

16 September 2022

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

By email: FinancialAdvice@treasury.gov.au

Dear Ms Bray,

Financial adviser education standards

CPA Australia represents the diverse interests of more than 170,000 members, working in over 100 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

CPA Australia supports an education framework for financial advisers that is equitable, sustainable, delivers value for all stakeholders and importantly, reflects the expectations of the community.

The overarching driver of setting education standards should not solely focus on the holding of a specific qualification. More importantly it should ensure that an individual has the appropriate level of technical expertise and skill commensurate to the financial advice they will provide to the community.

We understand the concerns that more experienced financial advisers may leave the sector if there are not amendments made to the current education standards. Supporting these financial advisers to remain in the sector is important to ensure the community's advice needs can be met. This is a very real short-term challenge, with a contracting pool of financial advisers and a growing number of individuals nearing retirement seeking advice.

Experienced financial advisers are also important to help mentor and support future generations of advisers.

While recognising the importance of experience, CPA Australia believes that it is also important to ensure the community can have confidence that all financial advisers are appropriately qualified, noting this has been a key recommendation from recent inquiries and a fundamental objective of the current Professional Standards reforms for the sector. Therefore, short-term needs should not detract from the gains made towards professionalism over the last few years.

We therefore believe that experienced financial advisers, who successfully complete the exam, should be provided a further period to continue servicing their clients. However, CPA Australia recommends that a sunset date of 1 January 2032 be implemented for this pathway. These financial advisers should also be required to either complete an approved ethics unit or be a member of an association who meet specific requirements such as compliance with a mandatory code of ethics, to access this additional time extension.

If implemented, we note that this new pathway will create differences between the educational qualifications of those who utilise the pathway, and those financial advisers who may not meet the 10 years' experience pathway or who are seeking to remain in the sector beyond 1 January 2032.

We therefore recommend that the current bridging unit requirements for these advisers also be reviewed to ensure equitable pathways, noting also that there are proposed changes to the education requirements for new entrants.

We recognise that many existing advisers will have already commenced working towards their current bridging unit requirements. To ensure they are not further disadvantaged, we recommend that these advisers have the choice to either complete the current pathway or complete the revised pathways, yet to be determined.

Finally, we support the proposals to review the education requirements for new entrants, including the exam and professional year obligations. Flexibility is needed both in terms of how an individual can complete and meet these requirements. However, we believe that to ensure new entrants have the appropriate level of technical expertise and skill commensurate to the financial advice they will provide to the community, they must complete more study than just the proposed core knowledge requirements.

We also believe the sector should play an important role in the setting of these knowledge and skills requirements, reflecting the diversity of advice that is provided within the sector, replacing the current one-size fits all pathway.

CPA Australia recommends that a Self-Regulating Associations Body be established, whose responsibility would include, among other responsibilities, determining the core and elective skills sets needed to provide personal advice to retail clients on relevant financial products.

Our detailed responses are contained in the Attachment.

If you have any queries about this submission,

Yours sincerely

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Key Recommendations

Experience pathway

Relevant experience should be defined to be equivalent to 10 years full time experience gained by those licensed under an Australian Financial Services (AFS) licence to provide personal advice to retail clients.

For consistency and accountability, all individuals who seek to take advantage of the 10 years' experience pathway should be required to complete a statutory declaration stating they meet all the eligibility requirements determined, including relevant experience.

The requirement for an individual to demonstrate that they have a 'clean record' to be eligible for 10 years' experience pathway must be an objective test and should exclude compliance with CPD obligations.

A sunset date of 1 January 2032 should be implemented for this pathway.

As part of this pathway, a financial adviser should also be required to either complete an approved ethics unit or be a member of an association which meets specific requirements such as compliance with a mandatory code of ethics, to access this additional time extension.

For the purposes of determining the relevant pathway for existing advisers with a foreign qualification, AFS licensees should be permitted to accept an assessment from a Skills Assessment Authority.

New Entrants

CPA Australia recommends that the core knowledge areas for the financial advice profession should be:

- Ethics, professionalism and behavioural finance
- Advice: Legal obligations (including Privacy, AML/CTF, Chapter 7 of the *Corporations Act 2001*)
- Financial products and markets, and
- Tax (Commercial and Taxation law).

Elective skillsets should also be developed to ensure that an individual has the knowledge and skills commensurate to the advice they will be licensed to provide.

