

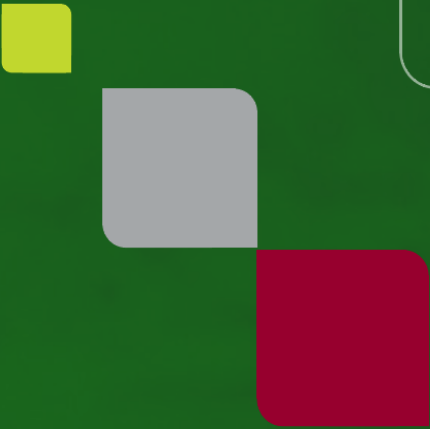


GLOBAL PERSPECTIVES



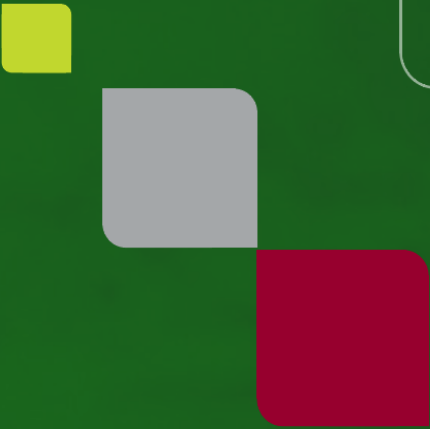
Consumer Protection and Investment
Advisor, Financial Advisor and
Financial Planner Competency and
Oversight in Europe





MISSION

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Introduction

To ensure effective consumer support and protection in the area of retail financial services, Financial Planning Standards Board Ltd. (FPSB) suggests that regulators, consumer organizations and professional bodies cooperate across Europe to:

- Incorporate financial planning under the regulatory umbrella;
- Recognize CERTIFIED FINANCIAL PLANNER professionals as meeting and exceeding the minimum competency requirements for providing investment, insurance and mortgage credit advice under the Markets in Financial Instruments Directive (MiFID II), the Insurance Distribution Directive (IDD) and the Mortgage Credit Directive (MCD);
- Require that financial planning be provided under a client-first duty of care;
- Provide oversight of financial planners from a professional body working in close collaboration with National Competent Authorities.

As the use of defined-benefit plans declines, and workers must increasingly rely on defined-contribution plans to fund retirement, consumers often have no choice but to participate in financial markets. Without proper education, however, they are often challenged by the complexities and risks of most financial products.

When faced with choice, complexity and potential consequences in other areas of life, consumers often consult a professional, such as a doctor, lawyer, or architect, for example. When it comes to finances, consumers rely on professionals for investment, insurance or credit advice. That is why investment, insurance and mortgage credit advice are regulated services under MiFID II, IDD and MCD. And yet, even regulated financial professionals often fail consumers.

Financial services such as investment and mortgage advice score consistently below average for all services in the European Consumer Markets Scoreboard.¹ In the area of financial advice, the European Commission found four problem areas:

1. Consumers often do not obtain suitable advice;
2. Advisors have not always possessed or exhibited relevant degrees of professionalism relative to the products they sell or the services they offer;
3. Intermediaries may face an inherent conflict between their interests and the interests of their clients, given remuneration structures that create commission biases;
4. Potential regulatory arbitrage that occurs when similar products are distributed differently because of their legal structure (e.g. investment products and unit-linked life insurance policies).²

To address these issues, Europe has embarked on an ambitious legislative and regulatory agenda, the main pieces of which are being implemented in 2018. The focus of the new regulations and directives is squarely on consumer protection.

FPSB comprises professional financial planning bodies in 26 territories around the world and benefits the public by establishing, upholding and promoting worldwide professional standards in financial planning. FPSB and its member organizations in Europe have created internationally relevant

¹ European Union. (2016). Consumer Markets Scoreboard - 2016 Edition

² European Commission. (2009). Commission Staff Working Document on The Follow Up In Retail Financial Services To The Consumer Markets Scoreboard.

standards for those providing professional financial advice and financial planning so:

- The public can identify qualified, competent and ethical financial advisors and financial planners;
- Practitioners can distinguish themselves as having met rigorous education, examination, experience, ethics and practice requirements;
- Consumers, regulators and other key stakeholders can have confidence in the financial planning profession and in financial planning professionals and recognize the benefits financial planning offers to individuals and society.

In this paper, FPSB proposes that to achieve effective and enduring consumer protection, European regulators, consumer organizations and professional bodies, such as FPSB, should maintain open lines of communication and work toward building on European legislation to:

1. Create a framework for the recognition of financial planning as a distinct professional practice that may or may not be directly regulated;
2. Ensure high-level competency requirements of financial professionals;
3. Require and enforce a full-fledged fiduciary duty for those providing financial planning and advice services;
4. Delegate the day-to-day oversight of client-facing financial service providers to a professional body.

FPSB believes that national financial planning standards organizations, with their competency, ethics and professional standards, should play a key role in the implementation, application and fulfilment of a concise legislative and regulatory framework on a national level.

