



16 September 2022

Assistant Secretary  
Advice and Investment Branch  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [FinancialAdvice@treasury.gov.au](mailto:FinancialAdvice@treasury.gov.au)

Dear Ms Bray

### **Financial Adviser Education Standards**

The Australian Financial Markets Association (AFMA) welcomes the opportunity to make comment on Treasury's consultation on Financial Adviser Education Standards.

AFMA commends Treasury's proposals as more sensible steps in the right direction and suggests further changes to continue the path to comprehensive reform.

AFMA supports the amendments to the Experience Pathway. We discuss ideas to finesse the Experience Pathway proposal in our response to the questions that follows.

AFMA supports the increased flexibility proposed in the Education Pathway. We suggest further development of this proposal.

At a high level, we continue to see great value to be had in more fully unwinding FASEA's merging of the provision of product-specific advice (e.g. SME FX providers and stockbrokers) with financial planning. Such a division remains in many of our peer jurisdictions and is essential to sensible policy outcomes.

Reintroducing this distinction would enable the provision of product specific adviser tests (if testing was considered necessary); allow better alignment of the compulsory subjects in any degree requirements; better alignment of degree types and assist in ensuring that disciplinary bodies are well placed to understand variations from standard or required practice. While the proposed reforms are a welcome step in practicality, it is important from a policy perspective that the fundamental disconnect between financial planning and other product specific advice types, is properly addressed.

In our recent call with Treasury and other bodies, including a University and a super body, the continuing relevance and importance of the distinction between classic financial planning and product advice was again made clear.

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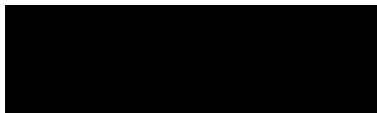
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For true financial planning – a very specific type of interaction that covers retirement, dependents, insurance, estate planning, and some elements of tax advice – where this is desired by the investor and intended by the provider, we can see the relevance of the core knowledge areas and as appropriate a selection of other areas.

For product advice suppliers, the streamlined core knowledge areas, while worthy, are perhaps not yet optimally selected. For example, tax is not relevant to SME FX providers. Similarly, the degree list itself leaves off many of the types of degrees that are most in demand in the product advice sector including degrees in pure and applied mathematics, statistics, physics, and engineering. These degrees and the knowledge areas they contain can be a very good grounding to understand the products, particularly options, where understanding second order partial derivative pricing models, are of critical importance. Members report that their hiring has previously benefited from an even wider range of degrees including humanities degrees which when combined with university delivered AQF8 level industry training as specified in AFMA accreditation, has been found to selected talented people and provide a sound grounding for product advice.

We thank Treasury for their constructive and worthwhile work on reforming financial advisor education standards. We are very encouraged by the progress and are pleased to continue to assist the work program.

Yours sincerely

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## RESPONSES

### Questions – Experienced Pathway

#### 10 Years' Experience

**Question 1:** Is the proposed window for determining 10 years' experience (between 1 January 2004 and 1 January 2019) appropriate? If not, what alternative period could be considered?

AFMA supports the proposals in principle, however, there should be flexibility for advisers and licensees to take into account periods during which advisers have been working part-time or have had a career break of more than five years (typically non-consecutively) often for parental duties.

Advisers working three or four days per week would have been subject to the same or similar CPD requirements and had similar overall experience. Inclusion of these advisers would help ensure a level-playing field for those working part-time for various reasons. Advisers who have had more than 5 years career break in the last 15 would similarly be unlikely to be out of touch. In our view these employees should not be penalised for availing themselves of flexible working arrangements.

Firms would welcome the flexibility to apply relevant experience, which may not necessarily be specific to providing personal advice, to retail clients under the pre-1 Jan 2019 framework. For example, there will be many FX dealers servicing wholesale clients (as opposed to retail) whose experience will be appropriate (subject to additional training required), as a basis to qualify them for providing personal advice.

Separately, if this is not the intent, we consider that qualifying for the experience pathway need not be directly linked to future authorisation on the FAR i.e. an adviser may benefit from the experience pathway to qualify for providing personal advice; the specific areas for which they are authorised to provide advice would be a separate decision for the licensee based on the licensee's internal requirements.

AFMA notes that the short window to January 2026 for the experienced hire pathway will make recruitment and existing dealer accreditation easier in the short to medium term but is not a long-term solution.

AFMA also notes we reject proposals raised on the associations call around a sunset clause. This will recreate all the problems of the FASEA era and is not necessary for good outcomes for investors.

