

Financial adviser education standards

Industry Super Australia (ISA) is a collective body for funds that carry the Industry SuperFund symbol. ISA manages research, advocacy and collective projects on behalf of those funds and their five million members. Our aim is to maximise the retirement savings of all our members.

ISA welcomes the opportunity to provide feedback on the consultation paper. ISA is concerned that the proposals contained in the consultation paper are inconsistent with the policy objectives of the existing professional standards for financial advisers contained in the Corporations Amendment (Professional Standards of Financial Advisers) Act 2017 (professional standards reforms), namely that there should be a consistent minimum level of education and competence amongst financial advisers, regardless of experience, set at a level appropriate to ensure high quality consumer outcomes and to maintain public confidence in the financial services industry.

In ISA's view, any proposals to wind back the professional standards reforms requires sufficient evidence-based justification, having regard to the potential impact of those proposals on trust and confidence in the financial services sector, the quality of financial advice and access to clear information about financial advisers' experience and qualifications. We consider that the proposals in the consultation paper have not been supported by evidence, in particular evidence as to why the proposed changes are in the public interest. The consultation paper focuses almost entirely on the implementation of the proposed changes rather than the rationale for those changes.

Treasury is currently consulting on options for reform to the regulatory framework applying to financial advice under the Quality of Advice Review (QAR). This review includes proposals that purport to wind back some of the measures that were introduced as part of the Future of Financial Advice package of reforms to protect consumers from the potentially devastating effects of inappropriate and poor quality advice. ISA considers that any proposed changes to the education standards of financial advisers should be considered in conjunction with any proposed changes arising from the QAR, given the clear nexus between education standards and quality of advice.

Below is a summary of ISA's response to the consultation paper:

- ▶ ISA does not support an experienced pathway for existing advisers. We consider that the law was based on a deliberate policy position, which was arrived at following extensive reviews and broad consultation, to impose minimum qualification requirements without reference to work experience. ISA does not consider that a sufficient case has been made to change the existing policy settings.
- ▶ ISA does not support streamlining the core knowledge areas and is particularly concerned with the proposal to remove the topic covering superannuation and retirement planning from the

knowledge areas given that superannuation is compulsory and therefore is relevant to every Australian worker.

- ▶ ISA does not support education providers self-declaring that their courses teach the core knowledge areas. Treasury should seek guidance from academic institutions to understand the impact on the quality of courses offered.
- ▶ Further consideration of the education standards should wait until the outcome of the QAR has been resolved.

Regulatory Context

As briefly summarized in the consultation paper, adviser educational standards have been the subject of lengthy and detailed reviews over a number of years, including the following:

- ▶ The Parliamentary Joint Committee on Corporations and Financial Services (PJC) Inquiry into Financial Products and Services in Australia in 2009 which was established to investigate the issues associated with the collapse of significant financial services and products providers in 2008 and 2009, including Storm Financial and Opes Prime.
- ▶ A review of the professional assessment and development regime for financial advisers by the Australian Securities and Investments Commission (ASIC) in 2009 and 2010 as detailed in Consultation Paper 153: *Licensing: Assessment and professional development framework for financial advisers* (CP 153), which found consensus amongst Australian Financial Services licensees (AFS Licensees) that the training standards for financial advisers should be raised.¹
- ▶ ASIC's shadow shop findings, particularly those in 2011 documented in Report 279: *Shadow shopping study of retirement advice* (REP 279), which identified adviser training and professional standards as one of the barriers to improving the quality of advice.²
- ▶ The PJC Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry (PJC Inquiry) and the Financial System Inquiry (FSI) in 2014. The outcomes of these inquiries informed the Corporations Amendment (Professional Standards of Financial Advisers) Act 2017 which sets out the current professional standards, including that financial advisers must hold a degree (or higher or equivalent) qualification.
- ▶ The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. In the final report Commissioner Hayne noted the then new education requirements set out in the Corporations Amendment (Professional Standards of Financial Advisers) Act 2017 and commented that 'prevention of poor advice begins with education and training'.³

The objective of these reviews was to address the very significant failings of the financial services industry and the potential for consumer detriment. The need to transition financial advice providers from a distribution channel to a profession was generally acknowledged as a key requirement to ensure the provision of high quality advice and to restore consumer trust and confidence in the industry. In

¹ CP 153 at paragraph 43.

