



ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 212

Licensing: Training of financial product advisers— Update to RG 146

June 2013

About this paper

This consultation paper sets out ASIC's proposals for changes to the training standards in Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) to enhance the competency of, and quality of advice being provided by, financial product advisers.

The purpose of this paper is to seek the views of Australian financial services (AFS) licensees and their representatives, training organisations and consumers on our proposals.

Appendix A of this paper provides a draft update of the training standards in RG 146.

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 24 June 2013 and is based on the Corporations Act as at the date of issue.

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.

Contents

The consultation process	4
A Background to the proposals	5
Current regulatory requirements	5
Why a review of the training standards is needed	7
The ASIC Training Register	10
Overview of our proposals	10
Relationship to CP 153 and the proposed national examination	16
B Additional knowledge requirements	18
Generic knowledge	18
Specialist knowledge: Financial planning	25
Specialist knowledge: Securities	26
Specialist knowledge: Superannuation	28
Other specialist knowledge requirements	29
C Additional skill requirements	31
D Increasing the educational level requirements	35
Tier 1 products	35
Tier 2 products	39
E Timeframe for implementation of increased training standards	42
F Reclassification of certain insurance products	45
Personal sickness and accident insurance	45
Consumer credit insurance	46
G Regulatory and financial impact	50
Appendix A Draft updated RG 146 training standards	51
Knowledge requirements	51
Skill requirements	67
Educational level requirements	71
Appendix B The CTA research	72
What is CTA?	72
How the CTA research was conducted	72
Key terms	74
List of proposals and questions	79

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 standards in RG 146 that apply to financial product 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 G, '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 30 September 2013 to:

Nicole Chew
 Lawyer, Financial Advisers
 Australian Securities and Investments Commission
 Level 5, 100 Market Street Sydney NSW 2000
 facsimile: 02 9911 2414
 email: policy.submissions@asic.gov.au

What will happen next?

Stage 1	24 June 2013	ASIC consultation paper released
Stage 2	30 September 2013	Comments due on the consultation paper
	November 2013	Drafting of regulatory guide
Stage 3	April 2014	Regulatory guide released

A Background to the proposals

Key points

This section:

- explains the current regulatory requirements for training of financial product advisers, including an overview of the current training standards framework in Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) (see paragraphs 1–11);
- explains why a review of the training standards in RG 146 is necessary (see paragraphs 12–22);
- gives an update on the ASIC Training Register (see paragraphs 23–24);
- gives an overview of our proposals to increase the training standards in two stages (from 1 January 2015 and from 1 January 2019) (see paragraphs 25–34); and
- explains the relationship of the proposals in this paper to the proposed national examination for financial product advisers who provide advice on Tier 1 products and our other proposals in Consultation Paper 153 *Licensing: Assessment and professional development framework for financial advisers* (CP 153) (see paragraphs 35–41).

Current regulatory requirements

- 1 Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) sets out the minimum knowledge requirements, skill requirements (for some financial product advisers) and educational level requirements (collectively, the ‘training standards’) for natural persons who provide financial product advice in Australia (advisers). All advisers must, as a matter of law, comply with these training standards unless they fall within certain limited exceptions. The training standards vary depending on the adviser’s activities. This obligation to comply with the training standards is established through the interaction of a number of requirements.
- 2 The *Corporations Act 2001* (Corporations Act) requires Australian financial services (AFS) licensees to:
 - (a) comply with the conditions on their AFS licence (s912A(1)(b));
 - (b) maintain competence to provide the financial services covered by their licence (s912A(1)(e)); and
 - (c) ensure that their representatives are adequately trained and competent to provide those financial services (s912A(1)(f)).
- 3 In general, AFS licence conditions require licensees who are authorised to provide financial product advice to retail clients to ensure that all natural

persons who provide financial product advice on their behalf (including the AFS licensee if they are a natural person):

- (a) have completed relevant training courses at an appropriate level as approved by ASIC in writing; or
- (b) have been individually assessed as competent by an assessor that has been or is approved by ASIC in writing (see conditions 7(a) and 7(b) of Pro Forma 209 *Australian financial services licence conditions* (PF 209)).

There are limited exceptions and alternatives to this requirement.

Note 1: The ASIC Training Register was the means by which AFS licensees could establish that training courses and individual assessors had been approved by ASIC. As the ASIC Training Register is currently under review, we will not take any action against a licensee for breach of these licence conditions provided certain conditions are satisfied: see Media Release (13-149MR) *ASIC consults on enhancements to training standards* (24 June 2013). We intend to consult separately on alternatives to the ASIC Training Register: see paragraphs 23–24.

Note 2: In this consultation paper, references to ‘client’ mean ‘retail client’ as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of Ch 7 of the Corporations Regulations 2001 (Corporations Regulations).

- 4 RG 146 provides guidance on the relevant training courses, appropriate educational levels and approved assessors.

Overview of the current training standards framework in RG 146

- 5 The training standards are minimum sets of knowledge and, where personal advice is given, skill requirements, which are assessed at particular educational levels depending on the type of financial product for which advice is provided.
- 6 RG 146 categorises financial products as either Tier 1 or Tier 2 products: see the ‘Key terms’ at the end of this paper for the definitions of these products. Tier 2 products are generally simpler and better understood than Tier 1 products and are therefore subject to lighter training standards, including a lower educational level. Table 1 gives an overview of the current training standards framework, including the three types of requirements (i.e. knowledge, skills and educational level) and how they apply to Tier 1 and Tier 2 products for general advice and personal advice.
- 7 The level of education currently stipulated for Tier 1 products is broadly equivalent to a Diploma under the Australian Qualifications Framework (AQF) and the level of education currently stipulated for Tier 2 products is broadly equivalent to a Certificate III under the AQF. RG 146 does not prescribe that advisers should necessarily undertake a formal Diploma or Certificate III course. The reference to these qualifications is for comparative

purposes only, as a guide for AFS licensees, training providers and authorised assessors (organisations that assess training courses or assess individual competence) on the level of the required content of the course.

Table 1: The current training standards framework

Training requirement	General advice		Personal advice	
	Tier 1	Tier 2	Tier 1	Tier 2
Knowledge requirements				
Generic (see paragraph 10)	✓	×	✓	×
Specialist (see paragraphs 8–9)	✓ as applicable	✓ as applicable	✓ as applicable	✓ as applicable
Skill requirements (see paragraph 11)				
	×	×	✓	✓
Educational level requirements (see paragraph 7)				
	✓	✓ at lower level than Tier 1	✓	✓ at lower level than Tier 1

- 8 RG 146 outlines the knowledge requirements that apply to a range of products on which advice may be given and a range of activities relevant to the advice process. All advisers providing financial product advice to clients must have specialist knowledge about the specific products they provide advice on and the markets in which they operate.
- 9 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), margin lending facilities and regulated emissions units.
- 10 Any adviser who advises on Tier 1 products must also satisfy a generic knowledge requirement, which includes training on the economic environment, operation of financial markets and financial products.
- 11 If the adviser provides personal advice they must also meet the skill requirements. As the level and type of skill varies so much for general advice, RG 146 has not mandated the skill requirements for advisers that only provide general advice.

Why a review of the training standards is needed

- 12 We are proposing that the training standards in RG 146 be revised and improved to more accurately reflect the knowledge and skills required for advisers to provide quality financial product advice.

- 13 This is not a new proposal. In our submission to the Parliamentary Joint Committee on Corporations and Financial Services (PJC) for its Inquiry into Financial Products and Services in Australia (PJC Inquiry) in 2009, we noted our intention to raise the training standards (subject to consultation) as part of our forward program to further reduce risks for retail investors.¹ We subsequently conducted two consultations, in 2009 and 2010, to ascertain industry's views of RG 146 and whether the training, assessment and professional development regime needed to be improved: see Consultation Paper 153 *Licensing: Assessment and professional development framework for financial advisers* (CP 153), paragraphs 41 and 52.
- 14 Our view that the training standards in RG 146 need to be revised and improved is informed by:
- (a) the findings of the PJC Inquiry, as set out in the *Inquiry into financial products and services in Australia*, November 2009 (Ripoll Report);
 - (b) the results of the industry consultation in 2009 and 2010 (documented in CP 153);
 - (c) our surveillance activity, including our recent shadow shop detailed in Report 279 *Shadow shopping study of retirement advice* (REP 279); and
 - (d) our commissioned Cognitive Task Analysis (CTA) research.

Ripoll Report

- 15 The PJC Inquiry was established in 2009 to investigate the issues associated with the collapse of financial services and product providers, including Storm Financial and Opes Prime. In the Ripoll Report (paragraph 6.110), the PJC noted that 'a considerable amount of evidence to the committee contended that the minimum training and qualifications for financial advisers should be raised'.
- 16 Further, the PJC identified the competence of both financial advisers and AFS licensees as an area of regulatory concern. The Ripoll Report (paragraph 5.76) 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'.

Consultation

- 17 The conclusion of the Ripoll Report was reinforced by our review of the professional assessment and development regime in 2009 and 2010, as detailed in CP 153. Our 2009 consultation found that, from the

¹ See ASIC submission, *PJC Inquiry into financial products and services in Australia: Submission by the Australian Securities and Investments Commission*, August 2009, paragraphs 23 and 24.

AFS licensees surveyed, there was consensus that the training standards in RG 146 should be raised: see CP 153 at paragraph 43.

- 18 A common concern among these AFS licensees was the short time some training courses take to cover the material necessary for an adviser to comply with RG 146. The licensees also commented on the disparity in the standards of training between different training organisations. Further, even the best training organisations were considered by the licensees to assess the knowledge and skill requirements too easily: see CP 153 at paragraph 44. In our 2010 consultation, a number of stakeholders stated that the standards prescribed in RG 146 are too low and the level of education should be increased considerably: see CP 153 at paragraph 50.

Surveillance activity

- 19 We conducted an informal internal review of recent enforceable undertakings, which showed an increase in the number of training conditions placed on AFS licensees.

- 20 Our findings from the shadow shop, documented in REP 279, identified training and professional development standards as one of the barriers to improving the quality of advice. REP 279 (paragraph 227) noted:

The relatively low requirements to enter the financial advice industry as an adviser, combined with disparate standards of ongoing training and development, present significant barriers to the quality of financial advice that clients receive. For example, the length of training courses and nominal hours vary, ranging from providers of short compliance-only solutions to university masters programs.

CTA research

- 21 In 2011–12, we commissioned a cognitive task analysis (CTA) research project to determine the knowledge and skills required to provide quality financial advice and to compare this to the current training standards in RG 146. Appendix B of this paper outlines how this research was conducted. The CTA research's major recommendations were:

- (a) the need for RG 146 to be reconfigured to reflect the primacy of advice skills in effective advice provision (including changes to the skill requirements);
- (b) changes to generic and specialist knowledge areas in RG 146;
- (c) a need to raise the educational level of advisers providing personal advice on Tier 1 products from AQF Level 5 (equivalent to a Diploma) to AQF Level 6 (equivalent to an Advanced Diploma); and
- (d) after a one-year to two-year period of structured monitoring and supervision, linked to a detailed capability framework, advisers should

be examined at a level consistent with the outcomes of AQF Level 7 (equivalent to a Bachelor Degree).

Note: The CTA research was conducted in the context of the policy position expressed in CP 153.

- 22 Against this background and research, this paper sets out our proposed changes to the policy in RG 146 to improve training standards.

The ASIC Training Register

- 23 The ASIC Training Register is a register of approved training courses and assessment services that met the criteria in RG 146. It was the means by which AFS licensees could meet their PF 209 licence conditions 7(a) and 7(b) to ensure that they (if they were a natural person) or their representatives:
- (a) have completed training courses at an appropriate level, approved by ASIC in writing, which are relevant to their functions or tasks; or
 - (b) have been individually assessed as competent by an assessor approved by ASIC in writing.
- 24 Courses and assessment services on the ASIC Training Register were taken to have been approved by ASIC in writing. On 24 September 2012, we put the ASIC Training Register under review. We will be consulting separately on our proposed policy position in relation to the ASIC Training Register.

Note: As stated in Note 1 to paragraph 3, as the ASIC Training Register is currently under review, we will not take any action against an AFS licensee for breach of these licence conditions provided certain conditions are satisfied: see 13-149MR.

Overview of our proposals

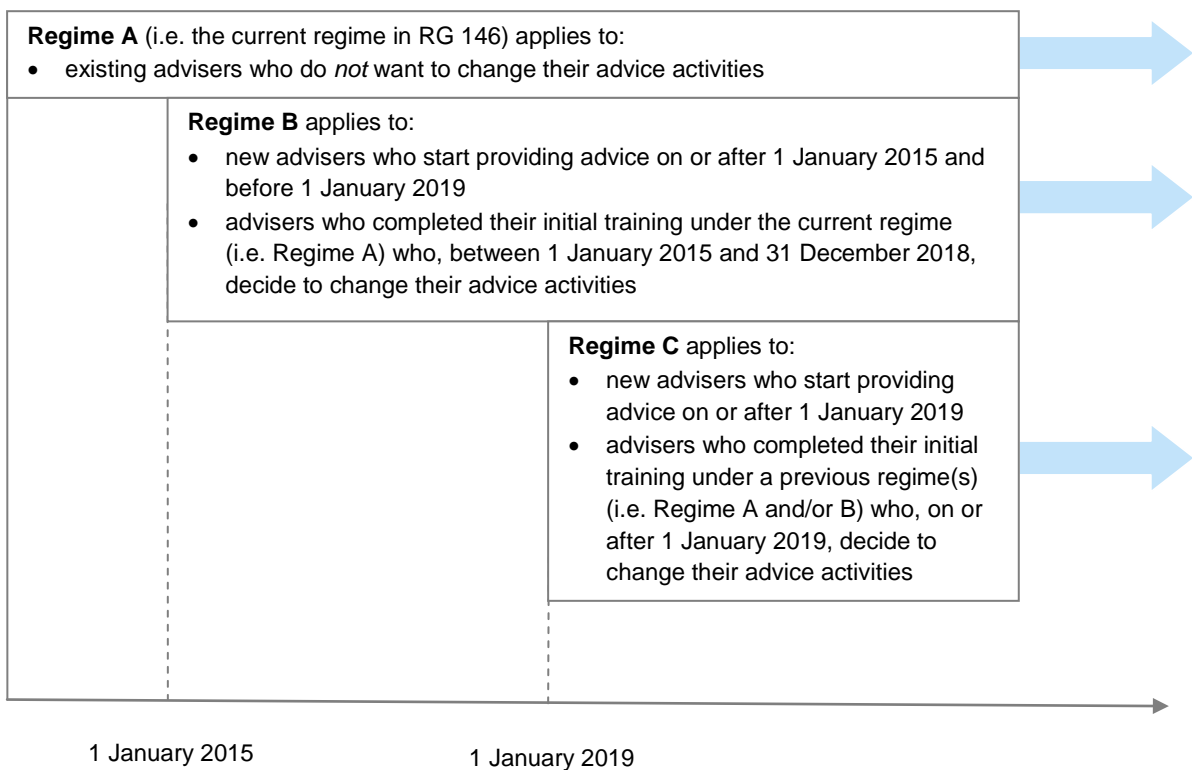
- 25 We are proposing to retain the current training standards in RG 146 as ‘base level’ training standards and to introduce two further regimes of additional training standards (one in 2015 and one in 2019)—with the dual aims of increasing the training standards while also giving industry enough lead time to prepare for the increased training standards.

