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The Treasury

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CONFIDENTIAL

Consultation: Financial adviser professional standards

About Insignia Financial

Insignia Financial has been helping Australians secure their financial future since 1846 and today, we are a business dedicated to the financial wellbeing needs of Australians. With an extensive network of approximately 1,600¹ financial advisers we are also one of Australia's leading superannuation fund providers with more than \$297.5 billion in Funds Under Management and Administration (FUMA) as at 30 June 2022 and over two million clients throughout Australia.

Executive summary

Thank you for the opportunity to provide a submission in relation to the Financial Adviser Professional Standards consultation paper.

Insignia Financial notes the importance of maintaining the progress made towards professionalisation of financial advice, whilst also recognising advisers who have significant on the job experience. We also recognise the importance of removing barriers for new entrants into the financial advice profession to ensure more Australians can access quality financial advice improving their financial wellbeing.

To improve access to quality advice, we support ensuring as many suitable individuals can enter the profession as possible including career changers. However, we are also concerned that if education requirements are not standardised with respect to technical topics there may be an inconsistent approach applied across the profession.

If you have any questions in relation to the submission, please contact [REDACTED]

Yours sincerely,

[REDACTED]

[REDACTED]
[REDACTED]

¹ Adviser numbers for the Insignia Financial network were 1,600 as at 30 June 2022 (Source: *Insignia Financial Annual Financial Report - 30 June 2022*)

Financial adviser education standards consultation paper

Experience Pathway

Insignia Financial supports the move to recognise advisers with at least 10 years' experience between 2004 and 2019. However, in our view, the approach proposed in the consultation paper creates complexity and administrative burden for advice licensees and individual advisers.

- **Evidence of 10 years' full time equivalent experience** – in practice it will be difficult for an adviser to evidence and/or a licensee to verify if an adviser has this experience, given the time period and available data. Our recommendation is that if the FAR demonstrates at least 10 years of experience between 2004 and 2019, that should be sufficient evidence of having met the 10 years' experience requirement.
- **Proof of clean record** – the proposal for proof of clean record will create complexity and administrative burden for advisers and advice licensees, particularly given it is proposed to not be time bound. It also creates the risk of inconsistency across the industry. A preferred approach would be to utilise only industry-wide records and have this data centrally available.
- **Self-certification** - Self-certification with the involvement of licensees to attest to an adviser's experience and clean record creates the potential for inconsistent approaches by different licensees. There should be a central body responsible for assessing an adviser's record and determining eligibility for the experience pathway.
- **Experience pathway to sunset** – To maintain the professionalism of the industry, the experience pathway should sunset after 5 years and, from 1 January 2031, all financial advisers should meet one of the alternative education pathways for existing advisers.
- **Ethics Unit** – advisers accessing the experience pathway should be required to complete the Ethics Unit of study by 1 January 2026 in recognition of the importance of upholding the ethical conduct of the profession. We note that all alternate education pathways for existing advisers are required to complete this unit of study.

New Entrants

Insignia Financial recognises the importance of more new entrants joining the financial advice profession to improve the accessibility of advice. However, this needs to be balanced with ensuring those entrants have the appropriate skills and knowledge to ensure clients are receiving quality advice. Reducing to only five core knowledge areas will leave significant gaps in the new entrant's technical knowledge.

The current eleven core knowledge areas could be reduced to the following:

- Financial advice principles
- Ethics and professionalism
- Superannuation and retirement planning
- Insurance planning and risk management
- Taxation and commercial law (combined as one knowledge area)
- Investments
- Financial advice, regulatory and legal obligations

Professional Year

Insignia Financial strongly supports adopting a principles-based approach to Professional Year requirements and the removal of overly prescriptive requirements that are currently creating delays and roadblocks for prospective and current Professional Year candidates and costing advice businesses additional time and money.

Please find following our responses to the consultation paper questions.