Financial Planning Under the Regulatory Umbrella

Financial regulation has traditionally been focused on the selling of financial products. While consumers generally, although not always, need financial products to implement their financial strategies, the choice of suitable products is a secondary decision. First and foremost, consumers need to define their life goals and develop personal financial strategies to achieve them. While this can be done without professional help, few people embark on this journey to define their goals and priorities.

Financial planning is the process of defining, developing and implementing personal financial strategies prior to selecting suitable products. FPSB defines financial planning as “the process of developing strategies to assist clients in managing their financial affairs to meet life goals. The process of financial planning involves reviewing all relevant aspects of a client’s situation across a large breadth of financial planning activities, including inter-relationships among often conflicting objectives.”³

When defining “comprehensive financial guidance,” the European Commission’s Financial Services User Group (FSUG) describes a similar process, but one that does not end in the recommendation to purchase a particular financial product. FPSB recognizes that in parts of the world, some financial planners – even those who are regulated as fiduciaries – can and do make product recommendations. For example, in some territories fee-based advisors must place their clients’ interests first when providing financial advice, but can follow a suitability standard when recommending products. Colloquially, this has been called “hat switching,” a practice that causes confusion among consumers who expect their advisors to always place their clients’ interests first.

Consumers need to be able to readily identify and rely upon competent and ethical professionals who will work in their best interests.

The first hurdle consumers face when seeking help and advice with their finances is identifying a trustworthy and competent advisor. This is difficult because the financial services marketplace is replete with titles such as investment advisor, investment consultant, insurance agent, insurance broker, financial advisor, wealth manager, financial planner, etc. Some roles are regulated and licensed while others are not. And – as identified in the example above – an advisor may be subject to different regulations depending on the situation.

Industry experts often suggest that consumers conduct elaborate interviews⁴ before hiring an advisor. An equal amount of vetting may be necessary to properly evaluate a financial product for purchase. Close collaboration between regulators, consumer organizations and professional bodies, such as FPSB, could and should assist consumers by helping to clearly define the different financial services consumers may receive, and clarifying titles, the scope of service, the degree of competency and the standard of care that go with them.

³ <https://www.fpsb.org/about-financial-planning/>

⁴ As an example, see Hebel, Henry K. (2014). “25 questions for a potential financial advisor” <http://www.marketwatch.com/story/25-questions-for-a-potential-financial-advisor-2014-06-19>

Financial planning is a valuable service.

FPSB has conducted extensive research among European consumers and found:

- Consumers value financial planning; and
- Consumers need and benefit from financial planning.

FPSB's global consumer survey⁵ reveals the value that consumers perceive from working with a CERTIFIED FINANCIAL PLANNER professional:

- 56% of respondents say CFP professionals develop a long-term plan tailored to their needs that helps achieve their goals.
- 58% of respondents feel CFP professionals are a trusted source of advice.
- 58% of respondents say CFP professionals show how financial planning helps save money.
- CFP professionals know their clients well. Compared to other financial advisors, they spend almost twice as much time working directly with clients, which helps them understand their clients' financial and life goals better.
- CFP professionals help their clients stay on track. People who work with a CFP professional are 48% more likely to consider themselves very successful at adhering to financial strategies.
- CFP professionals educate their clients. People working with a CFP professional are 63% more likely to feel very knowledgeable about financial matters.

Independent research has demonstrated and quantified the value of financial planning. Yet, financial services regulation has traditionally been focused on the distribution of financial products and, therefore, product-centered financial advice and selling practices. This situation creates confusion in consumer markets as to which financial professionals are salespersons, which ones offer product-centered advice and which ones provide financial planning.

Although MiFID II and IDD pivot from regulating sales to regulating advice, FPSB believes that to ensure consumers are in a position to make an informed decision as to what level of service they want to receive, financial planning needs regulatory oversight, and the term "financial planner" needs to be protected in law or regulation, thus making it easier for consumers to identify trustworthy professionals who provide services in their best interest.

⁵ Global Survey by Financial Planning Standards Board Finds Consumers Lack Strong Confidence in Achieving their Financial Goals: <https://www.fpsb.org/news/global-survey-financial-planning-standards-board-finds-consumers-lack-strong-confidence-achieving-financial-goals-2/>

From Regulating Sales to Regulating Advice

The European Commission has exposed inconsistencies in the regulation of financial services offered to consumers. Therefore, "... the Commission is committed to ensuring consistent and effective regulation for all sales of Packaged Retail and Insurance-based Investment Products (PRIIPs), taking MiFID as a benchmark, so as to remove current variations in the standards applying to sales depending on the legal form of the product: selling practices should always be focused on the fair treatment of the consumer..."⁶

This approach appeared in MiFID II, IDD and the PRIIPs Regulation, which are gradually being implemented. By setting uniform conduct-of-business standards, benchmarked against MiFID II, irrespective of the financial sector, the European legislation effectively pivots from regulating investment, insurance, mortgage credit and pensions advice separately to the *de facto* regulation of **financial advice**.

