

File Name: 2016/01

4 January 2016

Manager
Financial Services Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: professionalstandards@treasury.gov.au

Dear Manager,

Lifting the professional, ethical and education standards in the financial services industry

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the request for comments in regards to Treasury's consultation on the exposure draft legislation on measures to raise education, training and ethical standards for financial advisers.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system so people can live in retirement with increasing prosperity. We focus on the issues that affect the entire superannuation system. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90 per cent of the 14 million Australians with superannuation.

General comments

ASFA strongly supports lifting the professional, ethical and education standards in the financial services industry and supports the principles driving the exposure draft legislation. In particular we very much support the introduction of a code of ethics. This being said we have concerns with some operational aspects of the exposure draft legislation which we outline below.

We are of the view that given the importance of getting the regulatory framework right, the consultation period provided by Treasury is unreasonably short – effectively three weeks given the Christmas break.

Given the short time period for the consultation, the fact that the Christmas break sits within the consultation period and this consultation overlaps with the consultation on the draft transparency legislation it is possible that we will receive further feedback from members after the consultation period expires. Hence we seek the opportunity to raise any other significant matters that may be brought to our attention after the consultation period expires.

Specific comments

- Noting the experience of many existing financial advisers and the fact that they will need to pass the exam set by the standards body before 1 July 2019, in order to avoid potentially unnecessary and disruptive training we submit that the appropriate qualification level for existing advisers should be set at AQF 6 in line with the Advanced Diploma of Financial Planning rather than AQF 7 being an undergraduate degree.
- If the above position is not adopted (i.e. moving from an AQF 7 training qualification to an AQF 6 training qualification) we note that the transition period for existing financial advisers ending on 1 July 2019 may not be long enough. Courses are expected to be available from 2017. A two year period may not be enough for people to top up their education to a degree equivalent qualification on a part time basis. This is an important issue since if an adviser fails to qualify by 2019 they are no longer eligible for transition and would need to go through the whole education and training process (including a degree or equivalent and a professional year). Further consultation on the timing of this transition is required once we have more granularity on the bridging processes and accreditation requirements.
- The proposed rules require new advisers to complete a bachelor degree or equivalent approved by the standards body. At this stage the degree requirements remain unspecified. As the standards body will not be established until after 1 July 2016 and the obligation will apply from 1 July 2017, noting that under the Australian Qualifications Framework the volume of learning (assuming full-time study) for a Level 7 Bachelor Degree is three to four years, there does not seem to be adequate time for advisers to become qualified. We submit that the commencement date for requiring the relevant qualification be moved out to three years after the date the standards body approves the qualifications.
- Once a new adviser has completed their degree (or relevant qualification at AQF level 7 or above) and successfully passed the exam, new advisers should be licensed to provide financial advice under a supervision framework during their professional year. The register should identify that the adviser is still completing their professional year.
- Concerns have been raised that the broad definition of *relevant provider* has the potential unintended consequence of requiring certain professionals, for example actuaries, who may provide financial advice to employers about superannuation to obtain an additional degree and join another professional association. Many of these individuals, for example actuaries, are highly qualified having met all of the examination, ethical and continuing professional development requirements imposed by their specific professional bodies.

Appropriate professional degrees and the roles of such professional associations should be recognised.

- An *existing provider* (section 1546A) is a *relevant provider* immediately before 1 July 2017 and can avail themselves of the transitional provisions applicable to *existing providers*. There needs to be flexibility in the rules for persons who are taking temporary leave (such as those on maternity leave) and are not *relevant providers* immediately before 1 July 2017. Such persons should not lose the benefit of the transitional provisions. We recommend that ASIC be given the power to provide flexibility in this regard.

- Advisers who are only authorised to provide intra-fund advice should not be required to have the equivalent qualifications as those who provide comprehensive financial advice. It should be noted that advisers who provide intra-fund advice are very much restricted by section 99F of the *Superannuation Industry (Supervision) Act 1993* in the type of advice they can provide. The required qualifications for such advisers should relate to the areas of advice they are permitted to provide.
- Given the important and far reaching effect of the code of ethics (or breaches of it) it will be necessary that there is appropriate industry consultation on its development. It is important that the code would not capture non-material technical/legal breaches which would then be required to be noted on the register. In regards to the code of ethics we are aware that the Banking and Finance Oath Limited has provided a submission to the Assistant Treasurer. We support that submission.
- The professional standards apply to individuals. It is not clear how the education and training requirements will apply to advice provided online (e.g. roboadvice provided by a corporate entity). We recommend that further consultation be undertaken on the regulation and professional standards applicable to such advice.
- In regard to the restricted use of the terms *financial adviser* and *financial planner* we note that persons providing advice to wholesale clients do not need to meet the education and training requirements, but can continue to call themselves 'financial advisers' or 'financial planners'. This may lead to consumer confusion. We recommend that further consideration be given to the labels applicable to those people providing financial advice only to wholesale clients and who do not meet the proposed education and training requirements.
- In addition to professional associations, any individual licensee can develop a compliance scheme, subject to ASIC approval. In order to avoid consumer confusion and uncertainty there will need to be consistency of compliance schemes. We recommend that ASIC provides appropriate guidance to industry in a Regulatory Guide and assures consistency when approving such schemes.

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If you have any queries or comments regarding the contents of our submission, please contact ASFA's Policy Adviser, David Graus, on (02) 8079 0837 or by email dgraus@superannuation.asn.au.

Yours sincerely



Pauline Vamos
Chief Executive Officer