

5 September 2014

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
PO Box 6100  
Parliament house  
Canberra ACT 2600

Email: [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

To the Committee

**Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry**

CPA Australia and the Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ) welcome the opportunity to provide comments to 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 training framework for the financial advisers, currently set out by ASIC in Regulatory Guide 146 *Licensing: Training of financial product advisers*, has been in place since the introduction of the Financial Services Reform in 2000 and has remained largely unchanged over this period.

However, given the responsibility and obligations a financial adviser has to their clients, for some time, CPA Australia and the Chartered Accountants ANZ have expressed our significant concerns regarding the adequacy of current minimum training standards. Indeed, it is our view that the current requirements put at risk the financial future of many Australians who inadvertently rely, in good faith, on advice which is inadequate or is not appropriately tailored to their individual circumstance.

The industry more broadly has also acknowledged the deficiencies in the current framework. This inquiry, along with other initiatives such as Financial Systems Inquiry and the Government Australian Financial Services Licence Industry Working Group, represent a unique opportunity to implement real and much needed change which will deliver long term positive outcomes for both the financial advice sector and consumers who seek financial advice.

There are no short term measures that will address the current deficiencies and immediately rebuild trust in this sector. Further, it cannot be a superficial piecemeal approach. Instead it must be a coherent and all encompassing framework that addresses the necessary elements required to provide quality financial advice.

**Representatives of the Australian Accounting Profession**



[cpaaustralia.com.au](http://cpaaustralia.com.au)



[charteredaccountantsanz.com](http://charteredaccountantsanz.com)

We believe central to this reform is a new robust education and professional framework to raise the bar on financial advice and ensure better quality advice that is consistently in the best interests of the consumer. The framework should include the following core elements:

1. a holistic educational framework for financial advisers, which includes raising the minimum level of education from Diploma level to Bachelor Degree and implements structured ongoing professional development obligations
2. positively influencing behavioural change of all financial advisers by introducing a statutory code of conduct, built on a core principles including honesty and integrity, independence, competence and confidentiality, and
3. mandatory mentoring of new advisers, which will help incorporate the attributes of this code and culture early in an advisers career development.

This new framework is vital to rebuild the confidence and trust in financial advice that has been so demonstrably eroded by recent scandals, with a view to replicate the trusted relationship that generally exists between a client and other professionals such as doctors, lawyers, and professional accountants.

These professions have put in place, through many years of growth and development, a robust education framework which includes mandatory ongoing professional development, as well as professional and ethical obligations which influence all advice and services are provided to consumers.

While in comparison, the financial advice sector is relatively young. It is these core elements that are absent from the existing financial advice regime, yet would drive real change.

As financial services become more complex so does the many financial decisions consumers have to make and their financial position. Receiving valuable financial advice will become more significant for consumers and it is therefore vital that they have confidence and trust in the advice they receive.

If you have any questions regarding this submission, please do not hesitate to contact Keddie Waller (CPA Australia) at [REDACTED] or Hugh Elvy (Chartered Accountants ANZ) at [REDACTED]

Yours sincerely

**Stuart Dignam**  
**General Manager, External Positioning**  
**CPA Australia**

**Rob Ward**  
**Head of Leadership and Advocacy**  
**Chartered Accountants Australian and New Zealand**

#### **About the signatories**

CPA Australia and Chartered Accountants ANZ represent over 250,000 professional accountants in Australia. Our members work in diverse roles across public practice, commerce, industry, government and academia throughout Australia and internationally. Specifically members of the accounting profession are increasingly becoming involved more widely in financial services related advisory and service roles.

## Summary of recommendations

### Terms of reference

#### 1 - The adequacy of current qualifications required by financial advisers

- The minimum education level for individuals providing Tier 1 financial product advice is lifted from AQF 5 – Diploma to AQF – Bachelor Degree.
- A comprehensive review is undertaken to identify the knowledge and skills required to become a holistic financial adviser.
- The findings of this review form the basis for a new curriculum, which clearly articulates the curriculum detail and the specific learning outcomes for each core area identified.
- The new education curriculum identifies and caters for all advice and services provided under an AFS licence, not just financial advisers, to ensure efficiency in the framework.
- In addition to establishing a new curriculum, the quantum of study is also set for each core knowledge and skill area identified.
- The new education framework should prescribe a mix of rigorous and independent assessment forms which require an individual to demonstrate the achievement of the set learning outcomes for each core area.
- To address issues around currency of knowledge and skills, the new education framework provide guidance where previously completed qualifications can be recognised by AFS licensees to ensure consistency in the sector.
- The new education framework prescribe a minimum level of CPD over a triennium, including minimum levels of CPD that must be achieved each year.
- As regulator of the AFS licensing regime, ASIC should have the responsibility for developing, implementing and monitoring the new education framework.

