

Feedback form — Consultation paper: Recognition of Australian adviser qualifications

Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at consultation@fma.govt.nz with 'Recognition of Australian adviser qualifications: [your organisation's name]' in the subject line. Thank you. **Submissions close on Friday 20 November 2020.**

Date: 20 November 2020 Number of pages: 3

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Company or entity: Insurance Council of New Zealand (ICNZ)

Organisation type: Industry Association

Contact name (if different):

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Question number	Response
<p>1 Do you support the proposal in this paper to recognise Australian qualifications? Please give reasons for your view.</p>	<p>ICNZ and its members¹ are supportive of the proposal outlined in the consultation paper to recognise Australian qualifications in principle, noting that:</p> <ul style="list-style-type: none"> The new professional standards for financial advisers in Australia exceed the standards under the applicable New Zealand Certificate.² Australian qualifications RG146 (Tier 1) have already been assessed as equivalent to the New Zealand Certificate through an existing exemption,³ and provision has been made to sunset this recognition in line with the requirement for the relevant adviser to transition to the new professional standards in Australia by 1 January 2026. The proposal requires the Australian qualified adviser to have 12 months' experience, consistent with requirements under new Australian professional standards (rather than 6 months as per the current exemption).
<p>2 Do you agree that the Australian qualifications provide evidence of competence, knowledge and skill that is equivalent to or exceeds the competence, knowledge and skill standards set in standards 6 to 8 of the Code? Please give reasons for your view.</p>	<p>While we agree that having Australian qualifications provides a level of comfort that the adviser has a degree of competence, knowledge and skill, we are concerned that the proposal does not address, where relevant, differences between New Zealand and Australian:</p> <ul style="list-style-type: none"> products they will be advising on, and legal systems, including the relevant client's rights and obligations, which form the context in which the advice given. <p>While a requirement for these advisers to have an up-to-date understanding of the regulatory framework is proposed, this only relates to the financial advice regime in New Zealand, not the regulatory regime or broader legal system as it relates to New Zealand clients they will advise.</p> <p>An assumption that the treatment and approaches in New Zealand and Australian are the same from a product or legal perspective may lead to incorrect advice being given. Further details about this matter is set out in response to question 8. below.</p>

¹ ICNZ's members are general insurers that insure about 95 percent of the New Zealand general insurance market, including about a trillion dollars' worth of New Zealand property and liabilities. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents, travel and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability, business interruption, professional indemnity, commercial property and directors and officers insurance).

² I.e. these are broadly equivalent to NZQA level 7 or 8 rather than level 5 under the New Zealand Certificate.

³ Financial Advisers (Australian Qualified Advisers) Exemption Notice 2018.

	<p>The requirement for Australian advisers to complete training before they provide any new type of advice, or advice on any type of financial product not covered by their Australian qualifications,⁴ will not address this issue if the type of advice or product is the same, with only the relevant context being different (e.g. New Zealand rather than Australia).</p> <p>We are also concerned that the proposal only provides for ongoing professional development requirements and does not capture the upfront need for the Australian qualified adviser to, before they begin providing any advice to New Zealand clients, have a good understanding of differences between New Zealand and Australia relevant to the advice they are giving.</p> <p>For the reasons outlined above, we consider that the proposal ought to be amended to require (where relevant) Australian qualified advisers to, before they are provide advice to New Zealand clients, complete training on material differences:</p> <ul style="list-style-type: none"> • between New Zealand and Australian products, with reference to the types of products they will be advising New Zealand clients on, and • between the New Zealand and Australian legal systems and relevant rights and entitlements, focusing on matters pertinent to the types of clients they will be advising in New Zealand.
<p>3 Do you agree that Australian qualified advisers should have at least one year’s experience working as a financial adviser in Australia? Please give reasons for your view.</p>	<p>We are agreeable to this requirement, noting that this aligns with requirements under the new Australian professional standards.</p>
<p>4 Do you agree that recognising the Australian qualifications will avoid unnecessary compliance costs, and may help ensure the availability of quality advice? Please give reasons for your view.</p>	<p>We agree that this proposal would avoid the cost involved of an individual Australian qualified adviser having to completely retrain in New Zealand.</p> <p>However, we consider that, as proposed, issues with the quality of advice may arise. This is because, as outlined above, Australian qualified advisers may not be sufficiently aware of differences between New Zealand and Australian products and the New Zealand legal system, leading to incorrect advice being given. Further details about this are set out in response to question 8 below.</p> <p>The ‘Overview’ section of the consultation paper, in describing the rationale for this change, refers to, amongst other things, “<i>demand from time to time from individual Australian financial advisers to work in New Zealand.</i>” It would be helpful to clarify whether the proposal is intended to extend to Australian qualified advisers working in Australia but operating in the New Zealand market under a New Zealand Financial Advice Provider license (for example entities with call centres in Australia). This would be beneficial as it would avoid the cost involved in requiring these individuals to complete both New Zealand and Australian training on the same subject areas.</p>
<p>5 Do you see any material risks for New Zealand retail clients or the market in New Zealand for the provision of financial advice services if we recognise the Australian qualifications? If yes, please explain what the risks are.</p>	<p>As currently proposed we believe there is a material risk for New Zealand retail clients because, as outlined above, Australian qualified advisers may not be sufficiently aware of differences between New Zealand and Australian products and the New Zealand legal system, leading to incorrect advice being given. Further details about this are set out in response to question 8 below.</p>
<p>6 Do you recommend any changes to the proposals in</p>	<p>See our response to question 2 above.</p>

