

20 August 2018

Mark Brimble
Managing Director
Financial Adviser Standards and Ethics Authority
Sydney NSW 2000

BY EMAIL: consultation@fasea.gov.au / Mark.Brimble@fasea.gov.au

Dear Mr Brimble,

RE: FASEA's CONSULTATION PAPER 5 – PROFESSIONAL WORK & TRAINING REQUIREMENT (PROFESSIONAL YEAR)

The Financial Services Council (FSC) is a leading peak body which sets mandatory Standards and develops policy for more than 100 member companies in Australia's largest industry sector, financial services.

Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing almost \$3 trillion on behalf of more than 14.8 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange, and is the fourth largest pool of managed funds in the world.

We welcome the opportunity to make a submission to the Financial Adviser Standards and Ethics Authority (FASEA).

Should you wish to discuss this submission further please do not hesitate to contact me on (02) 9299 3022.

Yours sincerely



RONALD DE LA CUADRA
Policy Manager

**FASEA CONSULTATION PAPER 5: PROFESSIONAL WORK & TRAINING
REQUIREMENT (PROFESSIONAL YEAR)**

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EXECUTIVE SUMMARY

The Professional Year (PY) is an essential training period required by law. Its intention is to ensure all new entrants gain appropriate professional standards of education to be able to competently and consistently apply minimum standards of service to clients.

FASEA has stated that individuals who have not met the work and training standards are unable to begin their PY.

This position is inconsistent with the Explanatory Memorandum to the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2016 which supports individuals commencing their PY prior to passing the examination, albeit they cannot provide personal advice to retail clients until such time as they pass the examination.

The FSC is concerned about FASEA maintaining its current position in relation to the ability of individuals to begin their PY without having met work and training standards. If this is maintained the potential exists for new entrants to obtain the benefits of practical experience or supervision before undertaking the exam.

The FSC also believes the 1800 hours required for work and training is excessive. For example, the requirement to meet these hours does not take into account current competence levels of each individual person undertaking the work and training.

This submission also outlines our concerns regarding the number of individuals a supervisor is able to oversee during an individual's PY and the evidence and exit criteria necessary in assessing a Provisional Relevant Provider's progress. We also provide a recommendation that formal education not have such a strong focus in the PY given individuals in the PY would have recently completed a 24 unit bachelor's degree.

We thank FASEA for considering our feedback which is provided to assist in the implementation of a fit for purpose program to help new entrants undertake their PY.

Beginning the PY prior to completing the exam

FASEA has not been clear on whether new entrants and persons returning to the industry would be permitted to commence their PY prior to completing the exam. The Explanatory Memorandum to the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2016 and the Corporations Act as amended by the Bill does not require an individual to pass the examination prior to commencing the PY, albeit that until the examination is passed an individual is unable to provide financial advice to retail clients. The FSC believes a similar approach should be adopted by FASEA.

Recommendation: Consistent with the EM, new entrants and persons returning to the industry are permitted to commence their PY prior to passing the exam and commence

work and training that does not include the provision of personal advice to retail clients.

Supervisor

FASEA proposes that supervisors must have at least 2 years' experience operating as a relevant provider. FASEA has not yet decided the date from which relevant experience may be considered.

Depending on what the date is, there may be consequences that lead to the number of potential supervisors being authorised. As an example, if 2 years' experience is counted from 1 January 2019, licensees would not be able to provide any supervisors until 1 January 2021.

If this is the case, one option to provide certainty may be to allow a previously ASIC Authorised Representative to become a supervisor. This would be so that supervisors are available as of 1 January 2019. FASEA could, for example, permit supervisors who have 5 years' experience prior to 1 January 2019

Recommendation: That FASEA provide greater certainty to licensees and potential supervisors by providing more guidance regarding when 2 years of experience will begin.

Having relevant qualifications allows FASEA to be sure supervisors have sufficient education and experience to oversee the work and education of provisional relevant providers. However additional information is required to understand what relevant qualifications are acceptable for an individual to qualify as a supervisor.