Experienced Pathway

Questions		Insignia Financial Response
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?	We support the proposed window and agree that the 10 years should not have to be consecutive to accommodate financial advisers who may have taken a career break, parental leave etc.
2.	If required (for example, due to an audit of their eligibility), how can advisers prove they have 10 years' full-time equivalent experience?	<p>It will be very difficult for advisers to provide evidence of experience, especially given the time frame goes back 18 years.</p> <p>Records such as the ASIC Professionals Register (for self-employed advisers) and the Financial Adviser Register (FAR) in combination would provide some of the required evidence but it will be highly impracticable for an adviser to gather a complete record, especially where the adviser has changed licensees during this period. Representatives who were employed directly by a licensee will also not have been recorded on any register prior to the commencement of the FAR.</p> <p>Furthermore, the FAR does not distinguish between full-time and part-time employment.</p> <p>We recommend if the FAR demonstrates at least 10 years of experience between 2004 and 2019, that should be sufficient evidence of having met the 10 years' experience requirement.</p> <p>To assist licensees to verify the adviser's eligibility to meet the experience pathway we recommend that ASIC updates FAR with a new field to show if the adviser had 10 years of experience between 2004 and 2019 based on records ASIC already holds.</p> <p>This would provide a consistent industry-wide data source.</p>

Clean record		
3.	Are the proposed sources for determining a clean record appropriate? Why/why not?	<p>For consistency across the industry only industry-wide records should be used for determining if an adviser has a clean record.</p> <p>For example: using disciplinary action taken by professional associations against their members does not apply the same criteria to all advisers as different associations may have different processes or an adviser may not have been a member of a professional association.</p> <p>We would consider the sources of evidence for a clean record should include:</p> <ul style="list-style-type: none"> • FAR records of ASIC and/or FSCP actions • FAR records of CPD compliance • Banned and disqualified register • AFCA and FOS determinations. <p>Note: an issue we would highlight with using AFCA and FOS determinations is that in some circumstances to avoid a complaint proceeding to the next stage the licensee may settle the complaint as the claim is less than AFCA fees should it proceed. This would then result in an AFCA determination which may suggest the adviser does not have a clean record when they may not have been at fault.</p> <p>For consistent application across the industry and to ensure licensees are not required to make value judgements about the nature of the misconduct, once the criteria for a clean record and experience has been agreed the following steps should occur:</p> <ol style="list-style-type: none"> 1. ASIC to interrogate its registers to determine experience and a clean record. 2. ASIC can engage the AFCA to obtain clean record confirmation for advisers who passed checks in step 1. <p>Given concerns about the licensee having access to this information from a privacy perspective and concerns regarding consistent application of the criteria there should be no licensee involvement in assessing if the adviser can access the experience pathway.</p>
4.	What other sources could advisers rely on to indicate that they have a clean record?	Please see our response to Question 3.

5.	If required, what evidence can advisers rely on to prove they have a clean record?	Please see our response to Question 3.
6.	What threshold should be adopted to identify whether conduct is minor, trivial, and isolated?	Please see our response to Question 3.
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?	<p>A non-time limited clean record is difficult from a practical perspective, especially where licensees are required to verify. The period should align to a period where the data can be obtained for evidence if required.</p> <p>For FAR records – it is appropriate that the clean record look back period extends to when the FAR commenced (ie from 31 March 2015).</p> <p>In all circumstances, unless an individual is subject to a banning or disqualification order, we submit that enquiries should be limited to a 10-year period. This would align with the approach with respect to spent convictions when licensees conduct background checks on their prospective representatives.</p> <p>We also note it is currently not possible to verify from the available records on the FAR if the adviser has maintained a clean record. The FAR only records if the adviser is active or ceased.</p> <p>Advisers accessing the experience pathway should be required to maintain their clean record consistently through to 1 January 2026 when the experience pathway ceases to be available.</p>

Assessment of eligibility		
8.	What should self-declaration of eligibility require? For example, should an adviser have to make a statutory declaration?	<p>We are not in favour of the self-certification approach.</p> <p>Self-certification will require licensees to support an adviser's experience and clean record. This creates the potential for different approaches by licensees. An adviser who is determined by one licensee as not eligible for the experience pathway may be able to access the experience pathway under another licensee.</p> <p>We recommend a central body be responsible for assessing an adviser's eligibility for the experience pathway. This will ensure all advisers are assessed against the same level of standards.</p> <p>However, if the self-declaration approach is adopted this should be in the form of a statutory declaration given it is a criminal offense to make a false statutory declaration.</p>

