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Dear Sally

## GREEN PAPER ON FINANCIAL ADVICE

The Stockbrokers and Financial Advisers Association (SAFAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and Advisory firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

SAFAA members represent the full range of advice providers from online providers providing execution-only services to full-service stockbroking.

Thank you for the opportunity to provide feedback on the *Green Paper on financial advice: affordable and accessible advice* (Green Paper).

We consider that it is an important time to be discussing the challenges facing the provision of financial advice and we welcome the contribution of the Financial Services Council to the debate.

### Executive summary

SAFAA provides the following feedback:

#### Financial advice in Australia

- The traditional advice services provided by stockbrokers and investment advisers can be contrasted with the financial planning advice model where advice is provided on all aspects of a client's financial circumstances and a full financial plan prepared.

#### What is the problem we are trying to solve?

- FASEA's lack of understanding about how stockbroking and investment advice differs from financial planning has led to its 'one-size-fits-all' approach to financial advice that is negatively impacting the stockbroking and investment advice profession and retail investors. This lack of understanding is shared by Treasury, government and regulators.

## **Principles-based regulation**

- We are supportive of principles-based regulation, but do not want our members subject to a 'one-size fits-all' approach.

## **A new model of advice**

- The Green Paper is aimed at the financial planning industry and does not take into account stockbrokers and investment advisers.
- The proposed new model of advice has been developed with a product issuer lens and the proposals if adopted would require our members to squeeze into a framework that does not suit them or their clients.

## **Advice process: documentation and consumer-driven advice**

- Clients want shorter, simpler advice documents that are easier to understand.
- A sticking point for simpler and shorter documents is the level of enquiry which is expected from regulators when advisers provide limited advice.
- Requiring a client to complete a full fact find when providing limited advice in relation to their investment portfolio is not only unnecessary, but also creates confusion for clients as to the service they are receiving.

## **Best interest duty and safe harbour steps**

- SAFAA has called for FASEA Standard 6 to be removed from the FASEA Code of Ethics due to its conflicting with the provision of scaled advice and for ASIC to reconsider its inconsistent approach to scaled advice when issuing policy guidance and undertaking advice reviews.

## **Wholesale Advice**

- Treating wholesale clients as retail for the purposes of advice in relation to their superannuation interests creates unnecessary burden and also regulatory confusion where the same client is being treated as both wholesale and retail for different aspects of advice.

## **Licensing and registration**

- SAFAA strongly disagrees that licensing of individual advisers is appropriate for the stockbroker and investment advice industry.

## **Education standards and professionalism**

- Membership of a professional association should be mandatory in the financial services sector.
- Changes must be made to the education standards to ensure that financial planning degrees are not the only approved courses for financial advisers. The content of the exam must be changed to make it fit for purpose for stockbrokers and investment advisers and providers of financial advice that is different from financial planning.

## **Role of technology**

- SAFAA agrees that while technology can be used to automate the advice process and compliance, consumers continue to seek human interactions with a financial adviser.

- Relationships are still considered by consumers as essential for trust.

## Detailed comments

### Financial advice in Australia

The availability of good quality advice to Australian consumers is increasingly important.

The current approach by government to improving educational standards of financial advisers has led to a reduction in the number of financial advisers both through large numbers leaving the industry and fewer advisers joining. This leads to lower levels of advice being delivered to the community – and at a cost which is too high for most consumers.

According to HFS Consulting's weekly analysis of the ASIC Financial Advice Register, the overall number of advisers as of 28 May 2021 was 19,953 with more advisers expected to leave the industry in the coming months. Adviser Ratings research shows the number of advisers is predicted to fall to 13,000 in 2023. And this will take place at the same time as retiring baby boomers come into their superannuation and a \$1.5 trillion transfer of wealth takes place between generations.

The added layers of regulation imposed on the financial services industry over some years, particularly in response to the recommendations of the *Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*, has increased both the cost of doing business and regulatory risk, making the provision of advice to retail clients more costly.

