

2 May 2023

Advice and Investment Branch
Retirement, Advice and Investment Division
Treasury
Langton Crescent
PARKES ACT 2600
Email: FinancialAdvice@treasury.gov.au

Subject: Submission on Exposure Draft Legislation: Education standards for experienced financial advisers and technical fixes for new entrants

The Financial Planning Education Council (FPEC) and Financial Planning Academic Forum (FPAF) welcome the opportunity to provide input into the draft legislation that delivers the government's election commitment to provide an alternative transitional pathway for experienced financial advisers in addition to addressing technical issues for new entrants.

1. About The Financial Planning Education Council (FPEC) and Financial Planning Academic Forum (FPAF)

The Financial Planning Education Council (FPEC) has been accrediting higher education courses and supporting research in financial planning for more than 20 years. FPEC seeks to raise the standard of financial planning education, and promote financial planning as a distinct learning area, as a profession, and as a career of choice for new students and career changers. FPEC is comprised of representatives from the higher education sector, financial planning practice, and professional associations. Prior to the establishment of FASEA, FPEC was tasked with the responsibilities of defining a financial planning curriculum for degree qualifications and raising the standard of financial planning education in Australia. FPEC developed a national Accreditation and Curriculum Framework for financial planning degrees that established an agreed foundation for financial planning qualifications and held responsibility for the accreditation of courses within the higher education environment. Under this framework, FPEC approved 22 course providers and 47 courses from 2013.

The Financial Planning Academic Forum (FPAF) was formed in 2010. Its membership is drawn from those employed in the tertiary academic community and engaged in education or research relating to the financial planning sector. In 2022 FPAF had 134 members including 95 academic members from more than 25 Higher Education Providers across Australia and 32 non-academic members. Amongst its aims are the development of a core body of knowledge for research and practice in the financial planning profession, incorporation of this knowledge within academia and the financial planning profession, promotion of a social context for this knowledge within the financial planning community, and articulation of this knowledge with other professional bodies, government, and community interests.

Input has been sought and received for this submission from members of FPAF, with these views being incorporated into FPEC's identified concerns and recommendations.

2. Introductory comments

The Oxford Dictionary¹ defines a profession as “An occupation in which a professed knowledge of some subject, field, or science is applied; a vocation or career, especially one that involves prolonged training and a formal qualification” and further, the Australian Council of Professions states:

A Profession is a disciplined group of individuals who adhere to ethical standards and who hold themselves out as, and are accepted by the public as possessing special knowledge and skills in a widely recognised body of learning derived from research, education and training at a high level, and who are prepared to apply this knowledge and exercise these skills in the interest of others.²

Thus, there is an expectation that a professional will hold high-level formal qualifications and that in gaining such qualifications the adviser meets Standard 10 of the Financial Planners and Advisers Code of Ethics 2019 (the Code of Ethics): “You must develop, maintain and apply a high level of relevant knowledge and skills.” Apart from ensuring that financial advisers possess the appropriate level of knowledge, skills, and competencies to act in the best interests of their clients, these qualifications also provide consumers with greater confidence and trust in the sector.

FPEC acknowledges that existing providers of financial advice are drawn from a wide variety of professional backgrounds, already hold qualifications at a range of levels recognised in the Australian Qualifications Framework (AQF) and possess professional qualifications and on-the-job experience and learning outside the AQF framework. We also recognise that some areas of advice, such as stockbroking and foreign exchange and commodity brokers may differ in their focus and perspectives on professional qualifications. However, it is our view that all advisers on the Financial Adviser Register (whether new entrants or existing providers) should have a required minimum level of formal education that embeds core financial advice knowledge areas relevant to all types of work conducted by a financial adviser and which meets the expectations of society for a trusted professional. This is supported by the Financial Planners and Advisers Code of Ethics 2019 (the Code of Ethics). We believe the upholding of formal qualifications for all advisers forms an integral component to the achievement of professional standards and a critical factor that new entrants will consider in seeking to commit to the advice profession.

Notwithstanding the above, FPEC does recognise a need for greater flexibility in curriculum and course structures for both existing and new entrants, and one that appropriately recognises relevant knowledge and skills. Accordingly, we have provided recommendations for amendments to the proposed legislation outlined in the Exposure Draft, specifically Part 1—Transitional arrangements for experienced providers and Part 2—Addressing known issues for new entrants.

3. Recommendations for Part 1—Transitional arrangements for experienced providers

Gaining the trust of clients is an essential requirement for the growth and professionalism of the advice sector. Clients are more likely to have confidence if they know that a financial adviser has achieved a

¹

<https://www.oed.com/viewdictionaryentry/Entry/152052#:~:text=An%20occupation%20in%20which%20a,training%20and%20a%20formal%20qualification>. Accessed 30/04/23

² <https://www.professions.org.au/what-is-a-professional/> Accessed 30/04/23

minimum standard of education befitting a professional, with 69% of surveyed consumers reporting that they are much more or somewhat more likely to seek financial advice (94% agree with an adviser exam, 76% the education requirements and 93% the professional year for new advisers).³ Work experience on its own is unlikely to be sufficient to demonstrate that a professional possesses the appropriate specialised level of knowledge and skills, or that they are competent to provide the client with the quality of financial service they require and expect. Indeed, research in the area of investment advice has shown that adviser experience did not affect the quality of advice.⁴ Further, as Commissioner Hayne states in his Final Report:

I said in the Interim Report, and remain of the view, that prevention of poor advice begins with education and training. Those who know why steps are prescribed are more likely to follow them than those who know only that the relevant manual says, 'do it'.⁵

Thus, whilst education on its own will not prevent the provision of poor advice, a combination of minimum education standards and hands-on-experience is likely to provide clients with the best safeguards that their financial adviser is competent to deliver advice that is in their best interests.

