



ASIC

Australian Securities & Investments Commission

REPORT 110

Report on submissions for CP 88 Reviewing and updating RG 146: Training of financial product advisers

November 2007

About this report

This report highlights the key issues that arose out of the submissions received on Consultation Paper 88 *Reviewing and updating RG 146: Training of financial product advisers* (CP 88) and details our responses to those issues.

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.

Disclaimer

This report does not constitute legal, financial or other professional advice. We encourage you to seek your own professional advice, including to find out how the Corporations Act and other applicable laws apply to you. It is your responsibility to determine your obligations.

This report does not contain ASIC policy. Please see Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) for ASIC's policy on training of financial product advisers.

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A Consultation process

- 1 In Consultation Paper 88 *Reviewing and updating RG 146: Training of financial product advisers* (CP 88), we consulted on proposals about the appropriateness of the RG 146 training requirements, the recognition of prior study and learning, and the quality of courses on the ASIC Training Register (the Register).
- 2 The impetus for our review of Regulatory Guide 146 *Training of financial product advisers* (RG 146) was the Australian Government's Corporate and Financial Services Regulation Review. That review coincided with our aim to regularly update our guidance material.
- 3 Our review of RG 146 was limited to the technical issues raised in the Australian Government's Corporate and Financial Services Regulation Review and issues raised in informal stakeholder discussions about the quality of courses on the Register. Our review did not rethink the fundamental policy framework in RG 146.
- 4 This report highlights the key issues that arose out of the submissions received on CP 88 and our responses in relation to those issues.
- 5 This report is not meant to be a comprehensive summary of all responses received. It is also not meant to be a detailed report on every question raised in CP 88. We have limited this report to the key issues.
- 6 For a list of the non-confidential respondents to CP 88, see Appendix 1. Copies of the submissions are on the ASIC website at www.asic.gov.au/cp under CP 88.

Responses to consultation

- 7 We received 32 submissions on CP 88 from a wide variety of sources including financial planners and advisers (both large and small), financial education providers, the insurance industry, the banking industry and the accounting industry.
- 8 The main issues raised by respondents were generally related to those raised in the consultation paper, i.e.:
 - the appropriateness of the current training standards;
 - recognition of prior study and training; and
 - the quality of courses on the Register.
- 9 Respondents indicated general support for:

- amending the training requirements for Tier 2 products;
- maintaining the current requirement that advisers be trained across a range of products within a specialist knowledge category;
- maintaining our policy on the recognition of prior study and training;
and
- amending RG 146 to help improve the quality of courses on the Register.

B Appropriateness of current training standards

Key points

The majority of submissions supported amending the training requirements to make them more appropriate for Tier 2 products. However, submissions were mixed as to whether we should:

- remove the generic knowledge requirement for Tier 2 products; and/or
- allow Australian financial services licensees (licensees) to self-assess courses for advisers on Tier 2 products.

We have decided to amend the training requirements for all Tier 2 products by removing the generic knowledge requirements.

The majority of submissions supported maintaining the current requirement that advisers be trained in the range of products in the specialist knowledge category they advise in. We have decided to maintain this requirement.

Training requirements for simpler products

- 10 We consulted on two possible approaches to tailoring the training requirements to make them more suitable for simpler products, i.e.:
- (a) removing the generic knowledge requirement for courses covering Tier 2 products; and
 - (b) allowing licensees to self-assess courses for advisers on Tier 2 products.

(See proposal B1 and paragraphs 13–19 in CP 88.)

- 11 The majority of submissions supported some tailoring of the training requirements for Tier 2 products on the basis that these products are relatively straightforward and well understood by the public. However, responses were mixed as to whether we should remove the generic knowledge requirement for Tier 2 products, allow licensees to self-assess courses undertaken by their advisers or both.

Removing the generic knowledge requirement

- 12 Those supporting the removal of generic knowledge training argued that it would result in more tailored training while still maintaining integrity in the training standards. Comments were also received from financial advisers that generic knowledge training is not particularly relevant to advisers on Tier 2 products as these products are not generally subject to market fluctuations. However, we note that the Financial Planning Association argued that the

generic knowledge requirement should be maintained as it enables professionals in the industry to compare features between products with a greater understanding than they would otherwise have.¹

