

8 October 2013

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

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

Dear Ms Chew

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

The FSC thanks ASIC for the opportunity to provide comments on the proposed amendments to Licensing requirements (assessment and approval of training courses for financial product advisers) – updating RG146.

The Financial Services Council represents Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks, trustee companies and Public Trustees. The Council has over 130 members who are responsible for investing more than \$1.9 trillion on behalf of 11 million Australians. As the representative body of Advice Licensees –our members are responsible for more than 80% of financial advisers/planners in Australia (including accounting professionals licensed today to provide advice).

The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the fourth largest pool of managed funds in the world. The Financial Services Council promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.

Adviser Competency Framework

The FSC strongly supports the elevation of the advice industry to a profession and is cognisant that enhancing existing competency requirements may assist this objective. We submit that a robust, holistic competency framework which encompasses enhanced technical and professional skills will not only support the future profession but build consumer confidence and quality advice outcomes.

Consumer and AFS Licensee confidence in the Registered Training Organisations (RTOs) and training course available to educate and equip financial advisers with the formal education competency is paramount. On this basis we believe its imperative that ASIC continue to retain a current ASIC training register (until a holistic framework is developed which could see the obligation move to, for

example, a Self Regulatory Organisation (SRO)). If ASIC does not continue to main a current register, Licensees will be required to take on additional compliance burden to vet and assess RTO/Self Authorising Organisations and their courses. We note that the Tax Practitioners Board maintains and publishes a training register to assist prospective and existing tax advisers meet their regulatory obligations.

The FSC submission does not at this time propose a holistic competency framework. As such the responses provided in this paper are specific to the questions raised in light of the competency regime currently prescribed and proposed by ASIC and proposed by the Tax Practitioners Board. We note that our recommendations may change were this proposal considered in light of a proposed holistic framework.

This paper aims to highlight the FSC's key concerns and provides recommendations for consideration and responses to ASIC's questions.

We look forward to working with you to balance the need for a coherent and efficient competency framework with consumer protection, accessibility and affordability of advice.

If you have any questions regarding the FSC's submission, please do not hesitate to contact me on (02) 9299 3022.

Yours sincerely

CECILIA STORNILO
SENIOR POLICY MANAGER



FSC SUBMISSION

**CONSULTATION PAPER 215:
Assessment and approval of training courses
for financial product advisers:
Update to RG 146**

October 2013

DETAILED RESPONSE

Replacement of ASIC Training Register

B1 We propose to:

(a) replace the ASIC Training Register with draft [CO 14/XX] to permit:

- (i) RTOs and SAOs to self-assess their own courses as authorised assessors; and**
- (ii) RTOs, SAOs and professional or industry associations accredited by ASIC to assess courses delivered by other training course providers; and**

(b) retain an archived ASIC Training Register as a reference tool for AFS licensees and advisers who have completed courses that were on the ASIC Training Register on 24 September 2012

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

The FSC does not support ASIC's proposals to replace the ASIC Training Register.

The current register (albeit not maintained since September 2012 but certainly pre September 2012) did offer a level of independent vetting of course providers. We note that the register was somewhat vetted by the outsource party engaged by ASIC. Replacement of the register by Class Order with RTO/SAO self assessments will increase AFS licensee costs and risks and may result in increased costs of advice for consumers.

Increases in compliance costs stems from the following as an example:

- Each AFSL will require skilled and competent individuals with the right experience to make assessments about each course and to verify the quality of each RTO/SAO and each of their relevant course;
- At a minimum each AFSL is likely to need an additional Full Time Equivalent person (at a minimum of \$100,000 salary pa depending on skills needed and experience);
- On recruiting an adviser from another AFSL, the employing AFSL will need to re-verify that adviser's qualifications and/or retrain them if the risk is too high to simply assume the previous employer verified the training/RTO/SAO.
- The Class Order does not address the risk/impacts where an RTO/SAO certificate is provided mistakenly or fraudulently – exposing the AFSL to risks and consequently putting consumers at risk.
- We also query whether privacy legislation needs amendment to enable an AFSL to make the appropriate enquiries with an RTO/SAO regarding attendees of their courses.

Furthermore, we submit, at a minimum, that it is imperative that the ASIC Training Register remain as a reference tool for education prior to Sep 2012.

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

Yes the FSC supports ASIC's retention and continual maintenance of the ASIC Training Register as a reference tool. We note that the Tax Practitioners Board maintains a register of qualified courses/training providers.

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.

Yes. FSC contends that the replacement of the ASIC Training Register with proposed draft CO 12/XX will add significant costs on AFSLs and advisers

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

No. The FSC does not foresee any benefits for consumers in replacing the ASIC Training Register as documented in B1Q1 and B1Q4 previously.

The FSC asserts that the replacement of the ASIC Training Register present training course providers and others the opportunity to increase or introduce new charges which will further increase the cost of compliance and the cost of advice to the detriment of consumers and advice providers:

- Training course providers will have the opportunity to introduce new charges to AFSL's for administration services such as verifying an advisers previous completion of a course and attesting an advisers competency especially when an AFSL is trying to verify an 'experienced' adviser joining their License.
- The introduction of CO14/XX will create a new market for authorised assessors (who qualifies them as quality assessors?) to charge advice providers new fees for verification services.
- Licensees will need the resources and skills to vet and verify that any certification provided by Self Assessment Organisation are indeed genuine and do meet the ASIC requirements or outsource the function to another qualified party – all adding up to extra cost.

