and endorsements comply with the Principles and Rules in this Code when they are part of the advertisement.

## Principle 2

### **Truthful Presentation**

**Financial Advertising must be truthful, balanced and must not be misleading.**



# Advertising Standards Code

## Additional Guidelines for Financial Advertising

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### Rule 2 (b)

#### Truthful presentation

Financial Advertising must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. Misleading may be by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.

### Guidelines

See the full Guidelines for this Rule in the [Advertising Standards Code](#).

**Exception to the Advertising Standards Code**, for the Financial Advertising Code.

1. Obvious untruths, exaggeration, puffery or deliberate hyperbole must not be used in relation to financial claims.

**In addition to the Advertising Standards Code**, for the Financial Advertising Code.

2. The content of Financial Advertising must not take advantage of consumers' inexperience, lack of knowledge or financially vulnerable situation.



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## Rule 2 (c)

### Use of data

Advertisements must not use tests, surveys, research results or quotations from technical and scientific literature in a manner that is misleading or deceptive.

### Guidelines

See the full Guidelines for this Rule in the [Advertising Standards Code](#).

**In addition to the Advertising Standards Code,** for the Financial Advertising Code.

1. Financial Advertising must not
  - i. portray unrealistic or exaggerated financial expectations or outcomes; or
  - ii. provide incomplete information such that the advertising is misleading, e.g. by omitting to include complete information such as the losses, negatives or risk in any investment; or
  - iii. state or imply that Financial Products or Services are safe or free from risk or understate the level of risk associated with them.
2. Financial Advertising that uses examples of past performance must make it clear this is not a reliable indicator of future performance. Examples of exceptional performance or offers of higher-than-average returns must be clearly identified as such.
3. Technical language and statistics are acceptable in Financial Advertising, provided they are relevant and used in a way easily understood by non-expert consumers without specialist knowledge. Publication of research results must identify the researcher, the reference period and source references.



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### **About the Advertising Standards Authority (ASA)**

The ASA is the organisation that sets the standards (Advertising Codes) for responsible advertising in New Zealand. The ASA also runs the advertising complaints processes. The ASA is funded by the advertising industry and has 14 member organisations representing advertisers, agencies and the media.

### **Making a complaint**

Anyone can complain about any advertisement.

All complaints must be received using our online complaints form, via email or via post. Our process requires that we deal with the consumer's concerns in their own words. Our online complaint form is available at [www.asa.co.nz](http://www.asa.co.nz). Complaints can be emailed to [asa@asa.co.nz](mailto:asa@asa.co.nz) or posted to PO Box 10675, Wellington 6143.

### **Competitor complaints**

Competitor complaints are dealt with via a user-pays process with adjudication hearings. Costs for a hearing range from \$10,000 to \$15,000 excluding GST. The process aims to give fast and thorough consideration to conflicts between competitors.

### **Responding to a complaint**

All parties associated with an advertisement are expected to respond to the ASA following a complaint. This includes the advertiser and may also include the agency and the media where the advertisement was placed. The ASA website [www.asa.co.nz](http://www.asa.co.nz) provides guidance on how to respond to a complaint.

### **Decisions**

The Advertising Standards Complaints Board makes decisions about complaints following responses from parties. Decisions may be appealed and if there are grounds for an appeal, the Appeal Board will re-consider the complaint. The ASA membership has no involvement in the work of the Complaints and Appeal Boards.

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**Decision outcomes have the following meanings:**

**No Grounds to Proceed:** This means the Chair of the Complaints Board has reviewed the complaint and has ruled a Code has not been breached, and there are no grounds for the complaint to proceed. This outcome may occur when a complaint is based on an extreme interpretation or is trivial or vexatious, or if there is a precedent decision that relates to the same or similar advertising.

**Upheld:** This means the Complaints Board agreed with the issues raised by the complainant and the advertiser is asked to amend or remove the advertisement.

**Settled:** When an advertiser either withdraws an advertisement or makes immediate changes (that the Chair considers satisfactory) to address the issues raised by the complainant the complaint can be settled by the Chair. A settled decision achieves the same outcome as an upheld decision – removal or amendment of the advertisement.

**Not Upheld:** This means the Complaints Board does not find the advertisement in breach of the Advertising Codes in relation to the complainant's concerns.

**No Jurisdiction:** Sometimes a complaint is outside the jurisdiction of the ASA. The ASA deals with complaints about any advertisement that is targeted at NZ audiences. Matters of law or complaints about advertisements from outside of NZ, which are not targeting NZ consumers, are outside the ASA's jurisdiction.



All ads, all media

## Appendix 2 – List of submissions

Please note: Consistent with ASA's Privacy Policy, submitter names and other personal information have been removed from submissions received from organisations.

Submissions on the Code for Financial Advertising	
1	<a href="#">Bank of New Zealand</a>
2	<a href="#">Mercer (N.Z.) Limited</a>
3	<a href="#">Financial Services Federation</a>
4	<a href="#">Boutique Investment Group</a>
5	<a href="#">Kiwi Wealth</a>
6	<a href="#">Cliffe Consulting</a>
7	<a href="#">Association of New Zealand Advertisers</a>
8	<a href="#">Financial Services Council of New Zealand</a>
9	<a href="#">Marketing Association</a>

Submissions on the draft Financial Advertising Code	
1	<a href="#">The Cooperative Bank</a>
2	<a href="#">Insurance Council of New Zealand</a>
3	<a href="#">Discovery New Zealand</a>
4	<a href="#">Financial Services Federation</a>
5	<a href="#">Financial Advice NZ</a>
6	<a href="#">Retirement Villages Association of New Zealand Inc</a>
7	<a href="#">New Zealand Bankers Association</a>
8	<a href="#">Financial Services Council of New Zealand</a>
9	<a href="#">Boutique Investment Group</a>