



FINANCIAL
SERVICES
INSTITUTE
of Australasia

1 October 2013

Ms Nicole Chew
Lawyer, Financial Advisers
Australian Securities and Investments Commission

By email: policy.submissions@asic.gov.au

Re: Finsia's response to Consultation Paper 215

Dear Ms Chew,

Finsia is pleased to provide a response to the initiatives proposed in Consultation Paper 215 "Assessment and approval of training courses for financial product advisers – Update to RG 146". We believe that as the premier professional body for individuals working across financial services, and as a former training provider ourselves, we are well placed to comment on this proposal.

We understand that the provision of the Training Register has been problematic and commonly misunderstood as ASIC providing some degree of quality assurance or validation of the courses listed. Broadly, we support its discontinuance, but have several concerns that we seek to have clarified, given the removal of the Register will not resolve the quality assurance gap that currently exists, and troubles both employers and individual advisers alike.

In Part 1 of this response, we will briefly outline the nature of these key concerns, where we believe that the questions asked by ASIC do not quite address these issues.

In Part 2 of this response, we will answer the questions posed specifically by ASIC in CP 215, cross-referencing additional information in Part 1 where relevant.

Please do not hesitate to contact me if you would like further information regarding the issues raised in this submission.

Yours sincerely,

Russell Thomas F Fin BA LL.M.
CEO and Managing Director

finsia.com

Level 18
1 Bligh Street
Sydney NSW 2000
Australia

T 61 2 9275 7900
T 1300 346 742
F 61 2 9275 7999
membership@finsia.com

PO Box H99
Australia Square
NSW 1215
Australia

ABN 96 066 027 389

Part 1: Overall concerns

1. Alternatives for establishing the quality of a course

Paragraph 215.23 states that “The financial services industry has had a significant period of time in which to become familiar with the training courses available”.

This is true, but it is also true that there is a bewildering array of courses available, and they are of varying degrees of quality (as ASIC well knows). However, while we acknowledge that it was never the intent of Training Register to provide guidance on what was the ‘right’ or ‘best’ course (or not), it has provided assurance that any student completing a course listed on the Register would definitely be RG 146-compliant, which is the end goal in any scenario. This was established by the training provider having met the criteria to be listed. This gave confidence to prospective students and also to employers interviewing those who had completed courses on the Register.

There are two relatively new regulators federally for the training institutions listed on the Register: ASQA for the vocational education and training sector (VET), and TEQSA for higher education. However, both have come under fire from participants in each sector for taking an unduly administrative approach to establishing and enforcing compliance, with the emphasis on policy and financial compliance with the national standards they enforce.

To date, there has been almost no capacity for these regulators to conduct any quality assurance on the training and assessment materials being provided to students, despite it being part of their respective charters. Neither typically sends along subject matter experts to examine materials for finance-related courses, as the sub-sector is classified as ‘low risk’ (and audits varying in intensity according to the institution or subject area’s risk classification)¹.

Both the higher ed and VET sectors have spoken out about this lack of quality assurances of course materials and assessment: see the University peak body Group of 8’s public statements as well independent media comments from various Vice-Chancellors², as well as the comments from RTO industry bodies such as ACPET and in social media fora.

Both regulators are now subject to proposals to enhance this quality assurance component. The Rudd Government released in August 2013 a report flagging a review of TEQSA’s operations, and the National Skills and Standards Council released a draft policy framework to improve the focus of quality assurance for ASQA in June 2013, noting that ASQA had found in its audits that compliance with the standards relating to training and assessment were the most problematic areas³. The recent change in Federal Government, however, has left both proposals in limbo and it is currently unclear whether they will progress.

¹ See ASQA’s regulatory approach statement, retrieved on 19 September 2013, from <http://www.asqa.gov.au/about-asqa/regulatory-approach/regulatory-approach.html>, and TEQSA, ‘TEQSA’s Regulatory Risk Framework’, February 2012.

² *The debate we have yet to have: the structure of higher education in Australia*, Michael Gallagher, Executive Director, Group of 8, keynote speech given at 8th Annual University Governance and Regulation Forum, Sydney, 2 September, 2013. Also *It’s a design fault, not execution: TEQSA*, Trounson, A., *The Australian*, 20 June 2013, where ACU Vice-Chancellor Greg Craven commented on issues that universities were having with TEQSA. Fred Hilmer (UNSW) and many other high-profile V-Cs have also spoken out.

