



**Stockbrokers
And Financial Advisers**

Association Limited

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Financial Adviser Standards and Ethics Authority

By email: consultation@fasea.gov.au

**Consultation Paper 4: Provisional Relevant Provider Term
Consultation Paper 5: Professional Work and Training Requirement
(Professional Year)
Comments by Stockbrokers and Financial Advisers Association**

I refer to Consultation Papers 4 and 5 released by FASEA on 23 July 2018 (“Consultation Paper 4”, “Consultation Paper 5”). The Stockbrokers and Financial Advisers Association (“SAFAA”) appreciates the opportunity to provide comment on the Consultation Papers.

Consultation Paper 4: Provisional Relevant Provider Term

SAFAA Members do not support the term “Provisional Financial Adviser” as an appropriate term to define an adviser undertaking the Professional Year. Members unanimously were of the view that clients would be confused and uncertain as to what the implications of this wording meant, in terms of the client’s expectations of their interactions with the adviser.

There was strong support for the term “Associate Financial Adviser” as a better alternative term.

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There was no support for the terms “Candidate Adviser” “Trainee Adviser” and “Supervised Adviser”, mentioned in Consultation Paper 4.

Consultation Paper 5: Professional Work and Training Requirement (Professional Year)

SAFAA comments on the Consultation Questions relating to the Professional Year (“PY year”) in Consultation Paper 5 are set out below.

Before addressing each specific Question, we make a number of **general comments** as follows:

- As has been the case with other subject areas, the FASEA proposals on the PY year are, in our view, over-engineered, excessively bureaucratic, and as a result, costlier to administer than they need to be. They do not accord with comparable supervisory arrangements applying in other professional areas.
- In consultation sessions leading up to the enactment of the Professional Standards legislation, it is our recollection that the Government indicated that *it was mindful of the issue of adding cost burden to industry*, and ultimately on the cost and availability of advice to retail investors. The Government was mindful also of ensuring that there be no adverse effect on competition within the financial services sector.
- The PY year proposals, in our view, are a high-cost set of requirements. Small or medium entities, and entities in regional locations, would have difficulty meeting the cost and administrative requirements set out in Consultation Paper 5. The framework could have the unintended consequences of making the large dealer groups and financial institutions the major training ground for retail financial advisers, which may not accord with the Government’s objectives or the circumstances which gave rise to the introduction of the Professional Standards legislation.

Consultation Question

3.1. Do you agree with the requirement for supervisors to have a minimum of 2 years' experience as a relevant provider?

Members had no issues with the minimum requirement of 2 years' experience to be a supervisor. This was considered to be an appropriate minimum, noting that in practice, firms would in many cases nominate their more senior advisers to be supervisors, who would in all likelihood have experience in excess of the minimum.

Consultation Question

4.1. Do you agree with the requirement for individuals that return after a career break?

Members have no issues with a requirement for refresher training for those advisers absent for more than 2 years.

4.2. Do you agree with the proposed amount of time and split between work and training required for the proposed Professional Year?

4.3. Do you agree that formal education should contribute to the training requirement of the proposed Professional Year?

SAFAA has a number of fundamental concerns in relation to the proposed specification of 800 hours education and training, and 1000 hours of work, proposed in page 5 of the Consultation Paper 5.

Firstly, given that it is a requirement of the legislation that a person may not become a provisional relevant provider unless they have completed **both** the national exam and the relevant Bachelor's degree, it is not clear to us what the further 800 hours of education and training is meant to consist of. Is it the case that FASEA is mandating further, unspecified educational courses over and above the approved Bachelor's degree? That would not be reflected in the spirit and the wording of the Legislation.

We note that mention is made in Consultation Paper 5 of further sector-specific accreditation as potentially fulfilling this additional training requirement. We do not think it makes sense for there to be pressures for these additional accreditations to necessarily be undertaken during the PY year. Such accreditations may be more prudently undertaken as the adviser's career progresses (for example, obtaining Derivatives accreditation is probably a specialist skill that should not be acquired during the first year of a stockbroker's career).

SAFAA submits that FASEA is over-regulating the supervision requirement. There does not need to be any mandatory number of hours of training and work specified in the

standards. Whilst there will undoubtedly be some further training that a provisional relevant provider will undertake during their PY year, there does not need to be a mandated amount of 800 hours. All that should be specified is the period of supervision (12 months) and that the provisional relevant provider may not act other than under supervision (as elaborated on in the guidelines).

An analogous regime is that applying to lawyers. Under the Uniform Legal practice regime now operating nationally, a statutory condition is imposed on a lawyer's practicing certificate that the holder must engage in supervised legal practice only, until the holder has completed the period of supervised legal practice required (currently 2 years).

There is no framework specifying the training and hours of work that a solicitor must undertake during the period of supervised legal practice. Rather, the onus is placed on the supervisor to ensure that they exercise "reasonable supervision".