Despite the fact that the impact of COVID-19 resulted in extraordinary market volatility, through which experienced stockbrokers and investment advisers steered their clients safely, their experience is treated with disdain by government and regulators. There is an accelerating exodus from the stockbroking and investment advice industry of experienced, retail advisers as a consequence of FASEA's refusal to recognise the qualifications of stockbrokers and investment advisers, coupled with a mandatory exam, the content of which is largely irrelevant to their day-to-day business. This exodus of experienced stockbrokers and investment advisers is a top risk on the risk registers of SAFAA members. It is also a risk to Australian investors, who will find it much harder to access experienced investment advisers once this exodus has taken place.

### What do stockbrokers and investment advisers do?

Australia has a strong culture for individual share market investment by ordinary citizens — the result of decades of public policy driving Australians in that direction. For example, the dividend imputation system was designed to encourage Australians to invest in equities, so that the benefits of corporate prosperity could be spread, and to support the use of savings to finance equity in Australian companies. Public policy encouraging demutualisations and privatisations in turn also encouraged ordinary Australians to become shareholders. In 2020, the ASX Investor Study showed that Australia continues to be a nation of investors, with close to nine million adult Australians holding investments outside their super and primary dwelling. Retail investors have been key to supporting Australian companies through investments in the listed equities markets.

Stockbrokers raise public capital for the Australian economy by means of the listing and trading of the securities of corporate entities on Australia's securities exchanges, and stockbrokers and investment advisers evaluate such securities and identify and the investment opportunities they present to institutional, wholesale and retail investors. On the other hand Financial Planners provide a holistic general financial service covering an individual's superannuation, life insurance, welfare entitlements and aged care arrangements with the provision

of investment advice in relation to the securities markets largely contracted out to specialists in the form of fund managers (managed funds) and stockbrokers (personal and SMSF portfolios).

'Stockbroker' is a defined term in the Corporations Act, as is 'Financial Planner', which clearly distinguishes them. Stockbrokers are subject to the Market, Clearing and Settlement Operating Rules of the ASX and Chi-X markets of which they are a Participant and to the ASIC's Market Integrity Rules, neither of which apply to financial planners. The Market Integrity Rules cover the operation of Market Participants and their representatives, client relationships, trading and capital requirements. ASIC has a dedicated ASX Participant Market Supervisory Division. Stockbrokers are also required to fund the National Guarantee Fund (NGF) to compensate clients for failures by stockbrokers. The NGF holds in the order of \$100 million. The Anti-Money Laundering and Counter Terrorism Act also distinguishes stockbrokers from financial planners.

Stockbrokers and investment advisers provide scaled advice. It is very common for clients of stockbrokers and investment advisers to seek advice on particular investments to buy or sell. This does not require 'holistic' or 'comprehensive' advice on the client's full financial situation, but discreet advice in relation to a client's portfolio of investments. Where stockbrokers and investment advisers provide personal advice to retail clients, in most instances this advice is limited advice: it is scaled and specific to the client's needs. The advice is client-centric, focused and scaled as to the information received from the client. It is also often episodic.

To ensure that clients understand the nature of scaled advice, stockbrokers and investment advisers clearly set out the limitations and scope of the advice in the statement of advice.

Stockbroking is a fast-paced, time-sensitive service. That is why the Corporations Act was amended in 2003 to insert section 946B providing for further advice for market-traded products where clients required the advice to be provided promptly. Scaled advice can be delivered as further advice and a Statement of Advice is not required in the case of further advice. A simplified process of providing advice to the client then arises.

This approach can be contrasted with the financial planning advice model where advice is provided on all aspects of a client's financial circumstances and a full financial plan prepared. An advantage to clients of scaled advice is that they do not have to pay for the time-consuming preparation of a financial plan and this reduces the overall costs of advice and allows advice to be provided in a more timely or immediate fashion. Some stockbroking firms provide financial planning services and clients are informed of this so they can avail themselves of this service if they require it.

ASIC research highlights that many consumers prefer receiving piece-by-piece or limited advice, rather than comprehensive advice and that in terms of topics of interest, 45% of consumers had either received advice on or were interested in receiving advice on investments such as shares and managed funds.

Scaled advice is expressly permitted under the Corporations Act as evidenced by the following commentary which has been included at section 961 B(2) ('Safe Harbour' provisions).