#### 2. The implications, including implications for competition and the cost of regulation for industry participants of the financial advice sector being required to adopt:

##### a) professional standards or rules of professional conduct which would govern the professional and ethical behaviour of financial advisers; and

- A statutory code of conduct that applies to all individuals under the AFS licensing regime should be implemented to foster an ethical culture and increase professionalism.
- All new financial advisers should be mentored for a 12 month period by an appropriate supervisor, to embed the skills of providing quality advice and the attributes of a code of conduct early in a financial adviser's career, resulting in a better experience for the consumer.

##### b) Professional regulation of such standards or rules

- As the regulator of the AFS licensing regime, ASIC should be responsible for monitoring and enforcing a new statutory Code of Professional Conduct to ensure all advice and services provided to consumers are in accordance with appropriate standards of professional and ethical conduct.

### **3. The recognition of professional bodies by ASIC.**

- While we do not believe there is a current need to formally recognise professional bodies, CPA Australia and the Chartered Accountants ANZ recommend that if this requirement is implemented that the role is fulfilled by the Professional Standards Council.

## **ToR 1 - The adequacy of current qualifications required by financial advisers**

### **The current training standard**

CPA Australia and the Chartered Accountants ANZ have been concerned for some time that current minimum training standards are inadequate, especially in light of the responsibility the financial adviser has to their client when providing advice and the potential impact inappropriate advice may have on a client's financial future. Of note while improving the current training standards is vital, education alone is not the solution to the issues this inquiry is endeavouring to address.

A holistic review is required to enable a new framework to be developed which appropriately reflects the range of knowledge and skills required to provide quality financial planning advice.

The current training framework is detailed in ASIC Regulatory Guide 146 *Licensing: Training of financial product advisers*, which requires all natural persons who provide financial product advice to retail clients to meet this standard, unless they fall within certain limited exemptions.

The training standards are sets of knowledge and (in some cases) skill requirements that must be satisfied. For the purposes of the training standards, ASIC has divided financial products into two levels:

- Tier 1 is required for all people advising on all financial products except those defined under Tier 2
- Tier 2: includes general insurance products (except accident and sickness), consumer credit insurance, basic deposit products and non-cash payment products, given that these products are generally simpler and better understood they are subject to lighter training standards.

A financial adviser is required to meet the Tier 1 training requirements.

Regulatory Guide 146 sets a minimum training threshold for Tier 1, which is broadly equivalent to the AQF 5 - Diploma level under the Australian Qualifications Framework (AQF). The AQF is a national government system that provides the criteria for qualifications issued by the school sector, vocational education and training sector (e.g. TAFEs and private RTOs) and the higher education sector (e.g. universities).

Importantly, ASIC does not prescribe that an individual must undertake a formal diploma course (or any other specific qualification) or the quantum of study that must be undertaken. Rather, the reference is to provide a guide for comparative purposes only. While ASIC has encouraged industry to build on these minimum training standards, the reality is the minimum threshold has generally been adopted by the sector and consequently by many training providers. Further, even though ASIC set the minimum training requirements it is the licence holder who is ultimately responsible for the financial advice provided. Therefore, ASIC has placed the onus on the Australian Financial Services (AFS) licensee to determine what training its representatives will need to complete to meet the training requirements. For this reason it is not uncommon for different AFS licensees to require their representatives to complete a different suite of training, both initially and ongoing, to provide the same financial advice.

Regulatory Guide 146 also mandates the completion of ongoing continuing professional development (CPD), the purpose of which is to maintain, update and deepen a financial adviser's knowledge and skills. However, again ASIC does not prescribe the quantum of hours that must be completed within any given period.

