



**ASIC**

Australian Securities & Investments Commission

CONSULTATION PAPER 153

# Licensing: Assessment and professional development framework for financial advisers

April 2011

## About this paper

This consultation paper seeks feedback on our proposed assessment and professional development framework for financial advisers in Australia. The proposed framework is intended to enhance and maintain the competence of financial advisers, lead to improvements in the quality of advice and increase consumer confidence.

The paper includes an outline of the current training and competence requirements for financial advisers under Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146), informal consultation we have undertaken and a proposed three-stage assessment and professional development framework.

Our proposals may be of interest to existing and new financial advisers, Australian financial services (AFS) licensees, authorised representatives, training organisations and consumers of financial advice.

### About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Document history

This paper was issued on 6 April 2011 and is based on the Corporations Act as at 6 April 2011.

### Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

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## The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information.

We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on the training and assessment of financial advisers. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section H, 'Regulatory and financial impact'.

### Making a submission

We will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any financial information) as confidential.

Comments should be sent by 1 June 2011 to:

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## What will happen next?

<b>Stage 1</b>	6 April 2011	ASIC consultation paper released
<b>Stage 2</b>	1 June 2011	Comments due on the consultation paper
	June 2011	Drafting of regulatory guidance
<b>Stage 3</b>	August 2011	Regulatory guidance released

## A Background to proposals

### Key points

Australian financial services (AFS) licensees are required to maintain the competence to provide financial services and ensure that their representatives are adequately trained, and are competent, to provide those financial services.

Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) sets out our minimum training standards for financial advisers.

Our review of the training and assessment regime of financial advisers strongly suggests to us that an assessment and professional development framework is necessary to ensure that financial advisers meet an appropriate standard of knowledge and skills.

This consultation paper sets out our proposed three-stage assessment and professional development framework for financial advisers of Tier 1 products.

The Government's Advisory Panel on Standards and Ethics for Financial Advisers has agreed that we should consult publicly on our proposed framework.

### Requirements under the Corporations Act and RG 146

- 1 The *Corporations Act 2001* (Corporations Act) requires Australian financial services (AFS) licensees to:
  - (a) maintain the competence to provide the financial services covered by their licence (s912A(1)(e)); and
  - (b) ensure that their representatives are adequately trained and competent to provide those financial services (s912A(1)(f)).
- 2 This requirement is also prescribed in standard AFS licence conditions for licensees, which include a requirement that licensees ensure their advisers have completed training courses at an appropriate level as approved by ASIC.
- 3 Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) sets out minimum training standards that apply to financial advisers and how advisers can meet these training standards.

## ***PJC Inquiry into financial products and services in Australia***

- 4 Following the collapse of financial service and product providers in 2008 and 2009, including Storm Financial and Opes Prime, the Parliamentary Joint Committee on Corporations and Financial Services (PJC) established an inquiry into the issues associated with these collapses.<sup>1</sup>
- 5 In its report released in November 2009 (known as the ‘Ripoll report’), the PJC noted, ‘A considerable amount of evidence to the committee contended that the minimum training and qualifications for advisers should be raised’.<sup>2</sup>
- 6 An identified area of regulatory concern was the competence of both financial advisers and licensees. The Ripoll report stated: ‘The major criticism of the current system is that licensees’ minimum training standards for advisers are too low, particularly given the complexity of many financial products.’<sup>3</sup>
- 7 The PJC’s views on the competence of financial advisers were as follows:
- 5.85 The committee acknowledges concerns that the minimum qualification threshold for advisers is low. However, these concerns need to be considered in light of the requirement for licensees to demonstrate that their authorised representatives have the capabilities to provide the financial services covered by the conditions of their licence. Accordingly, licensees are required to ensure higher competence standards as the complexity of the advisers’ role increases. Consideration also needs to be given to the affordability of advice should educational standards for advisers be increased, as well as the transition arrangements that would need to be implemented ...
- 5.87 There are also very legitimate concerns about the varying competence of a broad range of people able to operate under the same ‘financial adviser’ or ‘financial planner’ banner. The licensing system does not currently provide a distinction between advisers on the basis of their qualifications, which is unhelpful for consumers when choosing a financial adviser.<sup>4</sup>

## **Future of Financial Advice reforms**

- 8 The Government responded to the PJC recommendations in April 2010 with the Future of Financial Advice package of reforms for financial advice in Australia. One of the proposed reforms was to establish an Expert Advisory Panel to ‘review professional standards in the financial advice industry,

<sup>1</sup> Parliamentary Joint Committee on Corporations and Financial Services (PJC), *Inquiry into financial products and services in Australia* (Ripoll report), PJC, November 2009, p. 1.

<sup>2</sup> Ripoll report, paragraph 6.110.

<sup>3</sup> Ripoll report, paragraph 5.76.

<sup>4</sup> Ripoll report, paragraphs 5.85 and 5.87.

including conduct and competency standards, which may include a code of ethics for financial advisers'.<sup>5</sup>

- 9 According to the announcement by then Minister for Financial Services, Superannuation and Corporate Law, the Hon. Chris Bowen MP, the measures are intended to, among other things, 'enhance the professionalism of the industry, including through new competency and conduct standards'.<sup>6</sup>
- 10 On 24 November 2010, the Assistant Treasurer and Minister for Financial Services and Superannuation, the Hon. Bill Shorten MP, announced the members of the Advisory Panel on Standards and Ethics (Advisory Panel). The role of the Advisory Panel is, among other things, to provide views to ASIC on the competence requirements that must be satisfied by financial services professionals regulated by the Corporations Act, including consideration of:
- (a) the training requirements for people providing financial product advice; and
  - (b) proposals regarding how training should be tested or assessed.<sup>7</sup>

## ASIC's review of RG 146 and the rationale for change

- 11 In our submission to the PJC inquiry in August 2009, we advised, 'ASIC's Financial Advisers team is reviewing RG 146 with a view to improving training standards and will put forward proposals for change in consultation with industry and other stakeholders'.<sup>8</sup>
- 12 As a result of our review, which included consultations with the financial advice industry detailed in Section B of this paper, we are concerned that financial advisers may not be attaining or maintaining the minimum levels of competence required in RG 146.
- 13 Our review and consideration of the assessment and professional development regime in Australia found:
- (a) although many training providers do offer quality training and robust assessment procedures, there are significant concerns with the consistency and quality of training and assessment that is being provided to financial advisers. This is in part attributable to the structure

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<sup>5</sup> The Hon. Chris Bowen MP, Minister for Financial Services, Superannuation and Corporate Law, 'Overhaul of financial advice', Media Release No. 036, 26 April 2010.

<sup>6</sup> The Hon. Chris Bowen MP, Minister for Financial Services, Superannuation and Corporate Law, 'Overhaul of financial advice', Media Release No. 036, 26 April 2010.

<sup>7</sup> The Hon. Bill Shorten MP, Assistant Treasurer and Minister for Financial Services and Superannuation, 'Government announces financial advice advisory panel membership', Media Release No. 015, 24 November 2010.

<sup>8</sup> ASIC, *PJC inquiry into financial products and services in Australia: Submission by the Australian Securities and Investments Commission* (ASIC's submission), ASIC, August 2009, paragraph 138.



of the education and training framework within which RG 146 and training providers operate;<sup>9</sup>

- (b) concerns that state training authorities may not have the ability and knowledge to determine the quality of training being delivered because the assessor accrediting the course may not have sufficient financial services knowledge;
- (c) the need for supervision of new entrants into the industry;
- (d) the need for more guidance and/or a mechanism to ensure advisers update and maintain their knowledge of regulations relating to financial product advice and the increasingly complex financial products and markets; and
- (e) recent academic research into the competence of financial advisers suggests that low competence levels will impede a financial adviser's ability to meet any higher professional and conduct standard.<sup>10</sup>

14 The above findings, in addition to the increasing complexity of financial products and markets and recent instances of retail clients receiving inappropriate advice, strongly suggests to us that an assessment and professional development framework, in addition to the existing training requirements, is necessary to improve the quality of advice, help restore consumer trust and confidence in the financial advice industry, and ensure that advisers meet and retain a minimum level of competence.

15 The Government's announcement of the Future of Financial Advice reforms noted that longer term challenges such as the ageing of the population, as well as recent events such as the global financial crisis, underscore the need for quality advice.<sup>11</sup>

16 The proposals in this consultation paper are aimed at improving the quality of advice available to retail investors by ensuring that financial advisers are adequately assessed on their ability to satisfy minimum standards of competence before providing advice, as well promoting and providing a framework for their ongoing professional development.