Self-assessment of Tier 2 courses

- 13 Submissions that supported self-assessment of all Tier 2 courses by licensees highlighted the flexibility of the approach and claimed there would be substantial cost savings to licensees. The Australian Bankers' Association pointed out that its members were unable to take full advantage of the current self-assessment concession for training on basic deposit products and related non-cash payment facilities because advisers generally advised on, and were therefore trained on, all Tier 2 products.² Abacus made a similar point.³ Some responses also indicated that difficulty finding relevant and suitable Tier 2 courses was an argument in favour of licensee self-assessment.
- 14 Most submissions that supported allowing licensees to self-assess courses also supported removal of the generic knowledge requirements on the basis that this would bring training requirements for all Tier 2 products in line with those for basic deposit products and related non-cash payment products. This argument was specifically favoured by the insurance and banking industries, which argued that the cost burden from the current Tier 2 training requirements is leading advisers to adopt a 'no advice' business model for these products.
- 15 Those who opposed self-assessment pointed to the impact on the portability of training qualifications, as licensee self-assessment would generally result in more product-specific knowledge, thereby requiring advisers to be retrained when transferring to other licensees. (However, other submissions stated that a significant amount of retraining already takes place when Tier 2 advisers transfer to other organisations.) Those who opposed self-assessment also questioned whether licensees had the resources and expertise to assess training courses. Other concerns raised included the impact on consistency of training outcomes.

ASIC's response

We agree that there is a case for amending the training requirements to make them more appropriate for Tier 2 products.

We have decided to remove the generic knowledge requirement for all Tier 2 products because we believe this will reduce the training compliance burden without significantly increasing the risk of inappropriate advice. We agree with comments that Tier 2

¹ Submission of the Financial Planning Association of Australia Limited, dated 25 September 2007, p. 2.

² Submission of the Australian Bankers' Association Inc., dated 28 September 2007, p. 2.

³ Submission of Abacus, Association of Building Societies and Credit Unions, dated 5 November 2008, p. 1.

products do not have an investment component where the return is subject to market fluctuations and, therefore, training on the economic environment as part of generic knowledge training would seem less pertinent to advisers. The updated RG 146 reflects this change: see Section C of RG 146.

We do not think that allowing licensees to self-assess their own courses for all Tier 2 products strikes the appropriate balance between making training more flexible and ensuring that advisers are adequately trained. We believe that training that is subject to some quality assessment (by authorised assessors and the state/territory recognition authorities) is still appropriate for advisers on general insurance and consumer credit insurance products because these products are not as simple and well-understood as basic deposit products and related non-cash payment products, and the consequences for consumers of choosing an inappropriate product are far greater. Self-assessment by licensees also reduces the portability of training qualifications as Tier 2 product advisers would require retraining when moving to another licensee, or when cross-endorsed by another licensee.

Should the training requirements cover a range of products within a specialist knowledge category?

- 16 We also consulted on two possible approaches to addressing issues arising from the requirement that advisers be trained across the range of products in the specialist knowledge categories, i.e.:
- (a) maintaining the requirement that advisers receive basic training in the range of products in the current specialist knowledge category they advise in; or
 - (b) introducing a longer list of narrower, more focused specialist knowledge categories.

(See proposal B2 and paragraphs 20–29 in CP 88.)

Maintaining basic training across a range of products

- 17 The majority of submissions supported maintaining the requirement that advisers be trained across the range of products in the current specialist knowledge category they advise in. These submissions indicated that it is important for advisers to receive basic training in the specialist knowledge category they advise in as it provides advisers with a broader skills set, which is beneficial to clients and facilitates portability of training qualifications.

- 18 Some submissions indicated that there was confusion about the extent to which the existing policy required training across the range of products in a specialist knowledge category.

Narrowing the specialist knowledge categories

- 19 The few submissions that agreed with narrowing the specialist knowledge categories indicated that the range of products in these categories is resulting in unnecessary costs for licensees, with advisers undertaking unnecessary training on products that they do not provide advice on. Comments from the banking industry suggested that licensees should have the flexibility to determine what training is appropriate for their advisers, i.e. basic training on a range of products in a specialist knowledge category or more focused specialist knowledge training.
- 20 Some submissions indicated that a narrower and more focused list would add complexity to the training requirements and increase licensees' costs in ensuring that their advisers do not provide advice outside their narrow area of training. Therefore, they opposed narrowing the specialist knowledge categories.

ASIC's response

We do not think there is a case for narrowing the specialist knowledge categories.

Receiving basic training across the range of products in the current specialist knowledge category advised on provides advisers with a broader skills set, produces more knowledgeable advisers and facilitates portability of training qualifications.

In addition, the increased complexity that would result from narrowing the specialist knowledge categories could impact on consumers' and advisers' understanding of our policy and the portability of qualifications, and may actually increase compliance costs. These considerations would outweigh the limited benefits of introducing a longer list of narrower specialist knowledge categories.

C Recognition of prior study and training

Key points

Almost all submissions supported our proposal to maintain the current approach to the recognition of prior study and training and we have decided to maintain this approach.