**Question 2:** If required (for example, due to an audit of their eligibility), how can advisers prove they have 10 years' full-time equivalent experience?

Evidence from previous employers or equivalents, for example, a written reference from the employer confirming the capacity in which the adviser worked and the nature of the role, should be considered sufficient to evidence the experience.

#### Clean Record

**Question 3:** Are the proposed sources for determining a clean record appropriate? Why/why not?

No issues raised.

**Question 4:** What other sources could advisers rely on to indicate that they have a clean record?

ASIC reference checking and information sharing protocol.

**Question 5:** If required, what evidence can advisers rely on to prove they have a clean record?

Evidence from previous employers or equivalents, if provided by the employee.

**Question 6:** What threshold should be adopted to identify whether conduct is minor, trivial, and isolated?

Minor, trivial, and isolated matters should have consequences no more than a formal warning (or similar) recorded in the licensee's internal HR records.

**Question 7:** Is the non-time limited clean record requirement appropriate? If not, for what period should an adviser be expected to maintain a clean record to access this pathway?

It is not clear what the intent of Treasury is in terms of the liability of licensees to ensure the adviser has a clean record.

We expect that licensees would wish to perform a level of due diligence to ensure they are not employing an adviser that does not meet the pathway.

While an adviser will have access to their own conduct records, the ability of a licensee to due diligence a clean record will be limited by the information available that has been kept in accordance with the recordkeeping requirement and disclosed to the licensee by the employee or prospective employee.

To ensure some level of consistency, it would be helpful for Government to provide guidelines in this regard. Failing that, it would be a matter for the licensee to determine on a reasonable-efforts basis and would be dependent on what information is available.

#### Assessment of Eligibility

**Question 8:** What should self-declaration of eligibility require? For example, should an adviser have to make a statutory declaration?

Broadly we consider it reasonable for an adviser to self-assess, although noting the points made above.

Inevitably a licensee will wish to review the evidence of experience, which in the absence of any specific guidance or measures (which would be welcomed), should be bounded by reasonable efforts. We consider a statutory declaration a reasonable step.

#### Future Misconduct

**Question 9:** Are new tools required to specifically deal with advisers accessing the experienced pathway whose future conduct amounts to misconduct? Why/why not?

No. Future misconduct should not necessarily lead to a requirement to complete formal education in line with existing advisers. We do not see a need to differentiate between responses to the misconduct of new entrants, existing advisers nor experienced advisers. The same remedies should apply.

#### Other

**Question 10:** For existing advisers not eligible for the experienced pathway but who have a foreign qualification at AQF 7 level or above, is it practical and appropriate for education providers or licensees to assess how these qualifications meet the education standard and what additional study may be required, rather than the Minister? Why/why not?

It is difficult for a licensee to do more than review an adviser's transcripts i.e. course components. An alternative would be to retain the approach of having a central body, which could take a number of forms including industry based, to make the assessment, for consistency.

**Question 11:** How many existing advisers do you expect to access the experienced pathway? How many of those have already started to undertake formal education to align with the current existing adviser requirements?

A member has estimated around 10% of their previous FAR advisers may benefit from this pathway.

**Question 12:** What else may be required to ensure an appropriate level of consumer protection is maintained and any potential harm is minimised?

We do not see extra required.

**Question 13:** Would any further requirements be necessary for the experienced pathway to ensure the professionalisation of the industry is maintained?

AFMA requires ongoing CPD and industry sponsorship.

#### **Formal Education and Exam**

**Question 1:** Are the proposed core knowledge areas appropriate for the financial advice profession? If not, what is missing and why is that area important?

We consider that tax is unlikely to be relevant for SME FX providers. SME FX providing firms report that it is not relevant to their work and they would not want their advisers providing tax advice.

For financial product advisors such as SME FX, AFMA's preference is to align with the industry accreditation approach which requires a bachelor's degree supplemented by industry appropriate accreditation. In the case of AFMA accreditation, this includes business conduct and ethics either as a separate course or integrated into the following units:

1. Financial Markets Concepts
2. Financial Markets Transactions
3. Risk Management Principles
4. A technical elective in one of Debt, FX, or Energy.

These are taught at AQF level 8 and can contribute to a Masters. They are currently by Macquarie University but potentially could be provided by other university level providers as well. For SME FX this program is viewed as appropriate by the industry in combination with a bachelor's degree.