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<sup>9</sup> Several organisations at both the national and state level influence the provision of training and assessment that is compliant with RG 146, including Innovation and Business Skills Australia (IBSA) that develops and endorses the Financial Services Training Package, universities and registered training organisations (RTOs), which operate under their respective states' or territories' Vocational Education and Training (VET) framework.

<sup>10</sup> J Smith, 'Ethics and financial advice: The final frontier', Victoria University and Argyle Lawyers, Melbourne, 2010, p. 5.

<sup>11</sup> The Hon. Chris Bowen MP, Minister for Financial Services, Superannuation and Corporate Law, 'Message from the Minister', *The future of financial advice: Information pack*, 26 April 2010, p. 1.

## The proposed assessment and professional development framework

17 We are proposing a three-stage assessment and professional development framework for financial advisers: see Table 1.

**Table 1: Proposed assessment and professional development framework for financial advisers**

Stage	Description
<b>1 Adviser certification</b>	A financial adviser must pass a national adviser certification exam before providing personal or general advice on Tier 1 products to retail clients: see Section C.
<b>2 Monitoring and supervision</b>	After passing the adviser certification exam, a new financial adviser must undertake 12 months full-time or equivalent monitoring and supervision by a supervisor who has at least 5 years relevant experience: see Section D.
<b>3 Knowledge update review</b>	A financial adviser must undertake an online knowledge update review within 2 years of passing the adviser certification exam, and then every 3 years thereafter: see Section E.

18 The proposed assessment and professional development framework is our response to address the findings of our consultations, as well as taking into account the current moves industry associations and many licensees have already engaged in by lifting their training criteria.<sup>12</sup>

19 The proposed framework is also more consistent with key overseas jurisdictions' assessment and professional development requirements for financial advisers than the current requirements in RG 146.

20 The proposed assessment and professional development framework seeks to build upon and complement the training and competence requirements in RG 146. In developing the exam for the adviser certification requirement, we propose to review the competence, knowledge and skills requirements for financial advisers in RG 146. If we are of the opinion that there should be any changes to these requirements in RG 146, they shall be the subject of further consultation at a later stage.

21 We also propose to retain the current continuing professional development regime (CPD) in RG 146, which is managed predominantly by industry: see Section E. However, feedback is sought on whether further guidance in RG 146 may be considered useful.

<sup>12</sup> For example, the Financial Planners Association (FPA) drafted a white paper, *Education expectations for professional financial planners* (2009), which proposed that all new entrants to the industry have a minimum tertiary qualification in financial planning by 2015, among other things. Similarly, some licensees already require their advisers have a relevant tertiary qualification.

- 22 The proposed framework is intended to apply to all financial advisers who advise on Tier 1 products<sup>13</sup> and will be subject to transitional requirements that are set out in Table 2.
- 23 At this stage, we do not propose to extend the framework to advisers who only advise on Tier 2 products<sup>14</sup> in light of the less complex characteristics of these products.
- 24 We are proposing that the framework include advisers who provide both personal and general advice because many consumers rely upon general advice in making financial decisions.
- 25 The Advisory Panel on Standards and Ethics agrees there is a need to improve confidence in the industry. The Advisory Panel is of the view that ASIC should proceed to consultation on the proposed assessment and professional development framework for financial advisers that is set out in Sections C–G of this paper.

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<sup>13</sup> See Table 3 of the appendix.

<sup>14</sup> See Table 3 of the appendix.

## B Current framework and feedback from our review

### Key points

RG 146 sets out minimum training standards for the training of financial advisers in order to protect consumers, help AFS licensees comply with their obligations, and help training and education providers and professional and industry associations develop appropriate training courses and standards.

The training standards are sets of knowledge and skill requirements that vary depending on the adviser's activities.

All natural persons who provide financial product advice to retail clients must meet the training standards, unless they fall within certain limited exemption categories.

In general, advisers will meet the relevant training standards by satisfactorily completing training courses listed on the ASIC Training Register. As an alternative, experienced advisers can demonstrate their competence through individual assessment by an authorised assessor.

In 2009 and 2010 we sought feedback from the industry on the current training and assessment framework and its implementation.

### Minimum training standards in RG 146

- 26 The training standards are sets of knowledge and skill requirements and all natural persons must meet the training standards before they can provide financial product advice.
- 27 The training standards in RG 146 should be read with the Financial Services Training Package (FSTP), which is an integrated set of nationally endorsed competency standards, assessment guidelines and qualifications for the financial services industry. The FSTP is developed and endorsed under the Australian Quality Training Framework and is the responsibility of Innovation and Business Skills Australia (IBSA), one of the industry skills councils in the national Vocational Education and Training (VET) system.
- 28 RG 146 categorises financial products as either 'Tier 1'<sup>13</sup> or 'Tier 2'.<sup>14</sup> Tier 2 products are generally simpler and better understood than Tier 1 products and are therefore subject to lighter training standards: see Table 3 in the appendix.

- 29 The training standards vary depending on whether the adviser provides advice on Tier 1 or Tier 2 products and whether that advice is general or personal.
- 30 Under the Australian Qualifications Framework, the level of education stipulated for Tier 1 products is broadly equivalent to a diploma and the level of education stipulated for Tier 2 products is broadly equivalent to a Certificate III. RG 146 does not otherwise prescribe that advisers should necessarily undertake a formal diploma course or any particular assessment.

### **Knowledge and skill requirements**

- 31 Appendix A of RG 146 outlines the knowledge requirements that apply to a range of products and activities relevant to the financial services sectors regulated by ASIC. All advisers providing financial product advice to retail clients are required to have specialist knowledge about the specific products they provide advice on and the markets in which they operate. RG 146 leaves the decision on what other elements should be covered to the licensee or training provider.
- 32 Specialist knowledge may include knowledge about financial planning, securities, derivatives, managed investments, superannuation, insurance, deposit products and non-cash payment products, foreign exchange, First Home Saver Accounts (FHSAs) and margin lending facilities.
- 33 If the adviser provides personal advice they must also meet the skill requirements: see Appendix B of RG 146. As the level and type of skill varies so much in relation to the provision of general advice, RG 146 has not mandated the skill requirements for advisers that only provide general advice.
- 34 Any adviser who advises on Tier 1 products must also complete a generic knowledge requirement, which includes training on the economic environment, operation of the financial markets and financial products: see Appendix A of RG 146.

### **Competence requirements and training content**

- 35 For personal advice, the program content of Tier 1 courses, or an individual adviser, should be assessed at a level that enables advisers to:
- (a) demonstrate an understanding of the generic and specialist knowledge requirements that are relevant to tasks and the specific industry and product;
  - (b) analyse and plan approaches to technical problems and client issues;
  - (c) evaluate information for planning and research purposes;
  - (d) apply their knowledge to relevant tasks;

- (e) apply judgement to the selection of products and services for clients;
- (f) apply knowledge, and evaluation and coordination skills, to a variety of technical situations; and
- (g) apply knowledge and skills to developing and analysing strategies for clients: see RG 146.55.

36 For general advice, the program content of Tier 1 courses, or an individual adviser, should be assessed at a level that enables providers of general advice to demonstrate an understanding of the generic and specialist knowledge requirements that are relevant to the adviser's tasks and specific industry and product.

### **Courses on the ASIC Training Register**

- 37 In general, advisers will meet the training standards in RG 146 by satisfactorily completing training courses listed on the ASIC Training Register relevant to their advisory activities.
- 38 Training and assessment that complies with RG 146 is generally provided by registered training organisations (RTOs) and universities. RTOs operate under their respective states' or territories' VET framework. RTOs are registered by state or territory training authorities that also accredit their training courses, whereas universities are self-accrediting organisations for the purposes of course accreditation.
- 39 Training providers and individual assessors must ensure that their courses and assessment services remain current and comply with the training standards while they remain on the ASIC Training Register.

### **Continuing professional development**

- 40 RG 146 does not prescribe a minimum number of hours for education, continuing professional development (CPD), method of delivery or assessment. In order for licensees to discharge their obligations to ensure their advisers maintain competence, RG 146 requires licensees to implement policies and procedures to ensure that they and their adviser undertake continuing training to maintain and update their knowledge and skills.<sup>15</sup>

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<sup>15</sup> For example, Financial Planning Association: Certified Financial Planner—120 points per triennium (minimum of 35 points a year); Associate member—90 points per triennium (minimum of 25 points a year); National Insurance Brokers Association: 25 hours per annum; professional accounting bodies: 120 hours per triennium (minimum of 20 hours a year including 8 hours compliance); the Stockbrokers Association of Australia: 20 hours per annum with 8 of those hours related to compliance.

## Findings from our consultation and review

- 41 We surveyed a sample of licensees in 2009 and conducted wider consultations in 2010 with industry associations to ascertain industry's views of RG 146 and whether the training, assessment and professional development regime needed to be improved.