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?	<p>It is our view that introducing new tools specifically for advisers accessing the experience pathway creates two sets of consequences.</p> <p>We are not in favour of a two-tiered system, where different rules apply to some advisers compared to others. The same set of tools, eg the powers ASIC and the FSCP can take, should apply regardless of whether the adviser met the education requirements or accessed the experience pathway.</p> <p>However, we note that one of the actions the FSCP can take against an adviser is to require the adviser to undertake specified training.</p> <p>For adviser misconduct where the adviser had relied on the experience pathway, we would support the FSCP directing the adviser to complete tertiary studies as part of the FSCP's existing powers to require the adviser to undertake specified training.</p> <p>If there is a possibility an adviser would be required to complete formal education requirements if they had accessed the experience pathway but subsequently engaged in misconduct, we would like to better understand what the parameters for this would be. Specifically, would the adviser be permitted to continue practicing while completing the education, would they need to complete the full education requirements or just relevant specified subjects, what would the time limit be for completion, and would the adviser be required to be supervised during this period?</p>

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?	<p>There is an overseas qualification assessment process developed by FASEA that should be leveraged to continue to accept overseas qualifications. This could involve a Department of Education and Training (DET) assessment which could then be submitted to a university for approval.</p> <p>Higher Education Providers would already have a process in place to review existing qualifications and providing credit into degrees. It makes sense to utilise their expertise in mapping to an Australian qualification. This will promote a consistent outcome for the profession.</p> <p>Licensees would not be able to assess if an overseas degree maps to the Australian requirements in the absence of a register to assess against.</p>
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?	<p>We would expect that approximately 25-30% of advisers authorised by Insignia Financial advice licensees would seek to access the experience pathway if it was made available as proposed.</p> <p>This is based on their eligibility based on years of experience between 2004-2019 and our understanding on where the adviser is on the education pathway, assuming 'clean records' and ignoring full-time equivalent years compared with years recorded in FAR.</p>
12.	What else may be required to ensure an appropriate level of consumer protection is maintained and any potential harm is minimised?	<p>In addition to the criteria outlined above, financial advisers accessing the experience pathway should still be required to complete an Ethics unit by 1 January 2026.</p> <p>The Code of Ethics is a core pillar of the financial advice profession and completing an Ethics unit of study will ensure all members of the profession appropriately understand the Code and its application to ethical dilemmas advisers encounter.</p> <p>We note that all alternate education pathways for existing advisers are required to complete this unit of study.</p>

13.	Would any further requirements be necessary for the experienced pathway to ensure the professionalisation of the industry is maintained?	<p>To maintain the professionalism of the industry, the experience pathway should sunset after 5 years and, from 1 January 2031, all financial advisers should meet one of the alternative education pathways for existing advisers.</p> <p>This ensures that from 2031 consumers can be confident there is a base level of education in line with community expectations associated with being a profession.</p>
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New Entrants

Questions	Insignia Financial Response
Formal education and exam	
<p>1. Are the proposed core knowledge areas appropriate for the financial advice profession? If not, what is missing and why is that area important?</p>	<p>The proposal to reduce the core knowledge areas to only 5 topics, in our view, would result in large knowledge gaps for many prospective advisers which could adversely impact the quality of advice clients receive.</p> <p>Rather than trying to have one set of core knowledge areas that are suitable for a range of financial services industry roles it may be more effective to distinguish the core knowledge areas for financial advice from knowledge areas suitable for other roles such as stockbrokers.</p> <p>For financial advice qualifications the core knowledge areas should be:</p> <ul style="list-style-type: none"> • <i>Financial advice principles</i> • <i>Ethics and professionalism</i> • <i>Superannuation and retirement planning</i> • <i>Insurance planning and risk management</i> • <i>Taxation and commercial law (combined as one knowledge area)</i> • <i>Investments</i> • <i>Financial advice, regulatory and legal obligations</i> <p><i>Financial plan construction and Behavioural finance, client and consumer behaviour, engagement and decision making</i>, in our view, would be better covered during the Professional Year.</p> <p><i>Estate Planning</i> could be covered as an optional elective or completed as a separate accreditation for those wishing to provide estate planning advice.</p> <p>We believe moving key technical topics such as <i>superannuation, investments and insurance</i> out of the core knowledge areas may result in inconsistent knowledge on these important topics across the profession and could result in adverse client outcomes.</p> <p>Licensees would still be required under section 912A of the Corporations Act to ensure its representatives are adequately trained and competent in this technical knowledge before appointing an adviser. We are concerned this may result in similar outcomes experienced under the requirements of Regulatory Guide 146 where</p>