We acknowledge that ASIC has previously identified deficiencies in the current framework and in response proposed changes in Consultation Paper 153 *Licensing: Training and assessment framework for financial advisers* (2011) and Consultation Paper 212 *Licensing: Training of financial product advisers – Updates to RG 146* (2013). However, we believe that the proposals on both occasions would have failed to appropriately address the identified issues and therefore have little impact on improving the quality of advice provided to consumers. In fact, we believe that both of

these consultations proposed a piecemeal rather than a holistic approach and as a result would have failed to address even the grass root deficiencies ASIC identified.

For example, Consultation Paper 153 proposed to introduce a national examination or multiple examinations which all individuals would have been required to pass before they could become a licensed financial adviser. We do not support this model because as a stand-alone mechanism. It would fail to address the current deficiencies in both the education standards and the consistency and quality of training and assessment (noting this training would still need to be completed before sitting for the examination or examinations). Further, while it may be an objective method to ensure all advisers demonstrate a minimum level of knowledge, it will not ensure a financial adviser has the requisite competency, being a combination of knowledge and skills, required to provide quality financial advice. We believe this is the fundamental issue that must be addressed.

The introduction of an examination model would also be seen as an opportunity for some training providers to develop and market new products purely focused only on passing the examination. This would shift the focus from ensuring a financial adviser has the requisite competence to adequately perform their duties and provide quality financial advice to instead strategies for passing a an examination.

Consultation Paper 212 did propose lifting the current minimum training standards to a minimum AQF 7 level. However, it failed to mandate other critical elements such as the duration of study for a specialist knowledge area. This would have still permitted an individual to complete one 12-week subject at university and meet the requirements to become a financial adviser. Further, the Consultation Paper noted that only a partial review of the current knowledge and skills area had been undertaken and that further work was required to ensure a holistic review.

## **The way forward**

A new robust and holistic educational framework for financial advisers must be developed to ensure quality financial advice is consistently provided to the consumer. This in time will build confidence and trust in this important sector.

The new education framework must:

1. raise the minimum level of education
2. establish a comprehensive curriculum, which all courses must cover
3. prescribe the quantum of study that must be covered
4. prescribe a mix of rigorous and independent assessment forms, and
5. mandate a minimum level of CPD over a triennium, including minimum levels of CPD that must be achieved each year.

### **1. Raise the minimum level of education**

It is essential that the minimum education level to become a financial adviser is commensurate with the knowledge and skills needed to provide quality financial advice. We believe the current minimum education level of AQF 5 - Diploma does not reflect the knowledge and skills to become a financial adviser and provide quality financial advice.

CPA Australia and the Chartered Accountants ANZ recommend that the new education framework raise the minimum level of education from an AQF 5 - Diploma level to AQF 7 – Bachelor Degree.

The following table provides a comparison of these two levels of education.

|  | <b>AQF 5 – Diploma</b>  | <b>AQF 7 – Bachelor Degree</b>  |
|--|---|---|
| <b>Summary</b>                             | Graduates at this level will have specialised knowledge and skills for skilled/paraprofessional work and/or further learning  | Graduates at this level will have broad and coherent knowledge and skills for professional work and/or further learning   |
| <b>Knowledge</b>                           | Graduates at this level will have technical and theoretical knowledge in a specific area or a broad field of work and learning  | Graduates at this level will have broad and coherent theoretical and technical knowledge with depth in one or more disciplines or areas of practice   |
| <b>Skills</b>                              | <p>Graduates at this level will have a broad range of cognitive, technical and communication skills to select and apply methods and technologies to:</p> <ul style="list-style-type: none"> <li>analyse information to complete a range of activities</li> <li>provide and transmit solutions to sometimes complex problems</li> <li>transmit information and skills to others</li> </ul> | <p>Graduates at this level will have well-developed cognitive, technical and communication skills to select and apply methods and technologies to:</p> <ul style="list-style-type: none"> <li>analyse and evaluate information to complete a range of activities</li> <li>analyse, generate and transmit solutions to unpredictable and sometimes complex problems</li> <li>transmit knowledge, skills and ideas to others</li> </ul> |
| <b>Application of knowledge and skills</b> | Graduates at this level will apply knowledge and skills to demonstrate autonomy, judgement and defined responsibility in known or changing contexts and within broad but established parameters   | <p>Graduates at this level will apply knowledge and skills to demonstrate autonomy, well-developed judgement and responsibility:</p> <ul style="list-style-type: none"> <li>in contexts that require self-directed work and learning</li> <li>within broad parameters to provide specialist advice and functions</li> </ul>   |