FPSB's six-step financial planning process is fully aligned with the new European regulation of financial advice as shown in Appendix I. In addition, FPSB's practice standards provide further guidance to financial planners / financial advisors on how to perform services for clients that comply with the European regulatory requirements. Regulatory requirements for competency, investment, insurance and mortgage credit for advisors also align with the education and examination requirements for financial planning professional designations, such as CFP certification. In other words, practitioners following FPSB's practice standards already comply with or exceed the requirements for providing regulated advice.

Because of their shared goals of serving consumers' best interests, regulators, consumer groups and professional bodies enjoy a solid foundation from which they can collaborate. Together, this cohort can work toward ensuring that consumers receive competent and impartial guidance, advice and financial planning. Members of this community may find it useful to collaborate on financial literacy / capability programs, positioning them as a step towards a formal relationship with a professional advisor as consumers' needs grow more complex.

⁶ European Commission. (2009). Commission Staff Working Document on the Follow Up in Retail Financial Services to the Consumer Markets Scoreboard.

Requirements for the Professional Delivery of Financial Advice and Financial Planning

CERTIFIED FINANCIAL PLANNER professionals have demonstrated that they meet and exceed conduct of business regulations under MiFID II and IDD. To substantiate this, following is an overview of the requirements needed to earn the CFP professional designation:

Professionalism

A 2005 Doedalus article asserts that every profession exhibits the following six characteristics:

1. “A commitment to serve the interests of clients – responsibly, unselfishly and wisely—and the welfare of society at large;
2. A body of theory or special knowledge, including research, conceptions and technologies;
3. A mastery of a domain of practice, including a specialized set of professional skills, practices, and performances, unique to the profession;
4. The developed capacity to deal with the ubiquitous condition of uncertainty and novelty and to render judgments with integrity under conditions of ethical uncertainty;
5. An organized approach to learning from experience, both individually and collectively, and to growing more skilled through knowledge from the context of practice;
6. The development of a professional community responsible for establishing and renewing work practice as well as oversight and monitoring of professional education.”⁷

FPSB’s vision is to establish financial planning as a global profession, with the CFP marks as the global symbol of excellence in financial planning. FPSB has developed a full-fledged professional framework along these lines.

1. A commitment to serve the interest of clients

CFP professionals place the client’s interests first.

When consumers engage professionals, such as lawyers, doctors or accountants, they expect service in their best interests and recommendations based on their needs and particular situation. Consumers have a right to expect the same professional commitment from their financial advisors. CFP professionals commit to abiding by FPSB’S Financial Planner Code of Ethics and Professional Responsibility.⁸ The Code contains eight principles, the first of which is to “place the client’s interests first.” This principle requires the financial planning professional to act honestly and not place his or her personal gain or advantage before the client’s interests. FPSB’s Code of Ethics addresses avoidance and full disclosure (as a last resort) of conflicts of interest.

2. A body of theory or special knowledge

FPSB has developed a global education framework for financial planning reflecting the financial planning body of knowledge.⁹ The education standard is based on a thorough European job analysis

⁷ Gardner, Howard and Lee S. Shuman. (2005).

⁸ FPSB. (2011). “Financial Planner Code of Ethics and Professional Responsibility”

⁹ FPSB. (2015). “Financial Planning Education Framework”

of CFP professionals.¹⁰ FPSB's Financial Planning Education Framework contains learning outcomes and content that relates to the abilities, skills and knowledge needed to practice financial planning, as defined by FPSB's Financial Planner Competency Profile.¹¹ By linking the Financial Planning Education Framework directly to its Financial Planner Competency Profile, FPSB encourages educators to be directed by the practice of financial planning when developing financial planning curricula, so students develop thinking and capabilities that prepare them to practice as competent financial planning professionals.

The framework highlights the inter-relationships among modules, program and qualification/practice and among teaching, learning and assessment. It also supports program comparison and student mobility within a member state and across the European Union.

The FPSB Qualifications Framework (see Figure 1, page 7) ensures professional competency, which meets and exceeds specific competency requirements contained into European Directives:

- **Investment Advisor** –MiFID II & ESMA Guidelines for the assessment of knowledge and competence¹² provisions on investment advice;
- **Financial Advisor** –IDD and the proposed PEPP Regulation¹³ provisions on insurance and voluntary retirement saving advice;
- **CERTIFIED FINANCIAL PLANNER Professional**–all-encompassing knowledge and abilities to deliver integrated financial planning.

