

25 September 2013

Nicole Chew
Lawyer, Financial Advisers
Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

Submitted via email to policy.submissions@asic.gov.au

Dear Nicole,

Consultation Paper 212 - Licensing: Training of financial product advisers – Update to RG 146

On behalf of our members, the CFA Societies Australia welcome the opportunity to comment on the Australian Securities and Investments Commission's (ASIC) consultation paper on the proposed changes to the training standards in RG 146, Licensing: Training of financial product advisers ("consultation").

The CFA Societies of Sydney, Melbourne and Perth are not-for-profit associations of more than 1,500 investment professionals formed to lead the investment profession in Australia by setting the highest standards of education, integrity and professional excellence. Our members are engaged in a wide variety of roles across investment management and advice. Most of our members are holders of the Chartered Financial Analyst (CFA) designation.

Together we represent the three Australian chapters of CFA Institute¹. CFA Institute stands for ethical excellence in the global financial community. It is a leading voice on global issues of fairness, market efficiency, and investor protection. CFA Institute offers a range of educational and career resources, including the Chartered Financial Analyst (CFA) and the Certificate in Investment Performance Measurement (CIPM) designations, as well as a new program called the Claritas Investment Certificate².

Our comments on this consultation represent an independent voice without the conflicts of interest that may face any particular industry association. We thank you for the opportunity to provide these comments and contribute to greater educational and professional standards across our industry. Our responses to the specific questions in the consultation follow in Appendix A.

General comments on Consultation Paper 212

Overall we are pleased ASIC is taking steps to improve the level of knowledge and skill of advisers within the financial services industry. In particular we are very happy ethics has been introduced as a generic knowledge topic in the proposed changes. Having a framework for understanding ethical issues if and when they arise is very beneficial as it helps individuals recognise areas that are prone to ethical pitfalls and equips them with strategies to deal with them. The greater focus on behavioural economics, risk tolerance and various life stages including advice to older Australians are all welcome additions, as is the emphasis on the primacy of advice and adviser communication in a way in which is understood by clients.

Sound ethical practices are fundamental to building trust and confidence in the capital markets and the investment profession. Lack of ethical culture within financial firms was considered the largest contributor to the lack of trust in the financial industry in Australia according the CFA Institute Global Market Sentiment Survey 2013³. More alarmingly, mis-selling was ranked the most serious ethical issue facing the Australian market in 2013. A strong foundation in ethical principles and standards is essential for everyone working within the financial industry especially those who provide financial advice. Investors need confidence that advisers will act with integrity and put their interests first. This will not only strengthen the adviser/client relationship but will overtime establish trust and confidence within the industry and the profession.

¹ CFA Institute is a global, not-for-profit professional association of more than 116,000 investment analysts, portfolio managers, investment advisors and other investment professionals in 130 countries of which more than 100,000 are holders of the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 138 member societies in 60 countries and territories.

² For more information please see <http://www.cfainstitute.org/programs/Pages/index.aspx>

³ A copy of the CFA Institute GMSS 2013 can be found at http://www.cfainstitute.org/about/research/surveys/Pages/global_market_sentiment_survey_2013.aspx

We do have some concerns relating to the content of the proposals as well as the implementation of the proposed regimes. We believe all the specialist knowledge requirements should have been reviewed. In particular we believe the managed investments specialist knowledge requirements are significantly out of date. Compared to other products listed (film schemes, time-sharing schemes), equity trusts and fixed income trusts are far more important to the average investor, however the lack of proper emphasis on these investment products is a good example why a full review of all specialist knowledge requirements is essential. More broadly, all knowledge areas (generic and specialist) need to be reviewed on a regular basis to ensure they are kept up-to-date and relevant.

We also question the timeframe for the implementation of the new training standards. We do not believe it is necessary to introduce the new standards in stages. It is confusing and will increase the burden on training providers and licensees unnecessarily. It would be better to have two regimes, the current regime and the new regime (moving directly to Regime C), with an implementation date within two to three years from now.

