



3/11/2014

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

Email: corporations.joint@aph.gov.au

Dear Madam/Sir,

SPAA ANSWERS TO QUESTIONS TAKEN ON NOTICE

The SMSF Professionals' Association of Australia (SPAA) welcomes the opportunity to provide answers to questions that were taken on notice during our 13 October 2014 appearance before the Parliamentary Joint Committee on Corporations and Financial Services (the Committee) inquiry into proposals to lift the professional, ethical and education standards in the financial services industry.

Our answers to the questions are in the [attachment](#).

If you have any questions or would like further information, please do not hesitate in contacting us.

Yours sincerely,

Andrea Slattery
Managing Director/CEO
SMSF Professionals' Association of Australia Limited

SPAA ANSWERS TO QUESTIONS ON NOTICE

Senator O'Neill: Just on notice, could you provide us with a list of the places in which a degree or postgraduate qualifications could be acquired and the structures of those: how people access them and how many of those are represented in your membership?

Due to the broad range of bachelor degrees and post graduate qualifications that are relevant to financial planning (i.e. qualifications in financial planning, commerce, finance, economics, accounting, taxation, law etc.) it is difficult to list qualifications that are available for people to undertake to enter financial planning. In the current environment, advisers are only able to obtain genuine SMSF qualifications through organisations like SPAA.

SPAA is currently working with a university in developing a graduate certificate for SMSF. This will allow those seeking a tertiary qualification to enter the emerging SMSF profession a viable option.

As a professional member association, we have provided an analysis of SPAA members that hold tertiary qualification. Of SPAA's 2961 members, 1795 hold the following categories of tertiary degree qualification:

Qualification	Number
Bachelor degree	1348
Double Bachelor degree	116
Bachelor and Postgraduate degree	213
Postgraduate degree	100
Double Postgraduate degree	18

Also, SPAA's own accreditations, the SPAA Specialist SMSF Advisor (SSA™) and SPAA Specialist SMSF Auditor (SSAud®) are held by our members in the following numbers:

SPAA Designation	Number
SSA	1420
SSAud	112
SSA + SSAud	60

SPAA has developed a register of SPAA SMSF Specialists members which is available to the public and can be sourced by consumers in search of a professional to assist them in their decision making.

Chair: Your submission talks about a five-year transition period and it also talks about things like two years of relevant work experience. Could you outline for the committee a little bit more how you see transitioning would work for the different levels of experience in the industry?

SPAA believes that moving to an Australian Qualifications Framework (AQF) Level 7 Bachelor degree standard for financial advice training is essential to the future of the industry, but realise that an appropriate grandfathering period needs to be in place to allow existing advisors and educators to prepare for the higher standard.

We believe increased competencies for entry requirements to financial advice can be divided into two categories: Occupation Entry Requirement and Specialist Occupational Entry Requirement. We would see the necessary competencies as follows:

- Minimum Financial advice Occupational Entry Requirement (complex products – tier 1 advice):
 - One of a series of industry approved bachelor degrees or graduate certificates (i.e. a graduate certificate in SMSF) that cover the core financial planning areas. (For example, generic financial and financial services environmental knowledge, financial planning (process), superannuation, insurance, managed investments, taxation.)
 - Continuing professional development – approximately 30 hours per annum.
- Minimum Financial advice Specialist Occupational Entry Requirement:
 - Those seeking to be authorised for specialist areas such as SMSF, Margin Lending, Derivatives, Securities, Foreign exchange, Estate planning, Risk, etc. would require additional study and then examination or industry accreditation for the area of specialisation.
 - A guidance/expectation of 2 years' experience in the specialist areas would exist as an indicative quantum of applied knowledge for a successful outcome of the examination in the specialist area.
 - Continuing professional development – approximately 40 hours per annum.

We believe that a grandfathering mechanism for advisers similar to that being used for transitioning financial advisers into the Tax Practitioners Board (TPB) regulation of tax (financial) advice would be appropriate. This approach allows for new entrants to financial advice to be required to meet the higher standards upon entry but gives existing market participants a period to meet the new standards. This would involve new entrants meeting the AQF 7 bachelor's degree or graduate certificate minimum on entry and existing advisers a period to achieve AQF 7 level competency core areas.