### Findings from our consultation in 2009

- 42 Our Financial Advisers stakeholder team surveyed a small sample of licensees in 2009 to assess the learning and development models that exist in the financial advice industry.
- 43 The consensus from the licensees we surveyed was that the training, assessment and professional development requirements in RG 146 should be raised. Some were of the opinion that a tertiary degree level should be the base requirement or at least an advanced diploma level.
- 44 A common concern among the licensees surveyed was the short time some training courses take to cover the material necessary for an adviser to comply with RG 146. They also found a disparity in the standards of training between different training organisations. Even industry leaders in training were considered to assess the knowledge and skill requirements in RG 146 too easily.
- 45 Many licensees also imposed compulsory supervision periods for new advisers, including pre-vetting several pieces of advice before allowing them to work independently in order to monitor and coach on the appropriateness of advice and as a risk management mechanism.
- 46 The results of this survey suggested that there may be some problems with the content of the knowledge and skill requirements in RG 146. However, the variance in training suggested the key area that we needed to focus on was finding a way of ensuring that all advisers attained a minimum level of knowledge and skill prior to providing advice without supervision.

### Findings from our consultation in 2010

- 47 In 2010, we conducted wider consultations with over 15 industry bodies in the financial services industry to ascertain their views on the current training and assessment framework and its implementation.
- 48 The industry bodies included representatives from the accounting, financial services, funds management, insurance broking, deposit-taking, stockbroking and superannuation industries. Stakeholders were asked their views on:
- (a) delivery of training;

- (b) assessment of knowledge and skills;
- (c) the knowledge and skill requirements in RG 146;
- (d) products or topics missing from RG 146, and whether any additional topics should be incorporated in the training; and
- (e) any other areas in RG 146 that require more emphasis.

### **Delivery of training and assessment of knowledge and skills**

49 Many industry bodies made negative comments on the manner in which training is delivered by RTOs. Specific comments from industry bodies concerning the delivery of training and the assessment of knowledge and skills included:

- (a) fast-tracked courses are particularly problematic in their delivery of the material because they do not cover topics comprehensively enough in a short period of time. This reflected similar views expressed by industry during our survey in 2009;
- (b) assessment of knowledge should be by way of an examination-based model and exams should be closed book;
- (c) a student should be tested on how to construct and present a Statement of Advice (SOA);
- (d) ethics training should be mandatory; and
- (e) state training authorities may not have the ability and knowledge to determine the quality of training being delivered because the assessor accrediting the course may not have sufficient financial services knowledge.

50 A number of stakeholders also stated that the standards prescribed in RG 146 are too low and the level of education should be increased considerably, which we also found in our 2009 survey.

### **Continuing professional development**

51 In relation to continuing training requirements in RG 146, various industry bodies made the following comments:

- (a) RG 146 does not provide enough guidance, and the continuing training requirement is unclear and out-of-date.
- (b) There needs to be a mandated continuing education component and licensees should ensure their advisers remain competent.
- (c) Advisers would benefit from continuing education that is more structured with mandatory components.



- 52            The proposed three-stage assessment and professional development framework is intended to address the concerns outlined in this section: see Sections C, D and E.

## C Financial adviser competence certification requirement

### Key points

We are consulting on the introduction of a financial adviser competence certification, which involves a national exam for all existing and new financial advisers, and how an exam could be structured.

We consider a national exam to be the most objective and efficient method of ensuring all advisers have the requisite competence to perform their duties to a reasonable minimum standard. A uniform exam would also provide a benchmark for training organisations to ensure that the individuals they train have the necessary skills, knowledge and competence to pass the exam.

We are considering outsourcing the administration of the exam and using exam committees to help formulate a pool of questions. The exam committees could comprise education and competence experts, industry representatives, examination experts, education providers and members of the Advisory Panel on Standards and Ethics.

### National certification exam for new and existing financial advisers

- 53 We are interested in your views about the introduction of a national uniform exam—the financial adviser competence certification (adviser certification)—that could constitute a nationally recognised certification and serve as a quality overlay to entrants to the industry.
- 54 We consider a national exam to be the most objective and efficient method of ensuring all advisers have the requisite competence to perform their duties to a reasonable minimum standard. A uniform exam would also provide a benchmark for training organisations to ensure that the individuals they train have the necessary skills, knowledge and competence to pass the exam.
- 55 In several other jurisdictions, examinations are mandatory for satisfying the registration requirements for financial advisers. For example:
- (a) In the United States, to be a general securities representative, a person must pass the Financial Regulatory Authority's (FINRA's) Series 7 exam.<sup>16</sup>

<sup>16</sup> FINRA, 'FINRA registration and examination requirements', [www.finra.org/industry/compliance/registration/qualificationsexams/registeredsreps/p011051](http://www.finra.org/industry/compliance/registration/qualificationsexams/registeredsreps/p011051).

- (b) In the United Kingdom, securities and derivatives advisers are required to pass an exam relating to ‘UK Financial Services, Regulation and Ethics’ and ‘Investment and Risk’.<sup>17</sup>
  - (c) In Canada, registered representatives dealing with retail customers must complete an exam that is administered by the Canadian Securities Institute (CSI).<sup>18</sup>
  - (d) In Hong Kong, a representative must pass an exam that is administered by the Hong Kong Securities Institute (HKSI).<sup>19</sup>
  - (e) In Singapore, a licensed representative must have passed the Capital Markets and Financial Advisory Services Examinations (CMFAS exam).<sup>20</sup>
  - (f) In New Zealand, an Authorised Financial Adviser (AFA) must pass an exam on knowledge of the New Zealand Code of Professional Conduct for AFAs and consumer protection laws that is administered by the Electrotechnology Industry Training Organisation Incorporated (ETITO). This exam is also known as the ‘Standard B Examination’.
- 56 In Australia, the obligation to ensure representatives have undertaken the adviser certification would fall within the obligation on licensees to ensure that their representatives are adequately trained and competent to provide financial services: see s912A(1) of the Corporations Act.
- 57 We considered whether a mandatory minimum tertiary qualification would be desirable for financial advisers. However, at this time we do not think it is necessary to mandate a qualification in light of the proposed elements of the assessment and professional development framework and current industry-based initiatives. However, we will continue to monitor whether this change is needed and if necessary will consult on it separately.
- 58 We think consumers will also have greater confidence in advisers who have passed a national exam that demonstrates an appropriate minimum level of knowledge irrespective of the specific training or tertiary qualifications achieved.
- 59 We propose that ethics, technical and specialised knowledge components would be included in the adviser certification, filling the void identified by various industry groups when asked about the adequacy of the knowledge and ethical components in RG 146.

<sup>17</sup> Financial Skills Partnership (FSP), ‘Appropriate exam list’, <http://fsahandbook.info/FSA/html/handbook/TC/App/4/>

<sup>18</sup> CSI, ‘Canadian Securities Course (CSC): The essential financial services credential’, [www.csi.ca/student/en\\_ca/courses/csi/csc.shtml#tabview=tab0](http://www.csi.ca/student/en_ca/courses/csi/csc.shtml#tabview=tab0).

<sup>19</sup> HKSI, ‘Licensing examination for securities and futures intermediaries’, [www.hksi.org/eng/exam/le.html](http://www.hksi.org/eng/exam/le.html).

<sup>20</sup> Institute of Banking and Finance (IBF), ‘CFMAS: Introduction’, [www.ibf.org.sg/exam/cmfas/introduction.asp](http://www.ibf.org.sg/exam/cmfas/introduction.asp); Monetary Authority of Singapore (MAS), ‘Notice on minimum entry and examination requirements for representatives of licensed financial advisers and exempt financial advisers’, Notice No. FAA-N07, MAS, 16 January 2004, paragraph 7.

## Proposal

- c1** We propose requiring any individual who provides personal or general advice to retail clients on Tier 1 products to pass a national exam. This recognises the additional protections that are required when advice is provided to retail clients.

### *Your feedback*

- C1Q1 Do you agree that a national exam is an objective and efficient method of ensuring all advisers have the requisite competence to perform their duties (assuming examinations would be tailored specifically to occupations in the industry—for example, financial planners, stockbrokers and insurance brokers)? If not, are there any alternative methods of assessment that could be used to assess advisers' competence that would help to ensure advisers are adequately trained?
- C1Q2 Do you think advisers who only give advice to wholesale clients should also be required to sit an exam? (If so, we would conduct further consultation.)
- C1Q3 What impact will the proposal have on the current training industry?
- C1Q4 Do you think advisers should still be required to complete courses on the ASIC Training Register if they are also required to complete an exam?
- C1Q5 For advisers who only provide general advice to retail clients on Tier 1 products, do you think there are scenarios where an adviser should not be subject to an exam?
- C1Q6 What costs would you expect to be involved in the setup and administration of a national exam? What costs would you expect to be incurred by industry (both advisers and licensees) in being required to sit such an exam?