It is clear by comparing the attributes of these two levels of education that there will be multiple benefits from lifting the minimum education level to AQF 7- Bachelor Degree. It will result in individuals:

- having broad, theoretical, technical and coherent knowledge as well as the skills for professional work, rather than paraprofessional
- learning the skills to not only analyse but evaluate information
- having the skills to analyse, generate and transmit solutions to unpredictable and sometimes complex problems; and
- being able to communicate their knowledge, skills and ideas to others.

Together this should in turn result in individuals having the requisite knowledge and skills to enable them to consistently provide quality advice to consumers.

Further, knowing that an individual has completed a higher level of education to become a financial adviser should also in time provide consumers with more confidence in this sector.

As a financial adviser has a statutory obligation to act in their client's best interest, it is imperative that the minimum education level reflects the depth of knowledge and skills required to provide quality financial advice. CPA Australia and the Chartered Accountants ANZ therefore recommend that the minimum education level for individuals who provide Tier 1 financial product advice is lifted from AQF 5 – Diploma to AQF 7 – Bachelor Degree.

**RECOMMENDATION:**

**The minimum education level for individuals providing Tier 1 financial product advice is lifted from AQF 5 – Diploma to AQF 7 – Bachelor Degree.**

## **2. Establish a comprehensive curriculum**

Regulatory Guide 146 requires all financial advisers to demonstrate that they have met the generic knowledge requirements, specialist knowledge requirements and skills relevant to their activities.

Generic knowledge relates to the having a generic knowledge of the environment in which the financial adviser will operate to understand the context in which the advice is given. In addition to this individuals should be able to apply appropriate skills in relation to their activities and the products and markets in which they operate.

The specialist knowledge requirements are largely based on the broad classes of financial product, where an individual is required to complete training in the specialist knowledge area in which they will provide financial product advice. The specialist knowledge areas are:

- financial planning
- securities
- derivatives
- managed investments
- superannuation
- insurance—general, life and broking
- deposit products and non-cash payment products
- foreign exchange
- First Home Saver Accounts; and
- margin lending facilities

Financial advisers do provide financial product advice and recommend specific financial products. However, basing the specialist knowledge requirements on the classes of financial product fails to reflect the broad scope of financial advice that a financial adviser actually provides to clients.

Financial advice is far broader than financial product advice and commonly includes advice on:

- cash flow and budgeting
- debt reduction
- savings strategies, including planning and saving for future expenditure
- investment planning, including risk profiling
- retirement planning and superannuation advice
- social security
- insurance planning, including asset protection



- estate planning; as well as
- the economic environment, ethical considerations, the legal environment and obligations and taxation implications when providing this advice.

It is clear in comparing this range of financial advice to the current specialist knowledge areas in Regulatory Guide 146 there is gap between the mandatory training requirements and the actual knowledge and skills required to provide financial advice, not just financial product advice, to a client.

CPA Australia and the Chartered Accountants ANZ recommend a comprehensive review is undertaken to identify the actual knowledge and skills required to become a holistic financial adviser. The findings of this review should form the basis of a new curriculum which clearly articulates the curriculum detail and the specific learning outcomes for each core area identified. This should then be used as the basis to develop AQF 7 – Bachelor Degree to AQF 9 – Masters Degree level qualifications for the financial advice sector.

#### **RECOMMENDATIONS:**

**A comprehensive review is undertaken to identify the knowledge and skills required to become a holistic financial adviser.**

**The findings of this review form the basis for a new curriculum, which clearly articulates the curriculum detail and the specific learning outcomes for each core area identified.**

#### **Other related financial product advice**

While the focus of this inquiry is on the adequacy or current qualifications for financial advisers, it is important to understand that a wide range of other advice and services are provided under an AFS licence. This extends well beyond what is generally understood to be the provision of financial advice to consumers by financial advisers. Specifically in relation to the accounting profession this includes independent expert reports (IER), Investigating Accountant's Reports and advice that is provided by an actuary which is read by retail clients. The issues surrounding this area a consequence of the single licensing regime that now exists.