Recommendation: That FASEA provide greater definition regarding what 'relevant qualifications' are to provide further clarity for licensees to decide who they should allow to become supervisors.

The consultation paper does not provide guidance on how many provisional relevant providers a supervisor can supervise.

A general consensus amongst FSC members is that the appropriate number of provisional relevant providers per supervisor is around 15 to 25. However this would depend on each licensee's size and available resources.

The provision of technology based supervision would also allow licensees and their supervisors to cater for regionally based Provisional Relevant Providers.

Recommendation: That each licensee be allowed to decide how many provisional relevant providers a supervisor can oversee including with the use of technology enabled supervision.

Hours

The FSC believes greater emphasis should be placed on the demonstration of competence in the completion of the PY rather hours completed. Currently, the Standard Authority's proposal is split between work and training requirements.

At a basic level it does not account for an individual's sick leave or public holiday's entitlements while working to achieve those hours. 1800 hours, based on a 37.5 hour week, is equivalent to 48 weeks fulltime work and training.

It should be recognised the PY is one component designed to uplift the professional and ethical standards of financial advisers. The PY should complement the exam, code of ethics and education requirements. FASEA should look at each component in totality rather than requiring individuals to repeat activities in each component. Each part of the FASEA requirements for becoming a financial adviser should build on the last requirement rather than applying a rinse-and-repeat approach.

Recommendation: That the proposed hours of 1 year FTE or equivalent 1800 hours not be mandatory and be limited to a maximum of 1400 hours with 1000 hours of supervision and 200-400 hours of training.

Competencies required for satisfaction of work and training standard

The FSC is supportive of FASEA's proposal to implement a quarterly supervised approach. To further improve this we suggest FASEA provide additional information in relation to each of the key activities proposed.

Further, the quarterly assessment should be open for each licensee to tailor the training to their own business models.

We contend it is not necessary for the supervisor that signs off on advice to retail clients to also sign off on all other activities under the PY. FASEA should allow additional supervisors who are not necessarily registered on the Financial Advisers Register (FAR) to sign off process issues that are not related directly related to the provision of financial advice to a retail client. For example, matters that may be captured would include log-book and activity guides.

Recommendation: That licensees be allowed to tailor the quarterly assessment to suit their businesses' internal needs and processes to better align to their specific business models. Individuals not registered on the FAR should be able to supervise activities not directly related to the provision of financial advice to retail clients.

Evidence

The FSC believes the process of the evidence collection proposed by FASEA is appropriate given it is not complicated or overly prescriptive. It allows the licensee, supervisor and provisional relevant provider to work together so that the competence and abilities of the provisional relevant provider are able to be evidenced.

Exit Criteria

The assessment criteria FASEA proposes to use as a guide to measure Provisional Relevant Providers work and training requirements should be further considered.

The requirement to conduct an audit of 5 client files seems problematic. A supervisor will be required to review any advice the Provisional Relevant Provider develops. Furthermore, the advice will be in the name of the supervisor. An audit of the advice would, in practical terms, not be an audit on the Provisional Relevant Provider's advice, but rather the supervisors. This would not necessarily measure the Provisional Relevant Provider's compliance.

Similarly, the requirement to present ethical dilemmas does not provide guidance or examples regarding how a Provisional Relevant Provider or their supervisor should approach and solve a perceived ethical dilemma. Where three ethical dilemmas had not presented themselves to the Relevant Provisional Provider during their PY, a Licensee/Supervisor should be permitted to present them with a hypothetical scenario to assess against.

Notwithstanding the above points, the exit requirements should be able to be signed off as completed throughout the PY.

Recommendation: That licensees be able to utilise existing Client File Audit and Pre-vetting processes to complete the proposed client files. Further, FASEA should develop "ethical dilemma" case studies to allow Provisional Relevant Providers to complete this component of the exit criteria in absence of any 'real life' ethical dilemmas in their workplace and develop a template to enable consistency of application of the exit criteria across the industry.