## Structure of adviser certification exam

- 60 We are seeking public comment about how the exam could be structured. At this stage, we think it could include different modules. Examples include:
- (a) economic and regulatory environment and ethics;
  - (b) financial advice;
  - (c) investments, superannuation, retirement and social security;
  - (d) insurance;
  - (e) general stockbroking;
  - (f) derivatives and futures; and
  - (g) taxation.

- 61 These modules are principally targeted at an adviser's AFS authorisations. For example, for a financial planner, the adviser certification would be based on the knowledge and skills that a financial planner would need to demonstrate in order to competently perform the duties for which they are authorised. This also applies to representatives who might hold differing authorisations, such as stockbrokers, or advisers who act as futures traders.
- 62 There are various ways in which the modules could be used to examine advisers. For example, a compulsory core module could include the economic and regulatory environment and ethics. Other core components could include finance and financial planning concepts, taxation, and debt and leverage, which is the approach used by FINRA in the United States.
- 63 A financial planner, for example, might then be required to undertake one or more specialised modules, such as investments, retirement and social security and insurance. Additional modules could be undertaken if an adviser wants to further specialise or decides at a later stage they wish to give advice in another area.
- 64 Certification style exams are generally pass or fail only. However, awarding of a grade provides some benefits for high-achieving candidates to be able to demonstrate excellent results and we are interested in your views to this proposal.
- 65 Advisers would be required to only re-sit those modules that they fail until they pass the whole exam. They would not be permitted to provide financial product advice until they have passed every necessary module.
- 66 Although we think it is preferable that the exam apply to all advisers, we recognise that a small number of individuals are unable to sit or pass an exam. We are therefore interested in alternative options to examinations for existing or prospective advisers who are unable to undertake exams due to extenuating circumstances.

### Proposal

- c2 We propose using a module-based approach to structuring the exam, with modules principally targeted at an adviser's authorisations. A compulsory core module could be prescribed, while other modules could be used to demonstrate competence for relevant authorisations.

#### *Your feedback*

- c2Q1 Do you agree that an exam should assess a person according to the authorisation they wish to obtain?
- c2Q2 Do you agree there should be a core module for all financial advisers that includes the economic and regulatory environment and ethics? What else should be included in a core module?

- C2Q3 What would your preferred method of examining advisers be? For example:
- (a) multiple examinations (with or without a core module) at different times depending on the authorisation the person wishes to obtain; or
  - (b) a single examination (with or without a core module) that includes all modules and the person undertakes only those modules relevant to their authorisation.
- C2Q4 If a module-based examination system is used (i.e. using examples in paragraph 60 of this paper), what is your percentage estimate of advisers in the industry that would be subject to:
- (a) one module;
  - (b) between two and four modules; or
  - (c) more than four modules?
- C2Q5 Please provide details of any further modules you believe advisers should be certified for.
- C2Q6 What costs would you expect to be involved in the creation of an appropriate multi-module examination, including the development and upkeep of an appropriately sized question bank?

- C3** We propose either a pass/fail grade or a graduated result (pass, credit, distinction) be awarded to people who sit the exam. Advisers would be required to only re-sit those modules that they fail until they pass every module to attain the relevant authorisation.

*Your feedback*

- C3Q1 Do you agree that a pass/fail grade or a graduated result (e.g. pass, credit, distinction) is an appropriate result for each module of the exam? If so, which is the preferred grading method?
- C3Q2 Do you agree a person should only be required to re-sit those modules that they fail?

- C4** We propose that advisers who are unable to sit or pass an exam due to extenuating circumstances be able to undertake an alternative method of assessment.

*Your feedback*

- C4Q1 In what circumstances should a person be entitled to undertake an alternative to the exam?
- C4Q2 What alternative methods should be made available? Who would be in the best position to offer these alternative arrangements?

## Development and administration of adviser certification

- 67 We are also interested in how ‘competence’ to give financial advice can be best assessed, rather than just knowledge about financial advice-related matters. We are considering using various education and competence experts, such as cognitive task analysis experts, to identify relevant skills and knowledge that would form the basis for the adviser certification. These findings would also inform the education industry in the development of relevant curricula.
- 68 Any relevant skills and knowledge that form the basis of the adviser certification would inform the knowledge and skills requirements in RG 146. We would also work with the relevant education and training organisations to assist in the development of training packages to address any new requirements. If necessary, we will consult separately on any proposed changes to the knowledge and skill requirements in RG 146.
- 69 We think the pool of questions could be developed by exam committees comprising cognitive education and competence experts, industry representatives, exam experts, education providers and members of the Advisory Panel on Standards and Ethics. This is the approach that is used by FINRA in the United States. Their exam committees comprise a diverse range of broker-dealers, in conjunction with the Securities Industry Regulatory Council on Continuing Education, industry regulatory agencies and self-regulatory organisations.
- 70 We do not currently have the expertise, or the resources, to administer an exam. We propose outsourcing the administration of the exam to a commercial exam provider, through a tender process, but would ensure the administrators of the exam work in consultation with the exam committees, the Advisory Panel on Standards and Ethics and us.<sup>21</sup> We propose that the exam be available to sit on booking rather than follow a yearly semester timetable.
- 71 We think the cost of sitting the exam should be, as far as possible, kept to a minimum. Any charge for sitting the exam would be used to defray the costs of holding exams, the running of exam committees and creation of a question bank and other costs associated with exam development. Whether individual advisers or AFS licensees and/or authorised representatives should fund the cost of each adviser sitting the exam would be a matter for the market.

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<sup>21</sup> In the United States, the United Kingdom, Canada, Hong Kong, Singapore and New Zealand, the administration of their exams is outsourced: in the United States to FINRA; in the United Kingdom to the FSP; in Canada to the CSI; in Hong Kong to the HKSI; in Singapore to the IBF and the Singapore College of Insurance; and in New Zealand to the Electrotechnology Industry Training Organisation (ETITO).

## Proposal

- c5** We propose using exam committees to develop the pool of questions for the exam. The exam committees could comprise education and competence experts, industry representatives, exam experts, education providers and members of the Advisory Panel on Standards and Ethics.

### *Your feedback*

- C5Q1 Do you agree that exam committees would be well placed to develop the pool of questions for the exam on an ongoing basis?
- C5Q2 If so, who do you think should be represented on the exam committees?
- C5Q3 What level of interest would there be from industry experts to sit on the exam committees on a voluntary basis?

- c6** We propose outsourcing the administration of the exam through a tender process, but would ensure the administrators of the exam work in consultation with the exam committees, the Advisory Panel on Standards and Ethics and us.

### *Your feedback*

- C6Q1 What type of organisation do you think would be best placed to administer the exam?

- c7** We propose leaving who pays the cost of an exam to the discretion of individual advisers, authorised representatives and/or the AFS licensee.

### *Your feedback*

- C7Q1 Do you agree with this proposal?

## Existing advisers and the adviser certification exam

- 72 One key issue is how these proposals might apply to existing advisers. It seems preferable that any new requirements eventually apply to all advisers to ensure a level playing field. As noted above, we think all advisers should be required to pass the exam to effectively improve trust and confidence and the professionalism of the industry.
- 73 One possible way to deal with this issue is to allow an extended transitional phase for existing advisers (e.g. three years): see paragraph 106 and Table 2.



## Proposal

- c8** We propose that all advisers, whether new or existing, be required to pass the exam to improve trust and confidence and the professionalism of the whole industry.

### *Your feedback*

- c8Q1** Do you agree that all advisers (whether new or existing) should be required to pass the adviser certification? If not, what other options are there to ensure existing advisers are competent to provide advice at the requisite standard?

## D Monitoring and supervision requirement

### Key points

The proposed framework includes a mandatory monitoring and supervision period for new advisers, following the successful completion of the adviser certification requirement. We think the monitoring and supervision period should be 12 months.

During the monitoring and supervision period, the new adviser would be authorised to provide financial services, but all written advice must be vetted and signed off by the supervisor before the advice is given to the client. Advice that is provided by means other than in writing (e.g. time-critical or oral advice that is given by stockbrokers, where detailed advice documentation follows the advice itself) must still be vetted by a supervisor, but could be post-vetted.