For example, ASIC has stated that IERs typically constitutes the provision of financial product advice and as such an expert must hold or be licensed under an Australian Financial Services (AFS) licence. Therefore any individual who prepares and signs such reports must meet the training requirements of Regulatory Guide 146.

Examples of when an IER is needed occur where there is a related party takeover, demutualisation or compulsory acquisition. The primary purpose of such a report is to protect minority investors, in particular where there is a potential conflict of interest for their board or individual directors. The report contains:

- a summary of the proposed transaction
- a description of the purpose and objectives of the report, including a discussion of the basis for providing an opinion
- an analysis of the businesses involved
- a description of the industries in which those businesses operate
- detailed analysis of the proposed transaction, usually including a valuation of one or more entities
- an opinion as to whether the contemplated transaction is fair and reasonable or in the best interest of investors as a whole.

This creates unnecessary complexity as the training focuses on providing personal financial product advice to a consumer and requires the completion of a statement of advice for example. However, in reality these individuals will never prepare a statement of advice and so there is a clear gap in

available training to cater for these individuals created by the current focus of the training requirements.

If a new education framework is created that focuses only on financial advisers, without acknowledging and catering for other advice and services provided under an AFS licence, then the same issues will be carried forward.

CPA Australia and the Chartered Accountants ANZ therefore recommend that in developing a new education framework for financial advisers that other areas of advice and services provided under an AFS licence are also identified and a curriculum developed that is appropriate for these specific activities.

**RECOMMENDATION:**

**The new education curriculum identifies and caters for all advice and services provided under an AFS licence, not just financial advisers, to ensure efficiency in the framework.**

### **3. The quantum of study that must be covered**

For a number of years the sector has had serious concerns over short courses, including 'intensive one or two day workshops'. While lifting the education requirement level to degree level may prima facie appear to address these concerns, without mandating the quantum of study that must be completed it will still result in the same flaws to occur at the AQF 7 level as they currently do at the AQF 5 level.

For example, up until 24 September 2012 a course was only recognised as meeting the training requirements of Regulatory Guide 146 if it was listed on the ASIC Training Register. On the ASIC Training Register there are multiple instances where one single university module is registered as meeting the following specialist knowledge requirements (including generic knowledge and skills):

- financial planning
- securities
- managed investments; and
- superannuation.

If the education level was lifted to AQF 7 and a quantum of study was not mandated, potentially an individual could still complete one 12-week subject at university and meet the education requirements to provide financial product advice and recommend specific financial products.

Importantly, duration alone is not a definitive guide to the quality of a course and flexible study options are also necessary to cater for different learning styles and to cater for different individual circumstances, such as an individual seeking a career change. However, there is a clear need to set a minimum threshold of study to ensure that any education course covers the identified core areas in sufficient depth so that an individual has the necessary knowledge and skills to provide quality financial advice.

This may include, for example, stating each core area should fit within a single standard 12 to 14 week tertiary period made up of formal instruction (such as lectures), exercises in applying knowledge (such as tutorials) and private study (such as research, reading, and assignment preparation) totalling 100 to 130 hours. While this is based on the assumption of traditional study, the model would recognise that there is a range of learning modes available, including distance study.

The important element is not the manner of delivery, but ensuring that the course develops a thorough understanding of the curriculum through technical content, its application and appropriate research.

This is not dissimilar to the role of the Tax Practitioners Board. As the regulator of registered tax agents, tax (financial) advisers and BAS agents under the *Tax Agents Services Act 2009*, it sets the education requirements for registration, including mandating the curriculum and duration of study.

CPA Australia and the Chartered Accountants ANZ recommend that in addition to establishing a new curriculum, the quantum of study is set for each core knowledge and skill area identified.

**RECOMMENDATION:**

**In addition to establishing a new curriculum, the quantum of study is also set for each core knowledge and skill area identified.**

#### **4. Prescribed assessment forms**

In addition to the concerns over the quantum of study required to become a financial adviser is some of the s current methods of assessment being used by education and training providers.