We understand SIAA have previously required for their Graduate Certificate:

1. Financial Products and Markets
2. Financial Adviser Communication Skills
3. And two electives from:
  - a. Corporate Finance
  - b. Funds Management and Portfolio Selection
  - c. Commercial Law
  - d. Principles of Taxation

We suggest these credible industry certificates are appropriate for their respective product advice spaces.

**Question 2:** Are there any specific areas under each core knowledge area that should be prioritised or emphasised? For example, a particular element of taxation or commercial law?

Ethics should be prioritised over any technical knowledge area.

**Question 3:** Would proposed changes to core knowledge areas necessitate changes to the exam content? Why/why not?

Yes. Given the change to the core content for the education, we would welcome an approach to the exam that similarly recognises that there are core (mandatory) elements, that each adviser must complete but then recognises further, that there may be components or content that is relevant to a particular future path.

For example, content or modules could be tailored to financial planning, stockbroking, financial markets etc. that would make the exam more meaningful for all.

We query whether an exam is required if the courses cover the content and are taught to an appropriate TEQSA level.

**Question 4:** Is it practical and appropriate to allow education providers to self-declare that their degrees teach the core knowledge areas? Why/why not?

For high quality institutions, e.g. major universities, this should be acceptable and would avoid the delays and limited bandwidth of the previous approach.

**Question 5:** What form should education providers' assurance to Government take?

This is a matter for Government.

**Question 6:** If self-declaration is not appropriate, what alternatives could be adopted to streamline the degree approval process?

No response.

**Question 7:** Is it practical and appropriate for education providers or licensees to evaluate a new entrants' completed tertiary courses against the new core knowledge areas to assess whether they have met the education standard or what additional study may be required? Why/why not? What oversight of education providers or licensees making this assessment, if any, is necessary?

AFMA has these type of education checks in place for our recognition of prior learning. They have worked well.

**Question 8:** Is it practical and appropriate for education providers or licensees to also evaluate foreign qualifications against the new core knowledge areas and assess what additional study may be required, rather than the Minister? Why/why not?

AFMA has RPL processes in place for our certificate course.

**Question 9:** Should new entrants whose existing qualifications don't fully meet the education standard be able to 'top-up' their qualification by completing individual units, rather than a full qualification? Why/why not?

Yes, this is an important question. There is no need for advisers to repeat previously learned content, so it makes sense to only top up the missing areas. The required areas should be able to be covered across a range of umbrella qualifications and courses — not just an initial degree.

**Question 10:** What other changes should be made to the education requirements for new entrants? How do your proposed changes support the professionalisation of the financial advice industry and ensure consumer protection?

As we have noted in our letter above, there should be recognition of the different types of financial advisors – financial planners, stockbrokers, financial markets product advisors.

The education requirements should be more tailored for each group. This would also allow for more relevant technical knowledge to be included.

Industry groups such as AFMA have long specified education requirements appropriate to different parts of the sector. For AFMA's industry [accreditation education requirements](#) (can be offered by any TEQSA institution but currently only Macquarie University) individuals cover core units, including business conduct and ethics, before specialising in either Debt, FX, or Energy markets.

This more tailored approach would help the advice industry by ensuring more appropriate training of advice providers. It would also allow firms to hire from those with the most relevant degrees as the degree types could be tailored to the type of financial advisor.

If the education arrangements are appropriate, we query the utility of a common exam. If there is to be exams they should be tailored to each category of advisor and preferably to each asset class in the case of financial markets, as is the case with industry training.

#### **Questions – Professional Year**

**Question 11:** How else could the professional year be amended to ensure it remains fit for purpose, ensuring appropriate supervision of graduate financial advisers without creating unnecessary barriers to entry?

Overall, we are supportive of additional flexibility to the professional in terms of the exam timing and also the ability to capture work experience gained either through tertiary study or during formal employment. This helps to ensure any time evidenced towards core experience, is captured.

**Question 12:** In what ways do the professional year requirements create a barrier to entering the financial advice profession?

**Question 13:** What are the risks and benefits of the possible amendments?

**Question 14:** Will allowing integration of the professional year with tertiary study streamline the transition between education and work? Why/why not?

**Question 15:** If the professional year is integrated into tertiary study, how many professional year work hours should be completed as part of a degree?

Flexibility to choose the best arrangement should be maintained.

**Question 16:** What role does industry play in encouraging new entrants into the industry?

**Question 17:** Should the exam format be changed for new entrants? If so, how?

The exam, if required, should be tailored to the relevant stream.