- 21 We consulted on maintaining our current approach to the recognition of prior study and training, as we believe our policy adequately recognises prior relevant study and training. Currently, an adviser's prior relevant learning can be recognised by:
- (a) having their capabilities to provide financial advice individually assessed under RG 146; or
 - (b) negotiating with their RG 146 training provider the extent to which prior learning can be recognised.
- (See Section C in CP 88, particularly proposal C1.)
- 22 Almost all submissions supported our proposal to maintain the current approach to the recognition of prior study and training. There was general acceptance that ASIC's policy in this area is adequate as it allows advisers with experience in the financial services industry to obtain RG 146 accreditation via the alternative avenue of individual assessment.
- 23 The accounting industry also supported our current approach on the recognition of prior study and training. However, they argued for the recognition of some elements of previous education completed by 'recognised accountants', such as generic knowledge and skills.⁴
- 24 Other comments indicated that there is some uncertainty about the recognition of prior learning under the National Training Framework where some of the knowledge and skills in RG 146 have been covered in previous training.

ASIC's response

We have decided to maintain the current approach to the recognition of prior study and training because:

- submissions indicated no support for reviewing our policy on the recognition of prior study and training;

⁴ Submission of CPA Australia Ltd, the Institute of Chartered Accountants in Australia and National Institute of Accountants (joint submission), dated 25 September 2007 p. 4.

- RG 146 already allows appropriate recognition of prior study and training while maintaining a level playing field by requiring all advisers wishing to provide financial product advice to meet the requirements in RG 146; and
- current policy protects consumers by ensuring that all financial product advisers are appropriately trained.

We have, however, amended RG 146 to better explain the ways in which prior learning and training can be recognised under our policy: see Section D of RG 146.

We have also decided not to specifically recognise accounting qualifications in RG 146 because accounting qualifications do not automatically meet all the training requirements in RG 146.

D Quality of courses on ASIC Training Register

Key points

Nearly all submissions supported our proposal to clarify in RG 146 our role in relation to the initial and ongoing assessment of courses and to confirm our power to refuse registration of, or deregister, non-compliant courses. We have decided to amend RG 146 accordingly.

Most submissions also supported our goal of ensuring the currency of courses on the Register but they were divided as to whether this goal should be achieved by periodic re-registration of courses or periodic self-certification. We have decided to require re-registration of courses every three years.

- 25 We consulted on our proposal to address concerns about the quality and currency of courses on the Register by:
- (a) clarifying in RG 146 our capacity to assess courses, refuse registration of courses that don't meet the training standards and deregister courses that do not comply with the training requirements; and
 - (b) requiring course providers to periodically re-register their courses or self-certify that their courses have been revised and continue to meet the training requirements.
- (See Section D in CP 88, particularly proposal D1.)
- 26 The majority of submissions we received highlighted inconsistencies in the standard of courses on the Register. Comments about quality generally related to differences in syllabus, content, delivery methods and assessment.
- 27 Other comments we received regarding the Register included the following:
- (a) courses that offer advisers a low-cost, quick and easy accreditation alternative should be removed;
 - (b) industry participants should be able to be confident that all courses on the Register adhere to a minimum standard of rigour and credibility;
 - (c) courses on the Register should be monitored by ASIC for quality; and
 - (d) the course information on the Register is inadequate (i.e. about materials, skill components and to whom the training is suited), making it difficult to identify differences in course quality.
- 28 Nearly all submissions supported our proposal to clarify in RG 146 our role in relation to the initial and ongoing assessment of courses and to confirm our power to refuse registration of, or deregister, non-compliant courses.

Respondents agreed that this would give course providers a greater incentive to ensure that their courses meet the RG 146 training standards.

- 29 In addition, while most submissions agreed with imposing ongoing obligations on course providers to ensure the currency of their courses, they were divided as to whether this obligation should extend to periodic re-registration of courses or periodic self-certification.
- 30 Responses from the accounting profession, education providers and some financial planners and advisers supported re-registration because they believe it provides a more rigorous process than self-certification and is more likely to produce an up-to-date Register. Most submissions advocating re-registration agreed with a three-year time interval.
- 31 Comments from some in the insurance industry favoured self-certification every three years because of concerns about the cost of re-registration and because self-certification is consistent with the insurance code of practice. While most respondents who supported self-certification favoured a time period of three years, one submission indicated that self-certification should occur annually because of the rapid pace of change in the industry, both in terms of product development and regulatory change.