*Note: The matters that must be proved under subsection (2) relate to the subject matter of the advice sought by the client and the circumstances of the client relevant to that subject matter (the client's relevant circumstances). That subject matter and the client's relevant circumstances may be broad or narrow, and so the subsection anticipates that a client may seek scaled advice and that the inquiries made by the provider will be tailored to the advice sought.*

A scaled investment advice model should allow clients to access research and investment advice at a reasonable cost. It should be able to be provided without the need for the provision of extensive personal information or

for a comprehensive needs analysis to be performed which is generally of limited relevance to the advice sought and significantly adds to the time and cost of the advice process.

## **Implications of one-size-fits-all approach**

Unfortunately, there is a lack of recognition that stockbroking and investment advice differs significantly from financial planning that is shared by FASEA, Treasury, government and regulators. For example, at the May 2021 SAFAA conference the Minister for Women's Economic Security, Minister for Superannuation, Financial Services and the Digital Economy, the Hon Senator Jane Hume stated in her speech that because stockbroking and investment advice firms promote the offer of holistic advice, this requires stockbrokers and investment advisers to become financial planners. This completely misunderstands that the holistic advice is provided at a firm level rather than an individual level. Generally stockbrokers and investment advisers will work with a financial planner within their firm if holistic advice services are required.

There is an assumption in the advice process that:

- stockbrokers and investment advisers must provide full-scale financial planning style advice and conduct a full fact find
- to provide compliant advice, an adviser is required to conduct a comprehensive analysis of the client's personal circumstances and needs
- clients who contact their stockbroker or investment advisers for advice do not understand the services they are receiving, notwithstanding the disclosure stockbrokers are required to make to clients before providing services to them and the complete lack of any evidence by ASIC that customers of stockbrokers are in fact confused.

Our members advise us that they do not receive complaints from clients aggrieved about being provided with stockbroking and investment advice instead of financial planning advice and that clients understand that they are seeking specialist stockbroking and investment advice when they contact their stockbroker or investment adviser.

Those of our members offering financial planning services are able to refer clients requiring those services to the relevant financial planners. The current requirement for stockbrokers and investment advisers to behave like financial planners increases the cost and complexity of advice processes. Retail clients who do not meet one of the wholesale client tests under the Corporations Act will move their investment activity online and receive no advice. SAFAA is firmly of the opinion that this is not in the interests of retail investors.

SAFAA remains concerned about the approach ASIC takes in file reviews of member client accounts that do not appear to take into account the scaled advice model and we have raised those concerns with them. We have also pressed ASIC for confirmation that full fact finds are not required when providing limited advice.

SAFAA also remains concerned that FASEA and the government are of the view that (a) stockbrokers and investment advisers should become financial planners and (b) their existing educational qualifications — degrees from our top tier universities in subjects suitable to operating in markets — are not suitable for the provision of financial advice and that they should require a financial planning degree before they can provide personal advice to retail investors.

## What is the problem we are trying to solve?

We agree with many of the issues identified in the Green Paper as relevant to the increase of costs of operating an advice business.

The following are some of the matters which have a significant impact on the ability of our members to continue to provide good quality, affordable advice to retail clients:

- the government's and FASEA's lack of recognition of how of how securities and investment advice, execution services and equity capital raising for Australian investors is a different service from financial planning that has led to a 'one-size-fits-all' approach to financial advice that is negatively impacting the stockbroking and investment advice profession
- the FASEA Code of Ethics, particularly Standard 6 that directly conflicts with the provision of scaled advice and Standard 3 that is impossible to comply with as it conflicts with the law
- an accelerating exodus from the stockbroking and investment advice industry of experienced, retail advisers as a consequence of FASEA's refusal to recognise a stockbrokers' qualifications, coupled with a mandatory exam, the content of which is largely irrelevant to their day-to-day business
- a secondary and serious consequence of the one-size-fits-all approach is that top graduate talent is being deterred from entering the stockbroking and investment advice profession, to the detriment of investors, as this adds to a shrinking pool of available advisers
- ASIC's inconsistent approach to scaled advice when issuing policy guidance and undertaking advice reviews
- a significant increase in regulatory burden resulting in rising costs of providing advice to retail clients.