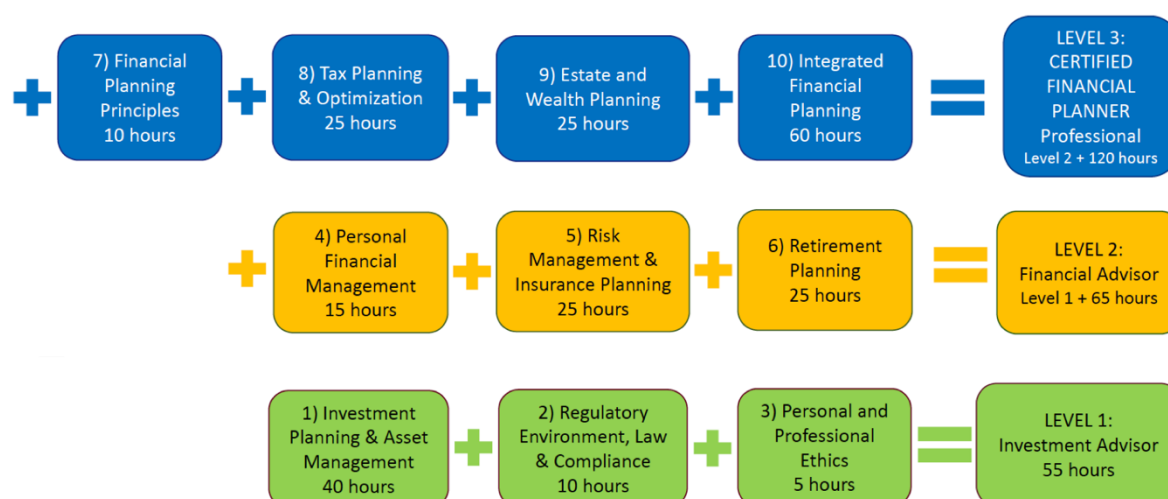


Figure 1: FPSB Qualifications Framework Overview

Each level of education is followed by a comprehensive exam. A valid and reliable certification exam assesses a candidate's ability to integrate and apply knowledge, skills and abilities to real life situations, and validates competency.

¹⁰ FPSB. (2014). "European CFP Certification Job Analysis Report"

¹¹ FPSB. (2011). "Financial Planner Competency Profile"

¹² ESMA. (2017). "Guidelines for the assessment of knowledge and competence"

¹³ European Commission. (2017). "Proposal for a Regulation of the European Parliament and of the Council on a pan-European Personal Pension Product (PEPP)".

3. A mastery of a domain of practice

CFP professionals acquire and demonstrate mastery of the financial planning process in three ways:

1. By demonstrating the experience required to obtain CFP certification;
2. By adhering to FPSB's Practice Standards;
3. By completion of a financial plan, which demonstrates mastery of the fundamental financial planning practices and Financial Planning Professional Skills, integrated across the Financial Planning Components, as described in FPSB's Financial Planner Competency Profile.

To be awarded the CFP designation, the candidate must have completed at least one year of supervised or three years of unsupervised work experience. In addition, CFP professionals must abide by the FPSB Practice Standards¹⁴ and be able to show how he or she applied them to a specific client's situation. FPSB has defined standards that:

- Establish the level of practice expected of a financial planning professional engaged in the delivery of financial planning to a client;
- Establish norms of professional practice and allow for consistent delivery of financial planning by financial planning professionals;
- Clarify the respective roles and responsibilities of financial planning professionals and their clients in financial planning engagements;
- Enhance the value of the financial planning process.

FPSB's Financial Planning Practice Standards establish the level of professional practice reasonably expected of financial planning professionals during financial planning engagements, regardless of practice type, setting, location or method of compensation. Each practice standard is a statement that relates to an element of the financial planning process. The statement is followed by an explanation of the practice standard's intent, which guides interpretation and application of the practice standard based on a standard of reasonableness. FPSB expects that clients of financial planning professionals will benefit from a globally accepted set of practice standards for financial planning professionals. FPSB has incorporated compliance with professional standards of practice into the global standards for CFP certification.

4. The developed capacity to deal with the ubiquitous condition of uncertainty and novelty and to render judgments with integrity under conditions of ethical uncertainty

Like doctors and lawyers, financial planners deal with individual clients with unique situations, constraints, goals, and aspirations. The CFP certification education program and experience requirements are geared toward developing the CFP professional's knowledge, skills, abilities, critical thinking and experiences to exercise professional judgment in each situation. Abiding by the FPSB Code of Ethics and Professional Conduct ensures the integrity of the advice and recommendations are in the best interests of the client.

5. An organized approach to learning from experience, both individually and collectively

The financial services sector is constantly evolving, driven by technology, financial innovation, regulation and consumer demand. For CFP professionals to stay abreast of developments and

¹⁴ FPSB. (2015). "Financial Planning Practice Standards". Copyright ©2015, Financial Planning Standards Board Ltd.

maintain their designation, they are required to complete at least 30 hours of continuing professional development (CPD) every two years. At least two of the 30 hours need to address topics covered in FPSB's Code of Ethics and Professional Responsibility and Financial Planning Practice Standards.

6. The development of a professional community responsible for establishing and reviewing work practice as well as oversight and monitoring of professional education

FPSB was established in 2004 with a mission to benefit the public by establishing, upholding and promoting worldwide professional standards in financial planning. FPSB's professional community for financial planners comprises 26 member organizations, including European organizations in Austria, France, Germany, Ireland, the Netherlands, Switzerland and the United Kingdom. FPSB and its member organizations develop, promote and enforce internationally consistent, locally relevant standards.