⁴ See the ‘note’ section of the draft statement set out as in the Schedule to the consultation paper.

<p>this paper? Please give reasons and details for your recommendations.</p>	<p>In the interest of transparency, we also suggest that the relevant Australian qualified adviser be required to disclose to their clients that they are Australian (not New Zealand) qualified.</p> <p>Consideration should also be given to differentiating between the various types of advice financial advisers provide and ensuring training requirements are appropriately mapped out in each respect, noting that different advice will have different requirements.</p> <p>For completeness, the treatment of Australian qualified advisers outlined in the proposal would need to be re-evaluated should the Australian qualification regime change.</p>
<p>7 Do you have any comments on the wording of the draft statement in the Schedule?</p>	<p>Consistent with our response to question 2 above, we consider that the wording of the draft statement in ought to be amended to require (where relevant) Australian qualified advisers to, before they are provide advice to New Zealand clients, complete training on material differences:</p> <ul style="list-style-type: none"> • between New Zealand and Australian products, with reference to the types of products they will be advising New Zealand clients on, and • between the New Zealand and Australian legal systems and relevant rights and entitlements, focusing on matters pertinent to the types of clients they will be advising in New Zealand.
<p>8 . Do you have any other comments?</p>	<p>As outlined above, as proposed there is a risk that, where applicable, Australian qualified advisers are not sufficiently aware of differences between the New Zealand and Australia products, they will be providing advice on, and/or the legal system that their clients operates under, and their rights and obligations in this respect, which form the context in which the advice given. These include:</p> <ul style="list-style-type: none"> • From a product perspective, differences in product options, structures, exclusions and terms and conditions and how products otherwise operate, noting that how products operate in New Zealand can be markedly different to Australia. • From a legal system perspective, differences between key legislative and common law rights and obligations relevant to the client’s circumstances and the advice provided to them in this regard. This includes knowledge of available support in New Zealand including Accident Compensation Corporation (ACC) cover, Earthquake Commission (EQC) cover, Work and Incomes benefits, public health services and under employment law. Another area of relevance for advice purposes is New Zealand estate planning, entity structures and relevant tax rules. <p>In our view it is important to ensure that, where relevant, Australian qualified advisers are adequately trained on these matters before they provide advice to New Zealand clients. This will ensure these advisers can provide accurate advice in a New Zealand context. An assumption that the treatment and approaches in New Zealand and Australian are the same could lead to incorrect advice being given.</p> <p>Lastly, and while acknowledging that this is not pertinent to the matter at hand, we consider that mutual recognition of New Zealand adviser qualifications within Australia warrants consideration.</p>

Feedback summary – if you wish to highlight anything in particular

Please note: Feedback received is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act.

Thank you for your feedback – we appreciate your time and input.