



7 May 2015

Financial Services Unit  
Financial System and Services Division  
Markets Group  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [ProfessionalStandards@treasury.gov.au](mailto:ProfessionalStandards@treasury.gov.au)

Dear Sir / Madam

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

The Financial Planning Association of Australia (FPA) welcomes the opportunity to provide feedback on Treasury's consultation on the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services' inquiry into proposals to lift the professional, ethical and education standards in the financial services industry.

The FPA is committed to and supportive of the PJC Report in what it is intending to achieve. We believe a co-regulatory model with the regulator, licensee and the profession, supported by a requirement for professional membership will drive the cultural change required to lift standards across the financial services industry.

We encourage government to legislate the PJC recommendations and then implement in stages such as to prioritise the establishment of an independent education council (i.e. the new FPEC) and the increase of education requirements for financial planners.

The FPA would welcome the opportunity to discuss the Treasury's proposed registration requirements further. If you have any questions, please contact our General Manager, Policy and Conduct, Dante De Gori or myself on 02 9220 4500 ([mark.rantall@fpa.asn.au](mailto:mark.rantall@fpa.asn.au) / [dante.degori@fpa.asn.au](mailto:dante.degori@fpa.asn.au)).

Yours faithfully

**Mark Rantall**  
CEO  
Financial Planning Association of Australia<sup>1</sup>

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<sup>1</sup> The Financial Planning Association (FPA) represents more than 10,000 members and affiliates of whom 7,500 are practising financial planners and 5,500 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- We banned commissions and conflicted remuneration on investments and superannuation for our members in 2009 – years ahead of FOFA.
- We have an independent conduct review panel, Chaired by Professor Dimity Kingsford Smith, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 24 member countries and the 132,000 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 17 Australian Universities for degrees in financial planning. As at the 1<sup>st</sup> July 2013 all new members of the FPA will be required to hold, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board



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

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Consultation on recommendations of the Parliamentary Joint Committee on Corporations and Financial Services' inquiry into proposals to lift the professional, ethical and education standards in the financial services industry

**FPA submission to:**  
Treasury

**7 May 2015**



## A. KEY CONSIDERATIONS REGARDING THE PJC MODEL

### Introduction

Treasury describe the key elements of the PJC model as:

<p><b>Education and training standards:</b></p> <ul style="list-style-type: none"> <li>Degree qualification at AQF level 7</li> <li>Structured professional year, administered by the planner's professional association</li> </ul>	<p><b>Ongoing professional development (CPD)</b></p> <ul style="list-style-type: none"> <li>Requirements set by professional associations</li> <li>Achieves a level of cross industry standardisation recommended by FPEC</li> </ul>
<p><b>Registration</b></p> <ul style="list-style-type: none"> <li>ASIC to only list a planner on the register when advised that the planner has completed the requirements of FPECs approved professional year and passed a registration exam.</li> <li>Register of financial planners be expanded to include any censure or limitation placed on a financial planner by a professional body, ASIC or licensee.</li> </ul>	<p><b>Structure and role of standard setting body</b></p> <ul style="list-style-type: none"> <li>Establish FPEC to establish a set curriculum requirements, develop the structured professional year, develop and administer a registration exam and establish professional pathways.</li> <li>FPEC to comprise of representatives from approved professional associations, academics, consumer advocates and an ethicist.</li> </ul>
<p><b>Professional and ethical standards</b></p> <ul style="list-style-type: none"> <li>Financial planners required to be members of a professional body approved by the Professional Standards Council.</li> <li>Professional associations representing individual financial planners to each establish a code of ethics approved by the Professional Standards Councils.</li> </ul>	<p><b>Exam</b></p> <ul style="list-style-type: none"> <li>A registration exam set by FPEC at the end of the structured year of professional development.</li> <li>Individuals required to pass the exam in order to be registered as financial planners.</li> </ul>

The FPA supports the PJC model described by Treasury in principle. However, we suggest a flexible and prioritised approach must be used to ensure effective implementation and long lasting change.

The FPA notes that the issue of approving professional bodies presents challenges which may require a flexible approach to consider all possible and appropriate options, and therefore may take time to resolve. However, the establishment of an independent education council (i.e. FPEC) is a priority.

The FPA therefore strongly recommends that the government legislate the PJC recommendations and then have a staged implementation process such as prioritising the establishment of the education standards council (i.e. the new FPEC). This will enable the issue of financial planner education to be addressed as a matter of urgency and not delayed by issues related to other PJC recommendations.

The Financial Planning Association whole-heartedly agrees that there is a need to increase the minimum education standards and requirements for those providing financial advice to consumers. A key tenet of the FPA's drive towards achieving the highest standards of professionalism is the requirement for higher levels of education for financial planners.



## Need for cultural change

The FPA strongly supports the need to increase the education requirements for providing financial advice. However raising education standards alone will not deliver the necessary improvements in the provision of financial advice to consumers. This point has been supported and articulated by the PJC.

The financial service industry has been rocked by numerous high profile scandals that highlight the need for cultural change throughout the industry. Licensees and Regulators may acknowledge the need for cultural change however they are not all acting to address this need.

Professional standards and professional membership are more than a set of additional rules and standards. The primary emphasis of professional regulation is in the setting and enforcement of professional norms and behaviours, for the national public benefit. They encourage the 'norming' of ethical conduct and professional behaviours, building a sense of professional aspiration, pride and commitment to high professional ideals.

Whilst firms may play a significant role in setting standards of behaviour and conduct, it is the normative power of professional standards and their pull to behave ethically which offers the best prospects to significantly improve consumer outcomes. Professional standards speak universally to all members of the profession as they are business model agnostic. They encourage individuals to put their clients first and to resist adverse commercial interests. They install pride, a sense of belonging and public purpose.

Being a member of a professional body means you make a commitment to behave not only in accordance with the professional obligations, but in a manner that your peers expect and that you expect of your peers. This creates mutual respect and encourages other peers to follow your leadership and behaviours. This is the driver of cultural change that is needed in the financial services industry in Australia.

Licensees operate on complying with legal obligations. Requiring individual advice providers to be a member of a professional body will ensure licensees support of these professional behaviours. This will encourage cultural change at the corporate level and deliver sustainable improvements in consumer outcomes.

The FPA strongly believes membership of a professional body must be mandated. We acknowledge that mandating professional membership requires approval of the professional bodies.



### FPA's key points

- FPA is committed to and supportive of the PJC Report in what it is intending to achieve.
- We advocate and support the raising of both education standards and professional standards for financial planners.
- We advocate a co-regulatory model involving a cooperative approach between, ASIC, licensees and professional bodies.
- The PJC Model presents an opportunity to instil the cultural change needed to improve practices and outcomes for consumers. This will only work if membership of a professional body is mandated.
- This is significant change and each element of the PJC's package presents complex challenges.
- We encourage government to first legislate the PJC recommendations
- The establishment of an independent education council (i.e. FPEC) should be a priority for implementation
- This will enable the issue of financial planner education to be addressed as a matter of urgency
- It is unclear how the PJC recommended requirements interact with the TASA registration requirements and TPB requirements generally.



## B. FPA RESPONSE TO CONSULTATION QUESTIONS

### 1. The PJC model

*The introduction of the model recommended by the PJC would represent a substantial change to the current regulatory environment for financial planners.*

#### Question 1.1

What impact would the introduction of the PJC model have on the structure of the financial advice industry?

#### Licensees

Assumptions could be made that the changes may affect smaller licensee more significantly than larger licensees. However, feedback from some FPA Professional Practices shows they already invest significant funds to educate staff as they see this a professional best practice. For example, covering cost for staff to undertake further education (such as Grad dips/Masters/CFP with an average cost of approximately \$1,500 to \$2,500 per unit), provide study days and exam leave. This equates to an estimated \$5,000 to \$10,000 per person per year on education related expenses.

However, it is also important to consider the impact of raising education standards and requiring the adoption of professional obligations in an environment where financial advice providers themselves are currently competing to lift standards within their own businesses. For example, the announcements made by the following corporate groups:

The financial services industry has demonstrated a desire to make this business investment with several of the largest financial planning groups, representing more than half of the financial planners and financial planners in Australia, announcing a commitment to raise the education standards of their representatives. This included membership of a professional body for some groups and the choice of industry associations for others.

	Salaried Channel (employed)	Announcement of Mandate for Salaried Planners (employed)	Aligned Self-employed channel	Announcement of Mandate for Self-Employed Planners (aligned)
<b>AMP</b>	n/a	n/a	AMP FP Charter Hillross Genesys IPAC	<b>By 2019</b> , all AMP financial planners must either hold the Certified Financial Planner (CFP), or Fellow Chartered Financial Practitioner accreditation or a Masters in financial planning
<b>NAB</b>	NABFP	<b>By 2017</b> , all NABFP financial planners to have university degree and hold Certified Financial Planner (CFP) accreditation and hold	MLC FP Garvan GPL	<b>By 31 December 2015</b> , all aligned planners will be required to hold an ADFS if they do not already do so (this part was an internal message only) ; <b>By 31 December 2019</b> , all aligned planners will be



		membership of a recognised professional association.	Meritum Apogee	required to hold a post graduate qualification relevant to Financial Planning (for example, a Certified Financial Planner (CFP), or FChFP or Masters of Financial Planning) if they do not already do so; AND <b>By June 2015.</b> All aligned planners will need to be a member of an approved professional association
<b>WBC</b>		<b>By end of 2015,</b> all Financial planners employed in the Westpac, St.George, Bank of Melbourne and BankSA networks will be required to have at least the Advanced Diploma of Financial Planning (ADFP), or the equivalent. <b>By 2019</b> all planners will have to hold a Certified Financial Planner (CFP), or Fellow Chartered Financial Planner Practitioners (FChFP) or Masters of Financial Planning (MoFP).	Securitor / BT Select Magnitude	<b>By end of 2016,</b> all aligned planners in the Securitor, BT Select and BT Licensee dealer groups will also be required to hold Advanced Diploma of Financial Planning (ADFP), or the equivalent by the end of 2016; And <b>By 2019,</b> all aligned planners must hold either a Certified Financial Planner (CFP), or Fellow Chartered Financial Practitioner (FchFP) or Masters of Financial Planning (MoFP)
<b>CBA</b>	CBA FP CFS	<b>By 30 June 2017,</b> existing financial planners authorised under the Commonwealth Financial Planning licence, and their supervisors, will be required to hold either an ADFP Advanced Diploma in Financial Planning (or equivalent) or a Degree in finance, business, commerce, or a related field  All new financial planners, and people in planner supervisory roles for Commonwealth Financial Planning, will be required to hold a Degree in finance, business, commerce, or a related field.  Commonwealth Financial Planning will develop their Senior Financial Planners through CFP certification	Count Financial Wisdom	<b>By 31 December 2017,</b> All existing aligned AR's, will be required to hold either: <ul style="list-style-type: none"> <li>• an ADFP or equivalent; or</li> <li>• a degree in finance, business, commerce or a related field; or</li> <li>• a Certified Financial Planner® (CFP); or a Fellow Chartered Financial Practitioner (FChFP) or a Master's in Financial Planning; or</li> <li>• a degree in any field plus an accounting designation with one of the Joint Accounting bodies.</li> </ul> <b>For all new AR's to CBA's aligned channels, they will be required to hold either:</b> <ul style="list-style-type: none"> <li>• a degree in finance, business, commerce or a related field; or</li> <li>• a Certified Financial Planner® (CFP); or a Fellow Chartered Financial Practitioner (FChFP) professional designation of the Association of Financial Planners; or a Master's in Financial Planning; or</li> <li>• a degree in any field plus an accounting designation with one of the Joint Accounting bodies; or</li> <li>• a minimum of three years relevant full-time experience (or part-time equivalent) within the preceding five years, as an planner* or para-planner that included substantial involvement in the preparation or presentation of financial planning advice, plus attainment of the Advanced Diploma in Financial Planning by 31 December 2017.</li> </ul>
<b>ANZ</b>		<b>NO ANNOUNCEMENT</b> Has espoused a Series 7 exam over any announcement on specific Education Standards	Millenium 3 RI Advice FSP	<b>NO ANNOUNCEMENT</b> Has espoused a Series 7 exam over any announcement on specific Education Standards



The profession itself is leading the way in raising standards in a manner that will minimise any impact of the change on the provision of financial advice services and on consumers. In addition, the establishment of the Financial Adviser Register earlier this year necessitated licensees to review processes to support the provision of necessary information on all planners to the Regulator.