We believe that a five year transition will allow enough time for existing advisers to undertake courses at AQF7 level in core competencies for financial advice. A five year transition period will also allow for education providers to be able to build courses that will meet the needs of the financial advice industry as it transitions to a higher standard of education and required entry competencies.

We understand that it takes approximately two to three years for training providers to carry out the process of preparing, implementing and reviewing an increase in educational standards for their courses or to prepare new courses. Also, we believe the increased requirements of training providers may result in a contraction of the training provider market as some training providers will either choose not to or be unable to meet the requirements and consequently

will move out the AFS licence market. This could result in a shortage of qualified providers to meet the markets' needs resulting in wait times and increased costs for AFS licenses and advisers.

In addition to raising education competencies to AQF 7 level, we believe advisers should have two years' experience working in financial advice to be regarded as a "financial adviser". This will ensure that advisers have relevant experience and opportunity to develop skills, as well as knowledge, that are relevant to providing high quality financial advice. Also, this requirement would stop "pop-up" advisers who enter the industry.

CHAIR: You mentioned the ASIC training register and the fact that that is no longer functioning. I would be interested to know whether you thought that was effective when it was in place and what learnings the committee can draw from that model?

The purpose of the ASIC training register was to provide assurance that the courses available in the market that were assessed met the minimum knowledge and skill content and assessment set by RG 146.

As a precursor to submitting an application to ASIC for RG 146 approval, there was an assumption that the course would meet fundamental educational outcomes set out in RG 146.99. This set the expectation that the onus rested with the education providers to ensure that their course would:

- (a) address the knowledge requirements and, where appropriate, our skill requirements (see RG 146 Appendices A and B);
- (b) be developed in a way that takes into account relevant existing industry-specific standards, the Financial Services Training Package (see RG 146.101–RG 146.103) and approved codes of conduct where applicable;
- (c) have clearly identified objectives and outcomes;
- (d) be delivered by appropriately qualified and experienced staff;
- (e) be delivered using appropriate methods and program materials;
- (f) be of an appropriate duration; and
- (g) be at an appropriate educational level.

It was not the original intent of the register/course approval process to examine and approve the educational experience and outcome.

It became apparent that not all the education providers were developing courses that aligned to the assumed education experience and outcome, so over time the RG 146 approval process was expanded to also conduct an assessment not only of the RG 146 specialist knowledge and skills content and assessment, but also if it met the educational experience and outcome.

For example, the obvious aspects:

- Was the duration appropriate? For example, it is not possible to educate people on margin lending in a 30 minute course.
- Did the trainers and assessors have the necessary experience?
- Were the correct assessments methods being used?
- How do you get students to demonstrate how they can translate new knowledge to a client?
- Did the course content actually include all that it promised? Superannuation courses with no superannuation content, RG 146 advertised programs which had no related RG 146 content, such as Mortgage Broking.

This process was outside the intended scope of the Register and ASIC. The governance of quality education lies with Australian Skills Quality Authority (ASQA) for vocational education providers and Tertiary Education Standards Quality Authority (TESQA) for higher education providers.

The consultation provided by the ASIC Register administrator provided a link between the theory of the available education standards and training packages and practical application of education solutions within the financial services industry. Again this was not the original

intention of the Register and the approval process, however, there was no other independent source of enquiry to assist in the interpretation of educational theory versus industry reality and changing needs.

The problem with the process, is that it was a desk audit, therefore, whilst modifications to applications may have been made to attain the ASIC Training Register approval, it did not necessarily translate into material changes in the delivery of the course and what happened inside the classroom.

However, since the cessation of the Register in September 2013 (which followed a lengthy period where ASIC did not have full oversight and maintenance of the Register), and the introduction of the self-assessment/approval process, we believe there has been an increase in the number of programs in the marketplace that do not align to the fundamentals of quality education expectations set out in RG 146.99 let alone the RG 146 content. Prior to the cessation of the Register, poor quality programs did make it through the approval process, however, they were subsequently monitored and either lost their approval status or had to increase their quality (i.e. there was active monitoring).

The change to self-approval by education providers has resulted in a number of outcomes:

- No independent (or regulatory) oversight of courses claiming regulatory alignment/approval
- No independent interpretation and clarification of educational standards theory and how it applies to the reality of industry and its changing needs.
- No validation that RG 146 evidence provided via course transcripts meets the promised marketed course outcomes.

The competitive pressures of the education industry plus their ability to be “approved” financial services education providers without close connection to the industry is a recipe for short cut, short-sighted and out of date programs being available and advertised to non-suspecting students.