This increased and unhelpful regulatory burden is a consequence of government policy and legislation. SAFAA has long advocated for government and ASIC to revisit the regulatory settings around the provision of advice to retail clients and to move away from a 'one-size-fits-all' approach. In particular, we note that a requirement to conduct a full fact find when providing scaled advice will result in personal investment advice becoming unaffordable.

## Principles-based regulation

SAFAA agrees with a principles-based approach to regulation and is engaging with the Australian Law Reform Commission on its review of financial services laws. We consider that it is important to balance principles with prescription and that there is a role for both.

SAFAA reiterates that the biggest issue its members face is a 'one-size-fits-all' approach by government and regulators to the development of regulation and standards that are applied to all participants in the financial advice sector. Of particular concern is that government, FASEA and regulators assume that all advisers are financial planners and must be subjected to regulation that best suits that speciality.

## A new model of advice

SAFAA makes the general comment that the Green Paper is aimed at the financial planning industry and does not take into account stockbrokers and investment advisers. The new model of advice has been developed with a product issuer lens and the proposals if adopted would require our members to squeeze into a framework that does not suit them or their clients.

We make the following comments about the new model of advice proposals:

## General and personal advice

We consider that there is an important opportunity for ASIC and the industry to develop educational material aimed at investors that discusses the distinctions between personal and general advice.

General advice remains a relevant advice category for our members distinct to the provision of factual information. Research reports relevantly comprise general advice. We would be concerned if changes were made to the definition of general advice that resulted in general advice being reclassified as 'information' even when it contained a product recommendation. This would have significant implications for the provision of research reports on listed securities.

## Wholesale versus retail client

One area of complexity for our members is the boundary between wholesale and retail clients concerning superannuation product advice.

The relevant law states that a trustee of a Self Managed Super Fund will be classified as a retail client for the provision of superannuation product advice under the Corporations Act unless the fund holds net assets of at least \$10 million at the time the service is provided.

This means that even though a client might qualify as wholesale under the usual definitions under the Corporations Act, if they hold less than \$10 million in their Self Managed Super Fund they have to be treated as a retail client when it comes to advice in relation to their superannuation interests. These same clients are then treated as a wholesale client for investment advice. This can lead to the situation where advice documents contain both retail and wholesale advice which is a less than ideal outcome for clients.

Where a wholesale client is a member of an APRA fund, all advice provided to the member is required to be provided as a retail advice, which creates unnecessary complexity and burden for both advisers and clients.

We consider that this is an area that requires reform so that a wholesale client is always treated as wholesale irrespective of what advice is being provided or what products in which they are invested.

## Simple versus complex advice

As discussed in *What do stockbrokers and investment advisers do?* our members effectively and efficiently provide limited or scaled advice to their clients hundreds of times a day. Our members do not want this area of the law to be further complicated by regulation that introduces more levels of definitions and greater complexity. We are concerned that the proposed distinction between simple and complex advice is binary and overly simplistic and doesn't take into account the stockbroking and investment advice industry. Separating product from advice is another concept that does not work in the context of stockbroking or investment advice as our members primarily provide advice on listed products.

The way in which scaled or limited advice is treated in the model highlights this misunderstanding. The paper makes the following statements:

- *much of what is scaled or limited advice now could be categorised as simple personal advice*
- *simple personal advice should be defined as advice not recommending a product or class of products.*

This statement does not take into account the fact that our members provide limited or scaled advice to clients on a universe of listed products that are not tied to a product issuer.

Our members advocate for the simplification of regulation in relation to the provision of investment advice, with regulation that differs from the provision of strategic advice provided by financial planners. We consider that arbitrary rules that seek to distinguish between simple and complex investment products are unnecessary and principles based regulation should be applied instead.

## **Best interest duty**

We agree with the desire to offer adviser-led and consumer-centred scoping of advice.

While scaled advice is permitted under the Corporations Act, we consider the 'safe harbour' requirements have been interpreted too widely by regulators, FASEA and AFCA by applying a financial planning lens. In particular, guidance provided by FASEA on scaled advice has been unhelpful and confusing. Duplicative guidance and standards have increased the complexity for advice providers.

## **FASEA Code of Ethics**

SAFAA has consistently voiced its serious concerns that elements of the FASEA Code of Ethics are unworkable and conflict with the law.