### Professional bodies

Assuming a co-regulatory model is implemented, ASIC will need to rely on professional bodies. There will be more accountability placed on professional bodies which will create a need for such organisations to review resources and processes including:

- Member compliance to professional obligations – the FPA has a long-standing compliance and auditing programs against all its professional obligations.
- Verification procedures to ensure members/applicants meet PJC model requirements – verification is a standard practice for entry into the FPA and the FPA's Certified Financial Planner designation program.
- Resource allocation - the mandating of professional membership has the potential to increase existing membership levels. The FPA will need to consider resource levels and allocation.

These changes may result in increased costs incurred by professional bodies. However, the increase in membership levels may off-set any additional costs professional bodies may face. The FPA suggest there is a need for a full cost analysis to be undertaken based on the final policy position adopted by the Government.

*The PJC model would apply equally to planners working in different size firms and under different licensee structures.*

#### **Question 1.2**

What are the practical implications of the PJC model applying to planners from all sizes and types of firms?

The extent of the impact on individual planners will be dependent on the level of support they receive from their licensee or employer.

While larger licensees may have the benefits of economies of scale, the FPA does not believe the size of the organisation, or the type of firm, will dictate whether it does or does not assist practitioners, both existing and new, in meeting the new requirements. This is not dependent on the size of the firm but the ethos of the organisation.

There may be a reduction in new financial planner numbers in the short term, while new entrants undertake training to meet the new standards (which will take longer than current training



requirements). Some existing financial planners may chose to leave the profession also impacting on planner numbers.

Existing financial planners will need to assess the new education requirements to determine if they will need to undertake further study. This may not be clear until FPEC is established and the Recognised Prior Learning Framework developed.

The new requirements may have a greater impact on older planners. Many good existing financial planners have a wealth of experience in providing quality tier 1 personal advice to consumers, and hold a diploma qualification which was required at the time they entered the profession. The possibility of having to undertake further study may result in them retiring early or leaving the profession. The FPA would encourage Treasury to ensure one role of the new FPEC is to identify clear and appropriate transition arrangement which provide exemptions, bridging and assessment options that appropriately acknowledge the previous education, qualifications, CPD and experience in providing tier 1 financial advice, of existing financial planners.

Some financial planners may disagree with many of the measures, or feel fatigued by the large amount of regulatory change they have faced over recent years, and therefore leave the profession. However, based on feedback, the majority of FPA practitioner members support increasing the requirements to provide financial advice but have questions around the details and transition arrangements

The FPA expects any potential impact on financial planner numbers in the short term will be overcome and the benefits of the package will provide more sustainable growth and opportunities for planners in the longer term.

Employer and / or licensee assistance with the cost of study and professional membership fees will lessen the impact of the new requirements on individual planners.

The FPA provides the following example of professional membership fees.

Organisation	Category	Annual membership fee
FPA	CFP	\$ 895.00
	Financial Planner AFP	\$ 595.00
CPA Australia	Assessment fee	\$ 160
	First year membership: Associate	\$ 300
	First year membership: CPA or FCPA	\$ 670
Self-Managed Super Fund Professionals Association of Australia	Associate Membership	\$ 695.00
	Specialist Membership	\$ 695.00



For individuals practitioners, professional membership fees and education costs are sometimes claimed from the business as a training and personal professional development expense or may be claimed as a tax deduction.

As detailed above, several of the largest financial planning groups have announced a commitment to raise the education standards of their representatives and require membership of a professional body or industry association. While the FPA commends this commitment, it is unclear at present whether education costs and professional membership fees are being incurred by the organisation or required to be covered by the individual planner.

There is a risk that some licensees will only hire planners who are already qualified, have completed their professional year and are listed on the Financial Adviser Register, which may affect both the ability of new entrants gaining access to professional year opportunities and existing planners. While we acknowledge this is a business decision for each licensee, such support is of particular importance for existing financial planners who may be required to undertake further study to meet the new education standards.

*Under the PJC model, ASIC, licensees, the PSC, FPEC and the professional associations will have a role in raising standards and ensuring these are met on an ongoing basis.*

### **Question 1.3**

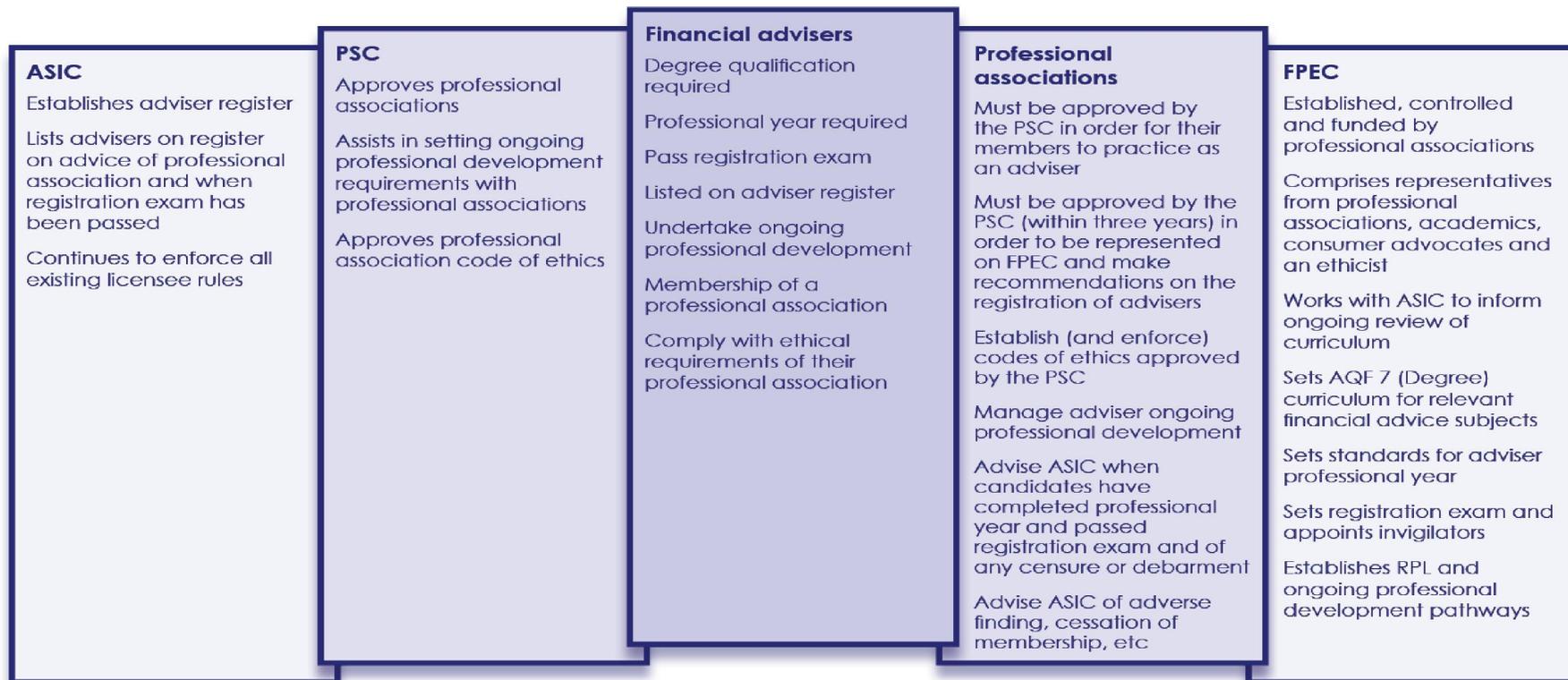
Are the lines of responsibility clear under the PJC model?



# Education and professional standards

FPA SUBMISSION TO TREASURY | DATE: 07.05.2015

Treasury presents the roles of ASIC, the PSC, FPEC and the professional associations as follows:





## PSC or alternative authority to recognise professional bodies

As previously explained, there is a fundamental need for cultural change in the financial services industry. This can only be driven by the professional bodies. (See *Need for cultural change* section above for further discussion.)

Therefore, the FPA strongly believes in a co-regulatory model involving cooperation between professional bodies, regulators, and licensees. Fundamental to this is the need for set criteria that professional bodies must meet, and a clear process for gaining recognition of professional bodies from a legal authority.

### *i. Approving a Code versus approving a professional body*

There is a fundamental difference between recognising a professional body and approving the Code of a professional body:

Code approval – focuses on the Code, its enforceability, development, content, administration, and remedies. It also gives the approving authority total control of the Code and its content taking this away from the professional body.

Recognising professional body – considers the whole entity including corporate governance, operational procedures and accountability of its management; the sustainability of the organisation and the size of its membership; the integrity, qualifications and experience of its members; and all professional obligations - the Code, CPD, and membership criteria – including enforcement, development, content, administration, and complaints management.

In considering the appropriate mechanism to drive cultural change in the financial services industry, the FPA encourages the Government to consider the difference between approving a Code and recognising a professional body.

### *ii. Identifying the appropriate approval authority*

The PJC Model supports the mandating of professional membership and recognition of professional bodies. There are differing views on how to implement this recommendation. The PJC recommended the PSC approve Schemes of professional bodies (where such Schemes use capped liability to incentivise high standards). However this has caused many stakeholders discussions to become side-tracked by the issue of capped liability.

The FPA believe the focus of the Government's considerations must be on:

1. Whether the Government supports co-regulation and the role of professional bodies in raising standards in the financial services industry, and if so
2. Identifying the most appropriate mechanism for ensuring there is accountability of those professional bodies who chose to take on this role.



The FPA is not wedded to any one mechanism for this to occur.

However, discussions that have taken place as part of Treasury's consultation process have highlighted that there is currently no entity with the legal authority to recognise professional bodies whose members provide financial advice:

- The Professional Standards Council (PSC) can approve Schemes of professional bodies
- ASIC can approve Codes of Conduct
- The Tax Practitioners Board (TPB) can recognise professional bodies whose members provide tax (financial) advice services.