A Framework for Oversight of Professional Financial Advice and Financial Planning

Consumers need trustworthy assistance to take control of their financial destiny. Financial education, and information and disclosures that are clear, fair and not misleading, are the foundations of supporting consumers to engage with financial markets. Regulated, product-centered investment, insurance and pension advice forms another layer of knowledge. Consumers, however, need and benefit from assistance in developing their financial strategies before contemplating purchasing financial products. Financial planning bridges the gap between financial education and financial products. Financial planning is consumer-centric, focused on an individual's life goals, objectives, aspirations, financial situation, resources and constraints. Consumers can make purchasing decisions in their best interest based on a comprehensive financial plan. Financial planning activities, however, are largely not regulated in Europe. This inconsistent treatment breeds confusion as to who is selling financial products, advising on products or providing financial advice and financial planning.

FPSB has developed tenets for oversight of the financial planning profession:

- Use of the title “financial planner” should be protected in law or regulation; Consumers need to be clear whether they are being sold a product or whether they receive product advice or financial planning;
- Financial advice and financial planning should be delivered with a client-first duty of care;
- Oversight of financial planners should be undertaken by a professional financial planning body.

Like other professions, financial planners and financial advisors should be subject to oversight by a professional body. FPSB and the financial planning professional community support legislators and regulators in their consumer protection/public benefit efforts, to ensure consumer access to professional and ethical financial advice and financial planning.

Conclusion and Recommendations

To achieve their life goals, consumers need to engage with financial markets. However, the public faces challenges posed by the sheer number of choices of financial strategies and products and – at times – by product complexity, hidden risks and charges.

Regulators, consumer groups and professional bodies can help consumers by collaborating on guidelines for:

- Fair, clear financial information;
- Financial education and guidance;
- Regulated, product-centered financial advice;
- Consumer-centered financial planning brought under regulation.

Consumer groups champion financial guidance, which is unregulated and stops short of recommending specific financial products. To ensure that financial guidance is in the best interest of consumers, it needs to be provided by a qualified professional. To that end, FPSB recommends that consumer organizations consider FPSB qualification at the level of a Financial Advisor (see Figure 1 on page 7) for professionals providing financial guidance.

As demonstrated in this paper, regulatory requirements focused on product-centered, regulated investment, insurance, and pension advice, are evolving into the regulation of financial advice by aligning sector-specific regulations with MiFID II. FPSB has developed education, examination, experience, ethics and professional standards that do not just meet European regulations, but are more detailed, and at times exceed, regulatory requirements. FPSB recommends that national authorities recognize professionals who have been awarded FPSB Qualifications Framework designations as meeting MiFID II, IDD and MCD competence requirements. Moreover, to continue to qualify for continued recognition as Financial Advisors and CFP professionals, professionals would need to fulfill a continuing professional development obligation in line with the IDD (Article 10).

Financial planning encompasses both developing personal financial strategies to meet life goals and making recommendations to execute the plan that involve purchasing financial products when necessary. Holistic financial planning is a comprehensive service that consumers can trust. It has been shown that financial planning benefits consumers by helping them:

- Save more money;
- Invest more in equities;
- Increase their net worth;
- Raise retirement income.

However, financial planning remains largely unregulated, which creates confusion among consumers.

FPSB supports the new European regulation as embodied in the Regulations and Directives that are being implemented in 2018 with their emphasis on consumer protection, evolving toward regulation of provision of financial advice, removing conflicts of interest between financial services providers and their clients, and demanding increased professionalism. Because regulators, consumer organizations and professional bodies all focus on the best interest of consumers, open lines of communication must be maintained to ensure that each is building on the other's activities to empower and protect consumers in financial markets.