Standard 6 of the Code conflicts with the provision of scaled advice and is inconsistent with section 961B of the Corporations Act (the 'best interests duty'). The government and ASIC have expressed their strong support for the provision of scaled advice. Stockbroking and investment advice involves the provision of scaled advice. While Standard 6 remains unchanged, stockbrokers and investment advisers providing scaled advice risk being found to be in breach of the standard by failing to take into account a client's broader, long-term interests and likely circumstances. SAFAA has called for Standard 6 to be removed from the Code.

SAFAA has also called for clarification from ASIC that full fact finds are not required for scaled advice.

## **Advice process: documentation and consumer-driven advice**

We agree with many of the points made in the Green Paper on the problems with advice documentation.

In our members' experience clients want shorter, simpler advice documents that are easier to understand. Our members have received the following feedback from their clients:

- Statements of Advice are too long and detailed and clients don't gain any benefit from them.
- In many cases clients simply want to know that their portfolio is being regularly monitored and whether they need to make any changes.
- The majority of clients don't want to provide all their personal details. They generally see their stockbroker or investment adviser as covering one segment of their advice needs and have other advisers for issues such as tax, insurance, financial planning and accounting.

Our members want clients to understand the services they are providing and importantly, what they are not providing and provide their clients with simpler and shorter advice documentation. However, many Statements of Advice contain an overlay of disclaimers and appendices that are not required by law but are included to defend the firm from action brought by ASIC and decisions made by AFCA.

SAFAA has engaged with ASIC as part of its affordable advice review and asked for example Statements of Advice and Records of Advice for scenarios where stockbrokers and investment advisers provide limited advice. We consider that a sticking point for simpler and shorter documents is the level of enquiry which is expected from regulators when providing limited advice. Requiring a client to complete a full fact find when providing limited



advice on their portfolio is not only unnecessary, but creates confusion for clients as to the service they are receiving. This is why SAFAA has been seeking clarification from ASIC that full fact finds are not required when providing limited advice.

SAFAA has also advocated for a greater use of Records of Advice and pointed to the COVID-19 relief provisions as an example of how the circumstances in which a Record of Advice can be used could be adapted more broadly.

## Best interest duty and safe harbour steps

SAFAA agrees that the 'safe harbour' steps together with FASEA Standard 6 and ASIC's regulatory approach creates challenges for those providing scaled advice.

As previously discussed SAFAA has called for FASEA Standard 6 to be removed from the FASEA Code of Ethics and for ASIC to reconsider its inconsistent approach when issuing policy guidance and undertaking advice reviews.

Our view is that the best interest duty operates well in our industry, with stockbrokers and investment advisers providing honest evaluations of investment opportunities relevant to the needs of retail investors.

## Licensing and registration

SAFAA does not agree with reform of the registration and licensing of financial advice as proposed by the Financial Services Council.

SAFAA considers that registration of advisers should not devolve to individual advisers under the Single Disciplinary Body, but notes that the *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Bill 2021* introduced into Parliament on 24 June 2021 provides for individual registration no later than in four years' time. Our reason for not supporting individual registration is based on feedback from SAFAA Principal Members with large numbers of advisers who have indicated that it is not logistically sensible for the registration obligation to be devolved to individual advisers. The licensee undertakes active oversight of the adviser to ensure they are fulfilling their obligations in relation to the fit and proper declaration and education and CPD obligations. The process of checks that attends adviser registration by the licensee is an important aspect of securing Professional Indemnity insurance, as insurance firms need to confirm that licensees have active oversight of their advisers. SAFAA is concerned that obtaining Professional Indemnity insurance, which is already challenging, will become even more difficult if the licensee cannot provide evidence to the insurer of its active oversight of adviser registration.

SAFAA also strongly disagrees that licensing of individual advisers is appropriate for the stockbroking and investment advice industry. SAFAA points to the difference between stockbroking and investment advice firms and many financial planning businesses, as a matter that needs to be taken into account when considering the role of the licensee. Many financial planning businesses are small businesses. The Minister is on record as stating that 90% of financial planning businesses are small businesses. Stockbroking and investment advice firms, on the other hand, are generally large businesses and becoming larger, given they operate in global markets and provide time-related advice, including reaching out to many hundreds of clients in a timely manner for capital raisings and rights issues. The investment required for such firms is very different to the investment required for financial planning firms providing advice on taxation and superannuation law. Amalgamations are underway to provide scale in the stockbroking and investment advice industry to meet those investment requirements. Efficiency in larger firms is generated through active oversight by compliance departments.