There maybe the possibility of the remit of the Professional Standards Authority (PSA) to be expanded to enable it to approve professional associations separate to the need to approve schemes.

Further there are implementing models from other jurisdictions. The following high level information may be helpful in considering the options for implementing the PJC model.

#### Financial Conduct Authority (UK)

- Accredits professional bodies against set criteria
- Professional bodies verify practitioner credentials and issue 'statements of professional standing' which are required to provide advice.
- To date, the Regulator has recognised 8 professional bodies each with its own Code.
- The FPA could find no public information from the FCA regarding issues relating to multiple Codes, accrediting professional bodies, or the requirement for advisers to hold a SPS from a professional body.

#### ASIC

- Approves Codes under RG183
- ASIC has never approved a Code

#### Professional Standards Council

- Approves, monitors and enforces Professional Standards Schemes of professional bodies
- Professional bodies must have in place a 5 year Strategic Risk Management Plan and risk mitigation framework
- PSC can limit the civil liability (damages) that a member of a recognised professional body can be required to pay.
- This encourages financial planners to mitigate their business risks through professional membership and sound risk management strategies integrated into their advice processes.
- While the PSC has approved Schemes of accounting bodies, these do not apply to the provision of financial advice at this time.
- The PSC has not approved a Scheme that applies to financial advice providers.



### Tax Practitioners Board

- Recognises professional bodies against set criteria and recognition process within the Tax Agent Services Regulations.
- 7 professional bodies who have financial advice providers as members have been recognised by the TPB as either as Tax Agent Association or Tax (Financial) Adviser Association
- A requirement of recognition is an enforceable Code
- Each recognised association has its own Code
- The TPB also enforces a legislated Code.

The choice of mechanism for recognising professional bodies must encourage professionalisation as a strategy to lift the standards of advice providers. It should not just be about the process of approving the professional body. Consideration must be giving to the role of the approving authority in working with professional associations to improve professional standards and protect consumers.

### Professional bodies

#### *i. Verifying financial planners for listing on the Financial Adviser Register*

The FPA supports the role of professional bodies verifying and advising ASIC that an individual has met the new requirements to provide financial advice and can be listed on the Financial Adviser Register. This verification role should focus on individual's meeting their initial requirements to be able to be listed on the Financial Adviser Register and provide financial advice; and the notification of significant breaches of their ongoing professional obligations.

Professional bodies should not be responsible for verifying changes in circumstances or training of financial planners who are already registered on the Financial Adviser Register. As previously mentioned, this should be the responsibility of the licensee.

The FPA currently verifies financial planner's credentials against our membership criteria, which includes a minimum of a relevant degree and one year's experience to join as a Financial Planner AFP. Therefore, the impact of this role would be a potential increase of workload due to an increase membership.

For professional bodies to take on the role of notifying ASIC when an individual planner has met their obligations and can be listed on the Financial Adviser Register, legal structures would need to be put in place to allow greater two-way information sharing between the Regulator and professional bodies.

#### *ii. Notification of censure or debarment*

The FPA is concerned about the recommendation that professional bodies be required to notify ASIC of any censure against a financial planner.

Annotating on the Financial Adviser Register equates to naming and shaming, a sanction the FPA only uses in significant cases of misconduct or breaches of our professional obligations. Naming and shaming can have a significant impact on an individual's career and may far outweigh the breach and



FPA action. To include a censure on the register when a naming sanction has not been imposed by our independent Conduct Review Commission, will undermine the FPA's remedial approach to Code breaches and be contradictory to our Disciplinary Regulations and Constitution.

The role of a professional body is to instil professional behaviours in its members. Hence the FPA applies corrective measures when minor mistakes are made by members. This educative approach has proven to deliver positive results in resolving consumer complaints and ensuring the breach is not repeated.

The FPA supports transparency of bad practices however we suggest notification of censures is limited to systemic or significant breaches, or matters of public interest. We would welcome further discussion on this matter.

### Licensees

Licensees must also have responsibilities in this model including:

- i. Existing licensee responsibilities for planner competency and compliance with education requirements must remain,
- ii. Licensees must also have obligations under the professional year requirements for financial planners.

#### *i. Licensee obligations for financial planner competency*

Licensees must be accountable for the competency of the financial planners providing advice under their license. This will be specific to the license authorisation and conditions of each licensee. Licensee should still be required to report on planner competency to ASIC. If this current requirement is removed it will remove the accountability from the licensee and create a gap in the requirements at the corporate or regulated level.

The FPA notes that this may result in ASIC receiving confirmation on planner compliance to education and training requirements from both licensees and professional bodies, however this will provide a means of cross-checking for the Regulator.

While the FPA supports the role of professional bodies to verify and notify ASIC that an individual has met their initial requirements to provide financial advice, the licensee should maintain current compliance and reporting obligations.

For example, if a financial planner who is already listed on the Register changes licensee, it should be the new licensee's responsibility to ensure the planner is competent to provide financial advice under their license authorisation and notify ASIC that they have authorised the planner. This should not be the professional bodies' responsibility.

Similarly, if a planner changes or adds a specialisation, it should be the licensee's responsibility to verify this additional training and notify ASIC to update the Register.



The FPA would expect the individual to advise their professional body of any changes to their circumstances however, the professional body should not be required to verify changes of registered planners and notify ASIC for the purposes of updating a planner's information on the Financial Adviser Register.

Further analysis and discussion may be required to ensure the practicalities of the licensee and professional body roles are efficient and meet consumer protection objectives.

*ii. Licensee role in meeting professional year requirements*

Licenseses have a role in administrating the professional year undertaken by financial planners. This should include supervisory obligations of professional year planners. It is the licensee who should be responsible for ensuring the opportunities are available and processes are in place to enable new financial planners to meet the requirements of the professional year.

Financial planner

The FPA is concerned about how a new financial planner can gain their professional year experience as they are not legally able to provide advice until they are registered.

FPEC

The FPA supports the establishment of a new independent education council (i.e. FPEC). However, this body should not be involved in setting or standardising professional codes of conduct (this may be raised by others).

Please see response to FPEC questions below for further information.

Tax Agent Services regime

The Tax Agent Service Act (TASA) commenced for financial planners in 2012 and requires financial planners who provide a tax (financial) advice service for a fee to register with the Tax Practitioners Board (TPB), meet education and experience requirements, and comply with CPD obligations and the legislated TASA Code of Conduct. The TPB also recognises professional bodies that meet set professional standards, membership and governance criteria.

Providing tax advice is integral to and integrated throughout the financial planning process. As financial planners must be registered with the TPB to be legally permitted to provide tax advice, the FPA suggest the role of the TPB and the TASA obligations should be included in the PJC model.



## 2. Current regulatory framework

*Under the current regulatory arrangements, the legal obligation to ensure planners meet the relevant training and competency standards falls on licensees. ASIC is responsible for ensuring that licensees comply with the conditions of their AFS licence.*

*Under the PJC model, responsibility for meeting (and ensuring compliance with) training and competency standards is expanded to individual planners and professional associations.*

### Question 2.1

What are the practical implications of this overlapping of responsibilities? Would this shift have flow-on implications for other provisions in the Corporations Act, or any other parts of the licensing regime?

The FPA strongly supports the current regulatory obligations on licensee to ensure planners meet the training and competency standards and believes these obligations must remain.

Competency must be considered from different perspectives such as:

1. Initial education requirements:
  - a. meeting initial core requirements to be able to provide advice. Under the PJC Model this includes passing a proposed registration exam, holding a relevant degree, and completing a professional year, with the detailed requirements to be set by FPEC.
  - b. As per the PJC Model, professional bodies should be responsible for verifying and notifying ASIC that a planner has met their initial education requirements and can be registered on the Adviser Register.
2. Licensee authorisation: ensuring the planner is competent to provide the type of financial advice the licensee is licensed to provide. This will be specific to each licensee.
  - a. Initial requirements - The professional body verification should be supported and cross-checked with licensee reporting that a planner operating under their licensee is competent to provide the type of advice the licensee is authorised for.
  - b. Registered planner changing licensees - Licensees should also be responsible for notifying ASIC if a planner has changed licensees. The new licensee should be required to notify ASIC that the planner is competent to provide the type of advice the licensee is authorised to provide.
  - c. The financial planner should be responsible for notifying their professional body that they have changed licensee however the professional body should not be required to verify or notify ASIC of the change.



### 3. Specialisations:

- a. Licensees should be required to verify and notify ASIC when a registered planner completes additional training such as adding a specialisation.
- b. The financial planner should be responsible for notifying their professional body of relevant additional training, such as a specialisation, however the professional body should not be required to verify the additional training or notify ASIC of the change.

The FPA does not believe there is significant overlap in roles. The overlap of professional bodies and licensees reporting against initial training and competency requirements will require data management by the Regulator however it also offers an extra mechanism of verification.

Maintaining the existing obligations in the Corporations Act will reduce the impact on the industry as it will minimise the changes required to current processes.

Communication to all stakeholders including planners, of the roles and responsibilities of each channel is vital: FPEC sets the requirements; professional bodies verify and notify ASIC of a planner's completion of the initial requirements; licensees notify ASIC a planner is competent to provide the type of advice they are licensed to for; licensees verify and notify ASIC when a planner changes licensee or adds a specialisation; and the planner notifies their professional body when they have completed the initial requirements, change licensee, and add a specialisation.

Guidance for financial planners to help them understand their requirements and obligations is paramount.

#### Question 2.2

Should licensees maintain a legal obligation to ensure planners meet relevant training and competency standards?

As previously discussed, the FPA believes licensees should continue to be required to ensure planners meet the relevant training and competency standards.

See above sections for further details.



### 3. Education and training standards for financial planners

#### Question 3.1

How would the PJC model interact with existing regulatory regimes for specific types of advisers, for example stockbrokers and tax advisers?

The FPA supports the education and training standards of the PJC Model. Further we believe there are core curriculum and requirements that are appropriate regardless of what area of advice an individual may provide in the future.

Planners add and change specialisations throughout their careers but there are core elements to providing financial advice regardless of the specialisation.

The FPA recommends the Government adopt a similar approach to the medical profession – to become a surgeon, paediatrician, cardiologist, or other such specialist, you must first study the core elements of medicine and complete on-the-job training. Only then can you move into your chosen specialisation.

Core education elements that would provide the essential knowledge necessary to provide any type of financial advice to consumers might include (for example):

- Economic and regulatory environment
- Introduction to finance
- Client relationships
- Superannuation
- Insurance
- Taxation
- Investments
- Commercial law (required by TPB)

An individual's career specialisation may change but the core elements of the provision of advice remain. For example, an individual may start out intending to be an insurance broker, but changes 5 years later to be a financial planner. They should not have to re-do initial education. This should be completed from the outset. Neither should the individual be granted subject exemptions based from financial advice core knowledge components based on experience. This will undermine the education changes and the government's objectives. Experience should only be used to assess an individual's application for course entry.

The FPA does not support carve outs for any type of advisers. Carve outs will result in the same situation we currently have with RG146 of courses offering the bare minimum based on specialisations and product advice.