We strongly believe that greater knowledge and skills are critical for improving the quality of advice being provided by advisers. However, we are not certain the improvements proposed in CP 212 will go far enough to truly raise the quality and standard of advice. In its current state RG 146 is inadequate and the improvements proposed should be viewed as a necessary first step towards a longer term goal. We continue to support a national certification exam for financial product advisers, as proposed in *Consultation Paper 153*, as a framework for ensuring consistency of knowledge and skill across the industry.

While high ethical standards should be in-built in all financial professionals - knowledge and skill provide the tools advisers need to carry out their role effectively. An exam which is built around the basics of investment and technical fundamentals and underpinned by ethical and professional standards should benefit advisers, and if applied correctly, it should subsequently lead to better quality advice to consumers. Higher educational standards, teamed with ongoing continuing education should establish a level of professionalism within the industry, which ultimately will help raise the credibility and trust investors and the public have for advisers.

Comments on Consultation Paper 215

We will take this opportunity to make some comments on the proposal to remove the recognition of foreign qualifications in RG 146 as outlined in *Consultation Paper 215*. We do not support the proposal to remove the recognition of foreign qualifications from RG 146. We believe the current policies outlined in RG 146.83-86 are adequate. They allow qualifications that are recognized by overseas regulators as well as past qualifications from overseas universities or equivalents that have been verified by Australian Education International—National Office of Overseas Skills Recognition (AEI NOOSR). There is also an allowance in RG 146.85 for gap courses if the foreign qualification does not cover Australia specific content. The workforce is not static, but is incredibly mobile more so now than it has ever been. People with genuine qualifications that meet RG 146 should not need to retrain for the sake of ticking a box.

Concluding remarks

CFA Societies Australia is pleased that ASIC is taking the initial steps necessary to improve the quality of advice offered to retail clients by expanding and enhancing the minimum training standards required of financial product advisers under RG 146. As an organisation that prides itself on upholding the highest ethical and professional standards and promoting investor protection, we are very supportive of reforms that promote similar ideals.

If you have any questions in regards to this letter, please feel free to contact Richard Brandweiner at
or Angela Pica at

Yours sincerely,

Richard Brandweiner, CFA
President
CFA Society of Sydney

Angela Pica, CFA
Head of Advocacy, Australia & New Zealand
CFA Societies Australia

APPENDIX A

Generic Knowledge

B1Q1 Do you agree that knowledge of all topics in generic knowledge should be mandatory for advisers undertaking training under Regime B and Regime C who provide general advice and personal advice on Tier 1 products? If not, why not?

We agree. All of the generic knowledge topics are relevant and should be mandatory for both general and personal advisors under both Regimes. All advisers need to have well rounded basic knowledge of the financial industry, financial products and the client/adviser relationship.

B1Q2 Do you agree with our proposed changes to the topics for generic knowledge? If not, why not?

We strongly support the proposed changes.

B1Q3 Do you think it is appropriate for ‘financial structures and their taxation implications’ and ‘awareness of taxation’ to be included as new topics, given that it is proposed that the Tax Agents Services Act 2009 and relevant regulations will apply to advisers who provide tax (financial) advice services?

Yes, we believe the topics ‘financial structures and their taxation implications’ and ‘awareness of taxation’ should be included in the generic knowledge topics for all advisers on Tier 1 products. Advisers registered as tax (financial) advisers under TASA 2009 will be able to provide full tax advice to clients, however they will only represent a subset of all advisers. Other advisers regardless of whether they provide general factual tax information or not, still need to have reasonable understanding of the taxation system, the tax implications of various financial products and how it all ties together when accessing the client’s overall objectives.

B1Q4 Do you think knowledge of the additional topics in generic knowledge should only apply to advisers undertaking training under Regime B and Regime C who provide personal advice on Tier 1 products? (This would mean there would be no change to the generic knowledge requirements for advisers who only provide general advice in this area.) If yes, please provide reasons.

No. We believe that the additional generic knowledge requirements are relevant to advisers who provide both personal and general and therefore should apply to all advisers undertaking training under Regime B and Regime C. The level of generic knowledge as it stands now is inadequate. The addition of the new topics will broaden advisers' knowledge and is essential for all advisers regardless of whether they provide personal or general advice. A good example is that all advisers need to understand the importance of ethics and how it relates to the responsibilities and duties adviser have to their clients.