³ See National Standards and Skills Council paper *Improving vocational education and training - the case for a new system, June 2013*, p. 11.

finsia.com

Level 16
1 Margaret Street
Sydney NSW 2000
Australia

T 61 2 9275 7900
T 1300 346 742
F 61 2 9275 7999
membership@finsia.com

PO Box H99
Australia Square
NSW 1215
Australia

ABN 96066027389

The role of competency standards

Further, in the VET sector, there is another body involved, Innovation and Business Skills Australia (IBSA), which is responsible for interpreting the topic areas set in RG 146 and translating them into competency standards. These standards are then used by training providers to develop a course for RG 146 compliance under the Australian Qualifications framework (AQF). It is critical that IBSA make this interpretation correctly, given that training providers rely on it to ensure their courses meet RG 146 standards. However, our assertion is that IBSA does not – an examination of the current competency standards are sub-standard in their treatment of financial product knowledge (particularly the entire section devoted to it in the ‘generic knowledge’ component of RG 146.37 Table A1 – it simply does not exist anywhere), and strategy (viz. RG 146.154 Table B).

This is critical, because ASQA can only assess compliance with these competency standards. It cannot and does not assess compliance with RG 146. If the two do not match, then there is nowhere other than the current Training Register to check if a course maps to RG 146.

What this means for the quality assurance of courses

In practical terms, what this means is that neither regulator has capacity to rigorously check if the courses on offer that purport to meet RG 146’s mandated body of knowledge and skill genuinely do, only that the training provider is meeting the national standards under the relevant training legislation. Only the Training Register can map courses to RG 146 specifically via the criteria for inclusion on the Register (although we acknowledge the Register does not state *how well* the course/content is done). If the Training Register no longer exists, then each organisation and/or individual seeking compliance with RG 146 must perform their own checks. This contributes enormously to additional costs (primarily triggered by the time this will take, and the need to retain the requisite expertise) and lowers the standard of quality checks on this sub-section of the education and training industry.

It can be argued that industry associations can step up to provide some quality assurance for their section of the market, and this is a possibility. However, in the short-term, a gap will be created that has problematic implications.

2. Recognising overseas qualifications

Given financial services are increasingly global in distribution and focus, we found this aspect of CP 215 somewhat bewildering for two reasons: the ongoing rise in overseas standards, and recognition of prior learning (RPL) rules.

Overseas standards

Many overseas jurisdictions have considerably tightened up their training standards in recent years; for example, the UK Financial Conduct Authority now requires the equivalent training to the first year of a university degree (specifically an accredited certificate from the Qualifications and Credit Framework), which recognise a large number of international qualifications⁴. In the United States, the difficulty of the General Securities Representative Exam (aka ‘Series 7’) for investment advisers has long been held as the gold standard, a standard that ASIC’s CP 153 proposal mimics to a certain

⁴ See the FCA’s TC sourcebook on training and competence the overseas qualifications recognised: <http://fshandbook.info/FS/html/handbook/TC/App/4/1>

finsia.com

Level 16
1 Margaret Street
Sydney NSW 2000
Australia

T 61 2 9275 7900
T 1300 346 742
F 61 2 9275 7999
membership@finsia.com

PO Box H99
Australia Square
NSW 1215
Australia

ABN 96066027389

extent (echoing to Regulatory Element of FINRA's in its approach to a national exam and also ongoing education).

On this basis, we query why no international qualifications will be recognised, when they are clearly equivalent in many respects. We recognise the appropriateness of requiring training on uniquely Australian regulatory and product content. However, we think effectively re-sitting an entire qualification (particularly if it raised to Bachelor degree level, as per CP 212) is unfair and acts to hinder career progress for financial services professionals, many of whom work overseas or transfer from overseas as a matter of course (in fact, their organisations may even occasionally insist on it as part of a planned career path).

RPL rules

Secondly, in the vocational education and training sector (where a majority of financial services participants will complete their RG 146 compliance training), courses can be RPL'd up to 100% of their content, and this is a rule that Registered Training Organisations must adhere to or face sanctions from the regulator, ASQA. If ASIC intends to offer 50% RPL as a cap (as it presently does), then this will need to be negotiated with ASQA and formalised as a possible pathway, or else RTOs will not be allowed to offer this option. We are aware that many RTOs have clashed with ASQA on this issue when being audited, and it will need to be resolved.