*Under the PJC model, financial planners providing personal advice on Tier 1 products would be required to hold a relevant Bachelor Degree.*

### Question 3.2

Is holding a relevant Bachelor Degree the appropriate minimum education requirement? What is a “relevant” Bachelor Degree? Would this requirement limit the ability of other degree-qualified individuals to become financial planners?

### Minimum education requirement

Current education standards to become a financial planner are too low. The FPA strongly supports the PJC recommendation that a new entrant to the provision of financial advice must hold a minimum of a relevant degree (that is a relevant qualification at AQF7 level).

The FPA has consulted with practitioner members, licensee and education providers regarding the minimum course requirements an individual must meet to provide tier 1 personal advice. Based on the feedback of this consultation, the FPA recommends the FPEC curriculum be adopted as the minimum course requirements for financial planners. This would require new financial planners to have completed:

- a minimum of a degree program (AQF7 level)
- covering at least the 8 core knowledge areas
- each as discrete units of study
- delivered as the equivalent of approximately 39 hours of contact time and 120 hours of non contact time for each of at least the 8 core FPEC subjects
- with assessment undertaken at a minimum AQF7 level.

An AQF7 level entry requirement for new entrants providing tier 1 personal advice has the potential to increase the professionalism of the industry, enhance the community standing of the profession, and increase the demand and quality of university course in financial planning. It is also consistent with education entry requirements into other professions such as accountancy.

The FPA recommends the new course level of a minimum of AQF7 is appropriate for all providers of tier 1 personal advice. Existing financial planners should be transitioned with appropriate exemptions, bridging course options, and core knowledge area assessment options to test knowledge, for those who meet certain qualification plus experience requirements.

There are key elements minimum education requirements should encompass:

- i. Core knowledge areas
- ii. Quantum / course duration
- iii. Assessment



*i. Core knowledge areas*

Minimum training requirements must identify appropriate core knowledge areas essential to providing tier 1 personal advice under the current regulatory environment, and in line with consumer needs and expectations. These must be compulsory learning at degree level in order to provide tier 1 personal advice and be called a financial planner or financial adviser. These core knowledge areas should be focused on the provision of personal financial advice, not on financial products.

The FPA believes the curriculum developed by FPEC has identified appropriate core knowledge areas essential to providing tier 1 personal advice. These must be compulsory learning at a AQF7 level in order to provide tier 1 personal financial advice and be called a financial planner and financial adviser. FPEC requires degree programs to cover its curriculum through a minimum of the following 8 subjects, with a major in financial planning.

1. Introduction to finance/ personal financial planning
2. Client relationships
3. Superannuation and retirement planning
4. Estate planning
5. Insurance
6. Financial plan construction
7. Taxation 1
8. Investments
- (9. Commercial law – which has been mandated by the TPB)

The FPEC curriculum clearly sets out topics that must be covered, which is consistent with the approach taken by the TPB. It is also more transparent for consumers.

A number of universities across Australia have designed and are currently offering courses based on this curriculum. Financial planning programs are diverse in length, sequencing and entry requirements. At the same time, financial planning programs need to be of sufficient duration to ensure a graduate at the beginning of their financial planning career has the necessary attributes, skills, knowledge and attitudes.

*ii. Quantum / course duration*

The quantum or duration of a course must also be mandated as it is vital in ascertaining the depth of knowledge the training must offer on each required topic area.

Each core curriculum body of knowledge should be regarded as being equivalent to a typical university unit of study. They do not require that the curriculum is delivered as 8 discrete units of study, and each core body of knowledge may be integrated across a range of units within a program. However, each core body of knowledge should be delivered as the equivalent of approximately 39 hours of contact time and 120 hours of non contact time. The total core curriculum would be over 300 hours contact time and 960 hours of non contact time.



### *iii. Assessment*

Assessment should be integrated across the curriculum to encourage the learning of important principles with more generic applications and reduce the tendency to learn excessive amounts of detailed information.

#### New versus existing financial planners

Developing the minimum training requirements for financial advice providers is a complex issue. It is not appropriate to apply a blanket approach when considering an appropriate minimum education standard for an individual to provide tier 1 personal advice. It is vital the new requirements acknowledge and provide for the different knowledge and skill levels of:

- a) New entrants to financial advice, and
- b) Existing financial planners.

In considering the PJC recommendations is it vital that there is a clear separation of requirements for **new entrants to financial advice** (that is those individuals who have not provided financial advice prior to the commencement date of the new education requirements) and the identification of appropriate requirements for **existing financial**.

#### **a) New entrants**

A new entrant must be clearly defined and differentiated from an existing financial planner. For example:

*A **new entrant** is an individual who has not provided financial advice or been authorised to provide financial advice prior to the commencement of the new requirements.*

The commencement date of new education standards and the transition arrangements must provide adequate time for new entrants to undertake the necessary study to complete the education needed to meet the new standards. It must also provide appropriate transition arrangements for those new entrants who are currently enrolled in an education program that may not meet the new standards.

#### **b) Existing financial planners**

**Existing financial planners** are those who provide tier 1 personal advice under an AFSL at the commencement date of the new education requirements.

While the FPA believes no blanket grandfathering should apply, there is a need to acknowledge Recognised Prior Learning (RPL), including existing qualifications, ongoing Continued Professional Development (CPD) and licensee required training, as well as relevant experience, of **existing financial planners**.



### Relevant degree

The FPA suggests the focus should be on the **relevant discipline** rather than degree as the names of qualifications can vary between different education providers. A focus on the **relevant discipline** rather than 'degree' also acknowledges that the new education requirements can be met by successfully completing postgraduate study or obtaining a professional designation in a 'relevant discipline' at an AQF level higher than the AQF7 or degree level.

A 'relevant degree' should be defined consistently with other legislative requirements for financial planners, such as the Tax Agent Services regime. The FPA would support the following definition of 'relevant degree' as long as the courses met the curriculum, quantum and assessment requirements set by the new FPEC.

*relevant discipline includes but is not limited to a discipline related to finance, financial planning, commerce, economics, business, tax, accountancy, or law.*

However, the focus should not be on the name of the qualification but its content. As detailed above, the FPA believes all courses must include core topics provided to the required quantum.

### Career pathways

Consideration should be given to bridging courses for those entering the profession under alternative education pathways. The new FPEC should develop bridging pathways defined on a topic basis rather than competencies.

#### **Question 3.3**

What are the practical implications of requiring planners to hold a relevant Bachelor Degree?

### Course availability

The existing FPEC has developed a national Accreditation and Curriculum Framework for financial planning degrees (AQF 7 level), establishing an agreed foundation for qualifications that encompasses and exceeds the current regulatory requirement for financial planning education courses in Australia. The FPEC course accreditation guidelines and curriculum were developed by academics and practitioners and following extensive consultation with universities and other providers of degree-level education.

The FPA understands concerns have been raised about the availability of relevant degree programs. Under its *Australian Higher Education Curriculum and Accreditation Framework in Financial Planning*, the existing FPEC currently has in place a formal assessment and accreditation program to determine which financial planning education programs meet the FPEC accreditation standards, including its



financial planning curriculum, and how such courses will continue to satisfy those standards during the accreditation period.

The existing FPEC currently has 14 higher education providers and 17 education programs on its approved list (including TAFE NSW and Kaplan who are not universities but offer degree programs). Importantly the FPEC curriculum covers all the regulatory education requirements under the current RG146, and the requirements of the TPB for the purposes of the Tax Agent Services regime.

The FPA acknowledges the key element of the PJC model of establishing an Education Standards Council (i.e. FPEC) and the role of this body. We believe the work of the existing FPEC offers a strong foundation for the new education council to build upon and demonstrates the existence of appropriate education programs and commitment of education providers to offer appropriate programs at AQF7 level and higher.

### Appropriate transition arrangements

Appropriate transition arrangements for new entrants and existing financial planners, including commencement dates and options available to meet the new education standards, are vital. Each new entrant and existing financial planner will have different education, training and experience that should be considered in determining the most appropriate pathway for them to meet the new standards. This is a complex map that must be developed. A blanket requirement that a bachelor degree must be completed by all advice providers is not appropriate as it ignores the value of existing qualifications, experience, CPD and other vital knowledge, skills and training, particularly of existing financial planners.

As Treasury has articulated in the discussion paper, the key elements of the PJC model are interrelated. The implementation of the PJC model requires the establishment of the new Education Standards Council, the development of an appropriate curriculum, and the establishment / review of existing courses and course approval, to be undertaken and completed to enable individual's to enrol in such programs.

The commencement date of the new education standards and the transition arrangements must also provide adequate time for new entrants to undertake the necessary study to complete the education needed to meet the new standards. It must also provide appropriate transition arrangements for those new entrants who are currently enrolled in an education program that may not meet the new standards.

Relevant degrees and course providers that have already been approved by the existing FPEC should be given special consideration when determining appropriate transition arrangements. This will provide continuity and offer certainty to existing planners who have completed such programs.

While the FPA believes no blanket grandfathering should apply, there is a need to acknowledge Recognised Prior Learning (RPL) of existing financial planners, including existing qualifications, ongoing Continued Professional Development (CPD) and licensee required training, as well as relevant experience. This approach is in line with current practice of universities and regulators including the Tax Practitioners Board.



As existing financial planners generally work full time, any further education would more than likely be undertaken on a part time basis. The transition arrangements for existing financial planners must reflect this and ensure an appropriate timeframe is provided to enable any necessary upgrading of initial qualifications to be undertaken part time.

Many good existing financial planners have a wealth of experience in providing quality tier 1 personal advice to consumers, and hold a diploma qualification. The relevant diploma qualifications have changed significantly over the past decade as the legal requirements set in RG146 have been amended many times. However, RG146 never required an individual to gain a qualification such as a Diploma to be compliant. The amendments to RG146 increased the number of knowledge areas to be covered in a program. An individual could complete a program of study at AQF5 level and limit this to a specialisation area of knowledge such as superannuation or insurance rather than cover all the knowledge areas. This significantly changed the quality of RG146 compliant courses and highlights the need to consider each individual's qualifications on its merits, combined with their experience, to determine the appropriate transition arrangements. The FPA recommends transition arrangements focus on 'gaps' in the education of financial planners.

For example, a financial planner may have completed a financial planning diploma in 2009 which was RG146 compliant. The planner also holds a Life Risk Specialist (LRS) accreditation from the FPA, has maintained CPD throughout his professional career, and has been providing life risk personal advice (only) to consumers for more than 5 years. While the planner's diploma was compliant with the RG146 requirements current in 2009, it did not cover some of the core knowledge areas contained in the FPEC curriculum, specifically taxation and estate planning. Acknowledging this life risk planner's qualifications and experience, appropriate transition arrangements could require the successful completion of an assessment in the missing knowledge areas such as estate planning and taxation for the TPB requirements.