B1Q5 Are there any additional generic knowledge topics we should include? If yes, please describe them.

No. This is a thorough list of additional generic topic areas.

B1Q6 Do you anticipate any practical difficulties that would result from complying with the proposed additional generic knowledge requirements? If yes, please provide details.

By expanding the generic knowledge requirements training providers will need to review their existing courses. First they will need to map the existing courses to the new requirements. If they find that current courses do not adequately cover the new material then they will need to determine if they will update or change their existing courses or develop a new course. This process will take time.

B1Q7 Do you consider that the proposed changes to the topics for generic knowledge will affect the quality of advice consumers receive? If so, please provide details, both positive and negative.

The changes should have a significant positive effect on the quality of advice in several ways. First, a greater emphasis on ethics should heighten recognition for the importance of the fiduciary duty advisers should maintain for their clients. At the same time, this should lead to higher levels of trust that clients can have in their financial advisers. Also, the revised standards' inclusion of the topic areas of behavioral finance, risk profiling/tolerance, and life cycle issues will make advisers more sensitive to client perspectives and thereby help clients to avoid typical cognitive errors.

B1Q8 Do you consider that the proposed changes to the topics for generic knowledge will impose additional costs on advisers and AFS licensees? Please provide specific details.

The proposed changes will certainly impose additional costs on advisers and licensees. Training providers will have to significantly revise their training materials, and the costs to do so will be passed along to those who take the training courses. But the more important question is whether or not the

benefits will exceed the costs. From what we can see, the new generic knowledge requirements cover important topics which should improve the adviser/client relationship and result in improved outcomes.

Financial planning specialist knowledge requirements

B2Q1 Do you agree with these proposed additional topics? If not, why not?

We agree. Given the growing population of ageing Australians and ever changing social security benefits it is important for financial planners to have increased knowledge in this area.

B2Q2 Do you think that the proposed additional topics should only apply to advisers undertaking training under Regime B and Regime C who provide personal advice in financial planning? (This would mean there would be no change to the financial planning specialist knowledge requirements for advisers who only provide general advice in this area.) If yes, please provide reasons.

No. We believe that the proposed additional topics should apply to advisers who provide both personal and general advice under Regime B and Regime C. Advisers providing general advice would also benefit from the increased knowledge obtained from the additional topics.

B2Q3 Do you consider that there are any practical difficulties with complying with these proposed additional requirements? If yes, please provide details.

No, as discussed in B1Q6, other than the fact training providers will have to revise their courses, we do not see any other practical difficulties.

B2Q4 Are there any other topics we should include in ‘Financial planning (specialist knowledge)’? If yes, please describe them.

No.

B2Q5 Do you consider that the proposed changes to the financial planning specialist knowledge requirements will affect the quality of advice consumers receive? If so, please provide details, both positive and negative.

Yes, we believe the addition of the new topics will be beneficial. A better understanding of social security and how it relates to a financial plan will definitely help advisers provide more comprehensive and relevant advice to older Australians.

B2Q6 Do you consider that the proposed changes to the financial planning specialist knowledge requirements will impose additional costs on advisers and AFS licensees? Please provide specific details.

Please see our response to B1Q8.

Securities specialist knowledge requirements

B3Q1 Do you agree with this proposed additional sub-topic? If not, why not?

We agree.

B3Q2 Do you think that the additional proposed sub- topic should only apply to advisers undertaking training under Regime B and Regime C who provide personal advice on securities? (This would mean there would be no change to the securities markets specialist knowledge requirements for advisers who only provide general advice in this area.) If yes, please provide reasons.

Please see our response to B2Q2.

B3Q3 Do you consider that there are any practical difficulties with complying with this proposed additional requirement? If yes, please provide details.

Please see our response to B2Q3.

B3Q4 Are there any other topic areas we should include in ‘Securities markets (specialist knowledge)’? If yes, please describe them.

No.