A new entrant should be able to mix and match courses within qualifications, as well as to complete standalone courses to meet the education standards relevant to the advice they wish to provide.

The curriculum, quantum of study and applicable assessment methods should be independently determined to ensure consistency in courses being offered and to ensure all education providers adhere to the same standards.

The current exam should be replaced with a capstone unit, relevant to the advice the individual will be licensed to provide, which would align the pathway to becoming a financial adviser with other professions and ensures that the individual can competently demonstrate the knowledge and skills needed to provide clients quality financial planning advice.

The sector should establish a Self-Regulating Associations Body, whose responsibility would be to:

- determine the core and elective skills sets needed to provide personal advice to retail clients on relevant financial products
- set the curriculum, quantum of study and acceptable methods of assessment for each core and knowledge area
- approve courses and qualifications that meet the education standards, and
- maintain a register of approved courses and qualifications.

New entrants should be able to 'top-up' their studies by completing individual units rather than a full qualification, to provide flexibility and support those seeking a career change to enter the sector without unnecessary education barriers.

To provide choice and equity Australian Skills Quality Authority regulated Registered Training Organisations should have the opportunity to be approved as providers of qualifications or bridging courses for those seeking to meet the education standards.

The training standards should be amended to recognise AQF 7 or higher 'equivalent' education offered by professional associations, provided they can meet other robust requirements, such as independent certification of the development of approved courses and programs.

Amendments should be made to the current standards to allow a new entrant to complete their education requirements and professional year concurrently.

Other

The current bridging unit requirements for existing advisers must be reviewed to provide these advisers with an equitable pathway given, the proposed changes for new entrants and advisers who can meet the 10 years' experience pathway.

Existing advisers who are registered tax agents should be provided the same deeming provisions to be registered on the FAR as a qualified tax relevant provider.

The current education, ethics and professional standards to provide wholesale advice are reviewed to ensure they align with community expectations and are commensurate with the skills needed to provide such advice.

Experience pathway

10 years' experience

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?

Yes, CPA Australia supports this proposed period for determining experience for this pathway.

CPA Australia also recommends that relevant experience should be defined to be equivalent to 10 years full time experience gained by those licensed under an Australian Financial Services (AFS) licence to provide personal advice to retail clients.

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

Many financial advisers will be able to demonstrate they meet the 10 years' full-time equivalent experience requirement to be eligible for this pathway through the ASIC Australian Financial Services Authorised Representative Professional Register.

However, individuals who were authorised as an employee representative will not be listed on this register and there are no other publicly available sources of information this group could rely on to provide this evidence.

CPA Australia recommends that, for consistency and accountability, all individuals who seek to take advantage of this pathway should be required to complete a statutory declaration stating they meet all the eligibility requirements determined, including relevant experience.

Clean record

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

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

CPA Australia supports the requirement for an individual to demonstrate that they have a 'clean record' to be eligible for this pathway, which must be an objective test.

We believe that the definition of a clean record could be defined as the individual having:

- no disciplinary actions recorded on the Financial Adviser Register (FAR)
- no record of being suspended or banned from being licensed under an AFS licence for any period by ASIC
- no adverse findings with the Australian Financial Complaints Authority as a result of a client suffering financial detriment, and
- no disciplinary action taken by their professional association, if applicable.

We do not support the inclusion of CPD compliance. This may preclude an otherwise eligible individual because they missed their target by only 1 or 2 hours. Looking to add in rules to address this scenario will likely only add complexity.

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

Relying on independent sources of information such as ASIC, AFCA and professional associations, coupled with the completion of a statutory declaration, should be considered sufficient for an individual to prove they have a clean record.

While there may be other sources of evidence, such as audits conducted by an AFS licensee, it is likely that, with the consolidation in the sector of the past five years, many individuals may find it difficult to source these types of records.

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

To avoid complexity, we believe the introduction of thresholds to evaluate eligibility should be avoided. Rather, the eligibility should rely on no records or actions as detailed in our response to questions 3 and 4.

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?

CPA Australia supports the non-time limited clean record requirement.

Assessment of eligibility

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

CPA Australia recommends that an individual should be required to complete a statutory declaration, given that there are repercussions for those who make a false declaration.

Future misconduct

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

The eligibility to access this pathway relies primarily on the individual maintaining a clean record.

We believe that should an adviser no longer meet this requirement; they forfeit their ability to continue to operate under this pathway and must instead meet the relevant education requirements, provided they are not banned or suspended from being licensed.