While we believe that a number of education providers are delivering a robust assessment framework, anecdotal evidence would suggest that some are not and that as a result there is a significant disparity between providers. To address this issue, some AFS licensees may require financial advisers who are new to their licence to complete the training again with a specific education provider to address concerns around the quality of their previous training.

Therefore there is a need to build consistency and rigour into the new framework.

This should include a requirement for a mix of different forms of assessment, recognising different learning styles and that different forms of assessment may be more appropriate for different aspects of the curriculum. Examples of suitable assessment may include:

- tests
- examinations (oral and written)
- problem based assignments, including case studies and preparation of statements of advice
- computer based assessment tasks.

CPA Australia and the Chartered Accountants ANZ believe that a core element of the new education framework is the means by which the curriculum is assessed. To ensure consistency the framework should prescribe a mix of assessment forms which must be rigorous, independent, have integrity and require individuals to demonstrate the achievement of the set learning outcomes for each core area.

**RECOMMENDATION:**

**The new education framework should prescribe a mix of rigorous and independent assessment forms which require an individual to demonstrate the achievement of the set learning outcomes for each core area.**

#### **Other issues – currency of training**

While Regulatory Guide 146 sets out the training requirements for financial advisers, it provides little guidance on the recognition of previously completed training and currency. This is an ongoing issue for the sector. With the lack of specific guidance some AFS licensees require an individual who has been out of the industry for a period of time to complete their training again to ensure they comply with their obligations to ensure representatives are appropriately trained to provide advice under their AFS licence.

With changing markets, new products and regulatory changes there is a need to ensure currency of education. However, a more holistic view is needed that takes into account experience and ongoing professional development.

While it may not be an issue under a new education framework immediately, it will inevitably become an issue over time.

A suggestion may be to set a time period where qualifications completed by an individual under the new education framework are automatically deemed to meet the currency requirement. Going forward an individual who completed a qualification under the new framework, but completed this outside of the set time period would only be recognised if they can also demonstrate the completion of continuing professional development.

CPA Australia and the Chartered Accountants ANZ recommend that the new education framework provide guidance on recognising previously completed qualifications to ensure consistency and provide much needed guidance to the sector.

**RECOMMENDATION:**

**To address issues around currency of knowledge and skills, the new education framework provide guidance where previously completed qualifications can be recognised by AFS licensees to ensure consistency in the sector.**

## **5. Prescribed CPD requirements**

Just as important as completing the appropriate initial education, is the commitment to continuing professional development to maintain, update and deepen a financial adviser's knowledge and skills.

ASIC currently requires all financial advisers to have an annual training plan in place and complete ongoing professional development as stated in Regulatory Guide 146. However, it does not prescribe a minimum level of ongoing professional development that must be undertaken.

CPA Australia and the Chartered Accountants ANZ recommend that the new education framework mandate a minimum level of CPD over a triennium, including minimum levels of CPD that must be achieved each year.

**RECOMMENDATION:**

**The new education framework prescribe a minimum level of CPD over a triennium, including minimum levels of CPD that must be achieved each year.**

## **ASIC and its role as regulator**

CPA Australia and the Chartered Accountants ANZ believe that as the regulator of the AFS licensing regime, ASIC should have responsibility for developing, implementing and monitoring the new education framework.

Critically, the ongoing consulting with industry and all other relevant stakeholders should be core to this process.

The process should include the accreditation of qualifications that are deemed to meet the education framework, which is published on a public register similar to how the ASIC Training Register operated, up until 24 September 2012.

The maintaining of such a register has the benefit of providing a central reference for all AFS licensees, which provides certainty and assists in complying with licence obligations of ensuring their representatives are adequately trained.

It also provides clear guidance for individuals looking to begin a career in financial planning on what qualifications are recognised as meeting the education requirements to become a financial adviser.

This is not dissimilar to the role of the Tax Practitioners Board (TPB), where it is the regulator of Registered Tax Agents, Tax (financial) advisers and Business Activity Statement Agents under the *Tax Agents Services Act 2009*. The TPB set the education requirements for registration, including mandating the curriculum, duration of study and assessment, maintain a list of approved courses and mandate ongoing CPD requirements.