B3Q5 Do you consider that the proposed changes to the securities market specialist knowledge requirements will affect the quality of advice consumers receive? If so, please provide details, both positive and negative.

If the adviser is responsible for putting together model portfolios for individual investors then yes the addition of portfolio construction is essential and we would expect the quality of advice to improve. With this knowledge, the advisers should be better able to respond to consumers’ questions relating to the portfolio, its risk and return profile and the securities within it.

B3Q6 Do you consider that the proposed changes to the securities market specialist knowledge requirements will impose additional costs on advisers and AFS licensees? Please provide specific details.

Please see our response to B2Q6.

Superannuation specialist knowledge requirements

B4Q1 Do you agree with these proposed additional sub-topics? If not, why not?

We agree.

B4Q2 Do you think that the proposed additional sub- topics should only apply to advisers undertaking training under Regime B and Regime C who provide personal advice on superannuation? (This would mean there would be no change to the superannuation specialist knowledge requirements for advisers who only provide general advice in this area.) If yes, please provide reasons.

Please see our response to B2Q2.

B4Q3 Do you consider that there are any practical difficulties with complying with these proposed

Please see our response to B2Q3.

B4Q4 Are there any additional topic areas we should include for ‘Superannuation (specialist knowledge)’? If yes, please describe them.

No.

B4Q5 Do you consider that the proposed changes to the superannuation specialist knowledge requirements will affect the quality of advice consumers receive? If so, please provide details, both positive and negative.

Given the importance of superannuation for Australians, increased knowledge of this topic will help advisers deliver higher quality advice to Australians planning for retirement or looking to better understand superannuation and their options.

B4Q6 Do you consider that the proposed changes to the superannuation specialist knowledge requirements will impose additional costs on advisers and AFS licensees? Please provide specific details.

Please see our response to B2Q6.

Other specialist knowledge requirements

B5Q1 Do you think we should make substantive amendments to the specialist knowledge requirements for derivatives, managed investments, insurance (general, life and broking), deposit products and non-cash payment products, foreign exchange, FHSAs, margin lending facilities or regulated emissions units? If yes, please provide details.

Great harm can be done to investors by advisers who are ill prepared to offer advice in the area of derivatives. Based on the current level of coverage of this specialist topic area, we believe that the knowledge requirements to provide advice in the topic area of derivatives are inadequate. For example, we note that there appears to be no discussion of payoff profiles for typical derivatives products such as options and futures. Accordingly, we recommend conducting research to assess the adequacy of the coverage of the topic of derivatives within the RG 146 guidelines.

We also believe the managed investments specialist knowledge area is significantly out of date. In a typical diversified portfolio equities will represent around 90% of the volatility. In Table A2.4 of RG 146, equity trusts share a line with fixed interest trust while serviced strata and primary production schemes each get one full line. The lack of proper emphasis on equity trusts and fixed income trusts which in comparison are far more important is a good example why a full review of all specialist knowledge requirement is essential.

More generally, we believe all topics should be reviewed on a regular basis. Substantial changes should then be reflected and updated in RG146. Knowledge of financial products, including their structure, relevance, use and risks is always changing. It is important that all topics reflect these changes to ensure that the training courses are current and relevant to advisers.

B5Q2 Do you think that we should conduct CTA research for the other specialist knowledge requirements? If yes, please provide details.

Yes, with the exception of topics that have been added within the last two years, the other specialist knowledge requirements should be reviewed and the appropriate CTA research conducted. Please refer to our answer to B5Q1.

Skill set requirements

C1Q1 Do you agree with our proposed changes? If not, why not?

We agree. The new skill set requirements now represent a comprehensive list of skills for advisers providing personal advice. We believe one of the most critical skills an adviser can have is the ability to communicate financial concepts to clients in terms they can understand. Therefore we strongly support ASIC's inclusion and focus on this within the new skill requirements.

C1Q2 Do you anticipate any practical difficulties with these proposed changes to the skill requirements? If yes, please provide details.

No.

C1Q3 Are there any other skill requirements that you think should be included? If yes, please describe them.

