

4 October 2013

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

Email: policy.submissions@asic.gov.au

Dear Nicole

Consultation Paper 215 Assessment and approval of training courses for financial product advisers: Update to RG 146

CPA Australia and the Institute of Chartered Accountants Australia ('the Institute') have serious concerns with the proposals in Consultation Paper 215, including the proposal to replace the ASIC Training Register with draft [CO 14/XX]

While the intention may be that the training provider is responsible for ensuring their courses comply with the requirements of RG 146, this creates both real and perceived inherent conflicts. Without an independent third party to assess the quality of these courses, the proposed framework may instead lead to further inconsistencies in the availability of quality training.

We believe licensees will inevitably bear the burden of assessing the appropriateness of a course for each representative, or risk failing to comply with their legal obligation to ensure their representatives are adequately and appropriately trained. The reality is the vast majority of licensees do not currently have the expertise, resources or tools to perform such assessments in-house. While a larger licensee may potentially be able to absorb this cost, smaller to medium practices will be adversely impacted. Notably, this proposed additional burden is in addition to the significant burden and associated costs licensees have incurred in implementing the Future of Financial Advice (FoFA) reforms.

Importantly, the potential benefits of implementing the proposals have not been identified in the consultation paper nor do they articulate how they may address some of the concerns about the training framework previously highlighted in ASIC's Consultation Paper 153.

We acknowledge that CP 215 forms part of a broader review of the training and competency framework for the training of financial product advisers. However, we believe that if a review is to be undertaken it should be all encompassing and involve a thorough review of all facets of the current framework. Further, it should extend to include other related reform such as the future regulation of financial planners for tax advice.

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Australia

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Critical to the success of such a review is for ASIC to engage further with all stakeholders, including industry representatives, on a consistent and transparent basis to ensure that any implemented reforms will deliver tangible outcomes in a pragmatic and efficient manner.

We believe consideration should also be given to reviewing how other regulatory bodies oversee and monitor the training framework relevant to their industry.

Notably, it has now been more than 12 months since the ASIC Training Register was suspended pending these reviews. This has placed additional compliance burden and cost on the industry, as well as creating a level of uncertainty. To address these issues in the interim we recommend that ASIC re-establish the ASIC Training Register and maintain its currency until such time that the review has been completed and the resulting reforms can be implemented.

We believe the consultation paper as it stands (in combination with CP 212) represents a missed opportunity for ASIC and more importantly the industry. The review of the training framework for financial product advisers should not be limited to select facets of the current regime, but rather be all encompassing to ensure that a robust training framework is built that is relevant now and in the future. It would not only build a foundation to improve the quality of advice provided to consumers but also provide stability to an industry that has faced significant regulatory reforms in recent years.

If you have any questions regarding this submission, please do not hesitate to contact Keddie Waller (CPA Australia) at keddie.waller@cpaaustralia.com.au or Hugh Elvy (the Institute) at hugh.elvy@charteredaccountants.com.au.

Yours sincerely



Paul Drum
Head of Policy
CPA Australia



Yasser El-Ansary
General Manager, Leadership & Quality
Institute of Chartered Accountants Australia

About the signatory bodies

CPA Australia and the Institute represent over 150,000 professional accountants in Australia. Our members work in diverse roles across public practice, commerce, industry, government and academia throughout Australia and internationally. Specifically members of the accounting profession are increasingly becoming involved more widely in financial services related advisory and service roles.

Replacement of ASIC Training Register

B1Q1 Do you agree with our proposal to replace the ASIC Training Register with draft [CO 14/XX]? If not, why not?

CPA Australia and the Institute **do not** support the proposal to replace the ASIC Training Register with draft [CO 14/XX].

We acknowledge that the ASIC Training Register may have been somewhat limited in its ability to provide quality assurance of the ASIC-approved training. However, it did serve as an independent gatekeeper that prevented many inadequate training courses from being recognised as meeting the training requirements of RG 146.

While we note that the regulation of authorised assessors and training course providers is the responsibility of bodies such as ASQA and TEQSA, in Consultation Paper 153: *Licensing: Assessment and professional development framework for financial advisers* (CP 153) ASIC stated that 'our review and consideration of the assessment and professional development regime in Australia' found that:

..concerns that state training authorities may not have the ability and knowledge to determine the quality of training being delivered because the assessor accrediting the course may not have sufficient financial services knowledge.