² REP 279 at paragraph 227

³ Final Report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, p 171

ASIC's submission to the PJC Inquiry, it provides a helpful discussion of what it means to be a profession. A key criterion is intense academic preparation.⁴

These various reviews involved broad consultation with a wide variety of stakeholders, including AFS licensees, industry bodies, regulators and advisers, both those with experience and new entrants to the industry. The majority of evidence received by the committee in the PJC Inquiry supported raising the minimum training standard to a relevant bachelor degree (or equivalent) level for financial advisers providing personal advice on Tier 1 financial products.⁵ Further, the issues which these reviews were set up to address, namely poor quality advice and poor consumer outcomes, do not relate solely to inexperienced advisers.

Accordingly, there has been a deliberate policy choice by the government to impose a minimum education requirement without regard to on-the-job experience. The Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021 introduced a modified qualification regime (or recognized prior learning framework), for existing financial advisers (described as 'existing providers').⁶ Financial advisers who are existing providers must bring their qualifications up to an approved bachelor's degree (AQF7 level) or above or equivalent. Depending on their current qualifications, an existing financial adviser may need to do a graduate diploma, bachelor's degree, master's degree or only the Code of Ethics bridging course.⁷

So while deliberate consideration has been given to qualification requirements of existing providers, those provisions do not take into account years of worked experience. This approach is consistent with the criteria for a profession, defined by Professions Australia and set out in ASIC's submission to the FSI, that includes specialised knowledge and skills in a widely recognised body of common learning that requires intense academic preparation.⁸ This definition does not include on-the-job experience in the criteria. For example, lawyers and doctors cannot refer to themselves as such merely by working in those fields. The policy choice not to include experience in the financial adviser education standards reflects the objective of the government (and many stakeholders) to move the financial industry towards a profession.

Existing advisers

Policy reasoning for change

The consultation paper does not provide an evidence base as to why there ought to be a change to current policy settings and current standards. Anelection commitment of itself is not justification for a change in policy.

The only rationale for the election commitment given in the paper is that:

While it is vital that all members of the financial advice profession can display competency in the body of knowledge, skills, and expertise common to the financial advice profession,

⁴ PJC Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry, Submission by the Australian Securities and Investments Commission, September 2014

⁵ Report of the PJC Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry at paragraph 3.37

⁶ Corporations Act 2001 (Cth) s1546A

⁷ Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021 Part 3 s7

⁸ ASIC submission to the PJC Inquiry page 7 paragraph 18

there is room to acknowledge that some existing advisers have developed that specialized knowledge through significant working experience.

Certainly, this is the case for some advisers, however, not every adviser with lengthy work experience will necessarily have gained the requisite knowledge to meet the standards. In addition, where some advisers may have gained specialized knowledge in one area from work experience alone, it does not necessarily follow that they will have the baseline knowledge to be held out as a financial adviser, a term which is enshrined in law as someone who meets the requisite standard across a range of knowledge areas.

This consultation paper seems to proceed on the premise that ten years or more of work experience will lead to the same level of skills and knowledge equivalent to the minimum education standards, but it has not provided evidence to support this premise. In fact, there are a number of instances where this will not be the case. For example, an adviser who has provided single-issue advice in a particular area for ten years, clearly will not necessarily have knowledge across all of the core areas equivalent to the relevant education standard.

In addition, it is not clear how widespread this issue is, that is, how many advisers have over 10 years of relevant experience and do not currently have a relevant qualification or will have significant difficulty in obtaining a relevant qualification by 1 Jan 2026. It is also not clear what the relevant difficulty would be in obtaining the qualification, particularly where the extended experience of those advisers is held out to be equivalent to a degree standard of skills and knowledge.

The proposals in the consultation paper will create a two-tier accreditation system for advisers – some will hold a degree (or equivalent qualification), while others will not. This is likely to be confusing for consumers who will need to make their own enquiries as to whether an adviser does or does not hold a degree and then make their own assessment of the implications. The proposals should consider the impact of a bifurcated accreditation system on trust and confidence in financial advisers and the emerging financial advice profession.

ISA does not support an experienced pathway for existing advisers. We consider that the law was based on a deliberate policy position, which was arrived at following extensive reviews and broad consultation, to impose minimum qualification requirements without reference to work experience. ISA does not consider that a sufficient case has been made to change the existing policy settings.