Proposed staged implementation

- 26 Under our proposals, which are shown in Figure 1, there would be three training standards regimes:
- (a) the first regime (proposed to be called ‘Regime A’) is the regime that currently applies to advisers (see current RG 146)—it would continue to

- apply to advisers who currently meet these training standards and who do not want to change their advice activities;
- (b) the second regime (Regime B) is proposed to be introduced for:
 - (i) new advisers who start providing financial product advice on or after 1 January 2015 and before 1 January 2019; and
 - (ii) advisers who completed their initial training under the current regime (i.e. Regime A) who, between 1 January 2015 and 31 December 2018, decide to change their advice activities; and
 - (c) the third regime (Regime C) is proposed to be introduced for:
 - (i) new advisers who start providing financial product advice on or after 1 January 2019; and
 - (ii) advisers who completed their initial training under a previous regime(s) (i.e. Regime A and/or B) who, on or after 1 January 2019, decide to change their advice activities.

Figure 1: Proposed staged implementation of increased training standards



- 27 The training standards that apply would depend on:
- (a) when the adviser first started, or starts, providing financial product advice; and
 - (b) whether the adviser wants to change their advice activities after they have completed their initial training and, if so, when this change occurs.
- 28 As an adviser, you may fall within different regimes depending on when you completed your initial training, when you start providing financial product advice and when you complete any additional training.
- How the proposals apply to an adviser who ‘changes their advice activities’**
- 29 Circumstances in which an adviser wants to change their advice activities include a decision by an adviser, after they have completed their initial training:
- (a) to add a new area of specialisation to their advice activities when they are already trained in other products of the same tier (see Example 1 below); and
 - (b) to change the type of advice they want to provide—that is:
 - (i) a change from providing general advice to providing personal advice (see Example 2 below); and
 - (ii) a change from advising on Tier 2 products to advising on Tier 1 products (see Example 3 below).
- 30 If an adviser changes their advice activities during the period of a particular regime such that they require additional training, they need to complete this training at a level that meets the requirements of that particular regime: see Table 2.

Table 2: Overview of how the proposals apply to an adviser who has trained under one regime and decides to change their advice activities in a subsequent regime

Planned change of advice activity	Adviser needs to complete training at a level that meets the relevant additional requirements under the subsequent regime
Adding a new area of specialisation when already trained in other products of the same tier	Specialist knowledge requirements (as applicable)
Changing the type of advice provided	
• General advice to personal advice	Skill requirements
• Tier 2 advice to Tier 1 advice	Generic knowledge requirements Specialist knowledge requirements (as applicable)

Example 1 Adding a new area of specialisation when already trained in other products of the same tier

An adviser completes their initial training to provide personal advice in financial planning and superannuation under Regime B (which are Tier 1 products).

On 4 July 2020 (i.e. after Regime C begins), the adviser decides that they want to start providing personal advice on securities (a Tier 1 product).

The adviser would need to complete a training course that meets the Regime C securities markets (specialist knowledge) requirements at the educational level required under Regime C (because they are adding a new area of specialisation but are already trained in other Tier 1 products).

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).

Example 3 Changing from Tier 2 to Tier 1 advice

An adviser completes their initial training to provide personal advice on Tier 2 products under Regime A.

On 20 September 2019 (i.e. after Regime C begins), the adviser decides that they want to provide personal advice on securities (a Tier 1 product).

The adviser would need to complete a training course that meets the Regime C generic knowledge requirements (because they are changing the type of product on which they provide advice—from Tier 2 to Tier 1) and the Regime C securities markets (specialist knowledge) requirements at the educational level required under Regime C (because they are adding a new area of specialisation).

Your feedback

- 31 In this paper, we are seeking feedback on our proposals (see Table 3 for an overview) to increase:
- (a) certain knowledge requirements under Regime B and Regime C (see Section B);
 - (b) the skill requirements for personal advice provided under Regime B and Regime C (see Section C); and
 - (c) the educational level requirements for advice on Tier 1 and Tier 2 products under Regime B and Regime C (see Section D).
- 32 We are also seeking feedback on:
- (a) the timeframe for implementation of Regime B and Regime C (see Section E); and
 - (b) whether personal sickness and accident insurance, and consumer credit insurance, should be classified as a Tier 1 or Tier 2 product (see Section F).
- 33 We have not proposed substantive changes 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 because the CTA research did not review these areas. Depending on the feedback from this paper, we will consider what, if any, changes should be made to these areas.
- 34 We are not proposing any changes to the existing exceptions and modifications to RG 146: see RG 146.18–RG 146.29 and RG 146.67. In particular, under Regime B and Regime C:
- (a) provided the requirements in RG 146.22 are satisfied, customer service representatives do not have to meet the training standards;
 - (b) provided the requirements in RG 146.27–RG 146.28 are satisfied, para-planners and trainee advisers do not need to meet the training standards; and
 - (c) advisers on basic deposit products and related non-cash payment products and FHSA deposit accounts can do a course that is assessed by the AFS licensee as meeting the relevant training standards.

Table 3: Overview of our proposals to increase the training standards

Current 'base level' training standards to continue to apply to all advisers					Proposed additional training standards under Regime B and Regime C
Training requirement	General advice		Personal advice		
	Tier 1	Tier 2	Tier 1	Tier 2	
Knowledge requirements					
Generic	✓	×	✓	×	We are proposing to make <i>all</i> the generic knowledge requirements for Tier 1 advisers mandatory (proposal B1(a)) and to introduce a range of additional generic knowledge requirements (proposal B1(b)): see draft updated Table A1 in Appendix A of this paper.
Specialist	✓ as applicable	✓ as applicable	✓ as applicable	✓ as applicable	We are proposing additional specialist knowledge requirements in the topic areas of financial planning (proposal B2), securities (proposal B3) and superannuation (proposal B4): see draft updated Tables A2.1, A2.2 and A2.5 in Appendix A of this paper.
Skill requirements	×	×	✓	✓	We are proposing to make substantial changes to the majority of the skill requirements (proposal C1): see draft Table A3.2 in Appendix A of this paper.
Educational level requirements	✓	✓ at lower level than Tier 1	✓	✓ at lower level than Tier 1	We are proposing to increase the educational level requirements for all Tier 1 advisers (proposal D1) and Tier 2 advisers (proposal D2): see draft Table A4 in Appendix A of this paper.

DRAFT

Relationship to CP 153 and the proposed national examination

- 35 Our proposed amendments to RG 146 in this paper run parallel to the policy position outlined in CP 153. As outlined in CP 153 (at paragraph 20), any proposed national examination will be based on the training standards in RG 146. The proposed amendments to RG 146 will ensure we have a strong foundation to support the assessment and professional development framework proposed in CP 153 by having an up-to-date RG 146.
- 36 The purpose of CP 153 was to set out a three-stage assessment and professional development framework for financial advisers of Tier 1 products. These were:
- (a) a national examination completed by any individual authorised to provide personal or general advice to clients on Tier 1 financial products (Tier 1 advisers);
 - (b) a knowledge update review, which is an online learning module that a Tier 1 adviser will need to complete within two years of completing the initial examination and every three years thereafter to maintain the currency of their knowledge and training; and
 - (c) monitoring and supervision of advisers, following the successful completion of the national examination.
- 37 CP 153 also proposed a centralised record-keeping system that maintains training and professional development information for each Tier 1 adviser, administered either by the examination oversight body or ASIC. This register would display relevant examination and ongoing development results and other information to assist consumers in selecting a Tier 1 adviser.
- 38 Many respondents to CP 153 agreed that we should lift the training standards and expand on existing knowledge and skill areas. The focus group sessions conducted as part of our CTA research validated this response.
- Note: See Appendix B for more information on our CTA research.
- 39 Following CP 153, we have continued to engage with the financial advice industry to discuss ways of implementing the proposed national examination and the other proposals in CP 153. At this stage, we have decided to delay work on the proposal to implement a national examination to allow appropriate time for other reforms to be implemented in the financial advice sector.
- Note: See Media Release (13-78MR) *Update on financial advisers exam* (11 April 2013).
- 40 It is important to note that if a national examination is implemented, it may replace any obligation to do a training course approved in writing for advisers of Tier 1 products. That is, Tier 1 advisers would be required to

pass the national examination but what they do to equip themselves to pass the examination may be up to them. They may, for example, be able to choose to complete a training course or they may be able to engage in their own private course of study.

- 41 Any national examination would be based on the amended training standards in an updated RG 146. That is:
- (a) between 1 January 2015 and 31 December 2018 inclusive the examination would be based on the Regime B training standards; and
 - (b) from 1 January 2019 the examination would be based on the Regime C training standards.

B Additional knowledge requirements

Key points

For Regime B and Regime C, we propose to amend the knowledge requirements in RG 146 by adding additional topics and sub-topics. Our proposed additional knowledge requirements relate to:

- the generic knowledge requirements; and
- three specialist knowledge requirements (financial planning, securities and superannuation).

We are proposing to more explicitly set out the mandatory generic knowledge that advisers undertaking training under Regime B and Regime C who provide financial product advice on Tier 1 products must have.

Generic knowledge

Proposal

B1 We propose to:

- (a) make *all* the generic knowledge topics in the draft updated Table A1 'Generic knowledge' in Appendix A mandatory for advisers undertaking training under Regime B and Regime C who provide general advice and personal advice on Tier 1 products, although the level of detail required will vary; and
- (b) introduce for Regime B and Regime C an additional sub-topic under the topic 'The economic environment' and introduce the following 12 new topics:
 - (i) 'Financial structures and their taxation implications';
 - (ii) 'Demographic trends and their impact on markets over the long term';
 - (iii) 'Concepts in behavioural economics';
 - (iv) 'Budgeting';
 - (v) 'Risk profiling/risk tolerance';
 - (vi) 'Life stages and their characteristics';
 - (vii) 'Life events and their characteristic consequences';
 - (viii) 'Awareness of taxation';
 - (ix) 'Ethics';
 - (x) 'High-level knowledge of social security regulations, provisions and legislation';
 - (xi) 'High-level knowledge of the relevant legislation as it applies to trusts and self-managed superannuation funds'; and
 - (xii) 'Complaint processes and agencies'.

See draft updated Table A1 ‘Generic knowledge’ in Appendix A.

Your feedback

- 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?
- B1Q2 Do you agree with our proposed changes to the topics for generic knowledge? If not, why not?
- 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?
- 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.
- B1Q5 Are there any additional generic knowledge topics we should include? If yes, please describe them.
- B1Q6 Do you anticipate any practical difficulties that would result from complying with the proposed additional generic knowledge requirements? If yes, please provide details.
- 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.
- 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.

Rationale

Making the generic knowledge requirement mandatory

- 42 Our current guidance on the generic knowledge requirements in RG 146 states that all advisers (except those advising on Tier 2 products) ‘should have a generic knowledge of the environment in which they operate to understand the context in which the advice is given’. However, our current guidance does not direct that this generic knowledge requirement can only be satisfied if an adviser has knowledge of all the topics in Table A1 of Appendix A.

- 43 The provision of financial product advice is a complex task. The CTA research revealed that advisers must:
- (a) understand clients' needs and goals when clients may not be aware of them;
 - (b) understand clients' risk appetite when clients usually have little grasp of this abstract concept;
 - (c) navigate through a complicated taxation system;
 - (d) understand relevant superannuation legislation;
 - (e) manage clients' expectations of what they might be able to achieve in retirement based on their current savings;
 - (f) explain sophisticated concepts such as modern portfolio theory or transition-to-retirement arrangements to clients who may only have a basic level of education or literacy;
 - (g) understand the complicated social security landscape—and the interrelationship between decisions made in the superannuation environment and implications for social security and aged care; and
 - (h) develop a financial strategy that will best equip clients to navigate what is in reality a volatile and uncertain future.
- 44 Our recent shadow shopping research (REP 279) into the provision of retirement advice also found that insufficient attention was given by advisers to strategic advice. This suggests that for advisers there is not enough overall knowledge of the environment in which they operate, as opposed to knowledge about the financial products on which they advise.
- 45 Although these comments are most relevant in the case of financial planning advice, we consider that they can be applied generally to all advisers who provide financial product advice on Tier 1 products. Given the importance of the generic knowledge component in providing the knowledge to carry out these complex tasks, we are proposing to more explicitly set out the generic knowledge that advisers undertaking training under Regime B and Regime C who provide financial product advice on Tier 1 products must have.
- 46 We consider that advisers who provide general advice only still need to have the same knowledge of relevant concepts and financial products as those who provide personal advice. For this reason, we have proposed that the changes will apply to advisers who provide general advice as well as to advisers who provide personal advice. This consistent approach to generic knowledge also reflects the current policy position in RG 146.
- 47 However, we recognise that the level of detail that is required will vary depending on the type of advice provided and the type of activities undertaken.

Additional generic knowledge requirements

- 48 Paragraphs 49–71 explain why we have proposed adding a new sub-topic and 12 new topics to Table A1.

The economic environment

- 49 Each of the sub-topics in Table A1 under ‘The economic environment’ brings its own body of knowledge. The CTA research found that advisers add most value when educating clients about the interaction of these as a system.

Note: All advisers involved in the CTA research were advisers who provided personal advice on Tier 1 products.

Financial structures and their taxation implications

- 50 We consider that Tier 1 advisers need to be knowledgeable about the variety of structures that are available to clients, and this is supported by the CTA research. To provide detailed advice, advisers need to be up-to-date with changes in the Corporations Act and other legislation that determine when and how particular structures can be used.
- 51 On 20 June 2013, the Australian Government introduced new legislation into Parliament, the Tax Laws Amendment (2013 Measures No. 3) Bill 2013, which will create a new regime under the *Tax Agents Services Act 2009* and the Tax Agents Services Regulations 2009 (collectively, ‘TASA’) for advisers who provide tax (financial) advice services.² This regime will be administered by the Taxation Practitioners Board (TPB), not by ASIC.
- 52 Treasury has also issued a discussion paper for consultation on the proposed educational and experience requirements an individual would need to meet to be registered as a tax (financial) adviser.³ It seems likely at this stage that, for registration purposes, the competency requirements for advisers who provide tax (financial) advice services will apply at an organisational level. These requirements are administered by the TPB and include requirements to ensure that the entity has a sufficient number of competent persons to provide tax (financial) advice services to a competent standard and carry out supervisory arrangements. We understand that the TPB will provide further guidance on these requirements.
- 53 Our policy in RG 146 applies at an individual level. Additionally, we propose that *all* advisers on Tier 1 products, not simply those providing tax

² See Assistant Treasurer, Minister Assisting for Deregulation, Media Release 112, *New legislation to deliver additional protections for consumers*, <http://assistant.treasurer.gov.au/DisplayDocs.aspx?doc=pressreleases/2013/112.htm&pageID=003&min=djba&Year=&DocType=>

³ See Treasury Discussion Paper, ‘Proposed registration requirements for tax (financial) advisers’, www.treasury.gov.au/ConsultationsandReviews/Submissions/2013/Requirements-for-tax-advisers.

(financial) advice services or those registered with the TPB, need to have this knowledge. This should not impose additional training requirements on those who become registered with the TPB. Given this background, we seek your feedback on whether it is appropriate for ASIC to require additional taxation knowledge as part of the generic knowledge requirements.

Demographic trends and their impact on markets over the long term

- 54 Demographic shifts that have an impact on Australian society, such as an ageing population and increased longevity, affect both the market for, and content of, financial advice. Accordingly, those providing financial product advice on Tier 1 products need to be aware of key demographic shifts and trends.