FPEC acknowledge the Minister's commitment to existing advisers with at least 10 years of full-time equivalent experience (between 1 January 2007 and 31 December 2021) and a clean disciplinary record (before December 2021) to be deemed to have met the education requirements, as is outlined in the Exposure Draft. However, in accordance with Standard 12 of the *Financial Planners and Advisers Code of Ethics*, to "uphold and promote the ethical standards of the profession and hold each other accountable for the protection of the public interest",⁶ we make the following recommendations, followed by explanatory discussion:

- Retention of the approved degree requirement for all financial advisers.
- For the ASIC Financial Adviser Register to differentiate between the two approved pathways (such as 'Qualified Financial Adviser') to make it easy for the consumer to identify when an approved degree has not been completed.
- All advisers, including those under the experience pathway, be required to complete a FAS-approved bridging course in ethics at a minimum of AQF level 7 by 1 January 2026, even where an approved degree is not required.

³ Hoyle, S (2021), Put the term 'financial adviser' on a pedestal, available at: <https://www.professionalplanner.com.au/2021/02/put-the-term-financial-adviser-on-a-pedestal-hoyle/>. Accessed 30/04/23

⁴ Jansen, C, Fischer, R & Hackethal, A (2008), The influence of financial advice on the asset allocation of individual investors, available at: <http://ssrn.com/abstract=1102092>

⁵ Commonwealth of Australia (2019), Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Vol. 1., p. 171, available at: <https://financialservices.royalcommission.gov.au/Documents/fsrc-volume-1-final-report.pdf>.

⁶ Financial Planners and Advisers Code of Ethics 2019. Retrieved from <https://www.legislation.gov.au/Details/F2019L00117> . Accessed 30/04/23.

- Application of a 10-year sunset clause to any approved experience pathway.
- The experience pathway must refer specifically to experience in a client-facing role.
- The requirement for an independent attestation to an adviser's clean disciplinary record.

We continue to advocate for the fact that all financial advisers should continue to meet the requirement of the *Corporations Act 2001* to have an approved degree (AQF level 7 or above) or equivalent by 1 January 2026 to ensure a consistent and robust education standards framework is in place. Such a requirement simplifies and provides clarity on the specific pathway and units of study an individual must complete to meet the minimum education standard. We believe it is unfair and inequitable to initially mandate that existing advisers be required to undertake a formal qualification, only to remove this requirement when so many proactive advisers have spent considerable time and cost undertaking formal study towards establishing financial advice as a profession. If the requirement to complete formal study is removed, we believe we need to have the means to recognise and differentiate those advisers who had completed the additional qualifications from those who have used the experience pathway. Clients and consumers would be interested to know if their adviser holds appropriate formal qualifications, and this could be highlighted in ASIC's Financial Adviser Register.

If the requirement for existing advisers to hold a FAS-approved qualification is to be removed, we recommend, as a minimum, that all advisers seeking to take the experienced financial adviser pathway be required to complete a FAS-approved bridging ethics unit.

If existing advisers applying under this education pathway do not undertake a formal qualification, but rather rely on their experience as demonstrating competency, we strongly recommend the inclusion of a sunset clause to place a time limit of ten years on existing advisers to utilise this pathway. This will contribute to ensuring that consumer trust in financial advice as a profession is not diminished.

We also have concerns regarding the nature of the ten years of work experience that an existing adviser is required to demonstrate during the period from 1 January 2007 to 31 December 2021. The adviser should be required to demonstrate ten years' experience in a client-facing adviser role, working with clients to develop goals, objectives, and needs and utilising their knowledge and skills to develop appropriate strategies, product comparisons and recommendations. A broad requirement of ten years' full-time equivalent work experience is insufficient to demonstrate possession of the appropriate knowledge and competencies required of a professional financial adviser. We also believe it is important that the scope, quantum and quality of the adviser' experience be documented and assessed by the AFSL holder.