The outcome of removing the ASIC training register is that each AFS Licensee will need to assess the competency of the courses themselves. Assuming a Licensee has the requisite skilled resources to make assess courses, the risks associated with a diverse market of courses may result in Licensees limiting the courses that are acceptable (known/proven) and would likely be based on the most frequently completed courses. It is anticipated that provider selection may be narrowed to Kaplan, ANZIIF, ASFA & FPA Diplomas and if relevant to any in-house Registered Training Organisation.

There would be an expectation that courses that are rarely completed as a means to achieve RG146 compliance ie University degrees will not be assessed and will no longer meet the requirements or be acceptable. The results will be that a small number of employees will need to complete further training and there will be less training providers.

Guidance on written certification

B2 We propose to provide guidance in an updated RG 146 on our expectation that authorised assessors will provide written certification to students of their assessment of training courses against the training standards in RG 146.

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

Its rationale to presume that this proposal will create a new market for service providers to the advice industry – that is – this proposal presents a business opportunity for market entrants as authorised assessors.

However, we query who asserts /verifies that these assessors are qualified and competent to do and charge for this work? The assessors of themselves present both a new cost and a new risk to all advice AFSs. Where an FSC member 'in-houses' this function to mitigate the external risk, we still note that the new function comes at a cost – an additional cost.

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?

We do not support the creation or empowerment of authorised assessors on the basis that vetting each SRO and their courses/written certifications will require significant investment by each Licensee in the form of enhanced processes, systems and employment of new/different staff with the skills and competency to vet and verify. Alternatively, the Licensee will need to pay an outsource providers for their skills in completing this function which is not without its risks and costs. On this basis we strongly support ASIC retaining the training register function not on historically but prospectively to reflect any competency amendments proposed/implemented by ASIC.

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.

Yes we consider that written certification/Self Authorisation Organisations etc will impose additional costs. As previously articulated we expect, at a minimum that the additional costs will include:

- either:
 - An additional full time equivalent person with the appropriate skills sets/knowledge – estimated at a minimum of \$100,000 per licensee pa; or
 - Licensees will need to outsource the function to another expert service provider (who likely charges on a per adviser pa basis – cost unknown at present but likely to be a minimum \$10,000 flat fee plus a not insubstantial per adviser per annum assessment cost).
- Members are indicating IT systems will need to be built/modified to track each individual adviser for TASA, RG146 updated regime, potential national exam, CPD compliance – plus recognition of all the various providers.

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

No we do not consider that written certification will benefit either AFS Licensees, advisers nor consumers.

We do see commercial benefits to training courses providers and assessors.

Recognition of foreign qualifications

B3 We propose to:

- (a) remove the recognition of foreign qualifications, with the exception of our mutual recognition of New Zealand advisers, from an updated RG 146; and
- (b) (b) revise our policy in RG 146 to acknowledge that advisers who hold a foreign qualification may apply for:
 - (i) recognition of prior learning in relation to Australian training courses for up to 50% of the course requirements; or
 - (ii) an exemption that permits an adviser who holds a foreign qualification to undergo an individual assessment without necessarily holding the requisite five of the past eight years experience outlined in RG 146.

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

Yes the FSC does support the removal of recognition of foreign qualifications. However, as holders of foreign qualifications may not have Australia law knowledge we suggest that all foreign qualification holders, including New Zealanders (who are automatically able to provider advice today in Australia), be required to complete a gap course on current applicable Australian legislation.

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?

Yes – see above.

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.

NA

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

NA.

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

NA.

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

No we do not foresee this proposal having any practical impact to improve the quality of advice provided and therefore see there being little likelihood of any additional benefits to consumers from the current situation.

Implementation

B4 We propose that draft [CO 14/XX] will commence in April 2014.

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

We note that the industry is undergoing substantial reform change (to processes, systems, training etc) and note that further amendments at this time will only add to regulatory burden with little if any consumer benefit being delivered – indeed we remain concerned about these proposals adding further cost to advice provision thereby negatively impacting consumers.

Further we query whether course providers and new Self Authorising Organisations will be ready in time by April 2014.

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.

Our concerns remain about additional process change including Licensees having the recourses in place with the commensurate skills in place in time for this change.

C. Regulatory and financial impact

At a minimum, we expect the impacts of this proposal to cost the industry \$11million in year 1 and \$10million $*(1+CPI/100)$ annually from year 2 onwards ($\#$ to recognise wage increases).

Assumptions:

- 1 FTE Cost: \$100,000 At a minimum our members estimate costs will be \$100,000 per annum to employ a suitably skilled individual within each Licensee to conduct this vetting/verification function. We note this cost may be greater if there are insufficient qualified people available in the market.
- We note that there are at least 100 advice dealer groups in the market.
- On-costs to employ the new FTE