No. We believe the new skill requirements represent a thorough and detailed list

C1Q4 Do you consider that the proposed changes to the skill requirements will affect the quality of advice consumers receive? If so, please provide details, both positive and negative.

Yes we believe the proposed changes to the skill requirements will increase the quality of advice consumers receive. Although improving communications with clients alone would not necessarily improve the quality of advice consumers receive, the greater emphasis on building rapport with clients, greater understanding of clients' objectives and their risk profile/risk tolerance will lead to a deeper understanding of clients' needs. Overtime this increased interaction should help build confidence and trust in the relationship. Together with the proposed changes to the knowledge requirements, the significant improvements to the skill requirements should definitely have a beneficial effect on the quality of advice consumers receive.

C1Q5 Do you consider that the proposed changes to the skill requirements will impose additional costs on advisers and AFS licensees? Please provide specific details.

Please see our response to B2Q6.

Educational level requirements for Tier 1 products

D1Q1 Do you agree with our proposal to increase the educational level requirements for Tier 1 products? If not, why not?

We agree.

D1Q2 Do you anticipate any practical difficulties with our proposed educational level increases? If yes, please provide details.

No

D1Q3 Do you consider that the proposed changes will affect the quality of advice consumers receive? If so, please provide details, both positive and negative.

It should have a positive effect. The investment profession has become much more sophisticated over time. This increased sophistication requires (minimally) education at the bachelor's level in order to effectively practice in the profession. The increased educational level should also raise the credibility that investors have for advisers.

D1Q4 Do you consider that the proposed changes will impose additional costs on advisers and AFS licensees? Please provide specific details.

Yes, under Regime C advisers will need a bachelor degree which will impose additional costs on training providers as they change or make new courses. The increased cost to the training provider could potentially be passed to the licensees as higher fees.

D1Q5 Do you agree that our proposal to increase the educational level requirements should apply to advisers who provide general advice only? If not, why not?

We believe that the increased educational requirements should apply to advisers who provide both general and personal advice. We take this view because we feel that the line between general advice and

personal advice may not always be clear cut. Accordingly, we believe it is important for all advisers who provide financial advice for a fee to have a level of education consistent with a bachelor's degree.

Educational level requirements for Tier 2 products

D2Q1 Do you agree with our proposal to increase the educational level requirements for Tier 2 products? If not, why not?

We agree.

D2Q2 Do you anticipate any practical difficulties with our proposed educational level increase? If yes, please provide details.

No.

D2Q3 Do you consider that the proposed changes will affect the quality of advice consumers receive? If so, please provide details, both positive and negative.

Given the nature of the duties performed by individuals affected by this change, we do not believe that this change will have a material effect on the quality of advice consumers receive. Nevertheless, increasing the education level will expand the knowledge and skill set of these advisers. While the duties carried out by these advisers are straightforward, with an increased minimum level of education, they may be better able to identify the opportunities/needs of clients.

D2Q4 Do you consider that the proposed changes will impose additional costs on advisers and AFS licensees? Please provide specific details.

See our response to D1Q4.

D2Q5 Do you agree that our proposal to increase the educational level requirements should apply to advisers who provide general advice only? If not, why not?

Similarly to our response to D1Q5, we believe that the increased educational requirements should apply to anyone who provides general or personal advice. We take this view because we feel that the line between general advice and personal advice may not always be clear cut. Accordingly, we believe it is important for all anyone who provides financial advice to have the same level of education.

Implementation of new training standards

E1Q1 Do you agree with our proposed implementation in stages of the increased training standards? If not, why not?

We are not certain about the wisdom of implementing these changes in stages. It may force training providers to undertake two major revisions of training material within a few years. At the same time, the 1 January 2015 date is not, at this point, that far off. We think it may be advisable to consider moving directly to Regime C with an implementation date within the next two to three years.

E1Q2 Do you agree with the commencement date of 1 January 2015 for the increased training standards for Regime B? If not, why not?

No. See our response to E1Q1.

E1Q3 Do you consider that there will be sufficient courses available before 1 January 2015 to cover the proposed new knowledge requirements for Regime B? Please provide details.

We are not in a position to offer an opinion on this.