ASIC's response

We have decided to amend RG 146 to increase industry and consumer confidence in the quality and currency of courses on the Register and to enable better-informed decisions about courses and course providers. Specifically, we have amended RG 146 to:

- better communicate ASIC's capacity to deal with non-compliant courses by conducting upfront or ongoing assessment of courses as we see fit: see RG 146.101. While ASIC always had this capacity, making this explicit in the updated RG 146 will encourage course providers to deliver courses to the standard required in RG 146; and
- require training providers to periodically re-register their courses with us: see RG 146.104–RG 146.107. We believe that, on balance, periodic re-registration will result in a more accurate and up-to-date Register than self-certification because course providers must positively notify us that their course is still current and compliant. We acknowledge that there will be some increase in costs for course providers from periodic re-registration. However, we do not think this will be significant as RTOs are already required to continuously review and improve their courses and those of training providers they assess as part the Australian Quality Training Framework requirements for continuous improvement. The only additional costs should be the costs of notifying ASIC of the course once every three years.

Key terms

Term	Meaning in this document
adviser	<p>A natural person who provides financial product advice to a retail client and is:</p> <ul style="list-style-type: none"> • an Australian financial services licensee; or • a representative of an Australian financial services licensee
AFS licence	<p>An Australian financial services licence under s913B that authorises a person who carries out a financial services business to provide financial services</p> <p>Note: This is a definition contained in s761A.</p>
ASIC	Australian Securities and Investments Commission
ASIC Training Register (the Register)	The register that contains details of training courses and individual assessment services that have been approved by ASIC authorised assessors as meeting the training requirements 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. TAFEs and private RTOs) and the higher education sector (e.g. universities)
Australian Quality Training Framework (AQTF)	The national set of standards that assures nationally consistent, high-quality training and assessment services for Australia's vocational education and training system
authorised assessor	An organisation that is recognised by ASIC to assess a training course against ASIC's knowledge and skill requirements for the purposes of meeting the training standards, or to carry out an assessment of an individual's competence
basic deposit product	A deposit product that satisfies the conditions set out in s761A
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
financial product	<p>Generally, 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); • makes non-cash payments (see s763D) <p>Note: See Div 3 of Part 7.1 for the exact definition.</p>

Term	Meaning in this document
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>Note: This is a definition contained in s766B(1).</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 Australian financial services licensee; or • a representative of an Australian financial services licensee
Financial Services Training Package	<p>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</p>
general advice	<p>Financial product advice that is not personal advice</p> <p>Note: This is a definition contained in s766B(4).</p>
licensee	<p>A person who holds an AFS licence</p>
National Training Framework	<p>The national framework under which training competencies, assessment guidelines and related education and training qualifications are developed and endorsed for all vocational training courses</p>
non-cash payment product	<p>A facility through which, or through the acquisition of which, a person makes non-cash payments as defined in s763D</p>
Part 7.9 (for example)	<p>A Part of the Corporations Act (in this example numbered 7.9)</p>
personal advice	<p>Financial product advice that is given or directed to a person (including by electronic means) in circumstances where:</p> <ul style="list-style-type: none"> • the provider of the advice has considered one or more of the person's objectives, financial situation and needs; or • a reasonable person might expect the provider to have considered one or more of those matters <p>Note: This is a definition contained in s766B(3).</p>
reg 7.6.04 (for example)	<p>A regulation of the Corporations Regulations 2001 (in this example numbered 7.6.04)</p>

Term	Meaning in this document
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
regulations	Corporations Regulations 2001
related non-cash payment product	A financial product for making non-cash payments (as defined in s763D) that is related to a basic deposit product (as defined in s761A)
representative (of a licensee)	Means: <ul style="list-style-type: none"> • an authorised representative of the licensee; or • an employee or director of the licensee; or • an employee or director of a related body corporate of the licensee; or • any other person acting on behalf of the licensee. <p>Note: This is a definition contained in s910A.</p>
retail client	A client defined as such under s761G and Ch 7, Pt 7.1, Div 2 of the regulations
RG 146	ASIC Regulatory Guide 146 <i>Licensing: Training of financial product advisers</i>
s912A (for example)	A provision of the Corporations Act (in this example numbered 912A)
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 and non-cash payment products
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; and • an education or training course or program delivered by various methods
training standards	The minimum standards for the training of advisers set out in RG 146

Appendix 1: List of non-confidential respondents

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- AAMI
 - Abacus Australian Mutuals
 - AMP
 - Association of Superannuation Funds of Australia
 - Australian and New Zealand Institute of Insurance and Finance
 - Australian Bankers' Association
 - AXA
 - Beverly Houterman
 - CPA Australia Ltd, the Institute of Chartered Accountants in Australia and National Institute of Accountants (joint submission)
 - Financial Education Professionals
 - Financial Planning Association
 - Genesys Wealth Advisers
 - Insurance Advisers Association of Australia
 - Insurance Council of Australia
 - Investment & Financial Services Association Ltd
 - Kaplan
 - KPMG
 - Medical Indemnity Association of Australia
 - National Insurance Brokers Association of Australia
 - One Step Further Pty Ltd
 - Plan B Wealth Management
 - Securities and Derivatives Industry Association
 - Sterling Strategies Pty Ltd
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