### Monitoring and supervision requirement

- 74 The second stage of the proposed assessment and development framework is a mandatory monitoring and supervision period for new advisers, following the successful completion of the adviser certification requirement. Ensuring that all financial product advice that is provided by a new adviser has been vetted by a supervisor will help to ensure that advice provided to consumers is appropriate.
- 75 As existing advisers will have been practising for more than one year by the end of any transitional period, existing advisers would not be required to undertake any monitoring and supervision period.
- 76 The purpose of the proposed monitoring and supervision requirement is to ensure a new adviser has the capability to effectively apply their knowledge to practical situations at work before working independently. It would also provide new advisers with insight into their industry and the opportunity to learn pertinent, practical skills.
- 77 Findings from our 2009 consultations found that many licensees already impose compulsory supervision periods for new advisers, including pre-vetting several pieces of advice before allowing them to work independently in order to monitor and coach on the appropriateness of advice and as a risk management mechanism.
- 78 The case for a monitoring and supervision requirement is also supported by recent Australian research on current ethical issues in the Australian financial advisory sector and the factors that influence ethical decision

making within Australian financial services organisations. That research suggests that a mentoring program or close supervision by ethical role models or leaders within the organisation appears warranted, together with a professional year of supervised practice.<sup>22</sup>

- 79 We think the monitoring and supervision period should be a flexible but formal system managed predominantly by industry. A number of large licensees in Australia already have some form of supervision for their new advisers. In addition, a number of industry associations mandate practical experience requirements for potential members, complemented by a program of education.
- 80 Comparative research on other professions in Australia indicates the period of practical experience varies between three months to three years before a person can practise in the relevant profession.
- 81 Requiring all new advisers to undertake a mandatory period of monitoring and supervision will seek to address the various concerns raised by industry that new advisers do not have the practical knowledge or experience to provide financial product advice. In addition, we think this may help to maintain and enhance the professionalism of financial advisers in the industry and increase consumer confidence.

### Proposal

- D1 We propose including a mandatory monitoring and supervision period that is managed predominantly by industry.

#### *Your feedback*

- D1Q1 Do you agree that a monitoring and supervision period would be useful for improving the skills and ethical decision making of advisers?
- D1Q2 Do you agree that the monitoring and supervision period should be managed predominantly by industry? Why?
- D1Q3 What is the estimated cost of supervision per adviser, including the supervisor's time away from productive work?
- D1Q4 What arrangements would you suggest (e.g. in extremely small licensees or isolated offices) to cater for when a supervisor may not be available at all times?

## Length of monitoring and supervision period

- 82 We are proposing that the monitoring and supervision period be 12 months full-time or equivalent. Comparative research on other professions in

<sup>22</sup> Smith, pp. 31–2.

Australia indicates that, in many professions, people being supervised must have their work reviewed by supervisors before it can be given to clients. Supervisors might also act as a professional mentor; however, this could be left to the discretion of the supervisor and the licensee.

- 83 We are proposing that a supervisor would be an adviser who has been in the financial advice industry for over five years, and who would be appointed by the relevant licensee as a mentor and supervisor during the monitoring and supervision period. After the transition period from 2015, only advisers who have completed the adviser certification would be qualified to supervise; however, to ensure sufficient flexibility during the introduction of the monitoring and supervision requirement, advisers who have not yet completed the adviser certification but who have five years experience could act as supervisors. By the end of the transition period, all existing advisers would be required to have completed the adviser certification and accordingly there would be no disruption to the industry in having qualified supervisors available to supervise.

### Proposal

- D2** We propose a monitoring and supervision period of 12 months full-time or equivalent to be completed after adviser certification.

#### *Your feedback*

- D2Q1 Do you agree that a 12-month (full-time or equivalent) monitoring and supervision period is reasonable? Why or why not?
- D2Q2 Do you agree that new advisers should only start their monitoring and supervision period after having passed all relevant adviser certification modules? If not, do you think advisers should be able to count any practical experience (e.g. internships) undertaken during their studies, but before completing the exam, towards their monitoring and supervision period?

- D3** We propose requiring a supervisor to have at least five years relevant experience before supervising a new entrant.

#### *Your feedback*

- D3Q1 Do you think a supervisor should have at least five years experience in the provision of financial services? What other requirements could be imposed on a supervisor?
- D3Q2 What should be the maximum number of advisers a supervisor could supervise at any given time? Should there be any maximum limit or should this be left to the individual licensee?

## Management of monitoring and supervision period

- 84 We are proposing that during the monitoring and supervision period, the new adviser would be authorised to provide financial services, but all written advice must be vetted and signed off by the supervisor before the advice is given to the client.
- 85 Advice that is provided by means other than in writing (e.g. time-critical or oral advice that is given by stockbrokers, where detailed advice documentation follows the advice itself) must still be vetted by a supervisor. For example, oral advice could be post-vetted. During supervision, detailed notes of all time-critical or oral advice should be kept and discussed/signed off by the supervisor shortly after the advice is given. This would foster proper record keeping of orders and advice given beyond the supervision period. The principle of this requirement is not to create another layer of oversight beyond that which is contemplated as part of a licensee's normal duties, but to ensure appropriate guidance and monitoring is being provided to new advisers in applying their knowledge.
- 86 Licensees would be responsible for enforcement of this requirement. The monitoring and supervision requirement would fall within the obligation on licensees to ensure that their representatives are adequately trained and competent to provide financial services in accordance with s912A(1)(f) of the Corporations Act.

### Proposal

- D4** We propose that during the monitoring and supervision period, new advisers would be authorised to provide financial services subject to the following conditions:
- (a) all written advice must be vetted and signed off by the supervisor before the advice is given to the client; and
  - (b) all time-critical or oral advice must be vetted and signed off by the supervisor within a 48-hour period from the advice being given.

#### *Your feedback*

- D4Q1 Do you agree that a supervisor should review and sign off all advice provided by a new adviser (i.e. SOA) before it is given to a client?
- D4Q2 Do you agree oral advice should be post-vetted? If not, what other ways could oral advice be vetted?
- D4Q3 What consequences should apply if post-vetted advice is found to be inadequate?
- D4Q4 What costs would pre-vetting of advice likely impose on industry?

## E Knowledge update review requirement

### Key points

We are also considering requiring a knowledge update review requirement to complement continuing professional development (CPD) requirements. Advisers would be required to complete the review within two years of completing the adviser certification and every three years thereafter.

We propose retaining CPD requirements as part of the assessment and professional development framework for financial advisers in Australia, but are interested in whether we need to provide more guidance in RG 146 on CPD requirements.

### Knowledge update review requirement

- 87 For the third stage of our proposed assessment and professional development framework, we are considering requiring a knowledge update review to complement CPD requirements. Advisers would be required to complete the review within two years of completing the adviser certification and every three years thereafter. We think the knowledge update review will help to improve the quality of advice and build trust and confidence in financial advisers over the longer term.
- 88 The topics covered would be focused on changes to both the regulatory environment and the market, including new financial products and the risks and benefits of those products, rather than core competencies-based material. We also think it should include an ethics component to improve ethical decision making and ethical conduct of financial advisers in Australia. Research has suggested:
- The ability of financial advisers to engage in ethical decision making and ethical conduct in the provision of financial services to Australian consumers is critical to the achievement of widely held objectives to professionalise financial advisers and to ensure quality advisory outcomes.<sup>23</sup>
- 89 The knowledge update review could be by the same organisation that administers the adviser certification, or by another organisation. It could be run as an online, computer-based training session that advisers across all sectors would have to complete. Like the exam, it would provide an objective method of enabling all advisers to review their knowledge on an

<sup>23</sup> Smith, p. 4.

ongoing basis. As the UK Financial Services Authority (FSA) has observed, 'improved knowledge can improve the quality of service'.<sup>24</sup>

- 90 The knowledge update review could be modelled on FINRA's Regulatory Element of the Securities Industry Continuing Education Program in the United States, which all registered advisers must complete two years after initial registration and then every three years thereafter.<sup>25</sup> It has the following features:
- (a) The continuing education program in the United States is intended to keep registered securities industry personnel up-to-date regarding rules and other issues that are broadly applicable to all registered advisers. It is divided into four modules: compliance, regulatory, ethical and practice.
  - (b) Participants are able to choose the order in which to complete the four required modules. In each module, participants are led through a case study that provides a story depicting situations that may be faced by registered persons in the course of their business. Each case contains significant educational content, including optional material called Resources and Glossary Rollovers. Participants are encouraged to utilise all of the educational content provided in the program, including the optional material because it is designed to aid understanding and enhance the educational experience for the participant.
  - (c) Participants must demonstrate proficiency in each of the four modules. Participants who do not demonstrate proficiency in any one module will not be able to complete the Regulatory Element requirement within that session. If a module is not completed, participants may terminate the incomplete session or may continue to review the remaining material for the added educational benefit. In either event, participants would not be able to complete the Regulatory Element requirement in that session and must schedule another session in order to satisfy the requirement.
  - (d) The program is designed to provide ample time to complete the required materials within the timeframe allotted. Failure to complete the Regulatory Element within 120 days of the prescribed anniversary date results in a person's registration becoming inactive. This means that the person may not engage in, or be compensated for, activities requiring a securities registration until they satisfy the requirements in the United States.
- 91 Advisers would be required to complete the knowledge update review within the requisite time period. Like the system in the United States, they would not be able to complete the knowledge update review without having

<sup>24</sup> FSA, 'Delivering the RDR: Professionalism, including its applicability to pure protection advice, with feedback to CP09/18 and CP09/31' (CP10/14), FSA, June 2010, paragraph 2.12.