Bibliography

- Brancati, Cesira Urzi, Ben Franklin and Brian Beach. (2017). “*The value of financial advice*”. A Research Report from ILC-UK. [http://www.actuarialpost.co.uk/downloads/cat_1/ILC%20and%20RL%20The%20Value%20of%20Advice%20\(final\)%20Report%20July%202017.pdf](http://www.actuarialpost.co.uk/downloads/cat_1/ILC%20and%20RL%20The%20Value%20of%20Advice%20(final)%20Report%20July%202017.pdf)
- ESMA. (2017). “Guidelines for the assessment of knowledge and competence” 3 January 2017 | ESMA71-1154262120-153 EN (rev) https://www.esma.europa.eu/sites/default/files/library/esma71-1154262120-153_guidelines_for_the_assessment_of_knowledge_and_competence_corrigendum.pdf
- European Commission. (2009). COMMISSION STAFF WORKING DOCUMENT ON THE FOLLOW UP IN RETAIL FINANCIAL SERVICES TO THE CONSUMER MARKETS SCOREBOARD. Brussels, 22.9.2009 SEC(2009) 1251 final http://ec.europa.eu/consumers/financial_services/reference_studies_documents/docs/swd_retail_fin_services_en.pdf
- European Commission. (2012). “Commission proposes legislation to improve consumer protection in financial services.” Press Release. http://europa.eu/rapid/press-release_IP-12-736_en.htm
- European Commission. (2017). “Proposal for a Regulation of The European Parliament and of the Council on a pan-European Personal Pension Product (PEPP)”. Brussels. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017PC0343&from=EN>
- European Union. (2016). Consumer Markets Scoreboard - 2016 Edition http://ec.europa.eu/consumers/consumer_evidence/consumer_scoreboards/12_edition/index_en.htm
- FPSB. (2011). “Financial Planner Code of Ethics and Professional Responsibility” © 2011, Financial Planning Standards Board Ltd. <https://www.fpsb.org/standards-for-the-profession/framework/>
- FPSB. (2011). “Financial Planner Competency Profile”, Copyright © 2011, Financial Planning Standards Board Ltd. <https://www.fpsb.org/standards-for-the-profession/framework/>
- FPSB. (2014). “European CFP Certification Job Analysis Report” Copyright © 2014, Financial Planning Standards Board Ltd. <https://www.fpsb.org/standards-for-the-profession/framework/>
- FPSB. (2015) “Financial Planning Education Framework”. Copyright ©2015, Financial Standards Planning Board Ltd. <https://www.fpsb.org/standards-for-the-profession/framework/>
- Financial Services User Group. (FSUG). (2017). “Financial guidance –FSUG Recommendations”, https://www.nibud.nl/wp-content/uploads/fsug-financial-guidance_recommendations.pdf
- Gardner, Howard and Lee S. Shuman. (2005). “The Professions in America Today: Crucial but Fragile”, *Dædalus*, vol 134, no. 3 (Summer 2005): 13-18. <http://www.mitpressjournals.org/doi/abs/10.1162/0011526054622132>
- Hebeler, Henry K . (2014). “25 questions for a potential financial advisor” <http://www.marketwatch.com/story/25-questions-for-a-potential-financial-advisor-2014-06-19>
- Kinniry Jr, Francis M., CFA, Colleen M. Jaconetti, CPA, CFP®, Michael A. DiJoseph, CFA, Yan Zilbering, and Donald G. Bennyhoff, CFA. (2016). “Quantifying Vanguard’s Advisor’s Alpha Putting a value on your value”. Vanguard. https://advisors.vanguard.com/VGApp/iip/site/advisor/researchcommentary/article/IWE_ResPuttingAValueOnValue
- OEE et al. (2016). “Study on access to comprehensive financial guidance for consumers”, <https://www.nibud.nl/wp-content/uploads/access-financial-guidance-consumers-min.pdf>

Appendix I

FPSB Practice Standards Comparison to MiFID II / IDD Conduct of Business Regulations

Six Step Financial Planning Process	FPSB Practice Standard	MiFID II: DIRECTIVE 2014/65/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast)	MiFID II Delegated Acts: COMMISSION DELEGATED REGULATION (EU) 2017/565 of 25.4.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	IDD: DIRECTIVE (EU) 2016/97 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 January 2016 on insurance distribution (recast)
1.Establish and define the relationship with the client.	1.1: Inform the client about financial planning and the financial planning professional's competencies.	Art. 24 (4) Appropriate information shall be provided in good time to clients or potential clients with regard to the investment firm and its services, the financial instruments and proposed investment strategies, execution venues and all costs and related charges.		Art. 18 Member States shall ensure that: (a) in good time before the conclusion of an insurance contract, an insurance intermediary makes the following disclosures to customers: (i) its identity and address and that it is an insurance intermediary; (ii) whether it provides advice about the insurance products sold; (iii) the procedures referred to in Article 14 enabling customers and other interested parties to register complaints about insurance intermediaries and about the out-of-court complaint and redress procedures referred to in Article 15; (iv) the register in which it has been included and the means for verifying that it has been registered; and (v) whether the intermediary is representing the customer or is acting for and on behalf of the insurance undertaking.
1.Establish and define the relationship with the client.	1.2: Determine whether the financial planning professional can meet the client's needs.			

Six Step Financial Planning Process	FPSB Practice Standard	MiFID II: DIRECTIVE 2014/65/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast)	MiFID II Delegated Acts: COMMISSION DELEGATED REGULATION (EU) 2017/565 of 25.4.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	IDD: DIRECTIVE (EU) 2016/97 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 January 2016 on insurance distribution (recast)
1.Establish and define the relationship with the client.	1.3: Define the scope of the engagement.	Art. 25 (5) The investment firm shall establish a record that includes the document or documents agreed between the firm and the client that set out the rights and obligations of the parties, and the other terms on which the firm will provide services to the client.	Art. 58 Investment firms providing any investment service, or the ancillary service referred to in Section B (1) of Annex I to Directive 2014/65/EC to a client after the date of application of this Regulation shall enter into a written basic agreement with the client, in paper or another durable medium, with the client setting out the essential rights and obligations of the firm and the client. Investment firms providing investment advice shall comply with this obligation only where a periodic assessment of the suitability of the financial instruments or services recommended is performed. The written agreement shall set out the essential rights and obligations of the parties, and shall include the following: (a) a description of the services, and where relevant the nature and extent of the investment advice, to be provided; (b) in case of portfolio management services, the types of financial instruments that may be purchased and sold and the types of transactions that may be undertaken	Art. 30 (4) The insurance intermediary or insurance undertaking shall establish a record that includes the document or documents agreed between the insurance intermediary or insurance undertaking and the customer that set out the rights and obligations of the parties, and the other terms on which the insurance intermediary or insurance undertaking will provide services to the customer. The rights and duties of the parties to the contract may be incorporated by reference to other documents or legal texts.