We agree with the importance of retaining the following benefits of the Australian Financial Services License as outlined in the Green Paper:

- AFSL holders are required to have adequate resources to hold their license and are more likely to have adequate resources to remediate consumers and viable models for supervising, monitoring and equipping advice professionals.
- Licensees are required to hold Professional Indemnity insurance that carries minimum capital requirements to finance excesses on claims.

We agree that the following are disadvantages of individual licensing:

- It is unreasonable for ASIC or the Single Disciplinary Body to supervise and monitor 20,000 individual advisers.
- Individual licensing could create a moral risk for consumers if individual advisers exit the industry leaving consumers orphaned and unremediated for misconduct.
- The requirement to have and maintain an AFSL at an individual level lacks economies of scale and has high monetary and time costs. These costs will ultimately be passed onto the consumer.
- Self licensing would mean that individual advisers are required to source their own Professional Indemnity insurance to cover individual risk.
- Financial services is a highly regulated industry with complex and onerous regulatory requirements that are difficult for individuals to manage.

Some SAFAA members have advised that they are unable to source Professional Indemnity insurance cover in Australia and only one London underwriter is currently offering cover. They have been advised by their insurance brokers that overseas underwriters are declining cover as they view the Australian market as having a high regulatory risk. Stockbrokers renewing their cover are finding that their premiums and excesses have significantly increased and exclusions have been imposed on certain risks. With no other underwriters providing cover there is no competition in the market. Stockbrokers with high excesses and exclusions are essentially self-insuring for client claims. This highlights an important issue SAFAA has with individual licensing of financial advisers – they will be unable to either source affordable Professional Indemnity cover or insurers will not insure individual licensees at all.

SAFAA does not consider that any of the arguments put forward in favour of individual licensing improve consumer protection.

## **Education standards and professionalism**

### **Professionalism**

Many of the comments in the Green Paper relating to a *'move towards professionalism'* and *'developing a professional, qualified and specialised financial planning profession'* do not apply to our members. Unlike other parts of the current financial services industry, the stockbroking profession has existed for many centuries and is highly regulated, governed by the ASIC Market Integrity Rules, the operating rules of the various market operators such as ASX, Chi-X and NSX and the Corporations Act. The profession has made an incredible contribution to Australia's economic strength, not only in terms of personal wealth creation, but also in the all-important equity formation for Australian companies, ranging from CSL, BHP and CBA down to the smallest and smartest technology and science successes.

SAFAA is a professional association that sets and enforces high educational, ethical and professional requirements on its members. The aim of these standards is to give investors confidence that, when they deal with a SAFAA member, they are dealing with a person who exhibits the highest level of professionalism and integrity, and the services that they receive will be of a high quality.

SAFAA's professional, ethical and education standards are contained in:

- SAFAA Code of Ethical Conduct
- SAFAA Constitution and Rules

In order to ensure that its standards are met, SAFAA has established a Complaints Handling Process and a Conduct Review and Disciplinary System to investigate and determine complaints against members as well as any other referral involving the conduct of a member.

SAFAA also maintains high professional standards by offering industry education and supports its members with a high calibre program of continued professional development.

SAFAA has long argued that membership of a professional association should be mandatory in the financial services sector.

## **Education standards**

Unfortunately, the lack of understanding by the FASEA Board of how securities and investment advice, execution services and equity capital raising for Australian investors is a different service from financial planning, has led to educational standards being adopted that assumes that financial planning is the core education for all forms of financial advice. This has negatively impacted the stockbroking and investment advice industry as our members have been caught up in reforms aimed at reforming financial planners. SAFAA supports high educational standards but disagrees with the way in which FASEA has interpreted and applied the education and exam provisions in the Corporations Act.