<sup>25</sup> FINRA, 'Continuing education', [www.finra.org/Industry/Compliance/ContinuingEducation/](http://www.finra.org/Industry/Compliance/ContinuingEducation/).

successfully completed each of the adviser certification modules. The knowledge update review is intended to assist advisers to identify areas where further training (i.e. CPD) should be undertaken to improve their knowledge in providing the relevant financial services.

- 92 There could be a number of consequences for advisers who fail to complete the knowledge update review to encourage advisers to complete the review within the requisite period of time. For example, advisers who do not complete the knowledge update review:
- (a) may be required to submit to a supervision period until they complete the review; or
  - (b) may be suspended from providing financial services until the requirement is satisfied.
- 93 FINRA's Regulatory Element is developed by industry committees representing a diverse range of broker-dealers, in conjunction with the Securities Industry Regulatory Council on Continuing Education, industry regulatory agencies and self-regulatory organisations.
- 94 The knowledge update review could be developed by the same committees that prepare questions for the adviser certification exam. This would help to ensure consistency, continuity and relevance of questions and case studies posed in the knowledge update review.
- 95 Although the knowledge update review would be a computer-based program, as in the United States, testing centres would need to be used to administer the programs to verify the identity of the adviser undertaking the review.
- 96 We do not have the resources or the expertise to administer such programs and would therefore arrange for testing centres to tender for this work. There are a number of testing centres throughout Australia that currently provide this service on behalf of FINRA. To minimise costs and travel, testing providers would be encouraged to provide licensees with onsite, bulk review sessions.

## Proposal

- E1 We propose requiring a knowledge update review to improve advisers' knowledge and the quality of advice.

### *Your feedback*

- E1Q1 Do you agree that a knowledge update review would improve advisers' knowledge and therefore improve the quality of their services?



E1Q2 Based on the above model, what costs would you expect to be incurred in developing the training material and questions for the knowledge update review? What costs would likely be incurred by industry in having advisers sit the review?

E2 We propose using the knowledge update review to complement CPD.

*Your feedback*

E2Q1 Do you agree with the need for both CPD and knowledge update review requirements? If not, which do you think would be a more effective way of ensuring advisers keep updating their knowledge of changes to the regulatory environment and financial products and markets?

E3 We propose running the knowledge update review as an online, computer-based training session that needs to be completed within the first two years of passing the adviser certification exam, and then every three years thereafter.

*Your feedback*

E3Q1 Do you agree that a triennial requirement is a reasonable period of time after which advisers should undertake a knowledge update review? If not, what would be a suitable timeframe?

E4 We propose using the knowledge update review to focus on changes to the regulatory environment and the market, and include a component on ethics.

*Your feedback*

E4Q1 Do you agree that a knowledge update review should be limited to changes to the regulatory environment, the market and ethics? If not, what else do you think should be included?

E5 We propose that there would be consequences for advisers who fail to complete the review within the requisite period of time. The result would be intended to assist the adviser in identifying areas where they should undertake CPD to improve their knowledge.

*Your feedback*

E5Q1 Do you agree that there should be consequences for failing to complete the knowledge update review? Do you agree with options (a) and/or (b) in paragraph 92? What other consequences (if any) should there be for a person who does not complete the review?

E6 We propose that the knowledge update review be developed by the same committees that prepare questions for the adviser certification exam.

*Your feedback*

E6Q1 Do you agree that the same committees should be used to prepare the questions and case studies for the knowledge update review?

E7 We propose that the knowledge update review be computer-based and testing centres be used to administer the programs.

*Your feedback*

E7Q1 Do you agree that independent testing centres should administer the knowledge update review?

E7Q2 Which organisation should administer the knowledge update review?

E8 We propose leaving who pays the cost of the knowledge update review to the discretion of individual advisers, authorised representatives and/or the licensee.

*Your feedback*

E8Q1 Do you agree with this proposal?

## Continuing professional development requirements

97 We propose retaining CPD requirements as part of the assessment and professional development framework for financial advisers in Australia, as well as the proposed knowledge update review.

98 In other jurisdictions, the following CPD requirements apply to financial advisers:

- (a) In New Zealand, the Code of Professional Conduct provides that an Authorised Financial Adviser (AFA) must complete a minimum of 20 hours of training relevant to the financial services the AFA provides or intends to provide, including 10 hours of structured training, every 12 months.<sup>26</sup>
- (b) In the United Kingdom, financial advisers must complete a minimum of 35 hours of relevant CPD each year, with at least 21 hours of structured learning.<sup>27</sup>
- (c) In the United States, registered advisers must complete an online, e-learning program called the Regulatory Element of the Securities Industry Continuing Education Program every three years in lieu of ongoing CPD requirements.<sup>28</sup>

<sup>26</sup> *Code of Professional Conduct for Authorised Financial Advisers* (NZ), Code Standard 18.

<sup>27</sup> Financial Services Authority, 'Improving your understanding of the Retail Distribution Review (RDR)—Professionalism' (SFDFS055), FSA, p. 3.

<sup>28</sup> FINRA, 'Continuing education', [www.finra.org/Industry/Compliance/ContinuingEducation/](http://www.finra.org/Industry/Compliance/ContinuingEducation/); Securities Industry Regulatory Council on Continuing Education (CE Council), 'Regulatory element', [www.cecouncil.com/regulatory\\_element/](http://www.cecouncil.com/regulatory_element/).

- 99 We do not currently provide guidance on hourly CPD requirements in RG 146. Prescriptive requirements for CPD are managed by industry and professional associations and it is proposed that this arrangement be maintained in its current form.
- 100 However, various industry associations have suggested that more guidance concerning hourly CPD requirements may assist industry. At this stage, we are not proposing to prescribe an hourly requirement for CPD because we believe that the proposed knowledge update review will be a targeted and effective means of ensuring advisers continue to maintain the currency of their knowledge in the areas in which they practise.
- 101 We think that requiring all advisers to update their knowledge of the regulatory environment and other relevant areas will place them in a better position to provide advice that is appropriate if they are keeping abreast of new financial products, including their risks and benefits.

### Proposal

- E9 We propose retaining CPD requirements as part of the assessment and professional development framework for financial advisers, as well as the proposed knowledge update review.

#### *Your feedback*

- E9Q1 Do you agree that CPD is a useful mechanism for helping financial advisers maintain the competence to provide financial services?
- E9Q2 Do you agree that CPD should continue to be managed by industry? If not, who should manage CPD?
- E9Q3 Do you think ASIC should provide any further guidance concerning CPD requirements? If so, what additional guidance is needed?

## F Centralised record of adviser certification

### Key points

Only AFS licensees and authorised representatives must be registered on ASIC's AFS Licensees Register and AFS Authorised Representatives Register. No such requirement applies for other representatives (e.g. employees and directors). If the adviser certification were implemented, a centralised record for each adviser of Tier 1 products would need to be created and kept by either the administering body or ASIC.

We are consulting on whether the exam provider should collate these results and forward them to ASIC and whether these records should be accessible to AFS licensees to check the certification status of advisers.

- 102 Only AFS licensees and authorised representatives must be registered on ASIC's AFS Licensees Register and AFS Authorised Representatives Register. Licensees must notify ASIC (within a certain period of time) after appointing an authorised representative and this information is included in a public register. No such requirement applies for other representatives (e.g. employees and directors).
- 103 If the adviser certification were implemented, a centralised record for each adviser of Tier 1 products would need to be created and kept by either the administering body or ASIC. Additionally, similar information would be kept for the purpose of recording completion of the knowledge update review.
- 104 Under s912A(1)(f) of the Corporations Act, the AFS licensee must ensure its representatives are adequately trained and competent. Therefore, whichever method of certification delivery is used, it must allow licensees to satisfy themselves that their representatives have in fact passed the adviser certification and are up-to-date with the knowledge update review requirements.
- 105 There are a number of options as to how this information could be collated and released. For example:
- (a) ASIC could maintain a publicly searchable adviser certification register;
  - (b) ASIC could request law reform from government to integrate this information into the existing ASIC register;
  - (c) ASIC could provide certificates of compliance to individual advisers directly for use in proving certification; or

- (d) AFS licensees could be required to maintain searchable records (such as on their websites) of the adviser certification and knowledge update review status of individual advisers, as well as include these items in Financial Services Guide disclosures.