			on behalf of the client, as well as any instruments or transactions prohibited; and (c) a description of the main features of any services referred to in Section B(1) of Annex I to Directive 2014/65/EU to be provided, including where applicable the role of the firm with respect to corporate actions relating to client instruments and the terms on which securities financing transactions involving client securities will generate a return for the client.	
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Six Step Financial Planning Process	FPSB Practice Standard	MiFID II: DIRECTIVE 2014/65/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast)	MiFID II Delegated Acts: COMMISSION DELEGATED REGULATION (EU) 2017/565 of 25.4.2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	IDD: DIRECTIVE (EU) 2016/97 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 January 2016 on insurance distribution (recast)
2. Collect the client's information.	2.1: Identify the client's personal and financial objectives, needs and priorities.	Art. 25 (2) When providing investment advice or portfolio management the investment firm shall obtain the necessary information regarding the client's or potential client's knowledge and experience in the investment field relevant to the specific type of product or service, his financial situation and his investment objectives so as to enable the firm to recommend to the client or potential client the investment services and financial instruments that are suitable for him and, in particular, are in accordance with his risk tolerance and ability to bear losses.	Art. 54 (2) Investment firms shall obtain from clients or potential clients such information as is necessary for the firm to understand the essential facts about the client and to have a reasonable basis for determining, giving due consideration to the nature and extent of the service provided, that the specific transaction to be recommended, or entered into in the course of providing a portfolio management service, satisfies the following criteria: (a) it meets the investment objectives of the client in question, including client's risk tolerance; (b) it is such that the client is able financially to bear any related investment risks consistent with his investment objectives; (c) it is such that the client has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio. Art. 54 (8) Investment firms having an ongoing relationship with the client, such as by providing an ongoing advice or portfolio management service, shall have, and be able to demonstrate, appropriate policies and procedures to maintain adequate and up-to-date information about clients to the extent necessary to fulfil the requirements	Art.20 (1) Prior to the conclusion of an insurance contract, the insurance distributor shall specify, on the basis of information obtained from the customer, the demands and the needs of that customer and shall provide the customer with objective information about the insurance product in a comprehensible form to allow that customer to make an informed decision... 3.Where an insurance intermediary informs the customer that it gives its advice on the basis of a fair and personal analysis, it shall give that advice on the basis of an analysis of a sufficiently large number of insurance contracts available on the market to enable it to make a personal recommendation, in accordance with professional criteria, regarding which insurance contract would be adequate to meet the customer's needs. Any contract proposed shall be consistent with the customer's insurance demands and needs. Where advice is provided prior to the conclusion of any specific contract, the insurance distributor shall provide the customer with a personalised recommendation explaining why a particular product would best meet the customer's demands and needs.

			under paragraph 2. Art. 55 Investment firms shall ensure that the information regarding a client's or potential client's knowledge and experience in the investment field includes the following, to the extent appropriate to the nature of the client, the nature and extent of the service to be provided and the type of product or transaction envisaged, including their complexity and the risks involved: (a) the types of service, transaction and financial instrument with which the client is familiar; (b) the nature, volume, and frequency of the client's transactions in financial instruments and the period over which they have been carried out; (c) the level of education, and profession or relevant former profession of the client or potential client. 2. An investment firm shall not discourage a client or potential client from providing information required for the purposes of Article 25(2) and (3) of Directive 2014/65/EU. 3. An investment firm shall be entitled to rely on the information provided by its clients or potential clients unless it is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.	
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2. Collect the client's information.	2.2: Collect quantitative information and documents.			Art. 30 (1) Without prejudice to Article 20(1), when providing advice on an insurance-based investment product, the insurance intermediary or insurance undertaking shall also obtain the necessary information regarding the customer's or potential customer's knowledge and experience in the investment field relevant to the specific type of product or service, that person's financial situation including that person's ability to bear losses, and that person's investment objectives, including that person's risk tolerance, so as to enable the insurance intermediary or the insurance undertaking to recommend to the customer or potential customer the insurance-based investment products that are suitable for that person and that, in particular, are in accordance with that person's risk tolerance and ability to bear losses.
2. Collect the client's information.	2.3: Collect qualitative information.			
3. Analyze and assess the client's financial status	3.1: Analyze the client's information.			