		education providers delivered training that varied widely in its quality – some providers delivered full diplomas over the course of a weekend.
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?	We do not have a view.
3.	Would proposed changes to core knowledge areas necessitate changes to the exam content? Why/why not?	<p>Whilst the Exam covers regulatory and ethics topics comprehensively, if technical areas deemed core are assessed during a Professional Year, there is no need to alter the Exam's content.</p> <p>If the technical topic areas are removed from the core topics in the degree requirements, then an alternative and consistent manner of assessing competency in these areas should be adopted.</p>
4.	Is it practical and appropriate to allow education providers to self-declare that their degrees teach the core knowledge areas? Why/why not?	<p>We support the proposal to remove the requirement for degrees to be approved and to allow higher education providers to self-declare to the Government that their course is teaching the prescribed core knowledge areas.</p> <p>This should be limited to registered Higher Education Providers as identified by the Tertiary Education Quality and Standards Agency (TEQSA).</p> <p>A note on the final academic transcript to certify the subjects/ course meets the requirements of an approved degree would enable licensees to confirm a prospective adviser has met the education requirements.</p>
5.	What form should education providers' assurance to Government take?	We do not have a view.
6.	If self-declaration is not appropriate, what alternatives could be adopted to streamline the degree approval process?	We believe self-declaration is appropriate.
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?	It would be difficult for a Licensee to assess if a subject meets the core requirement based on a subject name on a transcript. Licensees would not have access to the course content to give comfort as to what was covered and to what extent. Confirming the subject/qualification meets the core requirements should sit with the higher education provider delivering the qualification similar to how training providers confirmed their course/qualification was RG146 compliant.

		Individual licensees left to interpret and make an assessment is likely to result in inconsistent approaches across different licensees.
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?	<p>If the process changes and the Minister no longer makes the assessment as per the current overseas qualification assessment process (introduced by FASEA), it should fall to higher education providers to make the assessment.</p> <p>As an example, Wollongong Uni has 'Country Qualification Equivalences' process in place where they map qualifications from 40 countries to their degrees for credit transfer. Licensees would not have the knowledge or experience to assess this and there is likely to be inconsistent application of this process. This could lead to assessments of qualifications becoming a competitive advantage or disadvantage depending on how the licensee makes the assessment.</p>
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?	<p>Yes, provided the requirement to have a degree level qualification and the prescribe core knowledge areas are met.</p> <p>Higher education providers should determine what previous education is valid.</p>
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?	<p>As outlined in Question 1 above, the core knowledge areas for financial advice qualifications should be:</p> <ul style="list-style-type: none"> • <i>Financial advice principles</i> • <i>Ethics and professionalism</i> • <i>Superannuation and retirement planning</i> • <i>Insurance planning and risk management</i> • <i>Taxation and commercial law (combined as one knowledge area)</i> • <i>Investments</i> • <i>Financial advice, regulatory and legal obligations</i> <p>One hallmark of a profession is the specialist knowledge the members have. The professionalisation of the advice industry and consumer protection rely on providers of personal advice having a benchmark level of knowledge. In our view, the above knowledge areas should be met to ensure advice providers have the required specialist knowledge.</p>