Concepts in behavioural economics

- 55 Behavioural finance (sometimes referred to as ‘behavioural economics’) has established a range of theories and a growing body of research to explain how people’s thought processes and behavioural biases affect their ability to make financial decisions: see our Report 230 *Financial literacy and behavioural change* (REP 230), p. 33. Behavioural economists claim that people are affected by behavioural biases when making everyday decisions and particularly when making complex decisions, including financial decisions (REP 230, p. 33).
- 56 We consider that it is important that advisers on Tier 1 products understand how people’s behavioural biases may affect the advice interaction, their understanding of the advice and what they may say or do in response to the advice given. For example, one such bias is ‘overconfidence’. People tend to underestimate the likelihood of negative outcomes, or believe that they know more about financial matters than is actually the case. Advisers need to be aware of this bias.

Budgeting

- 57 All financial planners in the CTA research included a section on budgeting in their advice process, with many regarding it as one of the most important aspects of helping the client understand their financial situation. The CTA research also found that budgeting was critical knowledge, not only for understanding the client’s current situation, but also for understanding the required cash flow in the future.
- 58 We consider that, for all Tier 1 advisers, understanding where money is going is a significant part of understanding a client’s financial reality and, therefore, it is important for all advisers to have a rudimentary understanding of this process.

Risk profiling/risk tolerance

- 59 We consider that knowledge of risk and how it applies to financial product advice is relevant to all Tier 1 advisers, although the extent to which the knowledge is required will vary depending on the nature of the activities and the type of advice.
- 60 All advisers who took part in the CTA research indicated that they used some form of risk assessment. Therefore, risk profiling/assessment would appear to be crucial generic knowledge for Tier 1 advisers. Furthermore, the purpose of the risk profiling/assessment used by the expert advisers in the CTA research was to help the client understand both the risks associated with different investment approaches and their own approach to risk so that the client could make informed decisions, as well as to help the adviser understand the risk appetite of the client. Advisers have to be able to match the risk of a product with a client's risk profile, and this can only be done with an understanding of risk profiling/risk tolerance.

Life stages and their characteristics

- 61 Throughout a client's life they will experience various life stages that will have an impact on their financial objectives and position. Each stage may have a different strategy and uncover different issues, with themes including risk and wealth accumulation. We consider that it is important that Tier 1 advisers have a high-level awareness of these stages.

Life events and their characteristic consequences

- 62 Many people tend to make decisions about financial planning based on life events, such as divorce, inheritance, sale of a business or retirement. The advisers in the CTA research felt it was important for Tier 1 advisers to have an understanding of the common needs of clients when life events occur and to be in a position to describe these common needs to clients to help them with their goals.

Awareness of taxation

- 63 The CTA research demonstrated that one important aspect of understanding products and structures is taxation. According to the advisers in the CTA research, to be able to understand a client's current situation, it is critical for the Tier 1 adviser to have a reasonable knowledge of the Australian taxation system.
- 64 As noted in paragraphs 51–53, on 20 June 2013, the Australian Government introduced new legislation into Parliament for advisers who provide tax (financial) advice services. Our comments in the above paragraphs apply equally to the proposed introduction of the 'awareness of taxation' topic.

Ethics

65 ‘Ethics’, as it relates to financial product advice and the responsibilities of advisers to their clients, was an additional issue raised in the focus groups in Phase 2 of the CTA research: see Appendix B. There was strong support in all of the focus groups for the inclusion of training on ethics as part of the RG 146 training standards framework. Reflecting on the interviews, the researchers observed all of the participants were acting out of a strong ethical base.

66 We consider that knowledge of ethics is an integral component of the provision of financial product advice and complements other reforms in the area such as the Future of Financial Advice (FOFA) reforms.

Note: See the *Corporations Amendment (Future of Financial Advice) Act 2012*, the *Corporations Amendment (Further Future of Financial Advice Measures) Act 2012*, Consultation Paper 182 *Future of Financial Advice: Best interests duty and related obligations—Update to RG 175* (CP 182), Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* (RG 175), Regulatory Guide 246 *Conflicted remuneration* (RG 246) and Regulatory Guide 244 *Giving information, general advice and scaled advice* (RG 244) for details of the FOFA reforms.

High-level knowledge of social security regulations, provisions and legislation

67 From a regulatory perspective, we consider that there is a need for Tier 1 advisers to have a high-level awareness of social security legislation, including pension eligibility arrangements, aged care arrangements (e.g. accommodation bonds) and the processes for engaging with Centrelink.

Note: We are proposing that the financial planning specialist knowledge requirements include detailed knowledge of social security: see proposal B2.

High-level knowledge of the relevant legislation as it applies to trusts and self-managed superannuation funds

68 The CTA research noted that, for a Tier 1 adviser to provide detailed advice, there was a need to stay up-to-date with changes in the Corporations Act and other legislation that determines when and how particular structures can be used. This view was strongly supported in the focus groups conducted as part of Phase 2 of the CTA research: see Appendix B.

Complaint processes and agencies

69 The focus of this proposed requirement is on educating clients about their rights and the processes and mechanisms to handle complaints or disputes.

- 70 According to the 2011 ANZ survey⁴ of adult financial literacy in Australia, while people feel reasonably confident about making an effective complaint against a bank or other financial institution (68%), 15% were unsure about whom they would approach if they experienced difficulties with a financial product, and they were unable to resolve these with the product provider. For advisers to inform their clients about complaint processes, they need to have this understanding.
- 71 ‘Complaints resolution procedures’ is already a sub-topic for each specialist knowledge area. However, we consider that it is necessary to emphasise it as a core knowledge requirement for Tier 1 advisers.

Specialist knowledge: Financial planning

Proposal

B2 We propose to include the following additional topics in the financial planning specialist knowledge requirements for Regime B and Regime C:

- (a) ‘Detailed knowledge of social security’; and
- (b) ‘Providing financial advice to older Australians’.

We propose that the additional topics will apply to both general and personal advice.

See draft updated Table A2.1 ‘Financial planning (specialist knowledge)’ in Appendix A.

Feedback

- B2Q1 Do you agree with these proposed additional topics? If not, why not?
- 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.
- B2Q3 Do you consider that there are any practical difficulties with complying with these proposed additional requirements? If yes, please provide details.
- B2Q4 Are there any other topics we should include in ‘Financial planning (specialist knowledge)’? If yes, please describe them.

⁴ See ANZ Banking Group Limited, *ANZ survey of adult financial literacy in Australia*, The Social Research Centre, ANZ Banking Group, 2011.

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.

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.

Rationale

- 72 Our proposal to add ‘Detailed knowledge of social security’ as a new topic is based on the CTA research finding that, for advisers providing financial planning advice, it was particularly important that they understood social security and the interrelationships between decisions made in the superannuation environment and implications for social security and aged care. The CTA research also found that advisers need to understand the social security legislation, including pension eligibility arrangements, aged care arrangements (e.g. accommodation bonds) and the processes for engaging with Centrelink.
- 73 We have proposed a new topic on ‘Providing financial advice to older Australians’ because we consider that this will become an increasingly important aspect of financial planning practice due to the ageing population.
- 74 We are asking for feedback on whether the proposed changes should only apply to advisers who provide personal advice because the CTA research was only conducted in this context. However, we note that the current policy position is that the specialist knowledge requirements apply to advisers who provide general advice and advisers who provide personal advice.

Specialist knowledge: Securities

Proposal

B3 We propose to include the sub-topic ‘Portfolio construction’ under the topic ‘Theories of investment, portfolio management, and management of investment and risk’ in the securities markets specialist knowledge requirements for Regime B and Regime C.

We propose that the additional sub-topic will apply to both general and personal advice.

See draft updated Table A2.2 ‘Securities markets (specialist knowledge)’ in Appendix A.

Feedback

- B3Q1 Do you agree with this proposed additional sub-topic? If not, why not?
- 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.
- B3Q3 Do you consider that there are any practical difficulties with complying with this proposed additional requirement? If yes, please provide details.
- B3Q4 Are there any other topic areas we should include in 'Securities markets (specialist knowledge)'? If yes, please describe them.
- 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.
- 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.

Rationale

- 75 The CTA research found that an important capability for advisers is matching clients' needs and actual risk profiles to an appropriate selection of products through appropriate portfolio construction, and ensuring clients understand the relationship between risk and return. The majority of the expert advisers in the CTA research sought to achieve clients' goals with the minimum of risk. We consider that this is essential knowledge for advisers who advise on securities.
- 76 We are asking for feedback on whether the proposed changes should only apply to advisers who provide personal advice because the CTA research was only conducted in this context. However, we note that the current policy position is that the specialist knowledge requirements apply to advisers who provide general advice and advisers who provide personal advice.

Specialist knowledge: Superannuation

Proposal

- B4** We propose to include the following additional sub-topics in the superannuation specialist knowledge requirements for Regime B and Regime C:
- (a) under the topic ‘Operation and management of the superannuation industry’, we propose to add the sub-topics ‘Transition-to-retirement products’, ‘Structuring for superannuation’ and ‘Defined contribution and defined benefit funds/arrangements’; and
 - (b) under the topic ‘Legal environment—disclosure and compliance’, we propose to add the sub-topic ‘Benefits and risks of certain superannuation structures’.

We propose that the additional sub-topics will apply to both general and personal advice.

See draft updated Table A2.5 ‘Superannuation (specialist knowledge)’ in Appendix A.

Feedback

- B4Q1 Do you agree with these proposed additional sub-topics? If not, why not?
- 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.
- B4Q3 Do you consider that there are any practical difficulties with complying with these proposed additional requirements? If yes, please provide details.
- B4Q4 Are there any additional topic areas we should include for ‘Superannuation (specialist knowledge)’? If yes, please describe them.
- 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.
- 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.

Rationale

- 77 Our proposed additional specialist knowledge requirements derive from both the CTA research and our own operational experience. The proposed requirement to apply knowledge of transition-to-retirement, structuring for superannuation, defined contribution and defined benefit funds/arrangements, and the benefits and risks of certain superannuation structures, reflect the availability of these structures in the market. We consider that a high-level awareness of all possible structures is necessary for advisers who provide advice on superannuation.
- 78 We are asking for feedback on whether the proposed changes should only apply to advisers who provide personal advice because the CTA research was only conducted in this context. However, we note that the current policy position is that the specialist knowledge requirements apply to advisers who provide general advice and advisers who provide personal advice.

Other specialist knowledge requirements

Proposal

- B5** We propose to *not* 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 because these were not the subject of our CTA research.

Your feedback

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

Rationale

- 79 The CTA research investigated what knowledge and skills are required to provide quality advice to clients and compared these against the training standards in RG 146, in the areas of generic knowledge, and specialist knowledge for financial planning, securities and superannuation. The proposed additional requirements reflect the findings of the CTA research and are intended to supplement our current guidance in RG 146.

- 80 We have not proposed substantive changes 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 because the CTA research did not review these areas. We also note that the specialist knowledge requirements for margin lending facilities and regulated emissions units have been added to RG 146 relatively recently. Depending on the feedback from this consultation, we will consider what, if any, changes should be made to these areas.

C Additional skill requirements

Key points

For Regime B and Regime C, we propose to increase the skill requirements (currently in Appendix B of RG 146) to provide a greater focus on:

- the primacy of the client in the advice process;
- communication with the client in a manner that the client understands; and
- relating risk tolerance to a client's needs and financial situation.

Proposal

- c1** We propose to make substantial changes to the majority of the skill requirements for Regime B and Regime C: see draft Table A3.2 in Appendix A.

Your feedback

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

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

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

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.

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.

Rationale

81 The skill requirements only apply to advisers who provide personal advice. Based on the CTA research and our shadow shopping findings (REP 279), we consider that the skill requirements in RG 146 need to be increased to reflect the skills that an adviser needs to provide competent personal advice. The proposed changes reflect these findings.

82 In REP 279, we found that advisers whose advice examples were rated as 'good' by us had a clearly defined scope, and assisted the client to form realistic and measureable objectives about their retirement, and to implement strategies to try to achieve them. We saw evidence of multiple strategies

being compared and evaluated, good budgeting and cash flow projections, and realistic discussions about what clients could fund in their retirement. Good written and personal communications ensured that clients were aware of their options, while the Statements of Advice (SOAs) were logical, well structured and easy to understand. We have attempted to address any gaps in the skill requirements highlighted by the findings in REP 279.

83 The CTA research found that the overall goal of the skill requirements is to ensure that the adviser is capable of providing competent advice on the basis of their understanding of the needs and characteristics of the client who is before them and/or to refer them to other advisers or service providers. These skills were the core expertise of the experienced advisers interviewed as part of the CTA research.

84 The CTA research suggested a number of amendments to the skill requirements to reflect the necessary advice skills for a competent adviser who provides personal advice. Overall, the CTA research found that the skill requirements need to give more primacy to understanding the client's needs and risk profile/risk tolerance. The CTA research indicated that a critical skill for advisers is the ability to explain complex financial concepts to clients in a language that the client can understand. Clients seek expert advice because they lack understanding of their options or the range of products and services available to them. This skill is also important so that clients can decide whether or not to follow the advice.

85 We refer to a client's 'risk profile' in a number of instances in the skill requirements currently in Appendix B of RG 146 (reproduced as Table A3.1 in Appendix A of this paper). We intend to change this terminology to 'risk profile/risk tolerance' for Regime B and Regime C to better clarify our expectation that the skills required to assess the risk a client is willing to bear in the context of their personal circumstances requires more than classifying a client under a particular risk profile label.

Establish rapport with client

86 We consider that establishing rapport is about putting the client first and at the centre of the advice relationship. This means that advisers need to have the skills to understand the client, communicate well with the client and to explain the advice process in a way that the client is able to understand. It also entails making sure the client understands the advice they are receiving.

87 An awareness of behavioural economics is also essential. Advisers need to be aware of potential behavioural biases (both in themselves and in their clients) and to offset the negative effects of these biases as best they can by implementing strategies that may be available, or become available, in the growing literature on behavioural economics. The CTA research found that this skill requirement should be about defining the value of advice and the

role of the adviser relative to the characteristics of the client and the needs created by their circumstances.

Identify client objectives, needs and financial situation

88 Competent financial advisers need the skills to identify the client's objectives, needs and financial situation because this is the key to delivering good quality advice. The proposed changes reflect our expectation that advisers will have the skills to work with their clients to refine objectives and goals and identify the subject matter of the advice. This requirement has also been updated to better reflect the skills needed to deliver 'scaled advice' (i.e. personal advice that is limited in scope). This concept is also incorporated as part of the 'safe harbour' for complying with the best interests duty in s961B(2) of the Corporations Act.

Note: See the 'Key terms' at the end of this paper for the definitions of 'safe harbour' and 'best interests duty'.

89 The CTA research found that expert advisers considered that an important part of their role was managing the expectations of their clients. This might mean, for example, helping the client understand that their expected cash flow in retirement would not be sufficient to fund their desired retirement lifestyle. Advisers in the CTA research described these as 'tough but important conversations' and we consider that it is an integral skill for advisers providing personal advice.

Analyse client objectives, needs, financial situation and risk profile/risk tolerance

90 The most common element of the work of the advisers in the CTA research was knowledge of the risks associated with product classes (e.g. term deposits compared to shares). The expert advisers in the CTA research saw their role as helping the client achieve their goals, with the minimum of risk. This is only possible if the advisers understand the risks of different types of product and are able to apply this knowledge to the provision of advice to clients. Therefore, a focus on building competency (both knowledge and skills) regarding risk is crucial to the advice process.

91 All advisers in the CTA research conducted some form of risk assessment. The primary means of assessing risk was through questionnaires, which in many cases was the official questionnaire supplied by the AFS licensee, which the adviser was required to use.

92 The CTA research found that in some cases the compliance focus of the questionnaire did not provide an adequate view of the risk appetite of clients. More experienced advisers would complement the risk questionnaire with additional data to better understand clients' risk profiles. The numerical score produced by the risk tool was compared to their personal assessment of clients, based on conversations and further questioning.