In the higher education sector, advanced standing is also a critical part of the framework, although universities typically vary as to how much of a course they will recognise. Some will actively prohibit too much recognition from being provided. As a rule, universities rarely accredit more than a third from any given course, and have strict limits over how long they will recognise a prior degree (e.g. one from no more than 10 years earlier). This would disadvantage older finance professionals who have studied and worked overseas, and been transferred to Australia.

While the Australian Qualifications Framework's (AQF) RPL rules do not specifically mandate that a certain number of years or experience are required, it is inherent that in order to provide the amount of evidence qualified to submit an RPL application successfully, you will need to have had a number of years of experience in your area. Thus we consider the removal of the five in eight years' experience rule to be helpful, but somewhat redundant.

The next section of this response will specifically address the questions posed in CP 215.

finsia.com

Level 16
1 Margaret Street
Sydney NSW 2000
Australia

T 61 2 9275 7900
T 1300 346 742
F 61 2 9275 7999
membership@finsia.com

PO Box H99
Australia Square
NSW 1215
Australia

ABN 96066027389

Part 2: Specific responses to CP 215 questions

Question	Finsia response
Replacing the register	
<i>B1Q1 Do you agree with our proposal to replace the ASIC Training Register with draft [CO 14/XX]? If not, why not?</i>	Yes, with caveats - specifically regarding the concerns raised in Part 1 of this response.
<i>B1Q2 Do you agree that we should retain an archived ASIC Training Register as a reference tool? If not, why not?</i>	Yes, but it must be clearly labelled (more so than at present) to make apparent its archival status
<i>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.</i>	Yes, it will – simply because they must manually check the courses that pre-employment advisers have completed, and conduct their own quality assurance.
<i>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.</i>	There is no way for this causal link to be established. We consider it will merely increase confusion unless the industry provides its own solution.
Guidance on written certification	
<i>B2Q1 Do you think that authorised assessors will provide this certification? If not, why not?</i>	They generally already do as a matter of course (with statements printed on qualifications or statements of attainment asserting a particular course has ‘met the requirements of RG 146’).
<i>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?</i>	Their own investigations or a central coordinating authority (should one be set up)
<i>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.</i>	No, see B2Q3.
<i>B2Q4 Do you consider that written certification will benefit AFS licensees, training course providers, advisers or consumers? Please provide details.</i>	No, see B2Q3. No additional benefit will be gained.
Recognition of foreign qualifications	
<i>B3Q1 Do you agree with our proposal to remove the recognition of foreign qualifications from RG 146? If not, why not?</i>	No, we think there is insufficient justification for this proposal.
<i>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</i>	If this is to be the case, it must be clarified with the national training regulators ASQA and TEQSA. See Part 1 for more details.

finsia.com

Level 16
1 Margaret Street
Sydney NSW 2000
Australia

T 61 2 9275 7900
T 1300 346 742
F 61 2 9275 7999
membership@finsia.com

PO Box H99
Australia Square
NSW 1215
Australia

ABN 96066027389

<i>requirement? If not, why not?</i>	
<i>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.</i>	N/A
<i>B3Q4 Will training course providers provide recognition of prior learning in the manner proposed in proposal B3(b)(i)? Please provide details.</i>	By law they are required to provide 100% in the VET sector. It is a more problematic issue in higher ed – all should, some will, but it is generally difficult.
<i>B3Q5 Do you consider that this proposal will impose additional costs on AFS licensees, advisers or training course providers? Please provide details.</i>	Yes, it will, as many transfer staff internationally, and will now need to fully re-train them.
<i>B3Q6 Do you consider that this proposal will benefit consumers by improving the quality of advice provided? Please provide details.</i>	Not especially, no grounds have been established for how.
Implementation	
<i>B4Q1 Do you agree with the proposed commencement date of April 2014? If not, why not?</i>	We have no issue with the proposed date.
<i>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.</i>	Given most already provide this, we do not see this as an issue.

finsia.com

Level 16
1 Margaret Street
Sydney NSW 2000
Australia

T 61 2 9275 7900
T 1300 346 742
F 61 2 9275 7999
membership@finsia.com

PO Box H99
Australia Square
NSW 1215
Australia

ABN 96066027389