This example highlights the complex issue of identifying appropriate arrangements for transitioning to new education standards. Even though the financial planner may have addressed tax in the initial diploma and ongoing through CPD activity, this previous training will not be sufficient for the purposes of the taxation and commercial law course requirements for registration under the TASA regime. The TPB may also not accept the successful completion of an assessment for the purposes of meeting its course requirements for registration. For this reason the financial planner may be required to undertake a tax course - the FPEC curriculum meets the TPB's proposed education requirements. Therefore, this planner may also be required to undertake units of study in tax and commercial law from an FPEC approved degree to satisfy both the TASA requirements and the new requirements for providing tier 1 financial advice.

Bridging course requirements could be satisfied by undertaking a unit(s) of study of an FPEC approved degree program. To facilitate this, the FPEC would have a list of the subjects that can be taken from approved courses to enable new and existing financial planners to only do the pieces of study needed to upgrade existing qualifications.

The FPA has consulted with its practitioner members, licensees, education providers and the FPEC regarding appropriate and workable transition arrangements and commencement dates for moving to



a new education standard for financial planners. Due to the plethora of complex issues involved, we would recommend and support further detailed consultation to identify how the introduction of new standards could be achieved for both new entrants into the profession and existing financial planners.

The FPA strongly recommends appropriate and separate transition arrangements are put in place for both new and existing financial planners. The FPA supports the PJC recommendation that the new FPEC be responsible for developing the detailed transition arrangements including and RPL Framework and bridging options.

### Cost

There will be cost implications for the industry and individuals wishing to enter the profession. The average cost of a unit of study at AQF7 level or higher is approximately \$1500- \$3000. Many financial planning practices and licensees support new entrants through cadetships or career advancement (of existing non-advisory staff) for example, and existing financial planners, to undertake education and training by covering the cost of the education program and providing study days and exam leave. This expense is approximately \$5,000 - \$10,000 per person per year on education related expenses.

The increased education requirements may change the remuneration expectations of financial planners, particularly if they've funded the education expenses themselves, impacting on the cost of advice.

However, many practices and licensees already operate on a professional basis and invest heavily in staff training and mentoring new planners hence the new education requirements may not result in significant extra cost for some organisations or individuals.

New entrants and those changing careers or moving into advice roles would have to spend more of their effort acquiring qualifications, and undertaking a professional year, which will ultimately impact on their productivity in the short term.

*Under the PJC model, financial planners providing personal advice on Tier 1 products would be required to undertake a professional year and ongoing professional development.*

### **Question 3.4**

What are the practical implications of requiring new planners to undertake a structured professional year at the outset of their careers as financial planners, as a way to develop on-the-job skills?

The FPA supports the need for a professional year for new entrants. However, if the PJC model is implemented in its entirety, it is vital that detailed consideration is given to how the professional year assessment component will interact with the registration exam. The FPA is concerned that this will create an overlap of requirements at great expense.



It is currently unclear how a new entrant will be permitted to complete the professional year as, under the PJC model, they are not permitted to provide advice until they are listed on the Financial Adviser Register; but they cannot be listed on the Register until they have completed the professional year. Creating a “trainee” category on the Register may provide a solution however there is a concern that consumers will not want advice from “trainee” financial planners, limiting the opportunities for new planners to gain experience and achieve the objectives of the professional year.

The FPA suggests further consideration is given to this issue.

Currently it is up to each licensee to determine supervision and experience requirements of the individuals that provide financial advice under their license. The FPA has a minimum 1 year supervised experience requirement before being eligible to be a ‘Financial Planner AFP’ member, and 3 years experience to be eligible for ‘CFP Professional’ membership.

The FPA believes there must be a balance in relation to the duration of the professional year requirement - if the duration is too lengthy it would create significant financial pressure on the licensee/employer who would carry the cost of employing the new entrant who is not in a legal position to generate an income for the business until they have completed the professional year. This could particularly impact sole traders and their ability to expand their business or take on new financial planners, especially in regional areas. It may also deter large licensees from taking on new financial planners. Requiring new entrants to complete a professional year will also reduce the productivity of junior planners who will now be unable to provide advice in their own right. These implications may impact on the availability and cost of advice for consumers.

The FPA supports a professional year of 12 months duration.

The implications of the professional year are dependent on the details of the requirement such as:

- The position the new entrant is permitted to hold within a practice - can they be a senior paraplanner for example?
- How much client facing time is expected to have with their mentor?
- Who signs off on the supervision of the professional year requirements?

### Relevant experience

Measuring experience in providing personal financial advice as a representative or authorised representative of a licensee is different to measuring employment within financial services either in a related or unrelated role. Therefore it is important that ‘relevant experience’ for new and existing financial planners is appropriately defined.

For new entrants into the profession, the FPA recommends the following definition:

*Relevant experience can be gained by an individual (including but not limited to):*

- *providing limited financial advice under the supervision of an experienced senior financial planner (for example, a CPF with a minimum of 5 years experience),*



- *in a paraplanning role assisting representatives in the provision of financial advice to consumers,*
- *in a compliance role involved in the oversight of representatives providing financial advice to consumers, or*
- *as part of a financial planner internship program.*

It is important that relevant experience includes mentoring and coaching from senior financial planning professionals experienced in providing tier 1 personal financial advice to consumers.

The FPA recommends an individual must have a minimum of one year of relevant experience in the preceding 3 years to be permitted to provide tier 1 personal advice.



#### 4. Structure and role of a standard-setting body

*The PJC model would establish an independent FPEC as the central body to set education standards, professional year requirements, registration exam content and ongoing professional development requirements.*

*Under the PJC's recommendations, FPEC would be funded by approved professional associations and would comprise representatives from those associations, academics, consumer advocates and an ethicist.*

##### Question 4.1

What are the practical implications of FPEC performing this role? For example:

- how would FPEC interact with regulators and government agencies, such as ASIC, and education bodies?
- would FPEC need to be supported by legislation in order to perform its role?
- is the recommended FPEC membership appropriate?

#### Establishing a new education setting body (i.e. FPEC)

FPA supports the establishment of a new independent education council (i.e. FPEC). The process to determine the structure, Constitution/Charter, funding model, composition and establishment of the new FPEC should be done under the existing government consultation process with Treasury taking on the role of secretariat.

The work of the new FPEC should leverage the successful work and foundations set by the existing FPEC and the *National Curriculum and Assessment Framework* it has developed and implemented. The existing FPEC operates under a Charter, which could be used as a starting point for developing an appropriate Charter for the new FPEC.

**The FPA emphasises that the Government does not need to start from scratch in establishing the new FPEC. This process can be shortened by the new FPEC leveraging the work of the existing FPEC. The FPA has stated on the public record that it will 'gift' this intellectual property to the industry and Government for this purpose.**

#### Structure and role of the new education standards council

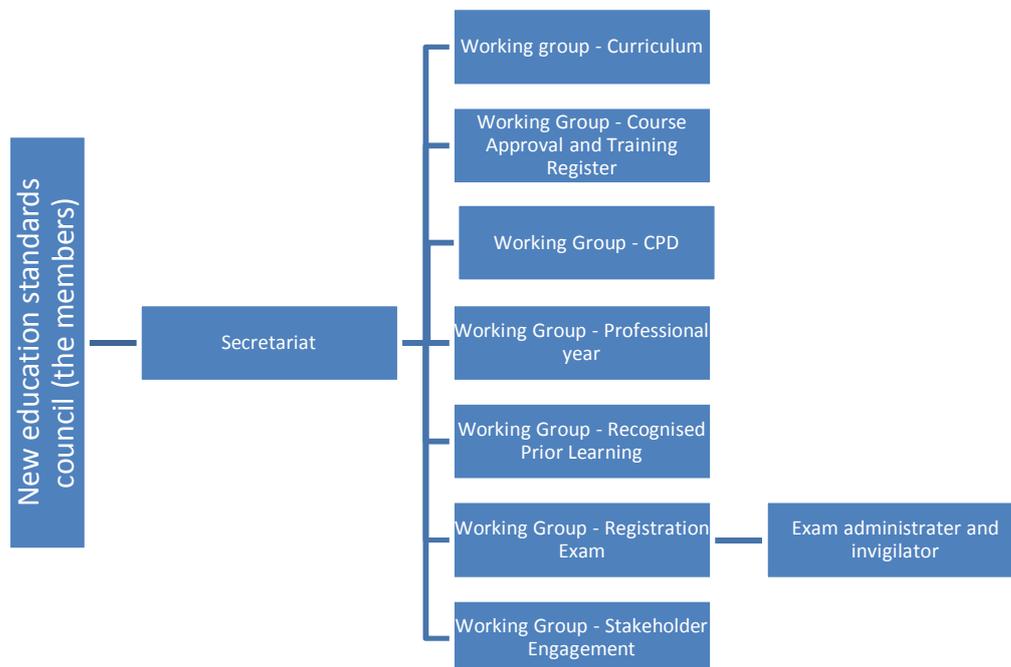
The FPA recommends an appropriate structure of the new education standards council must be considered, including the size of secretariat needed to fulfil its role.

The FPA recommends the structure of the new education standards council should consist of:

- A Council or Board:



- the Minister should appoint first Chair of the new FPEC, with a process to re-constitute the Council at the end of the Chair's term.
- The FPA supports the PJC recommended membership model of the new FPEC, however the FPA is also supportive of alternative models which may or may not include professional bodies as direct members of the new FPEC.
- A Secretariat that reports into the Council.
- Working groups that report into the Secretariat and include at least one representative of the Council.
  - Key stakeholders would be invited to participate in the appropriate working group.
  - Regulators including ASIC and the TPB, government agencies, and EDR schemes should all be invited to participate in the Stakeholder engagement working group



The role and expertise of the new education standards council must focus on education standards. It should not be involved in or responsible for professional standards. This requires different expertise and skills.

The new FPEC should be required to develop an Annual Review for all stakeholders, including education providers, licensees and planners. However, there should be no formal reporting requirements from the new Council to the regulators – ASIC and the TPB



### Funding the new education standards council (i.e. FPEC)

The FPA acknowledges the willingness of financial institutions to provide capital to fund the new education standards council. However, we have concerns about conflicts of interest and control in relation to such an arrangement.

Therefore the FPA strongly believe licensees should not be allowed to sit on the Council of the new body.

The FPA would consider the following options for institutions funding of the new education standards council:

- Upfront voluntary contribution of seed funding with “no strings attached”, and / or
- An ongoing levy from licensees (and professional bodies)
- For institutions to provide funding, must be all in or all out

Alternatively, seed funding from the Government may be required to establish the new Council, with an industry levy and support from professional bodies providing ongoing income.

### Legislative support and interaction with Regulators

The new education standards council will be an independent entity in its own – a non-profit organisation with own Charter, constitution, terms of reference. The new education standards council could be established under a variety of mechanisms:

- Under ASIC – similar arrangement to EDR schemes
- Direct through legislation
- Via ASIC acknowledging it in RG146 –
  - this should include a requirement for an industry levy and a requirement to consult with stakeholders, and
  - state that the education standards licensees and advisers must adhere will be established by FPEC



#### Question 4.2

Are there alternative arrangements that would be more appropriate or effective?