Other

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?

The assessment of whether a foreign qualification is deemed equivalent to a AQF 7 qualification or higher should only be performed by a Skills Assessing Authority approved by the Department of Home Affairs, recognising that there are specialist knowledge and skillsets required to make this assessment.

For example, the Skills Assessing Authority will also have to make an assessment whether the foreign qualification covers the required core competencies against the relevant ANZSCO Code, which may include ANZSCO 222311 Financial Investment Adviser.

Of importance, existing advisers will likely have already had their foreign qualifications assessed by a Skills Assessing Authority to determine if their qualification is both equivalent to at least a bachelor degree and covers core competencies, to be accepted as a relevant degree.

CPA Australia therefore recommends that for the purposes of determining the relevant pathway for existing advisers with a foreign qualification, that AFS licensees be permitted to accept an assessment from a Skills Assessment Authority.

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?

CPA Australia is unable to provide a specific response to this question.

However, while in principle we support this pathway, to ensure the community's advice needs can be met in the short-term, it also unfairly penalises those existing advisers who may be eligible but have already met or are currently completing their formal education requirements.

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

Ethical conduct and behaviour are core elements for a community to recognise a sector as a true profession.

CPA Australia therefore recommends that existing advisers who wish to take advantage of this pathway should be required to either:

- Successfully complete an approved ethics subject by 1 January 2026,
OR
- Be a voting member of an association for the duration of the pathway that:
 - has a Code of Ethics, conduct or professional standards
 - mandatory CPD obligations
 - a formal complaints and disciplinary system, and
 - a quality review program.

This replicates a successful model for the regulation of registered tax agents governed by the Tax Practitioners Board.

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

CPA Australia recommends that a sunset date of 1 January 2032 should be implemented for this pathway.

This ensures that the community's growing advice needs can be met in the short-term, while maintaining the commitment to professionalism by the sector.

New Entrants

Formal education and exam

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

CPA Australia recommends that the core knowledge areas for the financial advice profession should be:

- Ethics, professionalism and behavioural finance
- Advice: Legal obligations (including Privacy, AML/CTF, Chapter 7 of the *Corporations Act 2001*)
- Financial products and markets, and
- Tax (Commercial and Taxation law).

This combination of knowledge provides a strong foundation for any individual seeking a career in the sector, regardless of whether they intend to provide advice in a limited area, specialise or provide holistic advice.

While these areas should form the core knowledge requirements to be a financial adviser this does not mean they must be a core unit within a qualification. Rather, these subjects could be completed as standalone subjects, within a qualification or other form of acceptable study.

In addition to the core knowledge areas, elective skillsets should also be developed to ensure that an individual has the knowledge and skills commensurate to the advice they will be licensed to provide. We believe this should include areas such as:

- Superannuation and retirement planning
- Life and Risk advice
- Stockbroking, and
- Investment advice.

Importantly, a new entrant should be able to mix and match courses within qualifications, as well as to complete standalone courses to meet the education standards relevant to the advice they wish to provide. This provides flexibility, but also allows previous study to be recognised by those new entrants seeking a career change from other relevant professions, such as accounting.

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?

The curriculum, quantum of study and applicable assessment methods should be independently determined to ensure consistency in courses being offered and to ensure all education providers adhere to the same standards.

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

CPA Australia recommends that the exam is replaced with a capstone unit, relevant to the advice the individual will be licensed to provide.

The introduction of a capstone unit aligns the pathway to becoming a financial adviser with other professions and ensures that the individual can competently demonstrate the knowledge and skills needed to provide clients quality financial planning advice.

A capstone unit could be developed, with appropriate input from the financial advice sector, through a Self-Regulating Associations Body, as proposed in point 6 below.

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

5. What form should education providers' assurance to Government take?

CPA Australia does not support education providers self-declaring their degree meets the core knowledge requirements.

Under section 912A of the Corporations Act 2001 an AFS licensee has to ensure their representatives are adequately trained and competent to provide the financial services covered by the AFS licence. Relying on an education provider to self-declare that their courses meet the knowledge areas does not absolve the AFS licensee from this responsibility.

This will result in unintended consequences such as AFS licensees paying consultants to make a further assessment, which may further impact the cost of advice, lead to poor compliance with s912A or lead to individuals being asked to repeat study as their AFS licensee is not familiar with the courses or qualifications they have completed.