We believe that without these concerns being addressed, it is not appropriate for ASIC, as the regulator of the financial services sector, to step back from approving training courses. This is even more prudent given it is the role of ASIC to promote confident and informed participation by investors and consumers in the financial system. Ensuring financial planners complete appropriate education and training are fundamental to achieving this objective, which cannot be guaranteed without ASIC's direct involvement.

ASIC also noted in CP 153 'there are significant concerns with the consistency and quality of training and assessment that is being provided to financial advisers'. The proposed introduction of the draft Class Order will not address these concerns and may only compound the issue.

The proposal will also prove administratively inefficient. It will place further compliance burden on licensees to ensure they have the expertise to individually assess courses delivered by various training providers. Alternatively, it may result in licensees solely relying on the assurance of the training provider that their course meets the training requirements of RG 146, noting the training provider is potentially inherently conflicted given their commercial objectives.

Other comments we have on the proposal include:

- it will result in multiple regimes for a licensee to monitor their representatives compliance with RG 146, which will add further cost and compliance burden
- it provides no guidance or assurance to individuals looking to become a financial planner on how to identify a quality education program to become a financial planner; and
- it potentially risks training providers gaining recognition for their courses based on marketing spend rather than the delivery of quality education.

We do not believe this proposal will lead to better outcomes for licensees, financial planners or consumers; rather it may simply increase compliance burden and therefore the cost of accessing advice without necessarily improving the quality of financial planning training and education.

CPA Australia and the Institute acknowledge that CP 215 forms part of a broader review of the training and competency framework for the training of financial product advisers. However, we believe that if a review is to be undertaken it should be all encompassing and involve a thorough review of all facets of the current framework and extend to include other related reform such as the future regulation of financial planners for tax advice.

We believe that a robust and consistent training framework is the foundation for the provision of quality of financial product and importantly non-product advice to consumers. For this reason, we support a review of the current training framework provided it is comprehensive and all encompassing.

Further, given its importance it is imperative that as part of this process ASIC further engage with all stakeholders including industry representatives, on a regular and transparent basis to ensure that any implemented reforms will deliver tangible outcomes in a pragmatic and efficient manner.

Recommendation:

ASIC suspends Consultation Paper 212 and Consultation Paper 215 and undertake a compressive review of the current training framework for financial product advisers, that involves consultation with all affected stakeholders on a regular and transparent basis.

B1Q2 Do you agree that we should retain an archived ASIC Training Register as a reference tool? If not, why not?

The retention of the ASIC Training Register is critical, as it is heavily relied upon by licensees and other participants for compliance purposes.

While it currently provides only historical information, it does demonstrate the wide range of available training in the financial services sector and provides some guidance to potential education providers.

Notably, it has now been more than 12 months since the ASIC Training Register was suspended pending these reviews. This has placed additional compliance burden and cost on the industry, as well as creating a level of uncertainty. To address these issues in the interim we recommend that ASIC re-establish the ASIC Training Register and maintain its currency until such time that the review has been completed and the resulting reforms can be implemented.

Recommendations:

The archived ASIC Training Register is retained as a reference tool.

The ASIC Training Register is re-established and maintained until such time that a comprehensive review of the training framework has been completed and the resulting reforms can be implemented.

B1Q3 Do you consider that the proposal to replace the ASIC Training Register with draft [CO 14/XX] will impose additional costs on advisers, AFS licensees, training course providers or others? Please provide specific details.

The proposal will result in additional costs, which will ultimately be borne by the consumer, yet it is unlikely to result in improving the quality of financial planning education.

While the current policy requires a training course to be assessed by an authorised assessor for the purposes of RG 146, the Registered Training Organisation (RTO) is deemed to be an authorised assessor and self-assesses their own courses. As previously mentioned, this creates an inherent conflict and without an independent third party to assess the quality of the course may lead to further inconsistencies in the availability of quality training.

Therefore while the intention may be that the training provider is responsible for ensuring their courses comply with the requirements of RG 146, the reality is the burden will rest with the licensees as they will bear the risk of their representatives completing inadequate courses and potentially providing poor advice.