93 All experienced advisers in the CTA research modelled a variety of scenarios for the future to help clients understand the risks of proposed strategies. We consider it important that advisers have the skills to explain the risks of proposed strategies and how they relate to clients' circumstances.

94 As stated in paragraphs 57–58, all financial planners in the CTA research included a section on budgeting in their advice process, with many regarding it as one of the most important aspects of helping the client understand their financial situation. The CTA research also found that budgeting was critical knowledge, not only for understanding the client's current situation, but also for understanding the required cash flow in the future. We consider, therefore, that having the skills associated with budgeting and budget analysis is imperative for advisers providing personal advice.

Develop appropriate strategies and solutions

95 The proposed new requirements under the topic 'Develop appropriate strategies and solutions' reflect the fact that good quality advice may not involve a product recommendation. This was a key finding in our shadow shopping study (REP 279). This concept is also incorporated as part of the 'safe harbour' for complying with the best interests duty in s961B(2)(e) of the Corporations Act.

96 The proposed new sub-topic on identifying any conflicts of interest and how to manage them reflects existing legal obligations in s912A(1)(aa) of the Corporations Act. However, the new legal requirements in Pt 7.7A of the Corporations Act (in particular the requirements in s961J in Div 4 of Pt 7.7A) have increased the importance of identifying conflicts of interest.

Present appropriate strategies and solutions to the client

97 The proposed new requirements under the topic 'Present appropriate strategies and solutions to the client' reflect the findings of the CTA research and our shadow shopping study (REP 279), as discussed generally in paragraph 82. We consider that there should be greater emphasis on advisers having the skills to communicate the advice in a manner that the client understands and verifying that the client does, in fact, understand the advice and how it relates to their personal circumstances.

Other changes to the skill requirements

98 We intend to make other changes to the topic areas 'Negotiate financial plan/policy/transaction with the client', 'Coordinate implementation of agreed plan/policy/transaction' and 'Complete and maintain necessary documentation' to clarify existing skill requirements rather than to impose new requirements.

D Increasing the educational level requirements

Key points

In RG 146 we state that all advisers must satisfactorily meet the knowledge and skill requirements at the educational level appropriate to the complexity of their activities and clients' needs (i.e. Tier 1 or the lower Tier 2 level).

We propose to increase the educational level requirements for advisers on both Tier 1 and Tier 2 products:

- for Tier 1—to AQF Level 6 'Advanced Diploma' for Regime B and to AQF Level 7 'Bachelor Degree' for Regime C; and
- for Tier 2—to AQF Level 4 'Certificate IV' for Regime B and to AQF Level 5 'Diploma' for Regime C.

Tier 1 products

Proposal

- D1** For Tier 1 products, we propose to increase the educational level requirements as follows:
- (a) for Regime B (from 1 January 2015)—to AQF Level 6 Advanced Diploma; and
 - (b) for Regime C (from 1 January 2019)—to AQF Level 7 Bachelor Degree.

We propose that the increase in the educational level requirements will apply to both general and personal advice.

See draft Table A4 'Educational level requirements' in Appendix A.

Note: We are consulting on the exact timing of the commencement of Regime B and Regime C in Section E: see proposal E1.

Your feedback

- D1Q1 Do you agree with our proposal to increase the educational level requirements for Tier 1 products? If not, why not?
- D1Q2 Do you anticipate any practical difficulties with our proposed educational level increases? If yes, please provide details.
- 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.
- D1Q4 Do you consider that the proposed changes will impose additional costs on advisers and AFS licensees? Please provide specific details.
- 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?

Rationale

- 99 In our current guidance in RG 146, we state that all advisers must satisfactorily meet the knowledge and skill requirements at the educational level appropriate to the complexity of their activities and clients' needs (i.e. Tier 1 or the lower Tier 2 level).
- 100 The AQF provides a single comprehensive standard for all Australian qualifications. It is an integrated policy that comprises, among other things, the learning outcomes for each AQF level and qualification type and the specifications for the application of the AQF in the accreditation and development of qualifications.
- 101 The Vocational Education and Training (VET) sector has interpreted the program content of Tier 1 courses in RG 146 at a Diploma level of difficulty. This translates to AQF Level 5. The determination of this level has been made based on the language contained within RG 146 as aligned to the training standards framework.
- 102 We consider, in light of the findings of the PJC Inquiry and our recent CTA research, that the level of education for Tier 1 courses should be increased—initially, to an AQF Level 6 Advanced Diploma equivalent and, ultimately, to AQF Level 7 Bachelor Degree equivalent—to better reflect the knowledge (and in some cases) skill requirements that advisers need to provide competent financial product advice to clients. In CP 153, we outlined two consultation processes in 2009 and 2010, which also supported these proposals: see CP 153 at paragraphs 41–52.
- 103 Our current policy applies the same educational levels to advisers who provide general advice only and we propose to continue this approach. However, we would be interested in your views as to whether there should be a different standard for advisers who provide general advice only.
- 104 Table 4 sets out the summaries and learning outcomes criteria for AQF Levels 5, 6 and 7. The key differences are highlighted in bold.

Moving from Level 5 to Level 6

- 105 A move from Level 5 to Level 6 of the AQF would introduce the idea of a discipline and an area of specialisation for advisers. As set out in Table 4, there are quite significant differences between the educational levels in Level 5 and Level 6. Level 6 introduces the notion of highly skilled work, as well as broad theoretical and technical knowledge. In Level 6, there is the expectation of being able to interpret solutions to unpredictable and complex problems, in contexts that are subject to change, within broad parameters, to provide specialist advice and functions. There is also the idea of applying knowledge to complex techniques and a greater level of accountability and autonomy.

Table 4: AQF Levels 5–7 summaries and learning outcomes criteria

	Level 5 (Diploma)	Level 6 (Advanced Diploma/Associate Degree)	Level 7 (Bachelor Degree)
Summary	Graduates at this level will have specialised knowledge and skills for skilled /paraprofessional work and/or further learning.	Graduates at this level will have broad knowledge and skills for paraprofessional/ highly skilled work and/or further learning.	Graduates at this level will have broad and coherent knowledge and skills for professional work and/or further learning.
Knowledge	Graduates at this level will have technical and theoretical knowledge in a specific area or a broad field of work and learning .	Graduates at this level will have broad theoretical and technical knowledge of a specific area or a broad field of work and learning .	Graduates at this level will have broad and coherent theoretical and technical knowledge with depth in one or more disciplines or areas of practice .
Skills	Graduates at this level will have a broad range of cognitive, technical and communication skills to select and apply methods and technologies to: <ul style="list-style-type: none"> • analyse information to complete a range of activities • provide and transmit solutions to sometimes complex problems • transmit information and skills to others. 	Graduates at this level will have a broad range of cognitive, technical and communication skills to select and apply methods and technologies to: <ul style="list-style-type: none"> • analyse information to complete a range of activities • interpret and transmit solutions to unpredictable and sometimes complex problems • transmit information and skills to others. 	Graduates at this level will have well-developed cognitive , technical and communication skills to select and apply methods and technologies to: <ul style="list-style-type: none"> • analyse and evaluate information to complete a range of activities • analyse, generate and transmit solutions to unpredictable and sometimes complex problems • transmit knowledge, skills and ideas to others.
Application of knowledge and skills	Graduates at this level will apply knowledge and skills to demonstrate autonomy, judgement and defined responsibility in known or changing contexts and within broad but established parameters.	Graduates at this level will apply knowledge and skills to demonstrate autonomy, judgement and defined responsibility : <ul style="list-style-type: none"> • in contexts that are subject to change • within broad parameters to provide specialist advice and functions. 	Graduates at this level will apply knowledge and skills to demonstrate autonomy, well-developed judgement and responsibility : <ul style="list-style-type: none"> • in contexts that require self-directed work and learning • within broad parameters to provide specialist advice and functions.
Volume of learning (the volume of learning may be less if a student has recognised prior learning)	The volume of learning of a Diploma is typically 1–2 years.	The volume of learning of an Associate Degree is typically 2 years.	The volume of learning of a Bachelor Degree is typically 3–4 years.

Source: Australian Qualifications Framework Council, *Australian Qualifications Framework*, July 2011.

- 106 The CTA research, through the focus groups, found that all of these elements were deemed essential skills for advisers. The CTA researchers also observed that expert advisers exceeded their expectations in relation to their skill levels for coaching, budgeting, managing expectations and risk profiling.
- 107 The current training standards in RG 146 and consequent educational levels were set quite some time ago. As such, the review of the educational levels in RG 146 is timely, especially in light of the findings of the PJC Inquiry. In our recent shadow shopping study (REP 279), we identified training and professional development standards as one of the barriers to improving the quality of advice. The CTA research has also demonstrated that the educational levels should be increased. Moreover, this proposed change supports other regulatory reforms in this area, such as the Future of Financial Advice (FOFA) reforms.
- 108 There appears to be general industry support for increasing the educational levels. The CTA research found in focus group discussions that, in the context of personal advice, all advisers supported a move from Level 5 to Level 6. A number of submissions to CP 153 also supported this proposal.
- 109 There were approximately 11 Advanced Diploma equivalent courses available on the ASIC Training Register as at 24 September 2012.

Moving from Level 6 to Level 7

- 110 We are proposing that, from 1 January 2019 (i.e. the start of Regime C), the minimum educational level requirement for advisers who start providing financial product advice on Tier 1 products should be raised to a Level 7 Bachelor Degree level. This proposal is based on the CTA research recommendations and reflects independent movements in the financial services industry for advisers to be viewed as professionals.
- 111 There has been considerable discussion about the professionalisation of advisers. Part of the focus of the FOFA reforms was on professional standards, with the government recommending the establishment of an expert advisory panel to review professional standards in the financial advice industry, including conduct and competency standards.⁵
- 112 We have observed that, in the financial advice industry, there has been independent movement towards professional qualifications. The Financial Planning Association of Australia has a Certified Financial Planner (CFP) accreditation program that is certified at a degree level. We are aware of at

⁵ The Hon Chris Bowen MP, Minister for Financial Services, Superannuation and Corporate Law, Media Release No. 036, *Overhaul of financial advice*, 26 April 2010, <http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/036.htm&pageID=003&min=ceba&Year=&DocType=0>.

least one large AFS licensee that encourages its advisers to attain the CFP qualification.

- 113 Some responses to CP 153 and the respondents in the focus groups in the CTA research also supported the implementation of degree-level educational qualifications.
- 114 There were approximately 60 Bachelor Degree courses available on the ASIC Training Register as at 24 September 2012.

Tier 2 products

Proposal

- D2** For Tier 2 products, we propose to increase the educational level requirements as follows:
- (a) for Regime B (from 1 January 2015)—to AQF Level 4 Certificate IV; and
 - (b) for Regime C (from 1 January 2019)—to AQF Level 5 Diploma.

We propose that the increase in the educational level requirements will apply to both general and personal advice.

See draft Table A4 'Educational level requirements' in Appendix A.

Note: We are consulting on the exact timing of the commencement of Regime B and Regime C in Section E: see proposal E1.

Your feedback

- D2Q1 Do you agree with our proposal to increase the educational level requirements for Tier 2 products? If not, why not?
- D2Q2 Do you anticipate any practical difficulties with our proposed educational level increase? If yes, please provide details.
- 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.
- D2Q4 Do you consider that the proposed changes will impose additional costs on advisers and AFS licensees? Please provide specific details.
- 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?

Rationale

- 115 We consider that the reasons set out in the rationale for proposal D1 for increasing the educational level requirements for Tier 1 (see paragraphs 107–108) also apply to increasing the Tier 2 educational levels.
- 116 We note that the current AQF Level 3 Certificate III level to provide financial product advice on Tier 2 products is a basic entry level qualification. A Certificate III qualification is designed to reflect the job role of entry level employees working across the financial services industry. The duties these job roles typically perform include responding to customer inquiries, sales and service, maintaining financial records and performing clerical duties.
- 117 We consider that if we increase the educational level requirements for Tier 1 courses, we should also increase the educational level requirements for Tier 2 courses so as not to create an increased gap between the training standards for Tier 1 and Tier 2 products.
- 118 The current educational level requirements for Tier 1 (AQF Level 5) and Tier 2 (AQF Level 3) are close in order to assist career progression and the smooth transition of employees through learning pathways. Increasing the educational level requirements for Tier 1 products without increasing the educational level requirements for Tier 2 products will create a bigger gap for employees progressing from Tier 2 to Tier 1.
- 119 Table 5 sets out the summaries and learning outcomes criteria for AQF Levels 3 and 4. The key differences are highlighted in bold.

Table 5: AQF Levels 3 and 4 summaries and learning outcomes criteria

	Level 3 Certificate III	Level 4 Certificate IV
Summary	Graduates at this level will have theoretical and practical knowledge and skills for work and/or further learning.	Graduates at this level will have theoretical and practical knowledge and skills for specialised/skilled work and/or further learning.
Knowledge	Graduates at this level will have factual, technical, procedural and some theoretical knowledge of a specific area of work and learning.	Graduates at this level will have broad factual, technical and some theoretical knowledge of a specific area or a broad field of work and learning.

	Level 3 Certificate III	Level 4 Certificate IV
Skills	<p>Graduates at this level will have a range of cognitive, technical and communication skills to select and apply a specialised range of methods, tools, materials and information to:</p> <ul style="list-style-type: none"> • complete routine activities • provide and transmit solutions to predictable and sometimes unpredictable problems. 	<p>Graduates at this level will have a broad range of cognitive, technical and communication skills to select and apply a range of methods, tools, materials and information to:</p> <ul style="list-style-type: none"> • complete routine and non-routine activities • provide and transmit solutions to a variety of predictable and sometimes unpredictable problems.
Application of knowledge and skills	<p>Graduates at this level will apply knowledge and skills to demonstrate autonomy and judgement and to take limited responsibility in known and stable contexts within established parameters.</p>	<p>Graduates at this level will apply knowledge and skills to demonstrate autonomy, judgement and limited responsibility in known or changing contexts and within established parameters.</p>
Volume of learning	<p>The volume of learning of a Certificate III is typically 1–2 years. Up to 4 years may be required to achieve the learning outcomes through a program of indentured training/employment.</p>	<p>The volume of learning of a Certificate IV is typically 0.5–2 years. There may be variations between short duration specialist qualifications that build on knowledge and skills already acquired and longer duration qualifications that are designed as entry level requirements for work.</p>

Source: Australian Qualifications Framework Council, *Australian Qualifications Framework*, July 2011.

E Timeframe for implementation of increased training standards

Key points

For existing advisers (i.e. advisers who meet the training standards under Regime A), there will be no changes to the training requirements, except where the adviser decides to change their advice activities: see proposals B2–B4 (specialist knowledge) and proposals D1–D2 (educational level).

We are proposing that the training standards for Regime B begin on 1 January 2015 and those for Regime C begin on 1 January 2019.

Proposal

E1 We propose the following implementation dates:

- (a) the training standards for Regime B to begin on 1 January 2015; and
- (b) the training standards for Regime C to begin on 1 January 2019.

Your feedback

- E1Q1 Do you agree with our proposed implementation in stages of the increased training standards? If not, why not?
- E1Q2 Do you agree with the commencement date of 1 January 2015 for the increased training standards for Regime B? If not, why not?
- 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.
- 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.
- 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.
- 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?

