

From the Desk of Director Marija Pajeska



14 September 2022

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

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

### **Response to Treasury Consultation Paper titled 'Financial adviser education standards'**

The Association of Securities and Derivatives Advisers of Australia (ASDAA) appreciates the opportunity to provide these comments to Treasury in respect of the Consultation Paper titled 'Financial adviser education standards'.

ASDAA represents the interests of its members, who are from the Securities and Derivatives advisory profession. Its members are comprised of individuals who are either directors, or employees, of small to medium sized firms which hold an Australian Financial Services Licence (AFSL), but are not a Participant Member of the Australian Stock Exchange.

We agree that the standards set under RG146 did not deliver appropriate standards. We believe that the standards in RG146 degraded the educational requirements set by industry and self regulated exchanges that were in place prior to the implementation of RG146. Examples of such standards (which were appropriate) are:

- SIA Graduate Diploma in Applied Finance and Investments
- SFE Registered Representative Certificate
- SDIA Accreditation
- FPA Certification

#### **ASDAA**

These standards followed the path of other professions which required post graduate qualifications or accreditation by a recognised body. The RG146 standards effectively destroyed that framework and now more than 20 years later educational standards for financial advisers are still a topic for discussion as the current standards are not fit for purpose. There needs to be a balance between appropriate educational standards which provide for a platform for New Entrants and Existing service providers to evidence that they have the skills and knowledge to provide financial advice and yet encourages young people to enter the industry and experienced service providers to stay in the industry to be mentors for the young.

We strongly believe that:

- The Experience Adviser pathway is a step in the right direction but more could be done to grandfather and retain experienced advisers who have worked in the industry for over 20 years. Most of these experienced advisers have completed industry recognised post graduate courses and compulsory courses set by self-regulated exchange at the time. If an experienced adviser can demonstrate that they have completed the relevant studies and examinations required to be issued with a Proper Authority (prior to the AFS Licensing regime commenced) then they should have an avenue to seek exemption or be exempt from the National Exam and the Educational pathways.
- A pathway for Experienced Advisers should be available to all advisers in the financial services industry (regardless of whether or not they have been appointed on the Financial Adviser Register). One option worth considering is when an experienced adviser passes the National Exam (which is fit for purpose), then their experience and knowledge should be assessed to determine if they have met the Experienced Adviser criteria. An adviser should have the choice as to when they wish to be registered and recognised as a financial adviser. Whether or not they have been registered on the Financial Adviser Register should not be a consideration. To suggest that an adviser that passes the National Exam and has many years' experience is to be treated in the same manner as a New Entrant (ie. required to complete a Bachelor degree and a professional year, most likely supervised by someone with less experience than them) is insulting to the adviser and would act as a deterrent.
- The National Exam should not be a one size fits all solution. There should be multiple versions that are specific to the services to be provided by the financial adviser. The consequences of a one size fits all solution is that now a financial adviser with a financial planning background and no experience in derivatives that has passed the National Exam can give personal advice to clients in derivatives (ie. a high risk financial product).
- The professional year should be integrated with the tertiary year. Most professions now require the student to complete a degree, complete a period of work training (ie. practical year, or professional year) and then register with the relevant state Board. This model appears to work and should be adopted by our industry whereby the educational process and the practical experience should sit with the educational providers and industry (without government body interference). The National Exam should be completed at any point in time prior to completion of the practical experience.
- The only point in time that a financial adviser should be registered on the Financial Adviser Register is once they are qualified as a financial adviser. Registration as a provisional financial adviser adds no value and only increases red tape and costs to industry and the end consumer.

- The only part of the process that should sit with the government body (ie. ASIC) is the registration process (ie. registering a person as a financial adviser).

Our specific comments to the questions outlined in the consultation paper are detailed in Annexure A.

ASDAA appreciates the opportunity to provide this Submission to Treasury on these significant proposals. We would be happy to discuss any issues arising from our submissions on this issue, or to provide any further material that may assist. Should you require any further information, please contact Brad Smoling, Director of Communications, on (07) 5532 3930 or email [brad@asdaa.com.au](mailto:brad@asdaa.com.au).

Yours Sincerely

Marija Pajeska  
Compliance Director

## **ANNEXURE A: RESPONSE TO ASIC QUESTIONS**

### **Experienced Pathway**

#### *10 years' experience*

<b>Treasury Question</b>		<b>Response</b>
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 agree that they need to demonstrate 10 years' experience, however it should be during the period 1 Jan 2002 (when the AFS Licensing regime commenced) to 1 Jan 2022 (being the point in time an adviser was required to pass the National Exam).
2	If required (for example, due to an audit of their eligibility), how can advisers prove they have 10 years' full-time equivalent experience?	Reliance on a person's resume should be acceptable and where there is doubt the licensee can obtain a reference check using the existing Reference Checking protocols.

#### *Clean record*

<b>Treasury Question</b>		<b>Response</b>
3	Are the proposed sources for determining a clean record appropriate? Why/why not?	We agree that an adviser should have a clean record and that a licensee should use a reasonable methods to determine whether or not an adviser has a clean record.  A licensee record with AFCA should only be considered if the adviser themselves were involved. Holding a person accountable for action they were not responsible for or involved with is not a fair approach.
4	What other sources could advisers rely on to indicate that they have a clean record?	Existing Reference Checking protocols
5	If required, what evidence can advisers rely on to prove they have a clean record?	Licensees looking to employ an adviser should retain on file relevant due diligence documents used to make the determination that an adviser has a clean record. This information should be recorded on file and made available to the adviser upon request.
6	What threshold should be adopted to identify whether conduct is minor, trivial, and isolated?	The threshold should focus on whether or not: <ul style="list-style-type: none"> <li>• the actions caused consumer harm;</li> <li>• disciplinary action was taken against the adviser which relates to misleading or deceptive conduct, prohibited conduct or insider trading;</li> <li>• their actions demonstrate a disregard for the law and internal business practices implemented to uphold the law.</li> </ul>
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?	No, the clean record requirement should be limited to the same period of time which is considered for relevant experience.