New entrants

Streamline core knowledge areas

The professional standards reforms established the Financial Adviser Standards and Ethics Authority (FASEA) to develop and set the education requirements for financial advisers. The eleven knowledge areas were considered to establish a core knowledge baseline for an adviser to represent to consumers that they are competent to provide advice. As noted above, from the perspective of consumers, a financial adviser is authorized to provide financial advice across a range of areas. The legislation does not provide for sub-categories of financial adviser depending on an adviser's area of expertise or

specialty. This is consistent with professions such as law where a lawyer who has chosen to specialize in commercial law must have undertaken a law degree which incorporates areas of study not necessarily relevant to their practice (for example, criminal law). Further, there can be inherent benefits in financial advisers having and maintaining a broad knowledge base because of the inter-related nature of these topics in providing advice.

For these reasons, ISA opposes the proposal to streamline the core knowledge areas from eleven to five. It is not clear what the policy rationale is for this proposal. The only justification given is that a broader range of degrees will become eligible as entry pathways to the financial advice profession. However, no detail is provided as to the size of the problem, the scope of the impact on potential financial advisers and how the five knowledge areas selected were arrived at. The areas selected appear to leave out all knowledge areas that go to the core services provided by a financial adviser (for example, financial advice principles, financial plan construction, consumer behaviour and decision making) and seem to focus more on compliance (for example, financial advice regulatory and legal obligations, commercial law, taxation law). We are particularly concerned with the removal of superannuation and retirement planning as a core knowledge area given that superannuation is compulsory and therefore is a part of the financial purview of every Australian worker. We also note that ASIC Report 627 *Financial Advice: What Consumers Really Think*, based on research ASIC commissioned in 2019, found that the most common topics that survey participants said they had either received, or were interested in receiving financial advice on, were investments (for example, shares, managed funds), retirement income planning and growing their superannuation.⁹ The consultation paper proposes to remove all of these topics from the core knowledge areas.

ISA does not support streamlining the core knowledge areas and is particularly concerned with the proposal to remove the topic covering superannuation and retirement planning from the knowledge areas given that superannuation is compulsory and therefore is relevant to every Australian worker.

Education providers to self-declare that their courses teach the core knowledge areas

ASIC ceased approving training courses in September 2012. The professional standards reforms required FASEA to accredit education courses for financial advisers. This was a welcome development that ensured there was an independent assessment of relevant courses for financial advisers. Previous experience demonstrated that courses were of a variable and often poor quality.

ISA considers that the role of developing and administering educational standards must be performed by a body that is independent of the advice industry, as is the case for other professions. For example, law degrees must be accredited by the Legal Admissions Board in the relevant state. The work that has already been done to map out and accredit courses listed in Schedule 1 and 2 of the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021 is rigorous and substantial. The proposal to remove accreditation of courses and content will mean there is no quality control on courses being offered and no independent verification that they have met the requirements of the core knowledge areas. Allowing education providers to self-declare will risk the proliferation of

⁹ REP 627 page 19

low quality course providers as described by Dr Deen Sanders, Chief Executive Officer of the Professional Standards Councils (PSC) in the PSC's submission to the PJC Inquiry:

...before the Corporations Act was introduced there were at the time six providers of qualifications in financial services. Six months after the Corporations Act and RG 146...was introduced there were 432 providers, including ex-hairdressing colleges, who saw the opportunity. This is the challenge that emerges in education: introducing wholesale, industrywide change just tends to lead to a massive flight to the bottom and increased competition in providers.¹⁰

While we acknowledge that the environment has significantly changed since the professional standards reforms, the education requirements are now at a significantly higher level than under ASIC Regulatory Guide 146 *Licensing: Training of financial product advisers*, (requiring at least a bachelor degree (or equivalent) and the Financial Adviser Exam represents a floor in terms of a point-in-time base level of knowledge, ISA still has concerns that without independent assessment of relevant courses the quality of both the relevant courses and the course providers could fall which could impact the overall integrity of the education standard and have a negative effect on consumer trust and confidence in the industry.

ISA does not support education providers self-declaring that their courses teach the core knowledge areas. Treasury should seek guidance from academic institutions to understand the impact on the quality of courses offered.

Quality of Advice Review

Education standards are central to the quality of advice provided by financial advisers. The QAR is currently considering substantial revisions to the structure of the financial advice industry and the way in which advice is delivered. It will therefore be important to consider the education standards that will be required of advisers in the context of any proposed changes arising from the QAR.

Further consideration of the education standards should wait until the outcome of the QAR has been resolved.

¹⁰ Dr Deen Sanders, Chief Executive Officer, Professional Standards Councils, Committee Hansard, 14 October 2014, p. 72