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

Rationale

- 120 We are proposing to introduce the increased training standards in a staged implementation. The first implementation period will be from 1 January 2015 to 31 December 2018. The second implementation period will be from 1 January 2019: see Figure 1 in Section A.
- 121 We consider the proposed staged implementation will provide sufficient time for new courses to be developed to meet the proposed new training standards and for individuals who wish to train to become advisers to complete these new courses. This is particularly the case because the educational levels for the second implementation period (i.e. Regime C) will build upon the educational levels for the first implementation period (i.e. Regime B).
- 122 We are aware that the VET sector is currently unable to issue an AQF Level 7 Degree-level of qualification, although it is able to offer qualifications at a higher AQF Level 8 post-graduate level (Graduate Certificate and Graduate Diploma). In proposal E1, we seek your feedback on whether there is enough time to develop course materials and teaching capabilities, both in the VET and the self-accrediting organisation sectors.
- 123 For each implementation period, the proposed changes to the training standards will only apply to advisers who enter the industry (i.e. start providing financial product advice) or change their advice activities after the relevant commencement date for each implementation period.
- 124 For new advisers, the applicable regime is the one in which they start providing financial product advice.

- 125 Training course providers need to start delivering courses at the higher Regime B or Regime C standard earlier than the commencement date for each regime to facilitate the proposed increase in training standards.
- 126 However, we consider that it would be unfeasible and unduly burdensome to require all existing advisers (i.e. those currently in Regime A) to undertake additional training to meet the proposed training standards under Regime B and Regime C. However, advisers in Regime A may wish to consider the proposed new training standards when determining their continuing training requirements.
- 127 We also consider that an adviser who completed their initial training in an earlier regime (i.e. Regime A and/or Regime B) should meet the increased training standards if they wish to change their advice activities such that they require additional training. The courses at the higher levels will already be available for new advisers to complete and this requirement will facilitate a general increase in training standards.

F Reclassification of certain insurance products

Key points

Personal sickness and accident insurance is currently classified as a Tier 1 product in RG 146. Industry groups have suggested that personal sickness and accident insurance would be more appropriately classified as a Tier 2 product. We are seeking your feedback on whether personal sickness and accident insurance should be classified as a Tier 1 or Tier 2 product.

Consumer credit insurance is currently classified as a Tier 2 product. We are seeking your feedback on whether consumer credit insurance should be classified as a Tier 1 or Tier 2 product.

Personal sickness and accident insurance

Issue

F1 We are seeking feedback on whether personal sickness and accident insurance should be a Tier 1 or Tier 2 product.

Your feedback

F1Q1 Do you consider that personal sickness and accident insurance should remain as a Tier 1 product or be reclassified as a Tier 2 product? What are the reasons for your suggested approach?

F1Q2 What business and consumer impacts would result from retaining the Tier 1 classification, or changing the classification to Tier 2?

Rationale

128 RG 146 categorises financial products as either Tier 1 or Tier 2 products. Tier 2 products are generally simpler and better understood than Tier 1 products and are therefore subject to lighter training standards. Personal sickness and accident insurance is currently classified as Tier 1, on the basis that it tends to be complex in nature and has the potential to impact significantly on a client's financial situation.

129 Some submissions received by ASIC in response to CP 153 proposed that, as we were engaged in a review of RG 146, it may be timely to consider whether personal sickness and accident insurance should be reclassified as a Tier 2 product, because, according to these respondents to CP 153:

- (a) personal sickness and accident insurance is not more complex and has no more potential to impact significantly on a client's financial situation than other Tier 2 general insurance products; and

- (b) personal sickness and accident policies are of limited duration, have no investment component and have largely standard terms and conditions.

130 The following product features of personal sickness and accident insurance may be relevant when considering the appropriate classification as a Tier 1 or Tier 2 product:

- (a) restrictive policy terms and conditions (e.g. pre-existing conditions, types of employment);
- (b) the complex nature of the product's benefits, limitations, conditions and exclusions, which may make it difficult for a client to understand how the product operates in practice; and
- (c) the broad range of personal sickness and accident insurance products available on the market (there can be significant differences between the products sold under this classification and the cover they offer consumers—for example, journey sickness and accident insurance; expatriate/inpatriate sickness and accident insurance; sports accident cover; and critical illness plan).

131 The following factors may also be relevant considerations:

- (a) personal sickness and accident insurance has the potential to have a significant impact on a client's financial situation because of the types of risks it covers (e.g. accidental loss of life, total and permanent disability, and disablement caused by sickness) and the benefits it provides (e.g. capital lump sum benefits and weekly compensation amounts for sickness);
- (b) personal sickness and accident insurance is a product that consumers should consider in relation to their financial situation more broadly—in particular, they may hold other financial products (such as life insurance and income protection) that offer similar cover and/or there may be other financial products that better suit their needs; and
- (c) personal sickness and accident insurance is usually sold to consumers via an intermediary (usually an insurance broker) and may be sold as part of a packaged insurance product (i.e. business insurance)—for this reason, a consumer is likely to place a greater reliance on an adviser's competence in providing advice on personal sickness and accident insurance.

Consumer credit insurance

Issue

- F2** We are seeking feedback on whether consumer credit insurance should be a Tier 1 or Tier 2 product.

Your feedback

- F2Q1 Do you consider that consumer credit insurance should remain as a Tier 2 product or be reclassified as a Tier 1 product? What are the reasons for your suggested approach?
- F2Q2 What business and consumer impacts would result from retaining the Tier 2 classification, or changing the classification to Tier 1?
- F2Q3 Should like products (e.g. life insurance, sickness and accident insurance, consumer credit insurance) be classified together in the same tier? If not, why not? If so, is Tier 1 or Tier 2 more appropriate for these products? What rationale could be used to justify treating such like products differently?
- F2Q4 Is consumer credit insurance more often sold to consumers with or without financial product advice?

Rationale

- 132 Consumer credit insurance is currently classified as a Tier 2 product in RG 146. It can either consist purely of life insurance components or be structured as a ‘hybrid’ product containing both life and general insurance components. Life insurance products are generally categorised as Tier 1 products; however, while consumer credit insurance may have life insurance components, RG 146 currently classifies consumer credit insurance as a Tier 2 product on the basis that it is a relatively straightforward financial product.
- 133 We have closely reviewed the sale of consumer credit insurance (see our Report 256 *Consumer credit insurance: A review of sales practices by authorised deposit-taking institutions* (REP 256)) and surveillance work (see ASIC Advisory (09-238AD) *Citigroup responds to ASIC concerns about telephone sales* (1 December 2009)).
- 134 The following features may suggest that consumer credit insurance is not a straightforward product:
- (a) restrictive policy terms and conditions (e.g. pre-existing conditions, types of employment);
 - (b) terms and conditions may vary from product to product (e.g. the benefit amounts paid out);
 - (c) non-standard duration of cover—consumer credit insurance policies sold with credit cards and personal loans are linked to the duration of the underlying credit product (for some personal loans this can be several years and for credit cards this can be indefinite), and for consumer credit insurance policies sold with mortgages, policies may extend up to five years in length; and

- (d) non-standard components of cover—there can be significant differences between consumer credit insurance products sold and the cover they offer consumers (e.g. some policies may cover consumers for events such as critical illness, trauma and accidental death), and some policies may allow consumers to select the components of cover they wish to acquire, while other policies can only be purchased as a package.

135 We also consider that the following factors are relevant when considering the appropriate classification of consumer credit insurance as a Tier 1 or Tier 2 product:

- (a) consumer credit insurance is a product that consumers should consider in relation to their financial situation more broadly—in particular, they may hold other financial products that offer similar cover and/or there may be other financial products that better suit their needs (we consider this is a greater issue for consumer credit insurance than other Tier 2 general insurance products); and
- (b) consumer credit insurance is not often sought out by consumers, but it is usually offered to them at the time of or after a consumer has taken out a credit product—therefore, a consumer is not likely to have a good understanding of the product, placing greater reliance on an adviser’s competence to give advice on consumer credit insurance.

Overseas experience

136 In the United Kingdom, a series of events has led to what is being referred to as a ‘scandal’ concerning the mis-selling of personal protection insurance (PPI), which is largely equivalent to consumer credit insurance sold in Australia.

137 Consumers have so far been reimbursed nearly £7 billion⁶ following action taken by the Financial Services Authority (FSA), which identified widespread weaknesses in PPI selling practices, including:

- (a) the potential for consumers to not be aware that they had purchased PPI; and
- (b) consumers being sold products they could not claim on.

138 In addition to the FSA introducing widespread measures on handling and redressing customer complaints about PPI, the FSA has also taken a number of other actions for the mis-selling of PPI, including:

- (a) enforcement actions;⁷ and

⁶ FSA, *Monthly PPI refunds and compensation*,

www.fsa.gov.uk/consumerinformation/product_news/insurance/payment_protection_insurance/latest/monthly-ppi-payouts.

⁷ Since 2006, the FSA has taken 24 enforcement actions for the mis-selling of PPI and imposed fines of £12.6 million: see FSA Policy Statement 10/12, *The assessment and redress of Payment Protection Insurance complaints*, August 2010, p. 4, at www.fsa.gov.uk/library/policy/policy/2010/10_12.shtml.

(b) preventing the selling of single premium PPI with unsecured loans.

139 Also, the UK Competition Commission established a package of market interventions to improve competition in the PPI market, including a prohibition on PPI being sold at the point of sale.

140 This type of insurance has also come under scrutiny in the United States, in particular in relation to credit card protection plans. The Consumer Financial Protection Bureau has engaged in a number of enforcement actions for the mis-selling of credit protection insurance (in addition to other ‘add on’ products) where large refunds and penalties have applied.⁸

141 While differences do exist between these jurisdictions (e.g. in Australia commissions paid on consumer credit insurance are capped at 20% under the *National Consumer Credit Protection Act 2009*), these overseas events highlight that there are risks this product can be systemically mis-sold.

142 Across the jurisdictions, the underlying premise of the sale is the same—consumers are generally not likely to have sought out the product. Rather, it is offered to them in conjunction with a credit card or loan.

143 Therefore, consumer credit insurance is potentially not a straightforward product and, for a person who is advising on consumer credit insurance, their level of competence may be improved by undertaking a higher level of training.

⁸ Discover Bank was ordered to refund approximately \$200 million to more than 3.5 million consumers and pay a \$14 million civil money penalty: see Consumer Financial Protection Bureau (CFPB), *Federal Deposit Insurance Corporation and Consumer Financial Protection Bureau order Discover to pay \$200 million consumer refund for deceptive marketing*, 24 September 2012, www.consumerfinance.gov/pressreleases/discover-consent-order/. Capital One Bank was ordered to refund approximately \$140 million to 2 million customers and pay \$25 million in penalties: see CFPB, *CFPB probe into Capital One credit card marketing results in \$140 million consumer refund*, 18 July 2012, www.consumerfinance.gov/pressreleases/cfpb-capital-one-probe/.

G Regulatory and financial impact

144 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 the training standards to ensure that advisers are adequately trained to deliver competent advice;
- (b) facilitating access to advice; and
- (c) not unreasonably increasing the costs to industry or individuals to become trained advisers.

145 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).

146 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.

147 To ensure that we are in a position to properly complete any required RIS, please give us as much information as you can about our proposals or any alternative approaches, including:

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

See 'The consultation process', p. 4.

Appendix A Draft updated RG 146 training standards

[148](#) [This appendix shows our proposed changes to the training standards. It reproduces all of the current training standards in RG 146, with the proposals in this paper appearing as tracked changes. The additional requirements that would apply to advisers undertaking training under Regime B and Regime C are also highlighted in grey throughout this appendix.](#)

Knowledge requirements

[148149](#) The following list of ASIC's knowledge requirements applies to a range of products and activities relevant to the financial services sectors regulated by ASIC.

[149150](#) The requirements are grouped under:

- A1 Generic knowledge
- A2 Specialist knowledge, covering
 - A2.1 Financial planning
 - A2.2 Securities
 - A2.3 Derivatives
 - A2.4 Managed investments
 - A2.5 Superannuation
 - A2.6 Insurance—general, life and broking
 - A2.7 Deposit products and non-cash payment products
 - A2.8 Foreign exchange
 - A2.9 First Home Saver Accounts
 - A2.10 Margin lending facilities
 - A2.11 Regulated emissions units

[150151](#) All advisers should demonstrate that they have met the generic knowledge requirements and specialist knowledge requirements relevant to their activities. We recognise that, depending on the nature of the activities undertaken, the extent and scope of the knowledge requirements to be met may vary (and may not be listed above).

DRAFT

~~151~~152 AFS licensees must first identify their advisers’ tasks and functions. They must then determine which of ASIC’s knowledge requirements should be covered in their training courses or individual assessments of advisers in relation to each of those tasks and functions.

Note: [Apart from the generic knowledge requirements for advisers undertaking training under Regime B and Regime C who advise on Tier 1 products](#), advisers need only meet elements relevant to their activities. There may be other elements that an AFS licensee or training provider may wish to include in a course.

A1 Generic knowledge

153 Advisers (except those advising on Tier 2 products) should have a generic knowledge of the environment in which they operate to understand the context in which the advice is given. Generic knowledge may be covered separately or within specialist knowledge training. Its content will depend on the adviser’s activity and products advised on, ~~and may include the following concepts~~.

~~152~~154 [Advisers undertaking training under Regime B and Regime C who advise on Tier 1 products must meet all of the generic knowledge topic areas in Table A1. Advisers in Regime A who advise on Tier 1 products should meet the generic knowledge topic areas in Table A1 as relevant.](#)

Table A1: Generic knowledge

The economic environment	<ul style="list-style-type: none"> • characteristics and impact of economic and business cycles • interest rates, exchange rates • inflation • government monetary and fiscal policies <p><u>Additional requirement for Regime B and Regime C:</u></p> <ul style="list-style-type: none"> • links between these systems and how they interact
Operation of financial markets	<ul style="list-style-type: none"> • roles played by intermediaries and issuers • structures and inter-relationships within the financial markets • inter-relationship between industry sectors
Financial products	<ul style="list-style-type: none"> • concept of a financial product—general definition, specific inclusions, exclusions • types of financial investment products • types of financial risk products (e.g. derivatives, risk insurance products)
<u>Additional requirements for Regime B and Regime C:</u>	
<u>Financial structures and their taxation implications</u>	<ul style="list-style-type: none"> • common investment structures and their taxation implications, such as superannuation (retail, corporate and self-managed superannuation funds), trusts, companies, individual holdings, industry funds and defined benefit funds • how to choose an appropriate structure to meet the needs of a client

DRAFT

<u>Demographic trends and their impact on markets over the long term</u>	<ul style="list-style-type: none"> • demographic changes affecting Australian society • understanding of the impact of increasing longevity on individual financial needs • how to apply this knowledge when providing advice for an individual client
<u>Concepts in behavioural economics</u>	<ul style="list-style-type: none"> • common cognitive biases (e.g. overconfidence, confirmation, anchoring) and their impact on financial thinking • understanding the effect of framing on responses to questions • an awareness of potential behavioural biases in understanding a client's situation and eliciting information from a client • an awareness of this knowledge when providing advice to clients
<u>Budgeting</u>	<ul style="list-style-type: none"> • how to work with clients to accurately identify their spending patterns • how to analyse a client's current spending patterns based on bank statements, credit card statements, spending diaries and other tools • how to understand the implications of a client's current spending patterns on their long-term goals • how to explain the implications to a client in language that the client understands • knowledge of effective individual change models and effective goal-setting approaches to assist the client to manage their spending • how to implement these changes and goal-setting approaches with clients in real situations
<u>Risk profiling/risk tolerance</u>	<ul style="list-style-type: none"> • understanding of risk assessment tools to help understand the risk profile/risk tolerance of the client • how to use other information, including non-verbal information, to check the result provided by the risk assessment tool • how to construct examples to test a client's risk appetite (e.g. large or sustained falls in the value of an asset) • how to explain implications of risk appetite for achieving goals • how to relate the risks of specific products or portfolios to the client's risk appetite • how to use modelling tools to assess the effect on the client's objectives, financial situation and needs if the foreseeable risk eventuates • understanding that risk profile/risk tolerance is dynamic rather than static and should therefore be checked regularly
<u>Life stages and their characteristics</u>	<ul style="list-style-type: none"> • knowledge of common needs of clients at different life stages (e.g. starting employment, starting a family, considering retirement, old age) • how to describe these common needs to clients to assist the client to determine their goals
<u>Life events and their characteristic consequences</u>	<ul style="list-style-type: none"> • knowledge of the common needs of clients when life events occur (e.g. divorce, sale of a business, inheritance, retirement) • how to describe these common needs to clients to assist the client to determine their goals