The FPA does not support reviewing the current RG146:

- The training obligations set by ASIC in *RG146* are based on the definition of financial product advice in the Corporations Act and therefore are focused on training on financial products rather than building competencies in providing financial advice.
- RG146 was developed in 1997 prior to the introduction of both the Financial Services Reform (FSR) Act and the Future of Financial Advice (FOFA) reforms.
- The changes introduced under these two regimes were so substantial they have significantly changed the shape of the financial planning profession and financial services industry more generally.
- basing any changes to financial planner education on the existing structure of the RG146 will significantly undermine the objectives of the change
- The structure and requirements of ASIC's RG146 are inappropriate in today's financial advice education environment (RG146 was developed in 1997 prior to FSR and FoFA reforms)

The FPA also does not support establishing a statutory Professional and Education Standards Board:

- Different expertise and skill set is required for setting education standards to those required for determining appropriate professional standards.
- The establishment of a new education standards council and increasing the education requirements to provide financial advice must not be delayed by the further consideration required to identify appropriate professional standards framework.



## 5. Registration

*Under the PJC model, individuals must be listed on the Register in order to practice.*

### Question 5.1

What are the practical implications of requiring individuals to be registered in order to provide financial advice?

### Roles and responsibilities

The FPA supports the requirement for individuals to be registered in order to provide financial advice. This will provide greater transparency for consumers, industry and regulators.

As detailed above, the FPA believes there must be clear communication around each parties' responsibilities in relation to the information required for the Financial Adviser Register:

1. Initial education requirements:
  - a. meeting initial core requirements to be able to provide advice. Under the PJC Model this includes passing a proposed registration exam, holding a relevant degree, and completing a professional year, with the detailed requirements to be set by FPEC.
  - b. As per the PJC Model, professional bodies should be responsible for verifying and notifying ASIC that a planner has met their initial education requirements and can be registered on the Adviser Register.
2. Licensee authorisation: ensuring the planner is competent to provide the type of financial advice the licensee is licensed to provide. This will be specific to each licensee.
  - a. Initial requirements - The professional body verification should be supported and cross-checked with licensee reporting that a planner operating under their license is competent to provide the type of advice the licensee is authorised for.
  - b. Registered planner changing licensees - Licensees should also be responsible for notifying ASIC is a planner has changes licensees. The new licensee should be required to notify ASIC that the planner is competent to provide the type of advise the licensee is authorised to provide.
  - c. The financial planner should be responsible for notifying their professional body that they have changed licensee however the professional body should not be required to verify or notify ASIC of the change.



### 3. Specialisations:

- a. Licensees should be required to verify and notify ASIC when a registered planner completes additional training such as adding a specialisation.
- b. The financial planner should be responsible for notifying their professional body of relevant additional training, such as a specialisation, however the professional body should not be required to verify the additional training or notify ASIC of the change.

Communication to all stakeholders including planners, of the roles and responsibilities of each channel is vital: FPEC sets the requirements; professional bodies verify and notify ASIC of a planner's completion of the initial requirements; licensees notify ASIC a planner is competent to provide the type of advice they are licensed to for; licensees verify and notify ASIC when a planner changes licensee or adds a specialisation; and the planner notifies their professional body when they have completed the initial requirements, change licensee, and add a specialisation.

#### Interaction with Professional Year requirement

It is currently unclear how a new entrant will be permitted to complete the professional year as, under the PJC model, they are not permitted to provide advice until they are listed on the Financial Adviser Register; but they cannot be listed on the Register until they have completed the professional year. Creating a "trainee" category on the Register may provide a solution however there is a concern that consumers will not want advice from "trainee" financial planners, limiting the opportunities for new planners to gain experience and achieve the objectives of the professional year.

The FPA suggests further consideration is given to this issue.

#### Interaction with the TPB registration

It is currently unclear how the Financial Adviser Register will interact with the TPB's register of tax (financial) advisers.

As previously discussed, providing tax advice is integral to and integrated throughout the financial planning process. It is a current legal requirement for financial planners to be registered with the TPB to be permitted to provide tax advice.

If financial planners are also required to be register on the Financial Adviser Register to be permitted to provide financial advice, it make sense that the registration information with both regulators is easily accessible for all stakeholders.

To ensure consumers can access all the pertinent information about a financial planner in one spot, it is paramount that Financial Adviser Register include information about the TPB registration status of an individual, where appropriate.



### Timeliness of registration process

The FPA is concerned about the impact of the time required to verify an individual has met the new requirements, notify ASIC and to be listed on the Register. Significant delays between when an individual completes the requirements, to being verified by their professional body and listed on the Register by ASIC, will restrict their ability to practice.

The FPA recommends a MoU for information sharing between the Regulator and professional bodies is fundamental to ensuring an efficient process. Service standards may also assist in encouraging the verification and listing of an individual is done in a timely manner.

#### **Question 5.2**

Should it be the role of professional associations to notify ASIC that all requirements have been met for an planner's registration, and of factors which affect their subsequent fitness for registration?

The FPA supports the PJC proposal that professional bodies be responsible for verifying and notifying ASIC that an individual has met the new requirements for registration on the Financial Adviser Register.

See sections above for more details on roles and responsibilities.

*The PJC recommends that, in addition to the information currently required to be listed on the Register, a planner's completion of the relevant education requirements, professional year and registration exam, and their professional association membership, higher qualifications and any censure or ASIC action, also be listed.*

#### **Question 5.3**

What are the practical implications of having these criteria listed on a public adviser register?

### Roles and responsibilities

The FPA supports the addition of this information on the Financial Adviser Register.

Please see sections above regarding the roles and responsibilities required to support this information being included on the Register.

### Professional Membership

The FPA is concerned about the relevance to the provision of financial advice of some of the professional associations listed on the current ASIC Financial Advisers Register.



Of the 16 bodies currently listed on the Register six were related to financial planning, three to accountancy, two to superannuation funds and trustees and one to stock broking, general insurance broking, managed account providers, investment analysts and the provision of education.

Some of these bodies do not have individual advisers providing financial advice which undermines the value and integrity of the Register for consumers.

We acknowledge that the Government's pending response to the PJC Recommendations will include its decision on whether professional bodies should be required to be approved by an authority, and that this will influence which professional bodies can be listed on the Register.

The FPA believes professional bodies listed on the Register must meet clear criteria, preferably set by an authority that approves professional bodies.

### Censure

As previously stated, the FPA is concerned about the recommendation that professional bodies be required to notify ASIC of any censure against a financial planner.

Annotating on the Financial Adviser Register equates to naming and shaming, a sanction the FPA only uses in significant cases of misconduct or breaches of our professional obligations. Naming and shaming can have a significant impact on an individual's career and may far outweigh the breach and FPA action. To include a censure on the register when a naming sanction has not been imposed by our independent Conduct Review Commission, will undermine the FPA's remedial approach to Code breaches and be contradictory to our Disciplinary Regulations and Constitution.

The FPA supports transparency of bad practices however we suggest notification of censures is limited to systemic or significant breaches, or matters of public interest. We would welcome further discussion on this matter.

### **Question 5.4**

Are there alternative or additional criteria that should be listed on the Register?

### Professional designations

There are a number of existing professional designations that relate to the provision of financial advice. These designations require study at a higher level than the proposed new minimum requirement of AQF7. However each designation has significantly different requirements and produce learning outcomes for the financial planners undertaking the study.

Similarly, there are a variety of specialisation accreditations held by financial planners. For example, LRS (Life Risk Specialist).



To minimise the impact of jargon from the Register, the FPA believes it is necessary to include descriptions of professional designations and specialisations to allow consumers to gain a greater understanding of the different professional designations and specialisations financial planners may hold.

*The current Register requires licensees to provide information to ASIC about individual planners. Under the PJC model this responsibility would be shifted to professional associations.*

#### Question 5.5

What are the practical implications of having professional associations perform this role? For example, are professional associations sufficiently resourced and how would they interact with ASIC in relation to these requirements? Does this approach dilute the responsibility of licensees?

As previously explained, professional bodies already undertake a verify process as part of its membership application process. For the FPA this includes verifying qualifications and experience. While the proposed PJC Model could result in an increase in the number of membership applications requiring verification, we have processes and systems in place to enable us to perform this role.

Should the Government implement the PJC Model, the FPA would review its resource allocation to ensure we have the capability to meet any growth membership applications. The FPA is committed to resource appropriately to take on this role.

As previously stated, the FPA believes the verification role of professional bodies should apply to the initial education requirements for providing financial advice – that is initial qualifications, proposed exam, and professional year.

The FPA would need to work with ASIC to identify the most efficient means for notifying the Regulator that an individual has met the new education requirements. This would also require an information sharing Memorandum of Understanding to be established between the FPA and ASIC.

The FPA does not believe this verification role dilutes the responsibility of licensees. Please see sections above for further detail on this position.

#### Question 5.6

Is legislative protection of the titles 'financial adviser' and 'financial planner' necessary?

It is the FPA's strong belief that to strengthen consumer protection and to reinforce compliance to professional standards, the law must restrict the use of the titles financial planner and financial adviser to only those that are a member of a PSC recognised professional body.



A lack of restrictions on the use of the titles financial planner and financial adviser is, among other things, a significant gap in consumer protection. It leaves trusting consumers open to influence by unlicensed and unqualified individuals calling themselves financial planners or financial advisers.

During the Parliamentary Joint Committee (PJC) Inquiry into the collapse of Storm Financial, the recommendation of restricting the titles financial planner and financial adviser was raised. The Boutique Financial Planning Principals Group (BFPPG) stated:

*The public can readily identify other professions: doctors, lawyers etc by their title. There are, however, thousands of individuals holding themselves out to be financial planners who meet the barest minimum training or ethical requirements. In most cases these people are associated with single product areas of advice or advice that is focused strongly into one type of asset class or investment type. There are real estate agents who call themselves financial planners so that they can offer advice on the investment of excess funds after the purchase or sale of a property. There are property developers who call themselves financial planners so that they can package the sale of their property development into superannuation funds.*

The PJC committee acknowledged in their report [5.87]<sup>2</sup>:

*...legitimate concerns about the varying competence of a broad range of people able to operate under the same 'financial adviser' or 'financial planner' banner. The licensing system does not currently provide a distinction between advisers on the basis of their qualifications, which is unhelpful for consumers when choosing a financial adviser.*

From a consumer perspective there is minimal understanding of the different roles and more importantly restrictions placed on the different providers and the limitations of the advice information consumers may be provided.

There is a high level of confusion in the market, within industry, media, Government and consumers, about the definitions and roles of financial planners, financial advisers, those that just sell financial products and those operating unlicensed. Some incorrectly represent themselves to consumers as financial planners and financial advisers without the appropriate, training, licensing, and professional standing and competency required. This significantly erodes consumer protection. The lack of constraint on individuals calling themselves financial planners and financial advisers puts consumers at risk of receiving poor advice from incompetent providers and creates consumer confusion.

The titles financial planner and financial adviser are also increasingly being used in marketing and promotional material by persons who provide non-traditional ancillary services, such as realtors, stockbrokers, life insurance agents or brokers, mortgage brokers, property brokers, sales agents of various investment vehicles, accountants, and unlicensed individuals.

