

From the Desk of Director Andy Semple



5<sup>th</sup> July 2019

Senator the Hon Jane Hume  
Assistant Minister for  
Superannuation, Financial Services and Financial Technology  
Letter sent via [senator.hume@aph.gov.au](mailto:senator.hume@aph.gov.au)  
PO Box 224  
Richmond, VIC, 3121

Dear Senator Hume,

**RE: FASEA and Professional Standards**

The Association of Securities and Derivatives Advisers of Australia (ASDAA) appreciates the opportunity to provide these comments in respect of FASEA and Raising Professional Standards of Financial Advisers.

ASDAA represents its members from the Securities and Derivatives advisory profession. Its members are comprised of individuals who are either directors or employees of firms which hold Australian Financial Services Licences (AFSLs).

ASDAA has a strong desire to raise professional standards and improve investor protection. ASDAA members rely on the ongoing trust of their clients and on the integrity of the Australian financial markets for their livelihood. Without both, clients wouldn't participate in the markets and trade in shares, exchange traded options and other listed financial products.

Professional advisers from the Securities and Derivatives industry have been absent from the extensively reported financial planner and planning issues that have come about since the GFC. Why, because advisers who specialise in the dealing and advising of Securities and Derivatives are under a much more defined and stringent management and supervision structure than those who provide financial planning advice outside this area.

By being financial product advisers, ASDAA members have been caught up in the various findings and recommendations of recent reviews, including the

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Parliamentary Joint Committee on Corporations and Financial Services (PJC) and the Financial System Inquiry (FSI), notwithstanding that the problems that gave rise to these reviews, and to the significant public debate over the last few years, have occurred in the financial planning/wealth management areas, and not in relation to the Securities and Derivatives advisory profession.

Many of the major changes implemented by FASEA for the advisory profession have disregarded the requirements that are specific to Financial Advisers that provide non-financial planning advice and services. FASEA's only objective has been to address the financial planning sector, it has made no attempt to address any other sector within the Financial Adviser profession that does not fall into that scope and now is the time to act and rectify this.

From a Financial Adviser (outside the financial planning field) point of view some of the issues that have been disregarded include, but are not limited to:

- How do you allocate time to completing (in some cases) a new degree in financial planning (without there being any detriment to clients) as a result of FASEA failing to work with industry to recognise degrees and other qualifications which do not cover financial planning however cover the specific requirements necessary for a Financial Adviser (outside the financial planning field) to adequately and reliably provide the services expected by clients?
- How do you justify the significant additional costs resulting from having to complete a new degree which will not add any value to the service provided to clients as it bears no relevance to the services provided to clients?
- How do you study for a national exam that covers a substantial amount of material relating to financial planning when you have never needed to take those issues into consideration?

It is a scary thought that FASEA has come to the conclusion that a Financial Planner and a Financial Adviser (outside the financial planning field) require the same qualifications. Reality is that there are many sub-sectors in the Financial Adviser profession, one of which is the Financial Planner. It appears that FASEA has taken the easy way out and used the FPA standards and educational requirements as the base for all Financial Advisers without realising that the services provided by a Financial Planner and the expectations of clients are very different to the services provided by a Financial Adviser (outside the financial planning field).

Most Financial Planners focus on providing personal advice in the areas of life insurance, taxation, estate planning, superannuation and retirement planning. When it comes to the wealth creation component they effectively outsource this to the fund manager of the managed funds they recommend or to a professional Financial Adviser (outside the financial planning field). Most Financial Planners do not follow the markets or know how to create a portfolio of stocks and other financial products with the objective of essentially creating wealth for the client. This is where Financial Adviser (outside the financial planning field) comes into the picture.

If FASEA does not make a clear distinction between the two (2) fields and the educational requirements relating to those fields (including at the National Exam

level) then most clients will be directed to the managed funds sector as there will be no or limited Financial Advisers (outside the financial planning field) who can provide advice in the listed ASX market sector.

The other thing worth noting in regards to managed funds is that investment decisions are made by fund managers that do not need to meet the FASEA requirements as they are deemed to be in the wholesale space as the agreements they enter into are not with the end retail customer but with the AFS Licensee that is the Responsible Entity for the managed fund.

So, this gives rise to the question as to whether or not FASEA is serving the Australian public like it should be or is it in effect limiting their access to financial advice in circumstances where the client does not want the services of a Financial Planner – and there are literally hundreds of thousands of Australians who utilise Financial Advisers from the listed ASX market space.

It is clear from the framing of many of the various proposals in the PJC Report, FSI Final Report and legislation itself that they have been drafted with the Financial Planning industry firmly in mind, and it does not seem that much thought has been given to their application or the implications to the Securities and Derivatives (Stockbroking) advisory profession or other Financial Advisers (outside the financial planning field).

A single one-size fits all approach, caused by systemic failures that have occurred in other sectors namely Financial Planning, should not result in unfairness to the Securities and Derivatives advisory profession and other Financial Advisers (outside the financial planning field).