DRAFT

<u>Awareness of taxation</u>	<ul style="list-style-type: none"> • <u>capital gains tax</u> • <u>company tax</u> • <u>income tax</u> • <u>superannuation tax arrangements (including self-managed superannuation funds)</u>
<u>Ethics</u>	<ul style="list-style-type: none"> • <u>the ethics of financial advice</u> • <u>the responsibilities of financial advisers to their clients</u> • <u>resolving ethical dilemmas</u>
<u>High-level knowledge of social security regulations, provisions and legislation</u>	<ul style="list-style-type: none"> • <u>aged care entitlements and arrangements (e.g. accommodation bonds)</u> • <u>Centrelink benefits such as aged pensions and family benefits (including relevant concession and health care cards)</u> • <u>the processes for engaging with Centrelink</u> • <u>implications of assets and income for eligibility to Centrelink benefits</u>
<u>High-level knowledge of the relevant legislation as it applies to trusts and self-managed superannuation funds</u>	<ul style="list-style-type: none"> • <u>types of trusts</u> • <u>obligations of trustees of self-managed superannuation funds</u> • <u>role of directors and director responsibilities</u>
<u>Complaint processes and agencies</u>	<ul style="list-style-type: none"> • <u>how to inform clients of their rights and the processes and mechanisms to handle complaints or disputes</u>

[453155](#) We recognise that the level of generic knowledge required will vary substantially depending on the type of advice and product. The greater the level of complexity of the service and product, the greater the level of generic knowledge required.

A2 Specialist knowledge

[454156](#) An adviser should be able to apply the following specialist knowledge, where relevant.

A2.1 Financial planning

[455157](#) An adviser providing financial planning advice to retail clients should be able to apply the following knowledge.

Note 1: The financial planning process may require knowledge of specialist categories (e.g. managed investments, superannuation, insurance and First Home Saver Accounts): see Tables A2.4–A2.6 and A2.9.

Note 2: [The additional requirements for Regime B and Regime C also apply to advisers who completed their training under a previous regime \(i.e. Regime A and/or Regime B\) who decide to start providing advice in this area of specialisation.](#)

DRAFT

Table A2.1: Financial planning (specialist knowledge)

Theories of investment, portfolio management and management of investment and risk	<ul style="list-style-type: none"> • range of financial products • types of investment products (e.g. cash, fixed interest, property, equities, managed investments) • types of financial risk products (e.g. risk insurance, derivatives) • investment concepts • investment strategies • identification of types of risk • client risk profile
Advisory functions	<ul style="list-style-type: none"> • the role of the financial planner • participants in the advisory services market • range of services provided • the financial planning process
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser's recommendation) • relevant industry standards and codes of conduct • regulators' guidelines, including ASIC's requirements in this policy • complaints resolution procedures (external and, if relevant, internal)
Taxation	<ul style="list-style-type: none"> • the Australian taxation and social security systems • relevant taxation laws and regulations • effects of taxation on particular financial products • effects of taxation on financial strategies of individuals and entities
Estate planning	<ul style="list-style-type: none"> • theory of estate planning (i.e. allowable investments, enduring and non-enduring powers of attorney, share purchase agreements) • management and investment strategies • relevant taxation laws and regulations
<u>Additional requirements for Regime B and Regime C:</u>	
<u>Detailed knowledge of social security</u>	<ul style="list-style-type: none"> • <u>aged care entitlements and arrangements (e.g. accommodation bonds)</u> • <u>Centrelink benefits such as aged pensions and family benefits (including relevant concession and health care cards)</u> • <u>the processes for engaging with Centrelink</u> • <u>implications of assets and income for eligibility to Centrelink benefits</u>

DRAFT

Providing financial advice to older Australians

- [understanding of the psychology of ageing and its common impacts on family dynamics](#)
- [understanding of powers of attorney](#)
- [knowledge of aged care arrangements, including accommodation bonds and accommodation charges](#)
- [considering or assessing longevity issues](#)

A2.2 Securities

158 An adviser providing advice on securities (including government bonds) should be able to apply the following knowledge (where applicable).

Note: The additional requirements for Regime B and Regime C also apply to advisers who completed their training under a previous regime (i.e. Regime A and/or Regime B) who decide to start providing advice in this area of specialisation.

Table A2.2: Securities markets (specialist knowledge)

Operation of securities markets	<ul style="list-style-type: none"> • market participants • roles played by intermediaries
Types of products	<ul style="list-style-type: none"> • range of securities • associated risks • investment options using securities product • alternative products (e.g. derivatives) (where relevant)
Theories of investment, portfolio management, and management of investment and risk	<ul style="list-style-type: none"> • investment concepts • investment strategies • identification of types of risk • client risk profile <p style="background-color: #e1f5fe;"><u>Additional requirement for Regime B and Regime C:</u></p> <ul style="list-style-type: none"> • portfolio construction
Taxation	<ul style="list-style-type: none"> • awareness of taxation issues relating to securities
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser’s recommendation) • relevant industry standards and codes of conduct • regulators’ guidelines, including our requirements in this policy • complaints resolution procedures (external and, if relevant, internal) • stockbroking competency standards (where relevant) • ASX Operating Rules (where relevant) • ASIC market integrity rules

DRAFT

A2.3 Derivatives

456159 An adviser providing advice on derivatives should be able to apply the following knowledge (where applicable).

Table A2.3: Derivatives markets (specialist knowledge)

Operation of derivatives markets	<ul style="list-style-type: none"> • market participants • roles played by intermediaries • structure and inter-relationships within and between the securities/ derivatives sectors
Types of products	<ul style="list-style-type: none"> • range of derivatives • associated risks • investment options using derivatives products
Theories of investment, portfolio management, and management of investment and risk	<ul style="list-style-type: none"> • investment concepts • investment strategies • identification of types of risk • client risk profile
Taxation	<ul style="list-style-type: none"> • awareness of taxation issues relating to derivatives
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser’s recommendation) • relevant industry standards and codes of conduct • regulators’ guidelines, including our requirements in this policy • complaints resolution procedures (external and, if relevant, internal) • elements of the Registered Representatives Examination (where relevant) • ASX 24 Operating Rules (where relevant) • ASIC market integrity rules

DRAFT

A2.4 Managed investments

457160 An adviser providing advice on interests in managed investment schemes should be able to apply the following knowledge (where applicable).

Table A2.4: Managed investments (specialist knowledge)

Types of products	<ul style="list-style-type: none"> • concept of managed investments • specialist knowledge of the range of products offered under managed investment schemes, or a specific product offered under a scheme— for example: <ul style="list-style-type: none"> – property trusts, real estate investment strategies, valuation techniques, property management – equity trusts, fixed interest trusts – serviced strata schemes – primary production schemes – film schemes – time-sharing schemes • identification of types of risks
Taxation	<ul style="list-style-type: none"> • awareness of relevant taxation issues
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser’s recommendation) • relevant industry standards and codes of conduct • regulators’ guidelines, including our requirements in this policy • complaints resolution procedures (external and, if relevant, internal)

A2.5 Superannuation

458161 An adviser providing advice on superannuation products should be able to apply the following knowledge (where applicable).

Note: The additional requirements for Regime B and Regime C also apply to advisers who completed their training under a previous regime (i.e. Regime A and/or Regime B) who decide to start providing advice in this area of specialisation.

Table A2.5: Superannuation (specialist knowledge)

<p>Operation and management of the superannuation industry</p>	<ul style="list-style-type: none"> • characteristics and structure of a superannuation product • roles played by intermediaries and issuers • types of superannuation products • fee structures/administration and management costs • types of contribution • annuities/pensions, allocated pensions and income stream products • associated risks • structure of superannuation plans, management and administration of superannuation products • preservation rules • investment strategies within superannuation funds (i.e. investment concepts and strategies) • restrictions on investment strategies <p><u>Additional requirements for Regime B and Regime C:</u></p> <ul style="list-style-type: none"> • <u>transition-to-retirement products</u> • <u>structuring for superannuation (not just related to products)—for example, in a sale of a business</u> • <u>defined contribution and defined benefit funds/arrangements</u>
<p>Taxation</p>	<ul style="list-style-type: none"> • impact on investment earnings • employer and employee contributions • benefit payments and expenses • tax deductions • capital gains tax treatment • rollovers • reasonable benefit limits • superannuation surcharge • social security pension eligibility • retirement planning • death benefits • franking credits

DRAFT

Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Superannuation Industry (Supervision) Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser’s recommendation) • relevant industry standards and codes of conduct • regulators’ guidelines, including our requirements in this policy • complaints resolution procedures (external and, if relevant, internal) • trustee rules <p style="text-align: center;">Additional requirement for Regime B and Regime C:</p> <ul style="list-style-type: none"> • benefits and risks of certain superannuation structures (i.e. client suitability)
--	--

A2.6 Insurance

[459162](#) Given the nature of the insurance sector, the following specialist knowledge category for advisers on insurance products has been divided into core insurance knowledge and type of insurance product. This has been done to recognise industry feedback that there is a body of core insurance-specific knowledge (separate to generic knowledge) that should also be understood by those operating within this sector.

A2.6a Core insurance knowledge, all categories (i.e. general, life and broking)

[460163](#) An adviser providing advice on insurance products should be able to apply the following knowledge (where applicable).

Table A2.6a: Insurance (core knowledge)

Operation of insurance markets	<ul style="list-style-type: none"> • definition of insurance product • characteristics and participants of the Australian insurance market • roles played by intermediaries
Insurance products	<ul style="list-style-type: none"> • types of insurance products (e.g. risk insurance products, investment life insurance products and general insurance products) • conditions, exclusions, levels of coverage of risk transfer products • pricing
Taxation	<ul style="list-style-type: none"> • awareness of taxation issues relating to insurance products

DRAFT

<p>Advisory functions</p>	<ul style="list-style-type: none"> • the role of insurance adviser/broker/agent • participants in the insurance advisory services market • range of services provided • profile and financial information of the client • appropriateness of a risk assessment
<p>Legal environment—disclosure and compliance</p>	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, <i>Insurance Contracts Act 1984</i>, <i>Life Insurance Act 1995</i>, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser’s recommendation) • relevant industry standards and codes of conduct • regulators’ guidelines, including our requirements in this policy • complaints resolution procedures (external and, if relevant, internal)

A2.6b Specialist insurance knowledge

~~+6+164~~ An adviser providing advice on insurance products should be able to apply the following knowledge (where applicable).

Table A2.6b: Insurance (specialist knowledge)

<p>General insurance</p>	<ul style="list-style-type: none"> • types of general insurance products/policies • standard cover (and deviations) • policy wordings • taxes and charges • insurance claims • premium rating/risk selection • reporting • product development • underwriting
<p>Life insurance</p>	<ul style="list-style-type: none"> • types/classes of life insurance products/policies • standard cover (and deviations) • product development • policy wordings • underwriting • insurance claims • premium rating/risk assessment • investment strategy (investment component of life insurance products)

DRAFT

Insurance broking	<ul style="list-style-type: none"> • types/classes of insurance products • standard cover and deviations • product development • policy wordings • underwriting • insurance claims • premium rating/risk assessment • types of broking services
--------------------------	---

A2.7 Deposit products and non-cash payment products

[462165](#) An adviser providing advice on deposit products and non-cash payment products (s763D) should be able to apply the following knowledge (where applicable).

Note: Only elements relevant to the adviser’s activities need to be covered in the training. AFS licensees can vary the content within those elements to suit the adviser’s activities.

Table A2.7: Deposit products and non-cash payment products (specialist knowledge)

Types of products	<ul style="list-style-type: none"> • types of products • product characteristics
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements relevant to the adviser’s activities (e.g. full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser’s recommendation) • relevant industry standards and codes of conduct • regulators’ guidelines, including our requirements in this policy where relevant • complaints resolution procedures (external and, if relevant, internal)

DRAFT

A2.8 Foreign exchange

[163166](#) An adviser providing advice on foreign exchange products should be able to apply the following knowledge (where applicable).

Table A2.8: Foreign exchange (specialist knowledge)

Operation of foreign exchange markets	<ul style="list-style-type: none"> • market participants • roles played by intermediaries
Types of products	<ul style="list-style-type: none"> • range of foreign exchange products • associated risks • alternative products (e.g. derivatives) (where relevant)
Theories of investment, portfolio management, and management of investment and risk	<ul style="list-style-type: none"> • identification of types of risk • client risk profile
Taxation	<ul style="list-style-type: none"> • awareness of taxation issues relating to foreign exchange products
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser's recommendation) • relevant industry standards and codes of conduct • regulators' guidelines, including our requirements in this policy • complaints resolution procedures (external and, if relevant, internal)

A2.9 First Home Saver Accounts

[164167](#) An adviser providing advice on First Home Saver Accounts should be able to apply the following knowledge (where applicable).

Note: Only elements relevant to the adviser's activities need to be covered in the training. AFS licensees can vary the content within those elements to suit the adviser's activities.

Table A2.9: First Home Saver Accounts (specialist knowledge)

Types of products	<ul style="list-style-type: none"> • range of First Home Saver Accounts • associated risks • alternative products (e.g. managed investments, life insurance, deposit products) (where relevant)
--------------------------	--

DRAFT

Types of products	<ul style="list-style-type: none"> • range of First Home Saver Accounts • associated risks • alternative products (e.g. managed investments, life insurance, deposit products) (where relevant)
Product characteristics	<ul style="list-style-type: none"> • eligibility requirements • withdrawal conditions • government contributions
Taxation	<ul style="list-style-type: none"> • awareness of taxation issues relating to First Home Saver Accounts
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> • the role of the representative/adviser and legal requirements that apply • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser's recommendation) • relevant industry standards and codes of conduct • regulators' guidelines, including our requirements in this policy • complaints resolution procedures (external and, if relevant, internal)

A2.10 Margin lending facilities

[465168](#) An adviser providing advice on margin lending facilities should be able to apply the following knowledge (where applicable).

Note: Only elements relevant to the adviser's activities need to be covered in the training. AFS licensees can vary the content within those elements to suit the adviser's activities.