**RECOMMENDATION:**

**As regulator of the AFS licensing regime, ASIC should have the responsibility for developing, implementing and monitoring the new education framework.**

## **ToR 2. The implications, including implications for competition and the cost of regulation for industry participants of the financial advice sector being required to adopt:**

### **a) professional standards or rules of professional conduct which would govern the professional and ethical behaviour of financial advisers; and**

Improving the education and training standards will aid in improving the quality of financial advice. However, it will not effectively address issues around conduct and behaviour. one of the key objectives for the financial advice sector should be to positively influence behavioural change to promote consumer confidence and trust in the advice they receive. This is something that requires a long term focus, it cannot be addressed with any short term solution.

The financial advice industry is already highly regulated. It is this complex array of legislative requirements that is currently contributing to the ever rising cost of advice, which is having a significant impact on the access of advice for many consumers. Further it is resulting in ongoing consolidation in the advice industry, where many independent licensees are finding they can no longer sustain the high cost of compliance.

The financial services industry is structured differently to other sectors and professions. With most professions, usually it is the individual who is required to register or become licensed to practice. In the AFS licensing regime, it is more common for an entity to apply for the AFS licence and for the individual to become authorised under this licence. As such, there is delineation between responsibilities on the licensee and the individual.

There is also significant variation in how a financial adviser may operate. A financial adviser may independently hold their own AFS licence. Alternatively they may operate under another AFS licence as a direct employee or within their own practice. A financial adviser may or may not also be a member of an industry association or a professional body.

As a consequence the most efficient and far-reaching mechanism, which could readily developed and implemented, to enhance consumer confidence and trust is through the introduction a statutory code of conduct. This code would apply to all individuals under the AFS licensing regime.

Such a code should be built on the core principles of:

- honesty and integrity
- independence
- competence; and
- confidentiality.

It also aligns with other segments of the advice industry, such as tax where the Tax Practitioners Board is responsible for the oversight and enforcement of a statutory Code of Professional Conduct.

The many benefits of one statutory code of conduct that is principles based include it:

- will effectively foster an ethical culture, increase professionalism
- can apply to all individuals under the AFS licensing regime, regardless of the advice or service they provide
- clearly sets out a consistent and uniform framework of expected behaviour that will act as an umbrella to existing legislative obligations, without adding another heavy layer of compliance
- requires all advice and services are provided to consumers in accordance with appropriate standards of professional and ethical conduct

- Does not require the approval of multiple codes, which can lead to inefficiencies and inconsistencies in application and therefore has limited ability to achieve a consistent professional framework; and
- can apply to all individuals, regardless of whether they are a member of a professional or industry body.

Most importantly it will improve consumer confidence in the sector, as there will a clear assurance that all financial advisers will be required to comply with the same code that will be enforced and interpreted consistently.

**RECOMMENDATION:**

**A statutory code of conduct that applies to all individuals under the AFS licensing regime should be implemented to foster an ethical culture and increase professionalism.**

**Mentoring of new financial advisers**

The accounting profession over many decades has developed a comprehensive professional framework, a key element of which has been incorporating through its supervision and mentoring programs an ethical framework and culture early in an accountant's career development.

Therefore in addition to implementing a new statutory code of conduct, CPA Australia and the Chartered Accountants ANZ believe the mandatory mentoring of new advisers should also be introduced.

This new requirement will be valuable in developing financial adviser skills and to embed at the beginning of a person's career the attributes of a code of professional conduct and culture. Further, it is an opportunity to help the new adviser further develop their knowledge and skills to provide quality advice and importantly how to build a trusting and valuable relationship with the client.

An appropriate period of time would be 12 month full-time (or equivalent), which would help ensure the effectiveness of this proposal.

A high degree of flexibility will be required to ensure this proposal can be successfully implemented and effective over the long term, without excessively impacting or burdening licensees. For this reason consideration should also be given to allowing compliance managers, or similar roles, to also act as a supervisor in conjunction with the licensed experienced financial adviser.

We do not believe there should be prescriptive requirements on how many new advisers a supervisor can supervise at one time. Factors such as the size of the practice, how many clients the new adviser will be seeing and what percentage of time the new adviser will be providing financial planning advice must also be considered. Further details including the role and expectations of the supervisor will also impact the number of new advisers a supervisor could supervise.