We note the FSC's view that further changes to the qualifications framework should not be made at this time. SAFAA has urged Treasury and ASIC to step in and make changes to the education standard once FASEA has been disbanded in order to address the many issues we have with the way the educational requirements have been implemented and the manner in which FASEA's financial planning lens has negatively affected the stockbroking and investment advice industry.

## **FASEA exam**

SAFAA considers that the current form of the FASEA exam is not fit for purpose for stockbrokers and investment advisers.

The current exam is tailored to financial planning. SAFAA hears from its members that experienced stockbrokers who have sat the exam — despite extensive study and preparation — have frequently failed it at their first sitting. They advise us that it is because so many questions are geared to financial planning and that even while the exam is not meant to be about technical detail, the focus on matters on which they do not provide advice (insurance, Centrelink benefits, aged care etc) derails them and causes them undue stress.

It is anticipated that the number of advisers will reduce substantially over the course of 2021 due to the requirement to complete the exam by 31 December 2021, although the announcement by Minister Hume on 24 June 2021 that for those who have made two genuine attempts to pass the FASEA exam, and failed, there will be at least one further opportunity to pass the exam in 2022, is welcome.

SAFAA continues to advocate for the exam to be made fit for purpose once FASEA has been disbanded and responsibility for approving the exam has been transferred to Treasury.

### **Approved degrees**

Another example of how SAFAA members are being discriminated against as a result of FASEA's approach to education standards is the way they have selected approved degrees. SAFAA has long advocated for commerce, economics, business and finance degrees from established Australian universities to be included in the FASEA list of approved courses – financial planning qualifications must not be the only approved courses for financial advisers.

Currently, all FASEA-approved degrees are in financial planning or with financial planning majors (with one exception, being a wealth management degree from UNSW), notwithstanding that the Corporations Act does not require financial planning qualifications to be the only approved courses for financial advisers. The legislation provides that a 'degree equivalent' is required – it does not specify the narrowness of a financial planning degree, which are not awarded by universities ranked in the top 100. FASEA's Board, which included financial planning and other academics who had compiled the curriculum for the Financial Planning Association, simply adopted that same curriculum for FASEA, thus narrowing the scope of the approved qualification. The issuers of those degrees did not have to apply to FASEA for their courses to be approved.

Degrees in economics, finance, commerce and business from all Australian universities, particularly those from universities rated in the top 100 – qualifications which until now have been considered most suitable to a profession in investing – have not been approved by FASEA. They are only considered to be 'relevant' degrees, the individual units of which counts towards a FASEA-approved degree equivalent. FASEA refuses to approve these degrees and has stated that universities must apply to FASEA for their degree to be considered as an approved course, despite the fact that the universities with degrees included in the Financial Planning Association curriculum did not need to apply for approval. Our members have informed us that some of their advisers have approached an established university and asked for their economics and business degrees to become FASEA-approved. The university concerned advised that it would not go through the accreditation process. This highlights that it should not be up to the universities to apply to FASEA for approval.

The outcome of the decision by the FASEA Board not to approve economics, finance, commerce and business degrees from all Australian universities is that an individual holding a Bachelor of Economics or Finance from Melbourne University is considered less qualified to provide stockbroking or investment advice than one with a Bachelor of Property (majoring in financial planning) from Central Queensland University. The individual in this example who completed the Central Queensland University course need only complete the Ethics unit of study to become FASEA-qualified. Those with 'relevant' degrees in other subjects from universities (such as a Bachelor of Commerce or a Masters of Finance) must at a minimum do three additional subjects (plus ethics) as they only receive four credits, when all 'approved' financial planning degrees receive seven credits.

This has created an uneven playing field which favours financial planners over other types of investment advisers.

We have numerous case studies of advisers from a range of different firms who have significant undergraduate and postgraduate education qualifications in commerce, economics, finance and business from Australia's most established universities who are required by FASEA to undertake a minimum of three additional units of study (plus ethics) because their qualifications are not approved by FASEA.

SAFAA has called on FASEA to include commerce, economics, business and finance degrees from established Australian universities to the approved list of courses. FASEA has refused. FASEA maintains its belief that financial planning is core education for all forms of financial advice, rather recognising that financial planning is itself a specialisation.