Table A2.10: Margin lending facilities (specialist knowledge)

Types of products	<ul style="list-style-type: none"> • types of margin lending facility products (encompassing standard margin lending facilities and non-standard margin lending facilities) • associated risks
Product characteristics	<ul style="list-style-type: none"> • how the various types of margin lending facility products operate • providers' and clients' rights and responsibilities • effect of provider taking security over clients' assets • effect of provider receiving a transfer of the clients' assets • calculating loan-to-value ratios of both individual products and the overall portfolio, and the consequences of issuers altering the loan-to-value ratio of individual products • margin calls—ways of making a margin call, consequences of margin calls and how they may be resolved, and strategies by which the borrower may avoid margin calls • approved products list—consequences of removing a product from the approved products list

DRAFT

<p>Taxation</p>	<ul style="list-style-type: none"> • awareness of taxation issues relating to margin lending facilities • deductibility of costs associated with margin lending (e.g. interest payments) • liability for capital gains tax
<p>Legal environment—disclosure and compliance</p>	<ul style="list-style-type: none"> • the role of the provider • the role of the representative/adviser and legal requirements that apply • specific regulatory requirements (e.g. responsible lending conduct, notification of margin calls) • relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) • the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser’s recommendation) • relevant industry standards and codes of conduct • regulators’ guidelines, including our requirements in this policy • complaints resolution procedures (external and internal)
<p>Theories of investment, portfolio management, and management of investment and risk</p>	<ul style="list-style-type: none"> • investment concepts • investment strategies for margin lending, including the role of cash flow, and alternative investment strategies • investment options using a margin lending facility • identification of types of risk, including an awareness of the sensitivity of margin lending strategies to changes in interest rates and investment returns • client risk profile, including an awareness of the source and stability of clients’ income source, the source of funding for the investment, and risk profiles unsuited to margin lending facility products • stress testing of the proposed client portfolio • understanding of the risks associated with gearing—the relationship between levels of gearing and risks, and the risks associated with double gearing

A2.11 Regulated emissions units

[466169](#) An adviser providing advice on emissions units should be able to apply the following knowledge (where applicable).

Table A2.11: Emissions units (specialist knowledge)

<p>Types of products and their characteristics</p>	<ul style="list-style-type: none"> • types of regulated emissions units, and their characteristics (encompassing carbon units, Australian carbon credit units and eligible international emissions units), including their status as personal property, and how they are typically derived from inception to the point of acquiring status as a financial product • risks associated with each type of regulated emissions unit, including restrictions on their use, transfer and bankability for future use
---	---

DRAFT

	<ul style="list-style-type: none"> processes for acquiring, transferring and surrendering regulated emissions units, including compliance with the requirements of the Australian National Registry of Emissions Units
Operation of carbon markets	<ul style="list-style-type: none"> geopolitical context of carbon markets main participants in carbon markets, and their key objectives and participation behaviours as factors influencing market activity emissions unit supply and demand factors and regulated price factors influencing market activity and prices issue of carbon units via auction, and auction types types of transactions in carbon markets, including transactions relating to the carbon pricing mechanism and in voluntary markets, and the function of financial markets facilitating such trading (including internationally) potential trading strategies and their implementation in carbon markets (e.g. hedging and investment strategies) risks associated with carbon markets, including liquidity, pricing, credit, operational and regulatory risks carbon market transaction documentation, including the types used for different types of counterparties and transactions, their key terms and conditions, and advantages and disadvantages
Legal environment—disclosure and compliance	<ul style="list-style-type: none"> domestic regulatory framework for the carbon pricing mechanism, including the role of the Clean Energy Regulator and the Australian National Registry of Emissions Units domestic regulatory framework for the Carbon Farming Initiative, including the role of the Clean Energy Regulator and the Australian National Registry of Emissions Units international regulatory framework for carbon trading, including the Clean Development Mechanism relevant legal principles (e.g. Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act) the relationship between ethics and regulatory requirements (e.g. good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest that may influence the adviser's recommendation), and the application of these requirements in professional practice relevant industry standards and codes of conduct regulators' guidelines, including our requirements in this policy dispute resolution procedures (external and internal)
Taxation	<ul style="list-style-type: none"> taxation treatment of emissions units and taxation issues relating to regulated emissions units deductibility of costs associated with regulated emissions units

Note: Advisers providing advice on emissions units have until 31 December 2013 to complete the training requirements relating to emissions units.

DRAFT

Skill requirements

170 Advisers providing personal advice to retail clients should be able to apply appropriate skills in relation to their activities and the products and markets in which they operate. These skills will vary according to the activities undertaken. [Table A3.1 lists the skill requirements for advisers undertaking training under Regime A and Table A3.2 lists the skill requirements for advisers undertaking training under Regime B and Regime C.](#)

467171 [We note that the skill requirements are not steps in the advice process but will apply at differing stages of the advice process. For example, the skills outlined in ‘Establish rapport with client’ in Table A3.2 will apply at all stages in the advice process.](#)

468172 As the level and type of skill varies so much in relation to the provision of general advice, we have not mandated the skill requirements for advisers that only provide this type of advice.

Note: There may be other elements that an AFS licensee or training provider may wish to cover. All elements need not be met if demonstrably irrelevant to the adviser’s activities.

Table BA3.1: Skill requirements for Regime A

<p>1 Establish relationship with client</p>	<p>This may include:</p> <ul style="list-style-type: none"> • explaining the adviser’s role • establishing the knowledge level of the client • explaining the services offered • identifying the AFS licensee responsible for the representative’s conduct • explaining the fee and charging methodology • explaining the procedures for complaints handling
<p>2 Identify client objectives, needs and financial situation</p>	<p>This may include collection of the following types of information from the client:</p> <ul style="list-style-type: none"> • relevant personal, financial and business details • client objectives and goals • risk profile of the client • cash flows (required and projected) • relevant taxation obligations
<p>3 Analyse client objectives, needs, financial situation and risk profile</p>	<p>This may include:</p> <ul style="list-style-type: none"> • analysing all relevant information • assessing if specialist advice is required • assessing the client’s risk profile

DRAFT

4 Develop appropriate strategies and solutions	<p>This may include:</p> <ul style="list-style-type: none"> identifying and assessing available options via the above analysis conducting relevant research/analysis/modelling drafting the plan/policy/transaction for presentation to the client ability to underwrite and accept the transfer of risk
5 Present appropriate strategies and solutions to the client	<p>This may include:</p> <ul style="list-style-type: none"> explaining in plain language the proposed transaction(s) explaining the nature of the underlying financial products explaining the possible risks providing written supporting documentation
6 Negotiate financial plan/policy/transaction with the client	<p>This may include:</p> <ul style="list-style-type: none"> discussing any concerns/issues of the client regarding the proposed plan/policy/transaction confirming with the client the preferred plan/policy/transaction
7 Coordinate implementation of agreed plan/ policy/transaction	<p>This may include:</p> <ul style="list-style-type: none"> gaining agreement regarding the proposed plan/policy/transaction explaining the associated fee and cost structures explaining the timeframe for execution
8 Complete and maintain necessary documentation	<p>This may include:</p> <ul style="list-style-type: none"> signing a formal agreement exchanging a signed agreement
9 Provide ongoing service (optional at discretion of client)	<p>This may include:</p> <ul style="list-style-type: none"> explaining ongoing fees and costs for ongoing and specifically defined services providing ongoing service to the client as required and agreed providing the client with reports regarding performance of the plan/policy/transaction conducting a review of the plan/policy/transaction with the client if parameters change

Table [A3.2B](#): Skill requirements [for Regime B and Regime C](#)

1 Establish relationship rapport with client	<p>This may include:</p> <ul style="list-style-type: none"> explaining the adviser's role explaining the advice process in a manner that the client understands making sure the client understands the advice they are receiving establishing the knowledge level of the client and tailoring advice and communication to this knowledge level listening and empathy skills awareness of potential behavioural biases when interacting with the client
---	--

DRAFT

	<ul style="list-style-type: none"> • explaining the services offered and the services not offered • identifying the AFS licensee responsible for the representative's conduct • explaining fee and charging methodology for both advice and any products recommended • explaining the procedures for complaints handling
<p>2 Identify client objectives, needs and financial situation</p>	<p>This may include collection of the following types of information from the client or gaining an understanding of the following:</p> <ul style="list-style-type: none"> • relevant personal, financial and business details • client objectives and goals, including the ability to help refine these with the client using judgement • identifying the subject matter of the advice • defining and managing the client's expectations • the risk profile/risk tolerance of the client at the time of implementing the plan and ongoing • cash flows (required and projected) • relevant taxation obligations and social security considerations and other potential legal obligations (e.g. trustee obligations for self-managed superannuation funds)
<p>3 Analyse client objectives, needs, financial situation and risk profile/risk tolerance</p>	<p>This includes the required skills to do the following:</p> <ul style="list-style-type: none"> • analysing all relevant information related to the client and the needs created by their circumstances • budgeting/budget analysis • analysing the client's spending patterns based on bank statements, credit card statements, spending diaries and other tools • explaining the implications of current spending patterns on the client's long-term goals and explaining the implications in language that the client understands • assessing if specialist advice is required • assessing the client's risk profile/risk tolerance against their objectives, financial situation and needs • if recommending a financial product, appropriate investigation of financial products that meet the client's objectives, financial situation and needs
<p>4 Develop appropriate strategies and solutions</p>	<p>This may include:</p> <ul style="list-style-type: none"> • identifying and assessing available options via the above analysis • aligning the client's risk profile/risk tolerance to their objectives, financial situation and needs • conducting relevant research/analysis/modelling (both strategy and, if appropriate, products) • developing a range of alternative strategies where applicable • drafting plan/policy/transaction advice for presentation to the client • ability to underwrite and accept the transfer of risk • identifying any conflicts of interest and how to manage them

DRAFT

<p>5 Present appropriate strategies and solutions to the client</p>	<p>This may include:</p> <ul style="list-style-type: none"> • explaining the concepts in a manner that the client can understand • making sure the client understands the advice they are receiving • where relevant, explaining the benefits and disadvantages of different strategies and how they relate to risk and reward and the client's risk profile/risk tolerance • explaining in plain language the proposed transaction(s) • explaining the nature of the underlying recommended financial products, if any • explaining the possible risks and ensuring the client understands those risks • providing written supporting documentation to explain the advice and why it is appropriate (including documentation required by law) and ensuring that the client understands this documentation
<p>6 Negotiate financial plan/policy/transaction with the client</p>	<p>This may include:</p> <ul style="list-style-type: none"> • discussing any concerns/issues of the client regarding the proposed advice plan/policy/transaction • confirming with the client the preferred plan/policy/transaction
<p>7 Coordinate implementation of agreed plan/policy/transaction</p>	<p>This may include:</p> <ul style="list-style-type: none"> • ensuring the client understands the plan/policy/transaction • gaining agreement on the proposed plan/policy/transaction • explaining associated fee and cost structures for both the advice and any financial products recommended • explaining the timeframe for execution
<p>8 Complete and maintain necessary documentation</p>	<p>This may include:</p> <ul style="list-style-type: none"> • signing a formal agreement • exchanging a signed agreement • maintaining good records, including file notes and other record-keeping documentation
<p>9 Provide ongoing service (if appropriate optional at discretion of client)</p>	<p>This may include:</p> <ul style="list-style-type: none"> • explaining ongoing fees and costs for ongoing and specifically defined services • providing ongoing service to the client as required and agreed • providing the client with reports regarding performance of the plan/policy/transaction • conducting a review of the plan/policy/transaction with the client if the parameters change

DRAFT

Educational level requirements

173 [The educational level requirement is the AQF level to which the knowledge and skill requirements must be attained by advisers. There are different educational levels for Tier 1 and Tier 2 products to reflect that Tier 2 products are generally less complex than Tier 1 products, and therefore do not require the same educational level of competency.](#)

174 [There are different educational levels under Regime A, Regime B and Regime C, as set out in Table A4.](#)

[Note: The increased educational level requirements also apply to advisers who completed their training under a previous regime \(i.e. Regime A and/or Regime B\) who decide to change their advice activities.](#)

Table A4: Educational level requirements

<u>Regime A</u>		<u>Regime B</u>		<u>Regime C</u>	
<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 1</u>	<u>Tier 2</u>
AQF Level 5 Diploma	AQF Level 3 Certificate III	AQF Level 6 Advanced Diploma	AQF Level 4 Certificate IV	AQF Level 7 Bachelor Degree	AQF Level 5 Diploma

DRAFT

Appendix B The CTA research

- 175 In 2011 and 2012, ASIC commissioned a consortium of Cognitive Task Analysis (CTA) specialists, PS2 Pty Ltd and Sticky Learning, to conduct CTA research to determine the knowledge and skills of competent providers of quality financial advice and to compare those research findings to the current training standards in RG 146. The review included conducting CTA on the different types of financial advisers who provide advice at a Tier 1 personal advice level and included financial advisers, stockbrokers and insurance brokers.
- 176 The major recommendations flowing from this research were:
- (a) the need for RG 146 to be reconfigured to reflect the primacy of advice skills in effective advice provision (including changes to the skill requirements);
 - (b) changes to generic and specialist knowledge areas in RG 146; and
 - (c) a need to raise the educational level of advisers providing personal advice on Tier 1 products from AQF Level 5 (equivalent to a Diploma) to AQF Level 6 (equivalent to an Advanced Diploma).

What is CTA?

- 177 CTA is a methodology for understanding the skills, knowledge and thought processes that an individual uses to complete a complex task. Often using behaviours as a starting point, CTA seeks to move beyond the behavioural to the cognitive aspects of the task.
- 178 The purpose of CTA is to systematically define the decision requirements and psychological processes used by expert individuals in accomplishing results.⁹ It has its roots in the study of expertise and is now used in a wide variety of disciplines.
- 179 CTA was identified as a valuable tool in indentifying the competencies of a proficient financial adviser.

How the CTA research was conducted

- 180 Participants in the CTA research were current providers of personal advice at a Tier 1 level in the three advice areas of financial planning, stockbroking and insurance broking. Participants were selected by ASIC and also

⁹ See http://siteresources.worldbank.org/WBI/Resources/213798-1194538727144/3Final-Cog_Task_Analysis.pdf.

nominated by industry participants on the basis of their skills and experience. For this purpose, practitioners were selected in each of three broad bands of experience: novice (less than 12 months experience), competent (three to five years experience) and expert (more than 10 years experience).

181 We sourced research participants who were operating in different types of advice practices. Participants were from large and medium institutional advice practices and small (or boutique) advice practices. They were from both city and regional locations.

182 The research was conducted in two phases. Phase 1 consisted of 15 interviews. The interviewees came from the greater Sydney areas, except for three stockbrokers who came from Brisbane. In Phase 2 we conducted an additional 10 interviews with a particular focus on regional advisers and novices. These Phase 2 interviews were based in regional Queensland and New South Wales, and six of the interviewees were novice advisers.

183 In Phase 2 we also conducted focus groups in Brisbane, Melbourne and Sydney where the initial findings of the research were tested with audiences that included interviewees and other expert advisers who had not taken part in Phase 1.

184 The first part of each interview was a role play where, using a realistic client scenario devised by ASIC, the adviser interacted with a client. A member of the research team played the part of the client; the team member took detailed notes. After the completion of the role play, the interviewer and the adviser discussed aspects of the role play and the adviser was asked to discuss other aspects of their advice process that were relevant to the research.

185 At the end of the interview, the researchers asked the adviser whether the scenario used was realistic. Feedback was universally positive.

186 All interviews were video recorded. The interview data was analysed using standard CTA protocols based on notes taken at the time of the interview and a review of the recordings.

187 Finally, the researchers conducted a gap analysis where research findings were compared to the current training standards in RG 146.