Further, without an independent mechanism to support new entrants in understanding the education standards and approved courses / qualifications, they may incorrectly choose their course of study or be incorrectly advised by a tertiary provider. This would be both a poor, and a costly, experience, at a time when we are looking to grow the pipeline for the sector to meet the growing advice needs of the community.

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

We believe the sector should establish a Self-Regulating Associations Body, whose responsibility would be to:

- determine the core and elective skills sets needed to provide personal advice to retail clients on relevant financial products
- set the curriculum, quantum of study and acceptable methods of assessment for each core and knowledge area
- approve courses and qualifications that meet the education standards, and
- maintain a register of approved courses and qualifications.

7. Is it practical and appropriate for education providers or licensees to evaluate a new entrant's 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?

If an approved register of courses and qualifications were maintained, a new entrant, AFS licensee or education provider could easily determine what additional study may need to be completed to meet the education standards.

Noting our earlier comments on AFS licensee obligations under section 912A, without such an approved register a new entrant may complete studies as advised by the education provider only to be advised at a later time that the AFS licensee requires different or additional study to be completed.

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?

CPA Australia does not believe it is appropriate for education providers or licensees to evaluate foreign qualifications against the core areas. Rather, this should be completed by approved Skills Assessing Authorities.

However, it is our view that any person with foreign qualifications would likely need to complete subjects such as Advice: Legal obligations, Financial products and markets and Tax, given the Australian specific legal frameworks that govern these areas.

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, CPA Australia strongly supports new entrants being able to 'top-up' their studies by completing individual units rather than a full qualification.

This provides flexibility, recognises previously completed study and allows those seeking a career change to enter the sector without unnecessary education barriers.

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?

CPA Australia strongly supports the requirement for financial advisers to meet formal education standards. We believe this is both important to continue to build trust and confidence in the sector, as well as being a key step towards the continued professionalisation of the sector.

However, we believe the current interpretation of section 921B(2)(a), requiring the completion of a bachelor or higher degree or equivalent qualification as approved by the Minister, is unnecessarily narrow and as a result limits the pathways to the sector for new entrants.

For example, under the current application of this requirement all qualifications can only be issued by approved Higher Education Providers regulated by the Tertiary Education, Quality and Standards Agency (TEQSA).

However, the Vocational Education and Training (VET) framework can also meet this purpose (both in terms of full qualification pathways and bridging courses). Registered Training Organisations (RTOs) under the regulation of the Australian Skills Quality Authority (ASQA) can issue an AQF 8 Graduate Certificate and Graduate Diploma qualifications.

In the interest of choice and equity ASQA regulated RTOs should have the opportunity to be approved as providers of qualifications or bridging courses for those seeking to meet the education standards.

The Financial Services Industry Reference Committee is responsible for developing and maintaining the Financial Services (FNS) Training Package. The FNS Training Package contains nationally recognised qualifications and units of competency in VET for the financial services industry. New Graduate Certificate and Graduate Diploma qualifications could be developed in the FNS Training Package that meets the curriculum requirements once set by FASEA.

Given the cost and time impact of completing additional formal qualifications, it is important to note that the VET sector can offer a cost effective, manageable, and practical way for new entrants and existing advisers to meet education requirements.

CPA Australia recommends that the training standards be amended to recognise ASQA regulated RTOs to support the development of future vocational education pathways for new entrants.

The Corporations Amendment (Professional Standards of Financial Advisers) Act 2017 also includes 'or equivalent qualification approved by the standards body'. This provides a high level of flexibility to determine appropriate pathways for new (and existing) financial advisers to meet the education requirements, as supported by the Explanatory Memorandum to the initial Bill.

For example, it is common for professional associations to offer post-graduate equivalent study as part of their professional designation programs. Provided that a non-TEQSA or ASQA regulated education provider could demonstrate that their education course or program was equivalent to an AQF 7 or higher qualification and that they meet other robust requirements, such as ISO 9001 Quality Management Certification, we believe that they should also have the opportunity to deliver approved courses and qualifications for new entrants.

CPA Australia recommends that the training standards be amended to recognise AQF 7 or higher 'equivalent' education offered by professional associations, provided they can meet other robust requirements, such as independent certification of the development of approved courses and programs.

Professional year

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?