However, ASDAA does support the thrust of the legislation with respect to new Financial Advisers, whether they become Financial Planners or Securities and Derivatives Advisers or other Financial Advisers that provide product specific advice or limited advice. Regulations requiring them to hold a relevant degree, undertake a professional year and pass an exam seem reasonable improvements.

We do caution however, that a single exam that covers the whole spectrum of Financial Advisers, from insurance brokers, financial planners, stockbrokers, derivative and FX advisers, and so on, would need to be so general as to be of limited value as a true test of professional standards.

We feel that FASEA has a duty of care to the overall Financial Adviser profession and to the Australian public to create requirements that are specific to the sub-sectors in the Financial Adviser profession to ensure that means befits the ends (ie. the qualifications held by a Financial Adviser are appropriate for the services that the client expects to receive).

We also feel that they have a duty of care to release a study booklet or workshop that specifically covers the requirements assessed in the exam. You name any other profession which is expected to sit an exam which is based on suggested reading and extension reading being a list of 21 different pieces of reading material.

Interestingly the Final Report of the FSI stated that it did not favour the national exam, however this is not likely to change but what can change is the content of the exam to be specific to the sub-sector that Financial Adviser specialises in. This

would have the additional benefit of creating specific sub-sectors thus ensuring that, for example, a Securities and Derivatives advisor does not provide financial planning advice which they will be able to do so when they complete the national exam.

We note that FASEA has produced a list of approved degrees and that the majority of the degrees listed include a heavy element of financial planning. As mentioned previously limiting the list of approved degrees to those that cover financial planning does not necessarily provide the relevant knowledge and skills for all Financial Advisers and FASEA needs to be realistic about this.

The whole purpose is to ensure that Financial Advisers have the knowledge and skills to be able to provide the financial services that their clients expect of them. Having skills that do not assist with the services your clients expect you to provide and then lacking the skills that you need results in providing a disservice to the client.

There needs to be some flexibility as to what is considered to be a relevant Bachelor's Degree. Included amongst top tier Financial Advisers within AFSL firms are people who were formerly Geologists, Chemists, Scientists, Engineers, Accountants, Teachers and even Lawyers. This is an argument against being overly narrow or prescriptive about the range of Bachelor Degrees that could be considered relevant to being a sound Financial Adviser.

What is of more significance is the further professional development and training undertaken on an ongoing basis throughout an adviser's professional career.

Furthermore, it is important that the system incorporates sufficient flexibility to cater for experienced advisers. There needs to be acknowledgement that a trusted Adviser of 20 plus years standing with an impeccable record of service but no formal qualifications (apart from perhaps RG146), is much more valuable to their clients than a new Adviser fresh out of university with zero real market experience.

Otherwise Advisers with great experience and knowledge will be lost from the industry forever to the detriment of clients. Moreover, to impose the 'new starter' requirements on all Advisers would run the risk of discriminating against experienced Advisers on the basis of their age.

Maybe any adviser with 20 plus years' experience in the industry should be grandfathered on the requirement to hold a relevant Bachelor's Degree?

It is ASDAA's opinion that a Financial Adviser actively involved in the industry pre-2002 – being when the new Corporations Act and the requirement to have an AFS Licence were introduced - be grandfathered on the requirement to hold a relevant Bachelor's Degree.

Good intentions can often lead to unintended consequences and failing to achieve anything useful.

Over recent times members of ASDAA have generally spoken to people outside of the industry that use the services of Financial Advisers and Financial Planners and interestingly many of those people are unaware of:

- the new educational requirements that have to be met by Financial Advisers;
- the time frames within which such requirements need to be met; and
- most importantly the fact that their Financial Adviser may not be in a position to continue to provide the financial services they have provided to them for an extended period of time on the basis that they have not been able to meet the cut off times set by FASEA to complete the various requirements in order to retain their qualifications.

ASDAA is reaching out to you as the Assistant Minister for Superannuation, Financial Services and Financial Technology in an effort to work towards coming up with solutions to ensure that Financial Advisers and Financial Planners can continue to provide financial services to their clients without the fear of being bullied out of the industry due to changes in regulatory requirements that have been implemented by people that appear to have to no true understanding of:

- the sub-sectors within the Financial Adviser profession;
- the financial services that clients expect to receive from Financial Advisers;
- the lack of understanding that clients have of the ramifications of Advisers failing to meet the FASEA educational requirements by the defined time frame; and
- the loss of skill, knowledge and understanding that will result from these changes.

ASDAA appreciates the opportunity to provide you with our comment. We would be happy to discuss any issues arising from our letter, or to provide any further material that may assist you or your department. Should you as the Minister be inclined ASDAA would be more than welcome to meet with you and members of your department in Canberra of a date and time of your choosing to discuss in person the detail of this letter.

Should you or your department require any further information, please contact myself on (07) 5657 3620 or email [andy@asdaa.com.au](mailto:andy@asdaa.com.au)

Yours sincerely,



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Managing Director

Attached is a copy of a 26<sup>th</sup> July 2016 letter, outlining ASDAA's concerns, emailed to the Minister for Revenue & Financial Services the Hon Kelly O'Dwyer MP. It was unfortunate that ASDAA didn't receive a response from the Minister's Department let alone an acknowledgement of our letter.