Finally, we would recommend some form of independent attestation of an adviser's clean disciplinary record, rather than simply relying upon the adviser's self-declaration. We recommend this be undertaken by the Australian financial services licensee who authorises that adviser as their representative. If an experienced adviser wishes to rely on the new transitional arrangements for experienced advisers, their licensee must comply with the *ASIC Reference checking and information sharing protocol for AFS Licensees for whom the adviser was licensed in their most recent ten years.*⁷

⁷ <https://www.legislation.gov.au/Details/F2021L01003>

4. Recommendations for Part 2—Addressing known issues for new entrants.

FPEC welcome the attempts in the *Treasury Laws Amendment (2023 Measures No. #) Act 2023* to address technical matters related to recognition of approved programs under the Corporations Act 2001 and administration of the *Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2021* (Approved Qualifications Determination). These relate to managing variations in course or unit codes and names from those listed in the Approved Qualifications Determination that, while not impacting delivery of learning objectives required under FAS standards, have led to potential entrants being refused recognition of having completed an approved qualification. Additionally, students have been refused recognition for completing degrees named in the Approved Qualifications Determination including all required areas of curriculum, however, during the duration of study there were changes (including those required to meet new ethics curriculum requirements) that lead to a student's transcript matching parts of subsequent entries in the Approved Qualifications Determination or matching a later entry inconsistent with their date of commencement of study. The proposed amendments represent a significant attempt to ensure that the intent of the Approved Qualifications Determination is reflected in its interpretation and application, and implied requirement under the *Acts Interpretation Act 1901*.

While FPEC largely support the proposed legislation in Part 2 of the Exposure Draft, we make the following recommendations to further clarify and streamline processes for new entrants:

- State the nature of any supporting information to be provided to the Minister to achieve the purposes of Part 2 of the *Treasury Laws Amendment (2023 Measures No. #) Act 2023*. For example, the Explanatory Materials accompanying the amendment may identify an approved letter by the relevant Higher Education Provider outlining how the required course learning objectives have been met is sufficient evidence.
- Permit the Minister to refer the approval of a domestic qualification under s921GA to an appropriately determined independent financial standards body, such as FPEC.
- Identify and provide an effective and timely process and timeline for lodgment and subsequent approval of applications for a domestic qualification under s921GA.

We would also like to highlight the fact that there is a continuing need to address longer term systemic issues to ensure the financial planning body of knowledge and the curriculum for approved degrees is appropriately managed. Without appropriate management by experts in the field, there is a risk that the course curriculum and course requirements will stagnate. FPEC would strongly encourage Ministerial power to approve or refuse equivalent domestic qualifications to be delegated to an officer of the Department under section 1345A of the Act be expanded upon to include an appropriate financial advice entity or expert panel such as FPEC.

FPEC are grateful for the opportunity to provide comment on the Exposure Draft for the *Treasury Laws Amendment (Measures for Future Bills) Bill 2023: Recognising experience in the financial advice industry* its Explanatory Materials. We thank Treasury for considering our recommendations.

Yours Sincerely,



Marc Olynyk
Deakin University
Chair - FPEC

On behalf of the authors

Note: This submission has been compiled by the following authors:

- Marc Olynyk, Deakin University and Chair of FPEC
- Dr Michelle Cull, Western Sydney University
- Mr Ronald McIver, University of South Australia
- Mr Jamie Forster, Queensland University of Technology
- Dr Kirsten MacDonald, Griffith University
- Ms Whitley Bejah, Griffith University
- Professor Abdullahi D. Ahmed, RMIT University

Supporters

This submission is further supported by the following other members of FPEC as well as members of the Financial Planning Academic Forum (FPAF):

- Renae Anderson, UniSuper
- Julian Place, AMP Financial Services
- Professor Robert Durand, Curtin University
- Diana Bugarcic, TAFE, NSW
- Rebecca Watt, Westpac Bank
- Greg Cunningham, Cunningham Financial Services
- Dr Elisabeth Sinnewe, Queensland University of Technology
- Dr Searat Ali, University of Wollongong
- Anthony Cook, Griffith University
- Amanda Craft, Western Sydney University



- Prof Dan Daugaard, University of Tasmania
- Dr Tania Driver, James Cook University
- Assoc Prof Kingsley Fong, UNSW
- Stacy Gardner, Kaplan
- Conrad Gilbert, Knowledge Shop
- Gurbinder Gill, Deakin University
- Dr Rakesh Gupta, Griffith University
- Glynn Gough, Griffith University
- Dr Jennifer Harrison, Southern Cross University
- Dr Campbell Heggen, Deakin University
- Dr Ushi Ghoorah Hurrychurn, Western Sydney University
- Dr Di Johnson, Griffith University
- Diem La CFP, Kaplan
- Ellana Loy, Griffith University
- Joanna Matthew, Financial Advice Association of Australia
- Graeme Mitchell, Western Sydney University
- Dr Peter Ngigi, Deakin University
- Dr Daniel Richards, York University, Canada
- Prof Chris Robinson, York University, Canada
- Marriane Said, TAFE NSW
- Garrick Small, Central Queensland University
- Prof Adam Steen, Deakin University
- Assoc Prof Reza Tajaddini, Swinburne University
- Sharon Taylor, Western Sydney University
- Dr Priyantha Mudalige, University of New England
- Dr Peter Vuong, Deakin University
- Anna Webb, Griffith University
- Dr Tracey West, Griffith University
- Dr Steffen Westermann, Griffith University
- Alexis Wheatley CFP, TAFE NSW
- Dr Laura de Zwaan, Griffith University
- Loretta Iskra, University of Wollongong
- Cara Edwards, Viridian Advisory and IMC Education
- Prof Mark Brimble, Griffith University