### Proposal

- F1** We propose to record all adviser certification and knowledge update review results in Australia. We propose that the adviser certification exam provider would collate these results and forward them to ASIC.

#### *Your feedback*

- F1Q1 Do you agree that the adviser certification and knowledge update review results should be recorded? If not, why not?

- F2** We propose that these records would be accessible to AFS licensees to check the certification status of advisers.

#### *Your feedback*

- F2Q1 Do you agree with this proposal?
- F2Q2 Who else should be allowed access to these records (e.g. members of the public or other licensees) to allow for reference checking of new advisers?
- F2Q3 If records were not accessible, how would you propose that interested parties check the certification status of an adviser?
- F2Q4 What costs would you expect in regards to the operation of a central training register? Would you expect any cost savings as a result of having a central point for certification checking?
- F2Q5 Should the record holder be permitted to charge a fee for access to information on the record?

## G Transition period

### Key points

We are considering whether a three-year transition period should be introduced for all existing advisers and a shorter phase-in period for new advisers to minimise disruption to industry.

106 In order to ensure there is minimum disruption to industry, we are considering whether a three-year transition period should be introduced for all existing advisers and a shorter phase-in period for new advisers. An example of how the framework might be introduced is set out in Table 2.

**Table 2: Transition period for the proposed assessment and development framework for financial advisers**

Date	Existing advisers	New advisers (new entrants to the industry from 1 July 2012)
<b>1 July 2012</b>	Effective date for the proposed new assessment and professional development framework. <ul style="list-style-type: none"> <li>• Adviser certification exams will be available.</li> <li>• All new advisers will be subject to the monitoring and supervision requirement.</li> </ul>	
<b>1 January 2013</b>		Required to complete adviser certification before being authorised to provide financial services under supervision.
<b>30 June 2015</b>	Required to complete adviser certification in the area where they wish to continue to be authorised to provide financial services.	If the adviser entered the industry between 1 July 2012 and 31 December 2012, required to complete adviser certification in the area where they wish to continue to be authorised to provide financial services.
<b>1 July 2015</b>	All supervisors must have at least five years of experience in the industry and have completed the adviser certification, including the supervisor's module (if introduced).	
<b>1 July 2017</b>	End of two-year period where advisers are required to complete the knowledge update review.	

## **Proposal**

**G1** We propose using the transition period schedule set out in Table 2.

### *Your feedback*

G1Q1 Do you agree with the proposed transition period? If not, do you think it should be longer or shorter?

G1Q2 Do you think a 1 July 2012 start date is reasonable?

## H Regulatory and financial impact

107 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think they will strike an appropriate balance between:

- (a) enhancing and maintaining the training and competence of financial advisers, while minimising disruption to industry; and
- (b) ensuring improved consumer confidence and protection.

108 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:

- (a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;
- (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
- (c) if our proposed option has more than minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).

109 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.

110 To ensure that we are in a position to properly complete any required RIS, we ask you to provide us with as much information as you can about:

- (a) the likely compliance costs;
- (b) the likely effect on competition; and
- (c) other impacts, costs and benefits,

of our proposals or any alternative approaches: see 'The consultation process', p. 4.



## Appendix: Tier 1 and Tier 2 products from RG 146

**Table 3: Tier 1 and Tier 2 products**

Products	
<b>Tier 1</b>	All financial products except those listed under Tier 2
<b>Tier 2</b>	<ul style="list-style-type: none"> <li>• General Insurance products except for personal sickness and accident (as defined in reg 7.1.14) <ul style="list-style-type: none"> <li>Note: Travel insurance products are included in Tier 2, even where the product covers losses arising due to sickness or accident while travelling</li> </ul> </li> <li>• Consumer credit insurance (as defined in reg 7.1.15) <ul style="list-style-type: none"> <li>Note: Consumer credit insurance products are included in Tier 2, even where the product covers consumer credit liabilities that cannot be paid due to sickness or accident.</li> </ul> </li> <li>• Basic deposit products</li> <li>• Non-cash payment products</li> <li>• FHSA deposit accounts <ul style="list-style-type: none"> <li>Note: First Home Saver Account (FHSA) deposit accounts are FHSAs issued by an ADI. Other types of FHSAs are Tier 1 products: see RG 146.45-RG 146.46.</li> </ul> </li> </ul>

## Key terms

Term	Meaning in this document
Adviser certification	A certification that the adviser has successfully completed the national FACC.
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act Note: This is a definition contained in s761A of the Corporations Act.
ASIC	Australian Securities and Investments Commission
ASIC AFS Authorised Representatives Register	The register of authorised representatives maintained by ASIC
ASIC AFS Licensees Register	The register of AFS licensees maintained by ASIC
ASIC Training Register	The register that contains details of training courses and individual assessment services that have been approved by ASIC authorised assessors as meeting the training requirements in RG 146
Australian Qualifications Framework (AQF)	The unified national 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)
authorised representative	A person authorised to provide financial services on behalf of an AFS licensee
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
CPD	continuing professional development
First Home Saver Account (FHSA)	A financial product that meets the requirements of the <i>First Home Saver Accounts Act 2008</i>
PJC	Parliamentary Joint Committee
retail client	A client as defined in s761G of the Corporations Act and Ch 7, Pt 7.1, Div 2 of the Corporations Regulations

Term	Meaning in this document
RG 146 (for example)	An ASIC regulatory guide (in this example numbered 146)
RTO	registered training organisation
s912A (for example)	A section of the Corporations Act (in this example numbered 912A), unless otherwise specified
Statement of Advice (SOA)	<p>A document that must be given to a retail client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Corporations Act</p> <p>Note: See s761A for the exact definition.</p>
Tier 1 products	All financial products except those listed under Tier 2
Tier 2 products	<p>General insurance products, except for personal sickness and accident (as defined in reg 7.1.14); consumer credit insurance (as defined in reg 7.1.15); basic deposit products; non-cash payment products; FHSA deposit accounts</p>
VET	Vocational Education and Training

## List of proposals and questions

Proposal	Your feedback
<p><b>C1</b> We propose requiring any individual who provides personal or general advice to retail clients on Tier 1 products to pass a national exam. This recognises the additional protections that are required when advice is provided to retail clients.</p>	<p><b>C1Q1</b> Do you agree that a national exam is an objective and efficient method of ensuring all advisers have the requisite competence to perform their duties (assuming examinations would be tailored specifically to occupations in the industry—for example, financial planners, stockbrokers and insurance brokers)? If not, are there any alternative methods of assessment that could be used to assess advisers' competence that would help to ensure advisers are adequately trained?</p> <p><b>C1Q2</b> Do you think advisers who only give advice to wholesale clients should also be required to sit an exam? (If so, we would conduct further consultation.)</p> <p><b>C1Q3</b> What impact will the proposal have on the current training industry?</p> <p><b>C1Q4</b> Do you think advisers should still be required to complete courses on the ASIC Training Register if they are also required to complete an exam?</p> <p><b>C1Q5</b> For advisers who only provide general advice to retail clients on Tier 1 products, do you think there are scenarios where an adviser should not be subject to an exam?</p> <p><b>C1Q6</b> What costs would you expect to be involved in the setup and administration of a national exam? What costs would you expect to be incurred by industry (both advisers and licensees) in being required to sit such an exam?</p>
<p><b>C2</b> We propose using a module-based approach to structuring the exam, with modules principally targeted at an adviser's authorisations. A compulsory core module could be prescribed, while other modules could be used to demonstrate competence for relevant authorisations.</p>	<p><b>C2Q1</b> Do you agree that an exam should assess a person according to the authorisation they wish to obtain?</p> <p><b>C2Q2</b> Do you agree there should be a core module for all financial advisers that includes the economic and regulatory environment and ethics? What else should be included in a core module?</p> <p><b>C2Q3</b> What would your preferred method of examining advisers be? For example:</p> <p>(a) multiple examinations (with or without a core module) at different times depending on the authorisation the person wishes to obtain; or</p> <p>(b) a single examination (with or without a</p>