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3. Analyze and assess the client's financial status	3.2: Assess the client's objectives, needs and priorities.	Art. 24 (2) An investment firm shall ... assess the compatibility of the financial instruments with the needs of the clients to whom it provides investment services... and ensure that financial instruments are offered or recommended only when this is in the interest of the client.		
4. Develop the financial planning recommendations and present them to the client.	4.1: Identify and evaluate financial planning strategies.	Art. 25, (6) ... When providing investment advice, the investment firm shall specify how the advice given meets the personal characteristics of the client.		
4. Develop the financial planning recommendations and present them to the client.	4.2: Develop the financial planning recommendations.			

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4. Develop the financial planning recommendations and present them to the client.	4.3: Present the financial planning recommendations to the client.	Art. 25 (6) ... When providing investment advice, the investment firm shall, before the transaction is made, provide the client with a statement on suitability in a durable medium specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the retail client.	Art. 52 (12) When providing investment advice, investment firms shall provide a report to the retail client that includes an outline of the advice given and how the recommendation provided is suitable for the retail client, including how it meets the client's objectives and personal circumstances with reference to the investment term required, client's knowledge and experience and client's attitude to risk and capacity for loss. Investment firms shall draw clients' attention to and shall include in the suitability report information on whether the recommended services or instruments are likely to require the retail client to seek a periodic review of their arrangements.	Art. 29 (1) Without prejudice to Article 18 and Article 19(1) and (2), appropriate information shall be provided in good time, prior to the conclusion of a contract, to customers or potential customers with regard to the distribution of insurance-based investment products, and with regard to all costs and related charges. That information shall include at least the following: (a) when advice is provided, whether the insurance intermediary or insurance undertaking will provide the customer with a periodic assessment of the suitability of the insurance-based investment products recommended to that customer, referred to in Article 30; (b) as regards the information on insurance-based investment products and proposed investment strategies, appropriate guidance on, and warnings of, the risks associated with the insurance-based investment products or in respect of particular investment strategies proposed; (c) as regards the information on all costs and related charges to be disclosed, information relating to the distribution of the insurance-based investment product, including the cost of advice, where relevant, the cost of the insurance-based investment product recommended or

				marketed to the customer and how the customer may pay for it, also encompassing any third party payments.
				Art. 30 (5) When providing advice on an insurance-based investment product, the insurance intermediary or the insurance undertaking shall, prior to the conclusion of the contract, provide the customer with a suitability statement on a durable medium specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the customer. The conditions set out in Article 23(1) to (4) shall apply.

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5. Implement the client's financial planning recommendations.	5.1: Agree on implementation responsibilities.			
5. Implement the client's financial planning recommendations.	5.2: Identify and present product(s) and service(s) for implementation.	Art. 24 (3) Appropriate information shall be provided to clients or potential clients about... financial instruments and proposed investment strategies; this should include appropriate guidance on and warnings of the risks associated with investments in those instruments or in respect of particular investment strategies, – execution venues, and – costs and associated charges.	Art. 48 (1) Investment firms shall provide clients or potential clients in good time before the provision of investment services or ancillary services to clients or potential clients with a general description of the nature and risks of financial instruments, taking into account, in particular, the client's categorisation as either a retail client, professional client or eligible counterparty. That description shall explain the nature of the specific type of instrument concerned, the functioning and performance of the financial instrument in different market conditions, including both positive and negative conditions, as well as the risks particular to that specific type of instrument in sufficient detail to enable the client to take investment decisions on an informed basis.	

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6. Review the client's situation.	6.1: Agree on responsibilities and terms for review of the client's situation.	Art. 25 (5) The client must receive from the investment firm adequate reports on the service provided to its clients. These reports shall include periodic communications to clients, taking into account the type and the complexity of financial instruments involved and the nature of the service provided to the client and shall include, where applicable, the costs associated with the transactions and services undertaken on behalf of the client.	52 (13) Investment firms providing a periodic suitability assessment shall review, in order to enhance the service, the suitability of the recommendations given at least annually. The frequency of this assessment shall be increased depending on the risk profile of the client and the type of financial instruments recommended.	

6. Review the client's situation.	6.2: Review and re-evaluate the client's situation.	Art. 24 (4), (a), (iii) whether the investment firm will provide the client with the on-going assessment of the suitability of the financial instruments recommended to clients.	Art. 52 (5) Investments firms providing a periodic assessment of the suitability of the recommendations provided pursuant to Article 54(12) shall disclose all of the following: (a) the frequency and extent of the periodic suitability assessment and where relevant, the conditions that trigger that assessment; (b) the extent to which the information previously collected will be subject to reassessment; and (c) the way in which an updated recommendation will be communicated to the client.	Art. 30 (5) ... Where an insurance intermediary or an insurance undertaking has informed the customer that it will carry out a periodic assessment of suitability, the periodic report shall contain an updated statement of how the insurance-based investment product meets the customer's preferences, objectives and other characteristics of the customer.
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