



**ASIC**  
Australian Securities &  
Investments Commission

CONSULTATION PAPER 305

# Organisational competence requirements for advice licensees: Update to RG 105

November 2018

## About this paper

This consultation paper seeks your feedback on our proposals for updating Regulatory Guide 105 *Licensing: Organisational competence* (RG 105) in light of the professional standards reforms for financial advisers.

We are proposing to:

- add to the existing options in RG 105 for demonstrating the knowledge and skills of responsible managers by introducing new 'Option 6', which will reflect the higher education and training standards for financial advisers; and
- require advice licensees to have at least one responsible manager who satisfies Option 6.

Note: The draft update to RG 105 (draft updated RG 105) is available on our website at [www.asic.gov.au/cp](http://www.asic.gov.au/cp) under CP 305.

### 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 8 November 2018 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

<b>The consultation process</b> .....	<b>4</b>
<b>A Background to the proposals</b> .....	<b>6</b>
The organisational competence obligation .....	6
Our current guidance .....	7
Professional standards reforms .....	10
Overview of our proposals .....	13
<b>B Updating the organisational competence requirements for advice licensees</b> .....	<b>15</b>
Introduction of Option 6 .....	15
The knowledge and skills components in Option 6 .....	16
The degree requirement in Option 6 .....	18
<b>C Transitional arrangements</b> .....	<b>21</b>
New responsible managers .....	21
Existing responsible managers .....	22
<b>D Regulatory and financial impact</b> .....	<b>24</b>
<b>List of proposals and questions</b> .....	<b>25</b>

## 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 organisational competence requirements of advice licensees. 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 D, 'Regulatory and financial impact'.

### Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous we will not be able to contact you to discuss your submission should we need to.

Please note we will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any personal or financial information) as confidential.

Please refer to our privacy policy at [www.asic.gov.au/privacy](http://www.asic.gov.au/privacy) for more information about how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent by 6 December 2018 to:

Natasha Nguyen  
Lawyer  
Financial Advisers  
Australian Securities and Investments Commission  
email: [natasha.nguyen@asic.gov.au](mailto:natasha.nguyen@asic.gov.au)

## What will happen next?

<b>Stage 1</b>	8 November 2018	ASIC consultation paper released with draft updated regulatory guide
<b>Stage 2</b>	6 December 2018	Comments due on the consultation paper
<b>Stage 3</b>	March 2019	Updated regulatory guide released

## A Background to the proposals

### Key points

Regulatory Guide 105 *Licensing: Organisation competence* (RG 105) sets out the framework that ASIC uses to assess an Australian financial services (AFS) licensee's compliance with the organisational competence obligation in s912A of the *Corporations Act 2001* (Corporations Act).

As part of this framework, AFS licence applicants currently have five options for demonstrating the knowledge and skills of their responsible managers.

For responsible managers of advice licensees, the knowledge component of the applicable options is informed by the training standards for advisers in [Regulatory Guide 146](#) *Training of financial advice providers* (RG 146).

The standards in RG 146 that apply to advisers who provide personal advice to retail clients on more complex financial products will soon be superseded by the *Corporations Amendment (Professional Standards for Financial Advisers) Act 2017* (professional standards reforms).

We are proposing to update RG 105 in light of the professional standards reforms for financial advisers.

Note 1: The draft update to RG 105 (draft updated RG 105) is available on our website at [www.asic.gov.au/cp](http://www.asic.gov.au/cp) under CP 305.

Note 2: See the draft updated RG 105 for a list of the 'Key terms' that are also relevant to this consultation paper.

### The organisational competence obligation

- 1 Under s912A(1)(e) of the Corporations Act, an AFS licensee must maintain the competence to provide the services covered by its AFS licence. This is known as the 'organisational competence obligation'.
- 2 When we review an AFS licence application, we assess the applicant's ability to comply with the obligation by looking at the knowledge and skills of the people who will manage the financial services business. We refer to these people as 'responsible managers'.
- 3 An AFS licence applicant must nominate responsible managers who will have direct responsibility for significant day-to-day decisions about the licensee's financial services business. The responsible managers will usually be the people who decide how the financial services are provided and who supervise the provision of those services. Responsible managers do not need to actually provide financial services on an AFS licensee's behalf, although they may do so.

