

6 December 2018

Natasha Nguyen
Lawyer
Financial Advisers
Australian Securities & Investments Commission
Sydney NSW 2000

BY EMAIL: natasha.nguyen@asic.gov.au

Dear Ms. Nguyen,

RE: ASIC CONSULTATION PAPER 305

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 Australian Securities & Investments Commission (**ASIC**).

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

ASIC CONSULTATION PAPER 305

Contents

General comments on the Consultation Paper.....3

Cost Implications.....3

Proposed skills component of three years relevant experience.....3

New Responsible Managers.....4

Existing Responsible Managers.....4

Continuing Professional Development (CPD).....4

General Comments on the Consultation Paper

The FSC and its members support ASIC's proposed amendment to Regulatory Guide 105 to include an additional option for demonstrating knowledge and skills of responsible managers. We believe it is appropriate to introduce an additional Option (Option 6) that would require at least one responsible manager of a licensee to demonstrate they possess the same knowledge and skills as those which apply to the financial advisers they supervise.

Cost Implications

FSC members are aware that ensuring responsible managers have adequate qualifications to meet Option 6 will be an impost on licensees. These costs may also extend to impacted individuals. There is also likely to be a time cost to businesses as responsible managers take time out of their business to meet the new requirements. Smaller licensees are likely to be impacted more than larger licensees in this regard.

The exact cost of undertaking the degree requirement for existing advisers is unknown. Costs may vary depending on which education provider is selected. This also does not consider additional costs such as purchasing exam preparation materials, attending exam preparation workshops and/or the ongoing costs for Continuing Professional Development.

To address this, ASIC may consider broadening the list of relevant degrees which have been recognised by FASEA. This may assist as responsible managers may have bachelor level (or higher) qualifications in business related fields which may be appropriate given the work they undertake.

Recommendation 1: That ASIC consider the potential cost impact on licensees when they undertake a process of ensuring that responsible managers have adequate qualifications.

Proposed skills component of three years relevant experience

FSC members support the requirement for responsible managers to meet a minimum standard of relevant experience of at least three years.

However, we see that this requirement, expressed as "three years relevant experience over the past five years", may have unintended consequences for those applying to become responsible managers.

An example of this would be an individual who meets the experience component but who has had a career break to have children. Although they may have three-years' experience, they may be excluded from become a responsible manager as their years of experience may not have been gained within the five-year limit.

FSC members do not believe any period of absence should count against an individual who may be adequately skilled to meet the Option 6 requirements.

We believe that in conjunction with the licensee, a responsible manager can develop a CPD Plan to identify any knowledge gaps arising during the period of absence. The CPD Plan can be relevant to the manager's responsibilities and obligations of the licensee.

Recommendation 2: That ASIC allow for potential responsible managers who have less than "three years relevant experience over the past five years" to have at least 1 years' experience within the last 5 years but have a minimum of 5 years' relevant experience overall.

Transitional arrangements for new responsible managers

FASEA has outlined that relevant providers must pass the exam by 1 January 2021 and meet the existing provider degree standard by 1 January 2024. New responsible managers who wish to satisfy Option 6 will be required to meet these same standards.

As a result, FSC members believe new responsible managers should be provided with the same transitional arrangements as relevant providers. This would also allow for consistency purposes between responsible managers and relevant providers.

It should, however, be recognised that this may be impractical post 1 January 2024 given FASEA bridging courses are unlikely to continue to be offered by education providers after this date. Alternative transitional arrangements should be considered post 2024.

Recommendation 3: ASIC allow for new responsible managers to be provided with the same transitional arrangements as relevant providers.

Existing Responsible Managers

Like the above, FSC members agree ASIC should offer transitional arrangements for existing responsible managers as this will provide licensees with adequate lead times to transition to the new requirements.

Recommendation 4: ASIC allow for existing responsible managers to be provided with the same transitional arrangements as relevant providers.

Continuing Professional Development (CPD)

FSC members support the requirement for responsible managers to complete ongoing CPD. We note the Corporations Act allows for licensees to choose to commence their CPD year within 12 months of 1 January 2019 (to align to their existing CPD periods). We suggest this flexibility also be extended to responsible managers nominated under Option 6. This is not reflected in the proposed wording for RG105.82 or in the transitional arrangements described at RG105.83 and RG105.84.

Recommendation 5: ASIC update the wording in RG105 to reflect that existing responsible managers who are nominated under Option 6 may commence their CPD year at any time within 12 months from 1 January 2019.