Proposal	Your feedback
	<p>core module) that includes all modules and the person undertakes only those modules relevant to their authorisation.</p> <p>C2Q4 If a module-based examination system is used (i.e. using examples in paragraph 60 of this paper), what is your percentage estimate of advisers in the industry that would be subject to:</p> <p>(a) one module;</p> <p>(b) between two and four modules; or</p> <p>(c) more than four modules?</p> <p>C2Q5 Please provide details of any further modules you believe advisers should be certified for.</p> <p>C2Q6 What costs would you expect to be involved in the creation of an appropriate multi-module examination, including the development and upkeep of an appropriately sized question bank?</p>
<p><b>C3</b> We propose either a pass/fail grade or a graduated result (pass, credit, distinction) be awarded to people who sit the exam. Advisers would be required to only re-sit those modules that they fail until they pass every module to attain the relevant authorisation.</p>	<p>C3Q1 Do you agree that a pass/fail grade or a graduated result (e.g. pass, credit, distinction) is an appropriate result for each module of the exam? If so, which is the preferred grading method?</p> <p>C3Q2 Do you agree a person should only be required to re-sit those modules that they fail?</p>
<p><b>C4</b> We propose that advisers who are unable to sit or pass an exam due to extenuating circumstances be able to undertake an alternative method of assessment.</p>	<p>C4Q1 In what circumstances should a person be entitled to undertake an alternative to the exam?</p> <p>C4Q2 What alternative methods should be made available? Who would be in the best position to offer these alternative arrangements?</p>
<p><b>C5</b> We propose using exam committees to develop the pool of questions for the exam. The exam committees could comprise education and competence experts, industry representatives, exam experts, education providers and members of the Advisory Panel on Standards and Ethics.</p>	<p>C5Q1 Do you agree that exam committees would be well placed to develop the pool of questions for the exam on an ongoing basis?</p> <p>C5Q2 If so, who do you think should be represented on the exam committees?</p> <p>C5Q3 What level of interest would there be from industry experts to sit on the exam committees on a voluntary basis?</p>
<p><b>C6</b> We propose outsourcing the administration of the exam through a tender process, but would ensure the administrators of the exam work in consultation with the exam committees, the Advisory Panel on Standards and Ethics and us.</p>	<p>C6Q1 What type of organisation do you think would be best placed to administer the exam?</p>

Proposal	Your feedback
<b>C7</b> We propose leaving who pays the cost of an exam to the discretion of individual advisers, authorised representatives and/or the AFS licensee.	C7Q1 Do you agree with this proposal?
<b>C8</b> We propose that all advisers, whether new or existing, be required to pass the exam to improve trust and confidence and the professionalism of the whole industry.	C8Q1 Do you agree that all advisers (whether new or existing) should be required to pass the adviser certification? If not, what other options are there to ensure existing advisers are competent to provide advice at the requisite standard?
<b>D1</b> We propose including a mandatory monitoring and supervision period that is managed predominantly by industry.	<p>D1Q1 Do you agree that a monitoring and supervision period would be useful for improving the skills and ethical decision making of advisers?</p> <p>D1Q2 Do you agree that the monitoring and supervision period should be managed predominantly by industry? Why?</p> <p>D1Q3 What is the estimated cost of supervision per adviser, including the supervisor's time away from productive work?</p> <p>D1Q4 What arrangements would you suggest (e.g. in extremely small licensees or isolated offices) to cater for when a supervisor may not be available at all times?</p>
<b>D2</b> We propose a monitoring and supervision period of 12 months full-time or equivalent to be completed after adviser certification.	<p>D2Q1 Do you agree that a 12-month (full-time or equivalent) monitoring and supervision period is reasonable? Why or why not?</p> <p>D2Q2 Do you agree that new advisers should only start their monitoring and supervision period after having passed all relevant adviser certification modules? If not, do you think advisers should be able to count any practical experience (e.g. internships) undertaken during their studies, but before completing the exam, towards their monitoring and supervision period?</p>
<b>D3</b> We propose requiring a supervisor to have at least five years relevant experience before supervising a new entrant.	<p>D3Q1 Do you think a supervisor should have at least five years experience in the provision of financial services? What other requirements could be imposed on a supervisor?</p> <p>D3Q2 What should be the maximum number of advisers a supervisor could supervise at any given time? Should there be any maximum limit or should this be left to the individual licensee</p>

Proposal	Your feedback
<p><b>D4</b> We propose that during the monitoring and supervision period, new advisers would be authorised to provide financial services subject to the following conditions:</p> <p>(a) all written advice must be vetted and signed off by the supervisor before the advice is given to the client; and</p> <p>(b) all time-critical or oral advice must be vetted and signed off by the supervisor within a 48-hour period from the advice being given.</p>	<p>D4Q1 Do you agree that a supervisor should review and sign off all advice provided by a new adviser (i.e. SOA) before it is given to a client?</p> <p>D4Q2 Do you agree oral advice should be post-vetted? If not, what other ways could oral advice be vetted?</p> <p>D4Q3 What consequences should apply if post-vetted advice is found to be inadequate?</p> <p>D4Q1 What costs would pre-vetting of advice likely impose on industry?</p>
<p><b>E1</b> We propose requiring a knowledge update review to improve advisers' knowledge and the quality of advice.</p>	<p>E1Q1 Do you agree that a knowledge update review would improve advisers' knowledge and therefore improve the quality of their services?</p> <p>E1Q2 Based on the above model, what costs would you expect to be incurred in developing the training material and questions for the knowledge update review? What costs would likely be incurred by industry in having advisers sit the review?</p>
<p><b>E2</b> We propose using the knowledge update review to complement CPD.</p>	<p>E2Q1 Do you agree with the need for both CPD and knowledge update review requirements? If not, which do you think would be a more effective way of ensuring advisers keep updating their knowledge of changes to the regulatory environment and financial products and markets?</p>
<p><b>E3</b> We propose running the knowledge update review as an online, computer-based training session that needs to be completed within the first two years of passing the adviser certification exam, and then every three years thereafter.</p>	<p>E3Q1 Do you agree that a triennial requirement is a reasonable period of time after which advisers should undertake a knowledge update review? If not, what would be a suitable timeframe?</p>
<p><b>E4</b> We propose using the knowledge update review to focus on changes to the regulatory environment and the market, and include a component on ethics.</p>	<p>E4Q1 Do you agree that a knowledge update review should be limited to changes to the regulatory environment, the market and ethics? If not, what else do you think should be included?</p>
<p><b>E5</b> We propose that there would be consequences for advisers who fail to complete the review within the requisite period of time. The result would be intended to assist the adviser in identifying areas where they should undertake CPD to improve their knowledge.</p>	<p>E5Q1 Do you agree that there should be consequences for failing to complete the knowledge update review? Do you agree with options (a) and/or (b) in paragraph 92? What other consequences (if any) should there be for a person who does not complete the review?</p>
<p><b>E6</b> We propose that the knowledge update review be developed by the same committees that</p>	<p>E6Q1 Do you agree that the same committees should be used to prepare the questions and case</p>

Proposal	Your feedback
prepare questions for the adviser certification exam.	studies for the knowledge update review?
<p><b>E7</b> We propose that the knowledge update review be computer-based and testing centres be used to administer the programs.</p>	<p>E7Q1 Do you agree that independent testing centres should administer the knowledge update review?</p> <p>E7Q2 Which organisation should administer the knowledge update review?</p>
<p><b>E8</b> We propose leaving who pays the cost of the knowledge update review to the discretion of individual advisers, authorised representatives and/or the licensee.</p>	<p>E8Q1 Do you agree with this proposal?</p>
<p><b>E9</b> We propose retaining CPD requirements as part of the assessment and professional development framework for financial advisers, as well as the proposed knowledge update review.</p>	<p>E9Q1 Do you agree that CPD is a useful mechanism for helping financial advisers maintain the competence to provide financial services?</p> <p>E9Q2 Do you agree that CPD should continue to be managed by industry? If not, who should manage CPD?</p> <p>E9Q3 Do you think ASIC should provide any further guidance concerning CPD requirements? If so, what additional guidance is needed?</p>
<p><b>F1</b> We propose to record all adviser certification and knowledge update review results in Australia. We propose that the adviser certification exam provider would collate these results and forward them to ASIC.</p>	<p>F1Q1 Do you agree that the adviser certification and knowledge update review results should be recorded? If not, why not?</p>
<p><b>F2</b> We propose that these records would be accessible to AFS licensees to check the certification status of advisers.</p>	<p>F2Q1 Do you agree with this proposal?</p> <p>F2Q2 Who else should be allowed access to these records (e.g. members of the public or other licensees) to allow for reference checking of new advisers?</p> <p>F2Q3 If records were not accessible, how would you propose that interested parties check the certification status of an adviser?</p> <p>F2Q4 What costs would you expect in regards to the operation of a central training register? Would you expect any cost savings as a result of having a central point for certification checking?</p> <p>F2Q4 Should the record holder be permitted to charge a fee for access to information on the record?</p>
<p><b>G1</b> We propose using the transition period schedule set out in Table 2.</p>	<p>G1Q1 Do you agree with the proposed transition period? If not, do you think it should be longer or shorter?</p> <p>G1Q2 Do you think a 1 July 2012 start date is reasonable?</p>