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

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

13. What are the risks and benefits of the possible amendments?

CPA Australia supports the requirement for a new financial adviser to undertake a structured professional year, as this will help embed the skills of providing quality advice and the attributes of a professional early in a financial adviser's career, resulting in a better experience for the consumer.

CPA Australia recommends that amendments be made to the current standards to allow a new entrant to complete their education requirements and professional year concurrently. Noting our previous recommendations in regard to core and elective subjects, a new entrant would not be able to provide any unsupervised advice until they had completed their core knowledge requirements.

Further, not all new entrants will be university graduates.

It was previously common for a professional accountant with an existing practice to become authorised to meet the advice demands of their clients, where the AFS licensee may be located in another state. Many of these practices are often located in regional and rural areas. Flexibility is needed as the current model for the professional year is seen as a barrier to new entrants, especially in more remote communities.

This could include group mentoring, online meetings, recognition of advice experience in related fields and, under the current model, decoupling the exam from the completion of the professional year.

The benefits to these changes include:

- preserving the purpose and benefits of the professional year
- providing flexibility to attract new entrants, including existing professionals in related fields
- addressing challenges with completing the professional year and exam availability, noting anecdotal feedback from AFS licensees that the current model can take 18 months, not 12 months, to fulfill, and
- providing flexibility to AFS licensees to encourage them to take on new entrants.

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

We believe the current requirement of 1500 hours over the professional year is appropriate.

16. What role does industry play in encouraging new entrants into the industry?

The sector has a key role in encouraging new entrants, but key to this is also ensuring the pathways to entry are fit for purpose, as well as the regulatory environment in which the individual will need to operate, to ensure the sector is an attractive career choice.

17. Should the exam format be changed for new entrants? If so, how?

As recommended above, CPA Australia recommends that the exam be replaced with a capstone unit.

Existing Advisers non-10 years' experience pathway

Bridging unit requirements

CPA Australia recommends that the current additional bridging unit requirements for all existing advisers should also be reviewed.

Despite the legislative framework providing the flexibility to determine appropriate pathways that may be taken into consideration, including the completion of a diploma or degree courses, licensee training courses or CPD, the current bridging unit requirements are primarily determined based on the completion of approved qualifications.

CPA Australia recommends that the current bridging unit requirements for existing advisers be reviewed to provide these advisers with an equitable pathway given, the proposed changes for new entrants and advisers who can meet the 10 years' experience pathway.

We recognise that many existing advisers will have already commenced working towards their current bridging unit requirements. To ensure they are not further disadvantaged, we recommend these advisers have the choice of completing the current pathway or completing the revised pathways, yet to be determined.

Existing Advisers who are Registered Tax Agents

Recent reforms saw the removal of the requirement for advisers to register with the Tax Practitioners Board to provide tax (financial) advice.

Existing advisers who were registered as tax (financial) advisers were provided automatic deeming provisions to the FAR. That is, to be recognised as a Qualified Tax Relevant Provider (QTRP) on the FAR. This means these advisers are deemed to meet the requirements for this new registration (and are not required to pay a registration fee).

Existing advisers who were registered as tax agents were not provided the same deeming provisions, meaning they may be required to complete additional requirements to register as a QTRP (and pay a registration fee).

We do not believe this is an equitable outcome, noting that a registered tax agent can provide tax advice and services beyond just tax (financial) advice.

CPA Australia recommends that existing advisers who are registered tax agents be provided the same deeming provisions to be registered on the FAR as a qualified tax relevant provider.

Wholesale Advisers

CPA Australia supports the lifting of education and professional standards for financial advisers to ensure quality advice is provided to the community.

However, we are concerned that there is a growing divide in the education, professional and ethics standards that govern the provision of advice to retail clients versus advice provided to wholesale clients.

While the premise is that wholesale clients are often more financially fluent and can bear the risk of higher returns, this is no longer the case with the thresholds to determine who is considered a wholesale investor remaining unchanged for over two decades.

Further, there is currently no education standard that must be met to become a wholesale adviser. Rather, Regulatory Guide 146 *Licensing: Training of financial product advisers* serves only as a guide, where the minimum education requirement is AQF 5 diploma level. Large sections of the standard remain under review from 24 September 2012.

The lack of education standards, as well as ethical and professional obligations, are a concern, given these clients forgo many consumer protections afforded to retail clients.

Given this, CPA Australia recommends that the current education, ethics and professional standards to provide wholesale advice are reviewed to ensure they align with community expectations and are commensurate with the skills needed to provide such advice.