Any added cost this requirement may impose will be offset by providing a better experience for the consumer and will also help to build confidence in both financial advisers and the industry.

**RECOMMENDATION:**

**All new financial advisers should be mentored for a 12 month period by an appropriate supervisor, to embed the skills of providing quality advice and the attributes of a code of conduct early in a financial adviser's career, resulting in a better experience for the consumer.**

## **b. Professional regulation of such standards or rules; and**

CPA Australia and the Chartered Accountants ANZ recommend that the statutory code of professional conduct should be enforced by ASIC, as the regulator of the AFS licensing regime.

Importantly, the financial services industry is already a co-regulatory environment where professional bodies and industry associations work with ASIC to oversee the financial services industry. While traditionally as part of a co-regulatory model professional bodies mandate an expected level of conduct through a combination of a Code of Ethics and professional standards, currently there are limitations to this model as not every licensed financial adviser is a member of a professional body.

A statutory code of professional conduct efficiently and effectively addresses this issue and still supports the continuation of co-regulation. It also aligns with other segments of the advice industry, such as tax where the Tax Practitioners Board is responsible for the oversight and enforcement of a statutory Code of Professional Conduct.

### **RECOMMENDATION:**

**As the regulator of the AFS licensing regime, ASIC should be responsible for monitoring and enforcing a new statutory Code of Professional Conduct to ensure all advice and services provided to consumers are in accordance with appropriate standards of professional and ethical conduct.**



### ToR 3. The recognition of professional bodies by ASIC.

CPA Australia and the Chartered Accountants ANZ do not see an immediate need for ASIC to recognise professional bodies within the financial services regime.

In related disciplines, such as tax advice, both CPA Australia and the Chartered Accountants ANZ are an accredited Recognised Tax Agent Association with the Tax Practitioners Board. However, one of the purposes of this accreditation is to enable highly experienced members to access a specific pathway to becoming a Registered Tax Agent.

Importantly, if there is a need to recognise professional bodies a framework has already been established by the Professional Standards Council (PSC).

The PSC has been established by the Australian state and territory governments and are the independent statutory bodies responsible for promoting professional standards and consumer protection. They are also responsible for the approval, monitoring and enforcing of Professional Standards Schemes.

The PSC demand high levels of professional standards and practices from those that participate in Professional Standards Schemes and expect professional associations within its regulated communities to ensure their members uphold these standards through education and guidance, monitoring and enforcement, and other measures. This plays an important role in protecting consumers.

The PSC requires associations and their members to have certain processes, programs and practices in place before their Professional Standards Schemes can be approved. These are typically identified in the framework:

- **Education:** The specific technical and professional requirements to practice in your discrete professional area. This includes both entry-level formal qualifications or certification, and ongoing continuing professional development and education.
- **Ethics:** The prescribed professional and ethical standards clients can rightfully expect your members to exhibit. This includes your specific expectations of practice and conduct, and should do more than just reiterate statutory expectations.
- **Experience:** The personal capabilities and experience required to practice as a professional in your discrete professional area.
- **Examination:** The mechanism by which all of the elements above are assessed and assured to the community. This extends beyond qualification or certification requirements into expectations of regular assurance of practice, such as your compliance programs and professional audits.
- **Entity:** Your association must be an entity capable of overseeing and administering professional entry, professional standards, and compliance expectations on behalf of the community.

CPA Australia and the Chartered Accountants ANZ recommend that if there is a requirement to formally recognise a professional body within the financial services sector that this role is fulfilled by the Professional Standards Council, rather than ASIC.

The benefits of the PSC formally recognising professional bodies include:

- avoiding the duplication of an existing framework
- leveraging of an existing and proven framework of independent statutory bodies responsible for promoting professional standards and consumer protection; and
- lead to improvements in the professional standards within the financial services sector and self-regulatory capacity.

**RECOMMENDATION:**

**While we do not believe there is a current need to formally recognise professional bodies, CPA Australia and the Chartered Accountants ANZ recommend that if this requirement is implemented that the role is fulfilled by the Professional Standards Council.**