Financial planning degrees and postgraduate diplomas are not the foundation education for the entire advice industry. Financial planning is already a specialist area of advice. In medical terms requiring stockbrokers and investment advisers to undertake financial planning degrees is akin to making orthopaedic surgeons undertake training in pathology. We strongly support the financial planning profession and education qualifications to enter it. We note that the impetus for legislating education requirements for financial advisers was due to salespeople with no formal education in financial advice calling themselves financial planners, which resulted in harm to consumers.

However, SAFAA stresses that education qualifications must be suited to the financial advice provided. The degrees sought by the stockbroking and investment advice industry are ones in commerce, business, economics and finance.

The discriminatory approach from FASEA has another serious consequence, which is that top graduate talent is being deterred from entering the stockbroking and investment advice profession, to the detriment of investors. A graduate with a finance, economics, commerce or business degree from a top globally ranked university will essentially have to 'start from scratch', that is, they will have to complete an unrelated second Graduate Diploma in financial planning before they can remain in or enter the stockbroking industry. The lack of current Professional Year provisional advisers in the stockbroking and investment advice sector clearly demonstrates this. SAFAA understands that there are currently less than 200 provisional advisers throughout the entire financial advice industry. In a recent SAFAA member survey we found nine Professional Year candidates in the stockbroking and investment advice industry and only 20 are expected to enter in 2022 (with one firm bringing on the majority of candidates). The mentor program for any aspiring new entrant to the industry will be extremely difficult. There will be lower numbers of remaining advisers, and those who do remain will have higher client numbers therefore having less time to mentor and be involved in supervision.

This indicates that the number of advisers leaving the industry will not be replaced. It is further anticipated that more mature advisers who complete and pass the exam and continue to work after 1 January 2022 will decide not to complete further education resulting in even greater numbers of advisers departing the industry in the lead up to the 2026 education deadline.

SAFAA members report that the loss of experienced advisers due to the FASEA educational requirements is a top risk on their risk registers. Stockbrokers who have been providing advice for many decades, with longstanding clients who are deeply satisfied with the service they receive, find it incomprehensible that they should have to undertake educational qualifications in financial planning in order to retain their livelihood. They will therefore retire from the industry rather than face the humiliation of being required to train for a financial advice service so different from the one they provide and which they have no desire to offer.

Furthermore, highly experienced advisers who leave the industry as well as those who remain but do not complete the educational requirements will be unable to supervise the next generation of advisers. This will be a huge loss to the industry as those people who would normally act as senior mentors will effectively be unable to supervise the next generation coming through. The task of mentoring will fall to a smaller pool of advisers. Mentoring requires the mentor to take time out from providing advice, thus placing more pressure on advice costs and availability.

## Role of technology

SAFAA agrees with the Green Paper that:

- While technology can be used to automate the advice process and compliance, consumers continue to seek human interactions with a financial adviser.
- Relationships are still considered by consumers as essential for trust.

This is consistent with the responses to ASIC Consultation Paper 332 *Promoting access to affordable advice for consumers* where most respondents said they did not intend to provide digital advice in the future citing lack of demand, compliance concerns and consumer preference for a human adviser as key issues of concern.

SAFAA members report that the best form of advice involves a consumer having a conversation with a professional adviser. We are of the view that there is an opportunity for a rethink of regulation and policy. Current regulation is designed to address to a vertically integrated system that no longer exists.

SAFAA also agrees that financial advisers and licensees amass considerable data that remains highly centralised and fragmented across industry.

Any proposed industry data projects would need to consider:

- The current regulatory and cost burden that the industry is experiencing with major regulatory reforms coming into effect on 1 July, 1 October and 5 October 2021.
- Issues surrounding privacy.

SAFAA supports the Green Paper proposal that ASIC establish an Advice Unit that would, amongst other things, providing rulings to interpret legislation. The rulings issued by the ATO to explain an application of tax law to taxpayers generally, a class of taxpayers or a particular arrangement are an example of authoritative interpretative guidance and rulings that could be adapted to financial advice.

## Conclusion

If you require additional information or wish to discuss this submission in greater detail please do not hesitate to contact SAFAA's policy manager, Michelle Huckel, at [michelle.huckel@stockbrokers.org.au](mailto:michelle.huckel@stockbrokers.org.au).

Kind regards



Judith Fox  
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