### Assessment of eligibility

Treasury Question		Response
8	What should self-declaration of eligibility require? For example, should an adviser have to make a statutory declaration?	Self declaration should be a standardized industry form which is completed by the adviser and the licensee and retained on file.

### Future misconduct

Treasury Question		Response
9	Are new tools required to specifically deal with advisers accessing the experienced pathway whose future conduct amounts to misconduct? Why/why not?	No, it is our understanding that any future conduct that amounts to misconduct would be recorded on the financial adviser register just like for any other financial adviser.

### Other

Treasury Question		Response
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?	Yes, it is appropriate as the Department of Education, Skills and Employment already has a process for assessing International Education. Rather than re-inventing the wheel education providers can use existing systems (like they do for other professions) to make the relevant assessments and determine what gap training needs to be completed by an applicant before a licensee can add them to the Financial Adviser Register.
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?	We are unable to provide any statistics, however believe that it will open the door for those who exited the industry (ie. we note that that in the past three years Australia has lost approximately 47% of Advisers) to re-enter.
12	What else may be required to ensure an appropriate level of consumer protection is maintained and any potential harm is minimised?	No comment.
13	Would any further requirements be necessary for the experienced pathway to ensure the professionalisation of the industry is maintained?	As all current financial advisers have been required to complete the Ethics and Professionalism unit it may be appropriate for Experience Adviser to complete the same unit in preparation for the National Exam.

### Formal education and exam

Treasury Question		Response
1	Are the proposed core knowledge areas appropriate for the financial advice profession? If not, what is missing and why is that area important?	We do not understand why Taxation Law and Commercial Law form part of the core knowledge requirements as not all financial adviser are tax (financial) adviser.

<b>Treasury Question</b>		<b>Response</b>
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?	No comment
3	Would proposed changes to core knowledge areas necessitate changes to the exam content? Why/why not?	Changes to the National Exam are necessitated regardless as the skills and knowledge required by a financial planner is different to that of an Investment Manager/ Wealth Manager.
4	Is it practical and appropriate to allow education providers to self-declare that their degrees teach the core knowledge areas? Why/why not?	Yes, prior to RG166 industry and education providers were on the right pathway in terms of lifting standards. In reality education providers are better placed and have more experience assessing the relevance of their degrees and whether or not they meet specified requirements.
5	What form should education providers' assurance to Government take?	No additional forms of assurance to Government should be required above and beyond that of any other degree provided by an education provider.
6	If self-declaration is not appropriate, what alternatives could be adopted to streamline the degree approval process?	Self-declaration is appropriate as long as it is consistent with the approval process adopted by educational providers for degrees used to qualify for other professions.
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?	<p>It is practical and appropriate for an education provider to evaluate a new entrant's completed tertiary courses against the new core knowledge areas to assess whether they have met the education standard and/or to assess what additional study may be required. This is a standard part of an education providers activities in circumstances where a student wishes to transition to a new course and receive a report on recognized learning/ exemptions.</p> <p>Once a student has completed a course the certificates provided by the education provider should also detail whether or not the student has met the core knowledge requirements and if applicable the professional year requirement. This will assist licensees with their assessment process and provide a layer of independence and create consistency for industry.</p> <p>There is no need for oversight of education providers as they are currently involved in these processes for other professions (eg, architecture, accounting, law, etc).</p>
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?	Yes, refer to response provided to question 10 under Experienced Pathways.

<b>Treasury Question</b>		<b>Response</b>
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, everyone should be entitled to recognition of prior learning.
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?	The professional year requirements should be integrated with tertiary study. Students completing tertiary study would benefit from practical experience organised and co-ordinated by their education provider.

### **Professional year**

<b>Treasury Question</b>		<b>Response</b>
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?	The professional year should be integrated with the tertiary study.
12	In what ways do the professional year requirements create a barrier to entering the financial advice profession?	Finding licensees that offer the opportunity for a student to complete a professional year that has skilled advisers who are willing to complete the relevant paperwork is difficult. By integrated the professional year with the tertiary study the process can be simplified and be of more value to students.
13	What are the risks and benefits of the possible amendments?	We believe the benefits outweigh the risks as they would create more pathways of entry for new entrants.
14	Will allowing integration of the professional year with tertiary study streamline the transition between education and work? Why/why not?	We believe it will as education providers and industry will work together to create entry pathways.
15	If the professional year is integrated into tertiary study, how many professional year work hours should be completed as part of a degree?	Current requirement is 1500 hours which appears to be reasonable and consistent with other professions.
16	What role does industry play in encouraging new entrants into the industry?	Industry needs to work with education providers to create entry programs such as Graduate programs which allow for students to obtain the experience they need to complete their qualifications.
17	Should the exam format be changed for new entrants? If so, how?	Changes to the National Exam are necessitated regardless as the skills and knowledge required by a financial planner is different to that of an Investment Manager/ Wealth Manager. New Entrants should be able to complete the National Exam at any point in time prior to completion of the practical experience.