Ensuring the licensee has the expertise to assess and review the wide range of available courses will result in further compliance burden and cost, as it is unlikely that many licensees would currently have this expertise in-house. While a larger licensee may be able to absorb this cost, smaller to medium practices will be adversely impacted and may lead to:

- new financial planners finding it difficult and complicated to enter the industry as potential licensees may not be familiar with their qualifications, despite it being assessed by the provider as meeting the RG 146 requirements
- increased costs in hiring financial planners
- further growth of compliance related businesses specialising in training; or
- licensees only recognising a limited number of training providers, despite other existing or new training providers also providing quality education.

These are serious and significant consequences that must be carefully considered, as they risk impeding the industry to efficiently provide advice especially in light of recent FoFA reforms.

B1Q4 Do you consider that the proposal to replace the ASIC Training Register with draft [CO 14/XX] will result in benefits for consumers, training course providers or others? Please provide details.

Following our comments in B1Q3, we do not believe the proposal will deliver any benefits to consumers. In fact, it may lead to adverse outcomes through inadequate training being more prevalent as poor training providers will not have to pass the scrutiny of an independent gatekeeper.

The longer term consequences of this proposal must be considered, including the potential impact of improving the quality of advice to consumers.

While replacing the ASIC Training Register may remove a layer of administration for an RTO, this perceived benefit must be weighed against the potential risk of no longer having an independent third party assessing such courses that understands the knowledge and skill an individual needs to provide advice.

Guidance on written certification

B2Q1 Do you think that authorised assessors will provide this certification? If not, why not?

The issue will not be whether authorised assessors will provide written certification to students of their assessment of training courses against the training standards in RG 146. Rather, the issue will be the inherent conflict such providers have in making this assessment where the provider is potentially motivated by commercial gain and ensuring their training courses are seen to be compliant.

There may be reluctance by some RTOs or Self-accrediting organisations (SAOs), however the critical question is whether the proposal to replace the ASIC Training Register with this model is appropriate and will deliver real benefits to affected stakeholders, including the consumer.

B2Q2 What are other means by which AFS licensees could verify that training courses have been assessed by authorised assessors as meeting the training standards?

The most efficient and effective mechanism is to have an independent (or co-regulatory) mechanism. Such mechanisms could include:

- the existing ASIC Training Register
- a model such as that implemented by the Tax Practitioners Board for the approval of courses for Registered Tax Agents, BAS Agents and going forward registered tax (financial) advisers; or

- an independent body represented by the industry who sets the education criteria, reviews and approves courses (potentially with co-regulatory oversight by ASIC).

Without an independent mechanism, AFS licensees will bear the burden of assessing the available courses against the training requirements of RG 146.

CPA Australia and the Institute recommend that ASIC further engage with all stakeholders including industry representatives on a consistent and transparent basis to ensure that any implemented reforms will deliver tangible outcomes in a pragmatic and efficient manner.

Recommendation:

ASIC further engage with all stakeholders including industry representatives on a consistent and transparent basis to ensure that any implemented reforms will deliver tangible outcomes in a pragmatic and efficient manner.

B2Q3 Do you consider that written certification will impose additional costs on AFS licensees, training course providers, advisers or consumers? If yes, please provide specific details on how this is calculated.

As stated in the consultation paper, a training provider is already required to demonstrate its course meets the training requirements of RG 146. However, written certification may impose additional costs on individuals if a training provider decides to capitalise on this requirement and charge an additional cost to an individual once they have completed the course to obtain written certification the course meets the training requirements of RG 146.

However, as stated earlier the real cost will be borne by licensees to determine if a course does meet the training requirements despite the written certification, which will ultimately be passed onto the consumer.

B2Q4 Do you consider that written certification will benefit AFS licensees, training course providers, advisers or consumers? Please provide details

CPA Australia and the Institute do not support the proposed framework.

We believe the consultation paper fails to articulate the benefits of implementing the proposed model, aside from enabling ASIC to step back from approving training courses in relation to financial product advice. However, it will be the industry, licensees and consumers who will bear the resulting consequences and cost of ASIC's actions.

Recognition of foreign qualifications

B3Q1 Do you agree with our proposal to remove the recognition of foreign qualifications from RG 146? If not, why not?

CPA Australia and the Institute support the mutual recognition of New Zealand advisers as we support efforts to strengthen the Australian and New Zealand financial services industries by increasing competition.

However, we have concerns over the proposed framework for advisers who hold foreign qualifications.