This position is supported by an article in the Canberra Law Review (2011)<sup>3</sup>:

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<sup>2</sup> Parliamentary Joint Committee, *Inquiry into financial products and services*, November 2009, pp 90

<sup>3</sup> *Canberra Law Review* (2011) Vol. 10, Issue 3. The future of financial advice reforms: Restoring public trust and confidence in



*Trust and confidence in a professional industry is built upon the belief that the professionals working in that industry have special training and knowledge, high standards of accountability and a belief that advice given is in the best interest of the client seeking expert knowledge. Without adequate training and specialist knowledge, it is difficult to see how any of the previously mentioned factors can be fulfilled, as good advice cannot be given by an adviser whom has not been properly trained and lacks specialist knowledge. In order to restore trust and confidence in the financial advice industry, these issues must be addressed.*

*Furthermore, a closely related matter to this issue that is yet to be implemented is the restriction of the use of the term 'financial adviser' and 'financial planner' to people that have membership to the appropriate professional standards board. Until these issues have been addressed, there will remain significant deficiencies in the implementation of the Ripoll Inquiry recommendations, which will hinder progress in restoring consumer trust and confidence in the financial advice industry.*

Australians deserve the best possible advice from the most qualified practitioners – and these practitioners should be bound by a professional framework that goes beyond the law and requires adherence to standards of conduct, ethics and education, which are specifically tailored to the provision of quality financial advice.

The criteria for using the titles financial planner and financial adviser should be linked to membership of a professional body recognised by an appropriate Regulator or government body. This is akin to individuals who attain their status as a registered tax (financial) adviser through membership of a recognised professional tax agent association.

The FPA supports the PJC recommendation subject to the following being permitted:

1. the continued ability to use Certified Financial Planner® and CFP; and
2. the use of the term (or like terms) as individual titles versus names of organisations and courses, and
3. that "and like terms" will be included on both the financial planner prohibition and the financial advice restriction.



## 6. Exam

*The PJC model introduces a registration exam at the end of the structured year of professional development.*

### Question 6.1

Do you consider a registration exam should be a component of a framework to improve professional standards? Should the exam apply to both existing and new planners?

### Registration exam for new financial planners

Should the Government implement the proposed registration exam for new financial planners, the FPA would support the Government's decision. However, consideration must be given to how the registration exam fits within the education framework for financial planners.

For example, the PJC model proposes increasing the minimum education requirement to a degree or AQF7 level. Education programs at an AQF7 level and higher have thorough assessment components for each subject. This commonly includes exams and assessment projects. Similarly, the professional year proposed by the PJC includes an assessment component.

The FPA is concerned that the addition of a registration exam will lead to unnecessary duplication at significant cost.

The following information is based on the FPA's experience in developing and administering exams for our CFP Certification Program. It is crucial to ensure the currency of exam questions and the integrity of the administration of the exam.

#### *i. Exam Development:*

- \$180 per multiple choice question to the initial writer of new questions.
- Each question is reviewed by a technical expert and instructional designer
- The exam is compiled.
- This is reviewed by instructional designer
- It is reviewed by two panels of CFP professional prior to going to print.
- After the exam each question is analysed for performance as to how it discriminated between the good and poor performers.
- The exam is analysed for reliability and validity.
- The pass mark is 70%.

#### *ii. Exam Administration:*

Please note the CFP Certification Exam is paper based. Online examinations would be more suitable for the national exam to cater for the large number and geographical spread of candidates.



Exam administration costs include:

- training exam invigilators for each exam centre - this varies depending on the number of students
- rental of exam venues throughout Australia and occasionally overseas.
- Printing of examination paper is done securely by the university.
- Couriering of papers to exam and completed papers and all exam paper back to university post exam
- Exams are marked twice by computer - It is marked by the university and an external marker to ensure accuracy
- Visual Review of exam marking may be requested by students.

The FPA is concerned that the proposed increase in licensing fee, plus the proposal for industry to fund FPEC (either directly or via professional body), plus cover the cost of the exam (via FPEC) is a triple increase for industry which may impact the cost of advice.

### Registration exam for existing financial planners

In principle, the FPA would support a one-off exam to be used as one option for existing financial advisers to transition to the new education standards. This would be similar to the registration exam used for existing SMSF Auditors. This transition exam could test the core knowledge areas of existing financial advice providers.

The use of the registration exam for existing financial planners should be considered in the context of other transition requirements. The transition arrangements should provide exemptions, bridging and assessment options that appropriately acknowledge the previous education, qualifications, CPD and experience in providing tier 1 financial advice of existing financial planners.

For example, the FPA recommends existing financial planners who hold a relevant degree or the CFP designation should be exempt from the exam.

Bridging course options should also be available for existing financial planners and could be satisfied by undertaking a unit(s) of study of an FPEC approved degree program. To facilitate this, the FPEC would have a list of the subjects that can be taken from approved courses to enable new and existing financial advisers and financial planners to only do the pieces of study needed to upgrade existing qualifications.

Should this PJC proposal be implemented, it should apply to all individuals authorised to provide tier 1 financial advice who do not already hold a relevant degree or CFP designation, regardless of the type of advice they provide. There should be no carve outs.



### Question 6.2

What are the practical implications of the use of a registration exam?

The FPA is concerned that there is a public perception that passing an exam provides reassurance an individual is appropriately trained. While a registration exam may create a consistent benchmark for practice, some individuals may not perform to their true ability in an exam environment.

Accessibility issues would need to be considered for regional planners and individuals who have anxiety problems when sitting exams.

The role of the professional bodies is to verify and to notify ASIC the exam has been passed. The professional body is reliant on the exam administrator to provide verification of the exam. Appropriate systems and authorities would need to be in place to ensure there is no delay to the the process of financial planner registration.

### Question 6.3

What content should be covered in the exam?

An exam must not be multiple modules but one exam to test the core knowledge required to provide financial advice, regardless of speciality, such as testing the application of ethical and regulatory obligations and client relationships.

The FPA does not support a modular exam or a focus on financial products.

The exam should test knowledge at the equivalent AQF7 level of the new education requirements.

### Question 6.4

Is FPEC the appropriate body to set the exam? Who should be responsible for invigilating the exam? Who should be responsible for marking the exams?

To achieve the objective and ensure independence of the exam, the FPA recommends FPEC should control all elements of the exam from setting the questions, appointing invigilators to oversee the exam, marking the exam and notifying individuals of exam results.



## 7. Ongoing professional development

*The PJC model requires mandatory ongoing professional development for financial planners.*

### Question 7.1

What are the practical implications of the proposed ongoing professional development requirements?

It is not possible for a university program to train students in all the attributes required for high quality financial planning practice. Rather, initial education needs to be supplemented by further vocational training and meaningful Continuing Professional Development (CPD) experiences enabling individuals to critically evaluate progressive changes in financial planning professional practice requirements, and to apply their knowledge appropriately throughout their professional career.

The current requirement in ASIC RG146 is for licensees to implement policies and procedures to ensure that they and their planners undertake continuing training to maintain and update the knowledge and skills that are appropriate for their activities. There is no prescribed minimum hours or hours required.

The TPB requires registered tax (financial) adviser to maintain their knowledge and skills relevant to the tax (financial) advice that they provide through a minimum of 60 hours of CPD over three years (with a minimum of seven hours in one year), both to be eligible for TPB registration and to meet ongoing compliance requirements. The TPB will also accept that their CPD requirements have been met if the individual is a member of a TPB recognised professional body and has met the CPD requirements of the professional body.

Most licensees use the FPA CPD policy as their guide to ongoing professional development, however there remains a gap in the industry for those licensees and financial planners that are not bound by membership of a professional body and therefore have chosen little or no ongoing training. However, there is a significant majority of existing financial planners who already commit to ongoing professional development requirements and acknowledge the benefits of continuing to improve one's knowledge through training.

The FPA and the profession recognise the importance of CPD as an integral part of not just the education framework, but also a fundamental part of the professional framework. Not only is it a way of maintaining currency of technical knowledge and ensuring financial planners remain professional; it is also a way of growing new knowledge and expanding an individual's abilities as professionals.

CPD should help financial planners to develop characteristics and skills beyond the technical competencies and aligned to their professional and personal goals. CPD requirements should permit financial planners to:

- consider CPD not as a compliance challenge but as an opportunity to maintain personal and professional confidence and proficiency;
- take opportunities to reflect upon their own professional practice;



- participate in learning activities which meet the legal and ethical obligations of the profession; and
- pursue opportunities for engagement with the profession and the wider community.

Any additional costs imposed on those who do not currently undertake and maintain CPD is far outweighed by the benefits to the individual planner, the practice and clients. Those who do not currently undertake CPD will be required to identify appropriate CPD activity based on the type of financial advice they provide and log such activity once completed.

The FPA recommends the Committee support requirements for financial planners to undertake a minimum of 90 CPD hours over a triennium period, with a minimum of 25 hours in any given year.

#### Question 7.2

Are professional associations well-placed to administer ongoing professional development requirements?

Continuing Professional Development needs to be dynamic and up-to-date with the changes in the industry, financial services market, regulatory environment and economic conditions, and evolving consumer needs. Therefore, the FPA supports the PJC recommendation for professional associations to administer CPD and maintain the responsibility for setting, over-seeing and maintaining compliance with CPD requirements.

The industry is already well established in developing, maintaining and monitoring CPD requirements for financial planners. For example, the following table summarises the key CPD requirements for practitioner members of the FPA.

CPD Hours	CFP® Professionals 120 hours/triennium with a minimum of 35 hours each year	Associate Financial Planners 90 hours/triennium with a minimum of 25 hours each year
Non Accredited CPD	Capped at 60 hours per triennium	Capped at 45 hours per triennium
Ethics Requirement	Minimum of 3 hours per triennium in the Professional Conduct specifically covering Ethics	
Content Requirements	<ul style="list-style-type: none"> <li>• CPD activities undertaken <i>must</i> be captured in a Professional Development Record</li> <li>• Members are encouraged to take a holistic approach to CPD and as such should look to include CPD activities across all professional dimensions</li> </ul>	
Record Keeping	<p>The following records must be kept for 5 years</p> <ul style="list-style-type: none"> <li>• Professional Development Record (or CPD register)</li> <li>• Professional Development Plan</li> <li>• Additional Evidence for non accredited activity</li> </ul>	



The FPA uses a Professional Dimensions Model for developing, maintaining and monitoring its CPD requirements. Being a professional is more than being technically competent. It's about being a rounded individual with ability to think critically and respond to client needs in a professional way. The Professional Dimensions describe the holistic skills and knowledge that it takes to be a professional.

The FPA's CPD Policy encourages members to identify development opportunities across the 6 professional dimensions. In our view any and all educational activity can fall under one or more of the dimension



<b>Capability</b>	The technical, legal, product and industry knowledge that it takes to advise clients and run a business
<b>Professional Conduct</b>	All the skills and knowledge that go into making good, informed and client centred decisions
<b>Critical Thinking</b>	The skills of how to process complex information and create new solutions
<b>Reflective Practice</b>	Skills in developing others and yourself - thinking about the professional and personal needs of others as well as your own
<b>Interdependence</b>	Engagement with the profession, the industry and peers in ways that instil consumer confidence
<b>Attributes and Performance</b>	Skills in building professional relationships and improving professional performance

### CPD monitoring and enforcement

Adherence to the FPA's CPD Policy is a practitioner member requirement and failure to comply may ultimately result in suspension of membership.