Similarly, medical practitioners are required to be subject to supervision, which sets out the types of interactions with patients, however there are no standards as to numbers of hours of further work and training.

In SAFAA's submission, this is the most sensible approach. The Professional standards legislation for retail financial advisers appears to us to have been modelled with an eye to the national framework for lawyers, and therefore the standards should be drafted in a comparable fashion.

As regards the 1000 hours of work, this is also, in our submission, over-regulation. In essence, in order to demonstrate the completion of 4.2 hours per day of work over a 48 week year, this will require a timesheet akin to that kept by an accountant or lawyer for billing purposes. This is an unnecessary red-tape record-keeping burden. It should be enough that the standard specifies that the one year of supervision be full time, and that the period should be extended pro-rata if the person is not employed full time (as the Lawyers Uniform framework provides).

Consultation Question

5.1. Do you agree with the competencies expected to be demonstrated before conclusion of the work and training period?

5.2. Do you agree with the proposed quarterly supervised approach and indicative key activities aligned to each quarter?

SAFAA does not oppose in principle the concept of an adviser being progressively permitted to undertake additional tasks as the PY year progresses.

The proposals appear to be drafted with financial planners in mind, and do not reflect the practicalities of the stockbroking sector. SAFAA has made this comment previously on other aspects of the Professional Standards framework.

In the case of stockbroking, advice to clients, and interaction with them, is quite different to the preparation of a financial plan. A broking firm will have equity research prepared by the firm's Research department (or acquired from a research house). The firm will have a house view on the product, as set out in the recommendations in the research. The adviser himself or herself does not determine this recommendation.

Clients are often spoken to as "further market related advice", under an SOA that has been previously provided to the client. Clients are also given information about the "colour" of the market, such as international events and market movements, that might not translate into any advice, general or personal.

Lengthy detailed meetings with a client, such as a financial planner would have in discussing and preparing a financial plan, are not common. In general, interaction with clients will be a series of short, punchy communications throughout the day. Being usually market related, calls are more often than not time sensitive (unlike a financial plan, which is a long-term financial strategy). *It would be quite impractical for a call with a client to be put on hold each time, so that the provisional relevant provider can get hold of the supervisor to participate in or monitor the call.*

Hence, there is a range of communications that a provisional relevant provider could be permitted to have with a client within the parameters of the above, without any danger to the client, and subject of course to there being an appropriate style of supervision. The scenarios in PY Quarter 1-Quarter 4 in Consultation Paper 5 do not reflect the realities of stockbroking.

SAFAA would like to work with FASEA to develop a set of parameters, and guidance on supervision, to apply in the stockbroking context, that would operate in place of the Q1-Q4 model put forward in Consultation Paper 5. Otherwise, the FASEA guidelines should be phrased in terms that are flexible enough to consider different sectors and different situations.

Consultation Question

6.1. Do you agree with the combination of approaches for the measurement of competence and the collection of evidence?

6.2. Do you agree with the proposed periodic review between the Provisional Relevant Provider and the Supervisor?

We refer to our comments in 5.2 and 5.3 above regarding the progress of a provisional relevant provider over the PY Year. SAFAA would like to work with FASEA to identify the appropriate milestones and supervision that would reflect the practice of a stockbroking business.

Consultation Question

7.1. Do you agree with the proposed exit criteria and the requirements of the Provisional Relevant Provider?

7.2. Do you agree with the proposed exit criteria and the requirements of the Supervisor?

As set out previously, the proposals incorporate too much bureaucracy. In particular, SAFAA members strongly oppose the need for a Log Book or Quarterly Activity Guide, as well as some of the specific sign-offs, such as the number of hours.

We note that the Uniform Legal Practice framework does not lay down any exit criteria or record keeping at the end of the 24 month period of supervised practice.

The detailed requirements in Consultation Paper 5 should be streamlined. It should be enough that:

- the period of supervision is prescribed;
- the Supervisor signs off that the adviser is suitable to become a Financial Adviser at the end of the 12-month period, or the period be extended.

The Supervisor's assessment should address the key competencies that have been identified as required (which may differ from one area of financial advice to another).

SAFAA has no issues with the requirement for the Licensee to conduct an audit of 5 client files for the provisional relevant provider.

Consultation Question

8.1. Do you believe that templates may be useful and could be used as a guide only?

8.2. Are there templates in respect of any other matters that would be useful?

Please see the Comments under 7.1 and 7.2 above. SAFAA does not place value in those templates. If they are issued, they should at best be non-binding guides only.

We would be happy to discuss any issues arising from our submissions on this issue. Should you require any further information, please contact Peter Stepek, Policy Executive, on (02) 8080 3200 or email pstepek@stockbrokers.org.au .

Yours sincerely,
Andrew Green

A handwritten signature in black ink, appearing to read 'Andrew Green', with a stylized flourish at the end.

Chief Executive