B3Q2 Do you agree with our proposed policy change on foreign qualifications in proposal B3(b) to permit advisers to apply for recognition of prior learning or for an exemption from the experience requirement? If not, why not?

The proposal to permit advisers who hold foreign qualifications for recognition of prior learning in relation to Australian training courses for up to 50 per cent of the course requirements is not consistent with current practices for the recognition of prior learning (RPL). Rather, RPL has moved past the concept of granting recognition up to a certain percentage of requirements.

Each foreign qualification should be assessed on its own merits, according to its competencies. However, ASIC should mandate which specific Australian requirements covered in RG 146 cannot be covered by a foreign qualification. This is consistent with RG 146.85 which states:

Foreign qualifications will not have addressed Australian legal requirements (e.g. obligations under the Corporations Act and relevant codes of conduct, and knowledge of other relevant Australian legislation, including taxation and superannuation). Advisers with foreign qualifications must undertake a relevant course listed on the ASIC Training Register to become familiar with Australian requirements.

Recognition could be granted for any remaining elements of RG 146 provided they are appropriately addressed by the foreign qualification/s.

If an exemption is introduced that permits an adviser who holds foreign qualifications to undergo an individual assessment without holding the current requisite five of the past eight years experience, a review period should be implemented to ensure that this policy does in fact achieve its intent.

Recommendations:

Foreign qualifications should be assessed on its own merits, according to its competencies. However, ASIC should mandate which specific Australian requirements covered in RG 146 cannot be covered by a foreign qualification.

If an exemption is introduced that permits an adviser who holds foreign qualifications to undergo an individual assessment without holding the current requisite five of the past eight years experience, a review period should be implemented to ensure that this policy achieves its intent.

B3Q3 Do you currently rely on the recognition of foreign qualifications in RG 146? If you are an AFS licensee, please provide details of the number of advisers who rely on this policy.

We have no specific comments in respect of this question.

B3Q4 Will training course providers provide recognition of prior learning in the manner proposed in proposal B3(b)(i)? Please provide details.

The proposal to permit advisers who hold foreign qualifications for recognition of prior learning in relation to Australian training courses for up to 50 per cent of the course requirements is not consistent with current practices for the recognition of prior learning (RPL). Rather, RPL has moved past the concept of granting recognition up to a certain percentage of requirements.

Each foreign qualification should be assessed on its own merits, according to its competencies. However, ASIC should mandate which specific Australian requirements covered in RG 146 cannot be covered by a foreign qualification.

B3Q5 Do you consider that this proposal will impose additional costs on AFS licensees, advisers or training course providers? Please provide details.

The policy may impose further costs on an adviser with foreign qualifications. For example, if they are limited to being granted recognition for no more than 50 per cent of the course requirements they may be required to pay to complete duplicate training to adequately address the remaining 50 per cent of the course requirements.

B3Q6 Do you consider that this proposal will benefit consumers by improving the quality of advice provided? Please provide details.

It is unclear if the proposed policy will benefit consumers. However, the proposal is inconsistent with current recognition of prior learning policies.

Further, if an exemption is introduced that permits an adviser who holds foreign qualifications to undergo an individual assessment without holding the current requisite five of the past eight years experience, a review period should be implemented. This is necessary to ensure that this policy achieves its intent of ensuring these advisers are appropriately qualified to provide financial product advice in Australia.

Implementation

B4Q1 Do you agree with the proposed commencement date of April 2014? If not, why not?

CPA Australia and the Institute do not support the introduction of draft [CO 14/XX].

We believe the model:

- fails to deliver any real benefits to the industry,
- will not address concerns around the inconsistency in the quality of training in relation to financial product advice; and
- will result in increased compliance burden, greater cost and complexity for the industry.

Further, it does not consider the longer term impact of such a proposal, including the access to and quality of financial product and non-product advice.

Notwithstanding these comments, the proposed timeframe is insufficient especially given the potential impact on the industry of the proposed changes to RG 146 in CP 212.

B4Q2 Does the proposed commencement date provide enough time to provide written certification to students? Please provide details on the amount of time required to implement the certification requirement.

Notwithstanding that we do not support this proposal, we believe it provides sufficient time given training providers are already required to self-assess their courses to ensure they meet the training requirements of RG 146. However, we also note our comments are based on the fact that this is an existing requirement by ASIC. There may be some RTOs and SAOs who do not believe the proposed timeframe is appropriate to provide the written certification.