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?	<p>We strongly support the adoption of a principles-based approach and the removal of prescriptive legislation to ensure Professional Year learning objectives are achieved in a timely and appropriate manner.</p> <p>An industry/regulator working group could be established to identify these principles. This group could be formed by industry representatives offering Professional Year programs and is consistent with professionals setting the standard for their profession.</p> <p>For example, we would propose licensees determine a skills-based assessment to identify areas of knowledge and experience the candidate would need to complete to be appointed as a relevant provider, rather than content being prescribed which may be an area the candidate already has qualifications and/or experience in.</p> <p>This would enable a more tailored and targeted Professional Year, balancing further study with training and 'on the job' experience.</p> <p>Ongoing assessments rather than prescriptive solutions, like logbooks, would determine the candidates' readiness.</p> <p>Where possible, collegial candidate groups would continue to be used, especially in application of the Code of Ethics.</p> <p>Clients should be informed of the candidates' Professional Year status verbally and via an FSG as the current 'in writing' notification process is onerous given it must occur prior to any interaction with clients.</p>
12.	In what ways do the professional year requirements create a barrier to entering the financial advice profession?	<p>Currently approved degrees are highly prescriptive, and students can end up requiring new courses given their qualification might be on the list but just outside defined periods of approval.</p> <p>The exam process administered by ASIC is excessively cumbersome, with generally 13 weeks required to register for an Exam Eligibility Number (EEN), sitting a defined exam and awaiting results. Options for on-demand or within-Degree sittings would alleviate a cumbersome component of the Professional Year. Having the higher</p>

		<p>education providers proctor and administer the exam would create efficiencies. If ASIC continue to administer the exam, we suggest ASIC utilises students' Universal Student Identifier (USI) rather than requiring the candidate to separately register for an EEN.</p> <p>We support education standards that promote as many suitable individuals entering the profession as possible, including career changers. However, in our view it is important for core areas, inclusive of technical areas, be required prior to starting a Professional Year, to ensure consistency and enable prospective candidates to plan accordingly. Ad-hoc changes, such as we've seen with the Code of Ethics and the additional subjects for Qualified Tax Relevant Providers should be avoided as they create uncertainty.</p>
13.	What are the risks and benefits of the possible amendments?	<p>Benefits of amending the Professional Year as the consultation paper proposes and as per our suggestions above include:</p> <ul style="list-style-type: none"> - More candidates will be willing and able to enter the Professional Year program - The program would provide a more tailored experience - Graduates of the Professional Year would be more suitably qualified through the program <p>Risks:</p> <ul style="list-style-type: none"> - If the principles established are too loose there is a risk of entities not providing an adequate program and a risk of creating inconsistencies in application across the industry.
14.	Will allowing integration of the professional year with tertiary study streamline the transition between education and work? Why/why not?	<p>Currently Insignia Financial's Professional Year (PY) candidates are all overwhelmingly entering with existing training and experience in the industry.</p> <p>The industry is generally sceptical that an undergraduate is 'PY Ready'. As such, we support approaches for higher education providers to integrate a work integrated learning component into their degrees.</p>
15.	If the professional year is integrated into tertiary study, how many professional year work hours should be completed as part of a degree?	<p>We suggest a progressive approach is taken, starting with 1 unit/course (120hrs) towards the end of the student's degree would be appropriate. Higher education providers should continue to have an approach to ensure the work integrated learning course has rigour and is supporting the candidates 'job readiness'.</p>

		Ultimately it should be up to the higher education provider to make the determination.
16.	What role does industry play in encouraging new entrants into the industry?	<p>The industry stands ready to support Professional Year candidates.</p> <p>We strongly advocate the move to a principles-based approach be worked through with an Industry/Regulator Working Group that includes industry representation from licensees who have a Professional Year track record of sufficient numbers, industry practitioners who have taken on a supervision role and possibly recent Professional Year candidates who have completed their obligations.</p>
17.	Should the exam format be changed for new entrants? If so, how?	<p>Higher education providers should be able to provide or proctor the financial adviser exam.</p> <p>Benefits of this approach would include:</p> <ul style="list-style-type: none"> • Enabling the exam to be offered with greater frequency which is beneficial given the timing and availability of exam sittings is currently affecting a provisional relevant providers ability to progress through their Professional Year in a timely manner. • It would also allow Professional Year candidates to complete the exam as part of their studies either before or during their Professional Year.