We understand that the operating principle of RG 146 is that the onus falls to the licensee to ensure that their representatives are adequately and appropriately trained. However, with the removal of the ASIC Training Register, no licensee has the knowledge, tools or resources to independently assess that the training their representatives have undertaken meets the requirements of RG 146. Accordingly, we believe an alternative industry based training assessment solution is more appropriate if ASIC is no longer willing to be the independent assessor of RG 146 training courses. We believe that professional associations have a critical role in setting education and competency requirements for industry participants. We believe in a co-regulatory environment, professional associations approved by ASIC, can set standards which courses should comply with to lift education and training standards.

CHAIR: Lastly, you talk about professional associations being 'tasked' with the role of doing various things. Could you outline your preferred mechanism—whether it be something in the Corporations Act itself or whether it be a regulation through ASIC? So what is the head of power, if you like, that would compel or enable professional associations to have that power?

SPAA is ambivalent to how professional associations are empowered through the law to take their role in a co-regulatory environment, whether it be through legislative amendment to the *Corporations Act 2001* (Corporations Act) or through ASIC regulation.

However, greater certainty would be achieved by stating the role of professional associations in the Corporations Act in governing the professional standards, conduct and education requirements of financial advisers. Further, it would be positive for the Corporations Act to state the requirement for financial advisers to be a member of a professional association and for the law to allow for new professions into the future.

Further details as to what ASIC requires from professional associations could be established through ASIC regulatory guidance. We believe it is crucial that ASIC approves professional associations that are to take part in a co-regulatory regime, to ensure that high ethical, professional and education standards are delivered by the professional association.

Senator O'Neill: I have one more question on notice. Regarding ethical behaviour, that seems to be at the heart of this issue. We have had a number of submissions about how to engender ethical behaviour and then to set in place processes that remind people that it is compulsory to act ethically. I would be interested to see what SPAA has done in terms of that continuing education around ethics and mechanisms to trigger—as some have suggested—an annual review of ethical behaviour and accountability. Something around that area from SPAA would be very interesting.

SPAA's members are required to comply with ethical obligations through the SPAA Code of Conduct¹ which binds them to various professional, technical and ethical standards and the SPAA Constitution which allows SPAA to ban individuals from being a SPAA member where they breach their professional obligations.

The SPAA Code of Conduct centres on seven key principles for ethical and professional behaviour being:

1. Safeguarding the public interest
2. Integrity
3. Objectivity and Independence
4. Confidentiality
5. Competence
6. Knowledge
7. Ethical Behaviour

SPAA members' compliance with the code of conduct are monitored through the SPAA Quality Review Program (QRP) and SPAA's complaints register.

SPAA conducts independent random quality reviews of its membership base on an annual basis. A random selection of up to ten percent (10%) of each category of membership will be selected to undergo a quality review.

The QRP is a review of a members' professional behaviour, including compliance, practice management, professional standards, due diligence and competence. It extends further to investigate a member's commitment to compliance with the SPAA CPD requirements.

Specialist Members (SSATM and SSAud[®]) may also be required to participate in an online self- assessment or face-to face interview to ensure they are maintaining the standards of their designation and complying with the SPAA code of conduct.

Should a member fail to be deemed competent by SPAA after completion of a QRP, the member shall be given a 6 month period to rectify the breaches and show their commitment to comply with the professional standards as set out in the Code and the QRP. The member will be required to agree in writing to commit to this process.

Failure to comply with this request will result in the referral of the member to the Professional Standards Committee for investigation and enquiry. The Professional Standards Committee may in its discretion, suspend or withdraw membership should it determine that after reasonable investigation, the member has neglected or failed to comply with the professional

¹ http://www.spaa.asn.au/media/22382/140212_spaa_code_of_conduct_feb14_final.pdf

standards as set out in the Constitution, the Code and any other governance documents that may be applicable at such time of the enquiry, despite sufficient written request to address and rectify such breaches.

Quality reviews may also be requested at the discretion of the Professional Standards Committee or as part of a disciplinary process.

The SPAA complaints register allows us to respond to public complaints regarding SPAA members² and drives SPAA members to higher professional and ethical standards in delivering advice and services to SMSF clients.

² <http://www.spaa.asn.au/about/member-conduct-discipline.aspx#>