The FPA undertakes audits of a random sample of Member Professional Development Records on an annual basis. Members are required to produce the following:

- An up-to-date Professional Development Plan



- A copy of their Professional Development Record
- Supporting materials for non accredited CPD (if requested)

To comply, the Professional Development Record should show evidence of CPD activity that:

- Links to the Professional Development Plan;
- Includes 3 hours in the Professional Conduct Dimension specifically on Ethics
- A minimum of 25 hours annually<sup>4</sup> with a minimum of 90 hours over the triennium;
- No more than 45 hours accumulated through non accredited activities; and
- No more than 15 hours accumulated through non-accredited professional reading.

CFP Professionals may also be asked to provide a record of their CPD activity as part of the CFP professional membership renewal process. If a member's CPD record is found to be in deficit, the member will be given 90 days to rectify the deficit. Failure to cooperate with the audit process will result in disciplinary proceedings being brought against the member, which may lead to fines, cancellation of CFP Professional status or cancellation of FPA membership.

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<sup>4</sup> The FPA measures CPD over financial years, from 1 July to 30 June.



## 8. Professional and ethical standards

### *Code of ethics*

*The PJC recommended that professional associations be required to establish codes of ethics that are approved by the PSC.*

### **Question 8.1**

What are the practical implications of having each professional association create its own code of ethics? For example, what are the implications of having multiple codes as opposed to a single code?

Having multiple codes means recognising professional bodies or approving codes of professional bodies. Requiring advice providers to adhere to one single code can only be done through a legislated code.

Professional codes in the financial advice profession apply to the individual practitioner and the actual technical financial advice they provide to consumers. Such codes have the ability to set high standards specific to the provision of personal financial advice, beyond the capability of a legislated code. Professional codes are about the individual practitioners sitting across the table from the client. Professional codes focus on and normalise that individual's behaviour.

A legislated code generally applies to the licensed entity and requires companies to meet the ethical standards and responsibilities expected of a corporate entity. Further, a legislated code would be restricted to the definition of 'financial product advice' which is product rather than advice focused and does not encapsulate the provision of financial planning services. Legislated code is limited to the product centric Corporations Act definitions.

The FCA model requires advice providers to hold a 'statement of professional standing' from an accredited professional body. Recognised professional bodies must have professional obligations that its members must adhere to. To date, the Regulator has recognised 8 professional bodies each with its own Code. The FPA could find no public information from the FCA regarding issues relating to multiple Codes.

The FPA does not support a legislated code for financial advice.



*Approval of a scheme under the PSC has previously meant capped liability for participants.*

#### Question 8.6

Is it appropriate that liability in relation to financial advice/services be limited at this time? Is limitation of liability a necessary element for the operation of the PJC model?

The PJC Model proposes the PSC approve professional bodies' schemes. The PSC's primary role is to "improve professional standards and protect consumers of professional services across Australia". They are a specialised, independent statutory body whose purpose is to work with professional associations to help them:

- Develop self-regulation initiatives
- Improve their professional standards
- Meet their self-regulatory commitments
- Comply with their legislative obligations and
- Protect Australian consumers of professional services

The PSC understands and supports the role of professional bodies in co-regulating members and driving cultural change. In contrast, regulators are focused on the laws under which they operate using a carrot and stick approach. Cultural change is not a focus of the Regulator.

The cultural and behavioural change that is needed in the financial services industry will only occur if organisations are incentivised to change. The capped liability scheme of the PSC incentivises organisations to perform to higher standards. It has a proven track record with positive results in the legal and accounting professions.

The role of the authority that approves professional bodies or their code must be considered when identifying the appropriate mechanism for approval.

#### Question 8.7

What are the practical implications of capping liability? For example, what changes to Commonwealth and/or state and territory legislation would be required?

As previously stated, the FPA believe the focus of the Government's considerations must be on:

1. Whether the Government supports co-regulation and the role of professional bodies in raising standards in the financial services industry, and if so
2. Identifying the most appropriate mechanism for ensuring there is accountability of those professional bodies who chose to take on this role.

The issue of capped liability has side-tracked this discussion.



*Role of professional associations*

**Question 8.9**

What are the practical implications of mandating membership of a professional association? Are there implications arising from the increased responsibility on professional associations rather than on the licensee?

The primary mandate of a professional body is to represent the interests of the public. A licensee has commercial interests as its primary mandate. Both entities must play a role in a co-regulatory model alongside the regulators.

To mandate professional membership, either the professional body or its code would need to be recognised by an authority.



## 9. Other issues for consideration

### *Transitional arrangements*

#### **Question 9.2**

Do you consider FPEC to be the best entity to determine transitional arrangements for existing planners and planners wishing to move within the industry?

The FPA support FPEC as the best entity to determine the transitional arrangements for existing financial planners and those wishing to move within the industry.

Due to the plethora of complex issues involved in identifying appropriate transition arrangements, we support FPEC's role in undertaking further detailed consultation to identify how the introduction of new standards could be achieved for both new entrants into the profession and existing financial planners.

The commencement date of the new education standards and the transition arrangements must provide adequate time for new entrants to undertake the necessary study to complete the education needed to meet the new standards. It must also provide appropriate transition arrangements for those new entrants who are currently enrolled in an education program that may not meet the new standards.

While the FPA believes no blanket grandfathering should apply, there is a need to acknowledge Recognised Prior Learning (RPL), including existing qualifications, ongoing Continued Professional Development (CPD) and licensee required training, as well as relevant experience, of existing financial planners.

As existing financial planners generally work full time, any further education would be undertaken on a part time basis. The transition arrangements for existing financial planners must reflect this and ensure an appropriate timeframe is provided to enable any necessary upgrading of initial qualifications to be undertaken part time.

Bridging course requirements could be satisfied by undertaking a unit(s) of study of an FPEC approved degree program. To facilitate this, the FPEC would have a list of the subjects that can be taken from approved courses to enable new and existing financial planners to only do the pieces of study needed to upgrade existing qualifications.

The FPA also recommends that an assessment option be available for existing financial planners, where appropriate.

Transition arrangements should capture individuals who commence a course based on the current AQF5 level requirements in RG146 during the transition period and after the education requirement are changed.



### Question 9.3

Do you consider Recognised Prior Learning a suitable transitional arrangement for existing planners?

While the FPA believes no blanket grandfathering should apply, the FPA supports the use of Recognised Prior Learning (RPL), including existing qualifications, ongoing Continued Professional Development (CPD) and licensee required training, as well as relevant experience, of existing financial planners.

Many good existing financial planners have a wealth of experience in providing quality tier 1 personal advice to consumers, and hold a diploma qualification. The relevant diploma qualifications have changed significantly over the past decade as the legal requirements set in RG146 have been amended many times. However, RG146 never required an individual to gain a qualification such as a Diploma to be compliant. The amendments to RG146 increased the number of knowledge areas to be covered in a program. An individual could complete a program of study at AQF5 level and limit this to a specialisation area of knowledge such as superannuation or insurance rather than cover all the knowledge areas. This significantly changed the quality of RG146 compliant courses and highlights the need to consider each individual's qualifications on its merits, combined with their experience, to determine the appropriate transition arrangements.

For example, a financial planner may have completed a financial planning diploma in 2009 which was RG146 compliant. The planner also holds a Life Risk Specialist (LRS) accreditation from the FPA, has maintained CPD throughout his professional career, and has been providing life risk personal advice (only) to consumers for more than 5 years. While the planner's diploma was compliant with the RG146 requirements current in 2009, it did not cover some of the core knowledge areas contained in the FPEC curriculum, specifically taxation and estate planning. Acknowledging this life risk adviser's qualifications and experience, appropriate transition arrangements could require the successful completion of an assessment in the missing knowledge areas such as estate planning and taxation for the TPB requirements.

This example highlights the complex issue of identifying appropriate arrangements for transitioning to new education standards. Even though the financial planner may have addressed tax in the initial diploma and ongoing through CPD activity, this previous training will not be sufficient for the purposes of the taxation and commercial law course requirements for registration under the TASA regime. The TPB may also not accept the successful completion of an assessment for the purposes of meeting its course requirements for registration. For this reason the financial planner may be required to undertake a tax course - the existing FPEC curriculum meets the TPB's proposed education requirements. Therefore, this planner may also be required to undertake units of study in tax and commercial law from an existing FPEC approved degree to satisfy both the TASA requirements and the new requirements for providing tier 1 financial advice.

Because of the important role work experience plays in the development of an individual's knowledge and skills, and the different learning outcomes gained depending on the education program undertaken, universities universally assess each individual's previous education, training and experience against course pre-requisites and in considering appropriate exemptions. This includes assessing whether an individual needs to undertake a full degree program, or whether a bridging



course or individual subjects to fill education or knowledge 'gaps' is appropriate. This is a well established process that should be leveraged and can appropriately assist existing financial planners, and licensees, to transition to the new education standards.

#### Question 9.4

What is an appropriate timeframe over which existing planners should transition to the new system?

Transition timeframe will be dependent on the timing of the Government's response to the PJC Recommendations and changes the Government decides to implement. Some changes may take longer to implement than others.

As previously mentioned, the implementation of proposed changes to professional standards is complex and require further discussion to identify the most appropriate solution. However, the existing FPEC has laid a solid foundation which could be leveraged for an increase in education requirements for financial advice providers.

The FPA suggests the following timeframes for transitioning to new education standards for financial advice providers, for further discussion and consideration:

1. New financial planners – 3 years from the commencement of the new education standards
  - a. 3 years is the average length of a full time undergraduate degree program. This will allow new entrants to commence and finish a relevant degree.
2. Existing financial planners – 4 years from the commencement of the new education standards
  - a. Depending on whether a transition exam is used or further study is required.

#### Question 9.5

Are there any alternative transitional arrangements that would be more appropriate or effective, for either new or existing planners?

The transition arrangements should provide exemptions, bridging and assessment options that appropriately acknowledge the previous education, qualifications, CPD and experience in providing tier 1 financial advice, of existing financial planners and financial advisers.



### Timing

*The PJC recommended an implementation timeline that would see FPEC establish education standards by June 2016, professional associations operating under a PSC approved scheme by 1 January 2017 and all planners (new and existing) to be fully registered by 1 January 2019.*

#### Question 9.6

Are there any particular elements of the PJC model that present timing challenges?

The establishment of an independent education council (i.e. FPEC) is a priority which must not be delayed.

Approving professional bodies presents challenges which may require a staged approach to consider all possible and appropriate options, and therefore may require further discussion and time to resolve.

#### Question 9.7

What timing or phasing would most effectively balance the recognised need to raise standards and competency in the short-term against practicalities of implementing a new model to raise standards of new and existing planners over the longer term?

1. The Government must legislate the PJC recommendations immediately
2. Once legislated consider a staged implementation process with priority given to the establishment of the new FPEC and education standards for financial planners.
3. Then commence implementing the process for approving professional bodies and the requirement for mandating membership of financial planners/advisers.