E1Q4 Do you consider that there will be sufficient courses available before 1 January 2015 to cover the proposed new skill requirements for Regime B? Please provide details.

We are not in a position to offer an opinion on this.

E1Q5 Do these transition periods provide sufficient time for training providers to develop new courses and for advisers to complete them before the commencement of Regime B and Regime C? Please give data about the length of time usually taken to develop new courses.

We believe that the 1 January 2015 start date for Regime B may be difficult for training providers and advisers to meet. As mentioned earlier, we believe it would be simpler and more efficient to move directly to Regime C with an earlier implementation date.

In our experience, it could easily take two years to create a new designation. A new course could take approximately one year, while revisions to an existing course would take about six months depending on how extensively the course is being revised.

E1Q6 Do you agree that the proposed changes to an AQF Level 6 Advanced Diploma for Tier 1 advisers and an AQF Level 4 Certificate IV for Tier 2 advisers should only apply to advisers who start providing financial product advice or change their advice activities on or after 1 January 2015? If not, why not?

We believe that it is fair that the proposed changes should apply only to advisers who start their practice after the implementation date. We are however uncertain of the wisdom of the two stage approach with a first stage implementation date as soon as 1 January 2015.

E1Q7 Do you agree that the proposed changes to an AQF Level 7 Bachelor Degree for Tier 1 advisers and an AQF Level 5 Diploma for Tier 2 advisers should only apply to advisers who start providing financial product advice or change their advice activities on or after 1 January 2019? If not, why not?

We agree, keeping in mind our previous responses.

E1Q8 Do you consider that there would be sufficient time to develop courses to deliver training at a Level 7 Bachelor Degree level for Tier 1 products in the timeframe proposed?

Certainly for a Regime C implementation, we are less sure about Regime B.

E1Q9 Do you agree that advisers who change their advice activities during the period of a particular regime such that they require additional training should complete their training at a level that meets the requirements of that particular regime? If not, why not?

If advisers add a new area of specialization they should complete a course that meets the new specialist knowledge requirement under the new regime. In addition to this, we believe that the adviser should also update any other existing areas of specialization if these areas have changed under the new regime.

Take for example, an adviser completes their initial training to provide personal advice for Tier 1 products in financial planning and superannuation under Regime A. On Sept 2019 (Regime C), the adviser wants to start providing advice on securities.

Under the new proposal, the adviser only needs to complete a training course that meets the Regime C securities markets (specialist knowledge) requirements at the educational level required under Regime C. However, the specialist knowledge for superannuation and financial planning have also changed, so why should they not be updating their knowledge in these areas as well? Even though the adviser is not

changing the type of advice they provide (ie personal), the skill requirements under Regime C have also been updated, so do they need to update this as well?

Another concern is Example 2 written up on page 13 of the consultation paper.

Example 2 Changing from general advice to personal advice

An adviser completes their initial training to provide general advice on superannuation under Regime A.

On 2 July 2017 (i.e. after Regime B begins), the adviser decides that they want to provide personal advice on superannuation.

The adviser would *not* need to complete a training course that meets the Regime B superannuation (specialist knowledge) requirements (because they are not adding a new area of specialisation), but they would need to complete a training course that meets the Regime B skill requirements at the educational level required under Regime B because they are changing the type of advice they provide (i.e. from general advice to personal advice).

In this scenario we believe the adviser would need to update his/her superannuation requirement because even though they are not adding a new area of specialization, the minimum standards in Regime B have increased from when the adviser first obtained his/her initial training under Regime A. Without this additional training there is no consistency and the level of training across advisers in the same regime will differ.

There is also the possibility of having advisers who were initially trained under Regime A with significantly different minimum training requirements than advisers trained under Regime C. To the end consumer these advisers are all compliant however, their knowledge and skills could vary significantly.

How the proposals apply to an adviser when they change their advice activities through the different Regimes (as explained on page 12-13 of the Consultation Paper) is currently very ambiguous.

E1Q10 Are there any other practical considerations that we should be aware of arising from the proposed implementation framework?

None beyond that which we have already mentioned.

We do not have any comments on Section F.