Key terms

Term	Meaning in this document
advice provider	<p>A person to whom the obligations in Div 2 of Pt 7.7A of the Corporations Act apply when providing personal advice to a client. This is generally the individual who provides the personal advice. However, if there is no individual that provides the advice, which may be the case if advice is provided through a computer program, the obligations in Div 2 of Pt 7.7A apply to the legal person that provides the advice (e.g. a corporate licensee or authorised representative)</p> <p>Note: These obligations apply from 1 July 2013, unless a person elects to comply with Pt 7.7A before this date (from 1 July 2012).</p>
adviser	A financial product adviser
AFS licence	<p>An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services</p> <p>Note: This is a definition contained in s761A.</p>
AFS licensee	<p>A person who holds an AFS licence under s913B of the Corporations Act</p> <p>Note: This is a definition contained in s761A.</p>
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASIC Training Register	The register that contains details of training courses and individual assessment services that were approved by ASIC-authorised assessors as meeting the training standards 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. technical and further education (TAFEs) and private RTOs) and the higher education sector (e.g. universities)
authorised assessor	An organisation that is recognised by ASIC to assess a training course against ASIC's knowledge, skill and educational level requirements ('training standards'), or to carry out an assessment of an individual's competence
best interests duty	The duty to act in the best interests of the client when giving personal advice to a client as set out in s961B(1) of the Corporations Act
CFP	Certified Financial Planner

Term	Meaning in this document
CFPB	Consumer Financial Protection Bureau
Ch 7 (for example)	A chapter of the Corporations Act (in this example numbered 7), unless otherwise specified
change of advice activities	A change in the type of financial product advice provided or the financial products advised upon which requires additional training
client	A retail client as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of Ch 7 of the Corporations Regulations
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
CTA	Cognitive Task Analysis
CTA research	A research project commissioned by ASIC in 2011–12 to determine the knowledge and skills required to provide quality financial advice and to compare this to the current training standards in RG 146: see Appendix B of this paper
financial product	<p>A facility through which, or through the acquisition of which, a person does one or more of the following:</p> <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); and • makes non-cash payments (see s763D) <p>Note: This is a definition contained in s763A of the Corporations Act: see also s763B–765A.</p>
financial product advice	<p>A recommendation or a statement of opinion, or a report of either of those things, that:</p> <ul style="list-style-type: none"> • is intended to influence a person or persons in making a decision in relation to a particular financial product or class of financial products, or an interest in a particular financial product or class of financial products; or • could reasonably be regarded as being intended to have such an influence. <p>This does not include anything in an exempt document</p> <p>Note: This is a definition contained in s766B(1) of the Corporations Act.</p>
financial product adviser	<p>A natural person who provides financial product advice to a retail client and is:</p> <ul style="list-style-type: none"> • an AFS licensee; or • a representative of an AFS licensee

Term	Meaning in this document
Financial Services Training Package (FSTP)	The integrated set of nationally endorsed competency standards, assessment guidelines and Australian Qualifications Framework qualifications for the financial services industry developed and endorsed under the National Training Framework
First Home Saver Account (FHSA)	A financial product that meets the requirements of the <i>First Home Saver Accounts Act 2008</i>
FSA	Financial Services Authority
Future of Financial Advice (FOFA)	The Future of Financial Advice reforms introduced by the Australian Government in response to the recommendations of the PJC Inquiry and implemented by the <i>Corporations Amendment (Future of Financial Advice) Act 2012</i> and the <i>Corporations Amendment (Further Future of Financial Advice) Act 2012</i>
general advice	Financial product advice that is not personal advice Note: This is a definition contained in s766B(4) of the Corporations Act.
National Training Framework	The national framework under which training competencies, assessment guidelines and related education and training qualifications are developed and endorsed for all vocational training courses
personal advice	Financial product advice given or directed to a person (including by electronic means) in circumstances where: <ul style="list-style-type: none"> the person giving the advice has considered one or more of the client's objectives, financial situation and needs; or a reasonable person might expect the person giving the advice to have considered one or more of these matters Note: This is a definition contained in s766B(3) of the Corporations Act.
PJC Inquiry	Parliamentary Joint Committee on Corporations and Financial Services Inquiry into Financial Products and Services in Australia in 2009
PPI	Personal protection insurance
Privacy Amendment (Private Sector) Act	<i>Privacy Amendment (Private Sector) Act 2000</i>
Pt 7.9 (for example)	A part of the Corporations Act (in this example numbered 7.9), unless otherwise specified
reg 7.6.04 (for example)	A regulation of the Corporations Regulations (in this example numbered 7.6.04)

Term	Meaning in this document
Regime A	The regime that currently applies to advisers: see current RG 146. This regime is proposed to be renamed 'Regime A' and would continue to apply to advisers who currently meet the current training standards and who do not want to change their advice activities
Regime B	The training standards regime proposed to be introduced for: <ul style="list-style-type: none"> • new advisers who start providing financial product advice on or after 1 January 2015 and before 1 January 2019; and • advisers who completed their initial training under the current regime (i.e. Regime A) who, between 1 January 2015 and 31 December 2018, decide to change their advice activities
Regime C	The training standards regime proposed to be introduced for: <ul style="list-style-type: none"> • new advisers who start providing financial product advice on or after 1 January 2019; and • advisers who completed their initial training under a previous regime(s) (i.e. Regime A and/or B) who, from 1 January 2019, decide to change their advice activities
registered training organisation (RTO)	An organisation that has undergone a registration process conducted by a state/territory recognition authority and is an accredited training and assessment organisation
REP 279 (for example)	An ASIC report (in this example numbered 279)
representative of an AFS licensee	Means: <ul style="list-style-type: none"> • an authorised representative of the licensee; • an employee or director of the licensee; • an employee or director of a related body corporate of the licensee; or • any other person acting on behalf of the licensee <p style="margin-left: 40px;">Note: This is a definition contained in s910A of the Corporations Act.</p>
RG 136 (for example) means	An ASIC regulatory guide (in this example numbered 136)
Ripoll Report	The findings of the PJC Inquiry, as set out in the <i>Inquiry into financial products and services in Australia</i> , November 2009
s912A (for example)	A section of the Corporations Act (in this example numbered 912A), unless otherwise specified

Term	Meaning in this document
safe harbour for the best interests duty	The steps set out in s961B(2) of the Corporations Act. If an advice provider proves they have taken these steps, they are considered to have met their obligation to act in the best interests of their client
scaled advice	Personal advice that is limited in scope
self-accrediting organisation	A university or higher education institution that has undergone a statutory registration process
SMSF	Self-managed superannuation fund
TASA	<i>Tax Agents Services Act 2009</i> and Tax Agents Services Regulations 2009
Tier 1 products	All financial products except those listed under Tier 2
Tier 2 products	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; and FHSA deposit accounts
TPB	Taxation Practitioners Board
training course	Means: <ul style="list-style-type: none"> • any education or training course, program, subject, unit or module of varying duration; • a combination of education or training subjects, units or modules on a similar topic; or • an education or training course or program delivered by various methods
training standards	Minimum sets of knowledge and, where personal advice is given, skill requirements, which are assessed at particular educational levels depending on the type of financial product for which advice is provided, and set out in RG 146
VET	Vocational Education and Training

List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to:</p> <p>(a) make <i>all</i> the generic knowledge topics in the draft updated Table A1 'Generic knowledge' in Appendix A mandatory for advisers undertaking training under Regime B and Regime C who provide general advice and personal advice on Tier 1 products, although the level of detail required will vary; and</p> <p>(b) introduce for Regime B and Regime C an additional sub-topic under the topic 'The economic environment' and introduce the following 12 new topics:</p> <ul style="list-style-type: none"> (i) 'Financial structures and their taxation implications'; (ii) 'Demographic trends and their impact on markets over the long term'; (iii) 'Concepts in behavioural economics'; (iv) 'Budgeting'; (v) 'Risk profiling/risk tolerance'; (vi) 'Life stages and their characteristics'; (vii) 'Life events and their characteristic consequences'; (viii) 'Awareness of taxation'; (ix) 'Ethics'; (x) 'High-level knowledge of social security regulations, provisions and legislation'; (xi) 'High-level knowledge of the relevant legislation as it applies to trusts and self-managed superannuation funds'; and (xii) 'Complaint processes and agencies'. <p>See draft updated Table A1 'Generic knowledge' in Appendix A.</p>	<p>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?</p> <p>B1Q2 Do you agree with our proposed changes to the topics for generic knowledge? If not, why not?</p> <p>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?</p> <p>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.</p> <p>B1Q5 Are there any additional generic knowledge topics we should include? If yes, please describe them.</p> <p>B1Q6 Do you anticipate any practical difficulties that would result from complying with the proposed additional generic knowledge requirements? If yes, please provide details.</p> <p>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.</p> <p>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.</p>

Proposal	Your feedback
<p>B2 We propose to include the following additional topics in the financial planning specialist knowledge requirements for Regime B and Regime C:</p> <p>(a) 'Detailed knowledge of social security'; and</p> <p>(b) 'Providing financial advice to older Australians'.</p> <p>We propose that the additional topics will apply to both general and personal advice.</p> <p>See draft updated Table A2.1 'Financial planning (specialist knowledge)' in Appendix A.</p>	<p>B2Q1 Do you agree with these proposed additional topics? If not, why not?</p> <p>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.</p> <p>B2Q3 Do you consider that there are any practical difficulties with complying with these proposed additional requirements? If yes, please provide details.</p> <p>B2Q4 Are there any other topics we should include in 'Financial planning (specialist knowledge)'? If yes, please describe them.</p> <p>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.</p> <p>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.</p>

Proposal	Your feedback
<p>B3 We propose to include the sub-topic 'Portfolio construction' under the topic 'Theories of investment, portfolio management, and management of investment and risk' in the securities markets specialist knowledge requirements for Regime B and Regime C.</p> <p>We propose that the additional sub-topic will apply to both general and personal advice.</p> <p>See draft updated Table A2.2 'Securities markets (specialist knowledge)' in Appendix A.</p>	<p>B3Q1 Do you agree with this proposed additional sub-topic? If not, why not?</p> <p>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.</p> <p>B3Q3 Do you consider that there are any practical difficulties with complying with this proposed additional requirement? If yes, please provide details.</p> <p>B3Q4 Are there any other topic areas we should include in 'Securities markets (specialist knowledge)'? If yes, please describe them.</p> <p>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.</p> <p>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.</p>

Proposal	Your feedback
<p>B4 We propose to include the following additional sub-topics in the superannuation specialist knowledge requirements for Regime B and Regime C:</p> <p>(a) under the topic 'Operation and management of the superannuation industry', we propose to add the sub-topics 'Transition-to-retirement products', 'Structuring for superannuation' and 'Defined contribution and defined benefit funds/arrangements'; and</p> <p>(b) under the topic 'Legal environment—disclosure and compliance', we propose to add the sub-topic 'Benefits and risks of certain superannuation structures'.</p> <p>We propose that the additional sub-topics will apply to both general and personal advice.</p> <p>See draft updated Table A2.5 'Superannuation (specialist knowledge)' in Appendix A.</p>	<p>B4Q1 Do you agree with these proposed additional sub-topics? If not, why not?</p> <p>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.</p> <p>B4Q3 Do you consider that there are any practical difficulties with complying with these proposed additional requirements? If yes, please provide details.</p> <p>B4Q4 Are there any additional topic areas we should include for 'Superannuation (specialist knowledge)'? If yes, please describe them.</p> <p>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.</p> <p>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.</p>
<p>B5 We propose to <i>not</i> 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 because these were not the subject of our CTA research.</p>	<p>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.</p> <p>B5Q2 Do you think that we should conduct CTA research for the other specialist knowledge requirements? If yes, please provide details.</p>

Proposal	Your feedback
<p>C1 We propose to make substantial changes to the majority of the skill requirements for Regime B and Regime C: see draft Table A3.2 in Appendix A.</p>	<p>C1Q1 Do you agree with our proposed changes? If not, why not?</p> <p>C1Q2 Do you anticipate any practical difficulties with these proposed changes to the skill requirements? If yes, please provide details.</p> <p>C1Q3 Are there any other skill requirements that you think should be included? If yes, please describe them.</p> <p>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.</p> <p>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.</p>
<p>D1 For Tier 1 products, we propose to increase the educational level requirements as follows:</p> <p>(a) for Regime B (from 1 January 2015)—to AQF Level 6 Advanced Diploma; and</p> <p>(b) for Regime C (from 1 January 2019)—to AQF Level 7 Bachelor Degree.</p> <p>We propose that the increase in the educational level requirements will apply to both general and personal advice.</p> <p>See draft Table A4 'Educational level requirements' in Appendix A.</p> <p>Note: We are consulting on the exact timing of the commencement of Regime B and Regime C in Section E: see proposal E1.</p>	<p>D1Q1 Do you agree with our proposal to increase the educational level requirements for Tier 1 products? If not, why not?</p> <p>D1Q2 Do you anticipate any practical difficulties with our proposed educational level increases? If yes, please provide details.</p> <p>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.</p> <p>D1Q4 Do you consider that the proposed changes will impose additional costs on advisers and AFS licensees? Please provide specific details.</p> <p>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?</p>

Proposal	Your feedback
<p>D2 For Tier 2 products, we propose to increase the educational level requirements as follows:</p> <p>(a) for Regime B (from 1 January 2015)—to AQF Level 4 Certificate IV; and</p> <p>(b) for Regime C (from 1 January 2019)—to AQF Level 5 Diploma.</p> <p>We propose that the increase in the educational level requirements will apply to both general and personal advice.</p> <p>See draft Table A4 'Educational level requirements' in Appendix A.</p> <p>Note: We are consulting on the exact timing of the commencement of Regime B and Regime C in Section E: see proposal E1.</p>	<p>D2Q1 Do you agree with our proposal to increase the educational level requirements for Tier 2 products? If not, why not?</p> <p>D2Q2 Do you anticipate any practical difficulties with our proposed educational level increase? If yes, please provide details.</p> <p>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.</p> <p>D2Q4 Do you consider that the proposed changes will impose additional costs on advisers and AFS licensees? Please provide specific details.</p> <p>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?</p>
<p>E1 We propose the following implementation dates:</p> <p>(a) the training standards for Regime B to begin on 1 January 2015; and</p> <p>(b) the training standards for Regime C to begin on 1 January 2019.</p>	<p>E1Q1 Do you agree with our proposed implementation in stages of the increased training standards? If not, why not?</p> <p>E1Q2 Do you agree with the commencement date of 1 January 2015 for the increased training standards for Regime B? If not, why not?</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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?</p> <p>E1Q7 Do you agree that the proposed changes to an AQF Level 7 Bachelor Degree for Tier 1</p>

Proposal	Your feedback
	<p>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?</p> <p>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?</p> <p>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?</p> <p>E1Q10 Are there any other practical considerations that we should be aware of arising from the proposed implementation framework?</p>
<p>F1 We are seeking feedback on whether personal sickness and accident insurance should be a Tier 1 or Tier 2 product.</p>	<p>F1Q1 Do you consider that personal sickness and accident insurance should remain as a Tier 1 product or be reclassified as a Tier 2 product? What are the reasons for your suggested approach?</p> <p>F1Q2 What business and consumer impacts would result from retaining the Tier 1 classification, or changing the classification to Tier 2?</p>
<p>F2 We are seeking feedback on whether consumer credit insurance should be a Tier 1 or Tier 2 product.</p>	<p>F2Q1 Do you consider that consumer credit insurance should remain as a Tier 2 product or be reclassified as a Tier 1 product? What are the reasons for your suggested approach?</p> <p>F2Q2 What business and consumer impacts would result from retaining the Tier 2 classification, or changing the classification to Tier 1?</p> <p>F2Q3 Should like products (e.g. life insurance, sickness and accident insurance, consumer credit insurance) be classified together in the same tier? If not, why not? If so, is Tier 1 or Tier 2 more appropriate for these products? What rationale could be used to justify treating such like products differently?</p> <p>F2Q4 Is consumer credit insurance more often sold to consumers with or without financial product advice?</p>