- 4 The number of people an AFS licence applicant should nominate as responsible managers will depend on the nature, scale and complexity of their proposed business. However, we generally expect applicants to nominate two or more responsible managers.

## Our current guidance

- 5 We have set out our policy for evaluating the knowledge and skills of responsible managers in the current RG 105. An AFS licence applicant must demonstrate that:
- (a) each of its responsible managers has the appropriate knowledge and skills for their role (by meeting one of five options); and
  - (b) together, the responsible managers have the appropriate knowledge and skills to cover all of the applicant's financial services and products.
- 6 The five options for demonstrating the knowledge and skills of responsible managers are set out in Table 1 of the current RG 105, which is reproduced below.

**Table 1: The five options for demonstrating knowledge and skills of responsible managers**

Option	Knowledge component	Skills component
Option 1	Meet widely adopted or relevant industry standard or relevant standard set by APRA	Three years relevant experience over the past five years
Option 2	Be individually assessed by an authorised assessor as having relevant knowledge equivalent to a diploma	Five years relevant experience over the past eight years
Option 3	Hold a university degree in a relevant discipline and complete a relevant short industry course	Three years relevant experience over the past five years
Option 4	Hold a relevant industry-specific or product-specific qualification equivalent to a diploma (or higher)	Three years relevant experience over the past five years
Option 5	<p>If not relying on Options 1 to 4, you need to provide a written submission that satisfies us that your responsible manager has the appropriate knowledge and skills for their role. Your submission must cover all of the information in RG 105.71.</p> <p>Some example situations where ASIC may, or may not, accept a responsible manager under Option 5 are outlined at RG 105.74.</p>	

Source: Table 1 of the current RG 105.

- 7 The five options for demonstrating organisational competence aim to strike a balance between certainty and flexibility for AFS licensees, while promoting consumer protection and market integrity. They also take into account the

range of knowledge and skills that may be required to manage different types of financial services businesses.

### **AFS licence applicants seeking to become advice licensees**

- 8 In this paper, we use the term ‘advice licensee’ to refer to an AFS licensee authorised to provide personal advice to retail clients on more complex financial products. AFS licence applicants seeking to become advice licensees can rely on Options 2 to 5 in Table 1 of the current RG 105 to demonstrate the knowledge and skills of their responsible managers. Option 1 does not generally apply to them because there is no relevant APRA standard and the broadly accepted industry standard is captured by Option 4. They most commonly rely on Options 3 and 4.
- 9 For their responsible managers, the knowledge component of the applicable options is informed by [RG 146](#).

#### **RG 146 training standards**

- 10 [RG 146](#) sets out our guidance on the minimum training standards—sets of knowledge and, sometimes, skills requirements—that must be satisfied by advisers before they give advice.
- 11 Advisers will generally meet the training standards by completing approved training courses. These are either courses listed on the [ASIC training register](#) or approved by an authorised assessor as meeting the training standards in RG 146. Alternatively, experienced advisers (i.e. those with at least five years of experience over the past eight years) can meet the training standards by being individually assessed by an authorised assessor.

Note: The ASIC training register has been placed under review. The review will enable ASIC to explore options pending final policy decisions and will take into account the professional standards reforms. The register content is valid up to 24 September 2012. For newer courses, contact individual training providers for information about whether their courses meet the standards in RG 146.

#### *Advisers who give personal advice on Tier 1 products*

- 12 Under [RG 146](#), an adviser who will give personal advice on more complex financial products (referred to as ‘Tier 1 products’) must generally complete training courses at the diploma level, which cover the products they will advise on and the markets they will operate in, as well as specific skills requirements.

Note: Tier 1 financial products are defined as all financial products other than Tier 2 financial products. Tier 2 financial products are general insurance products (except for personal sickness and accident), consumer credit insurance, basic deposit products, non-cash payment products and First Home Saver Accounts.



- 13 These training standards will be replaced by the professional standards reforms for financial advisers: see paragraphs 19 to 33 of this paper.

Note: We will be reviewing and updating RG 146 in light of the professional standards reforms.

*Advisers who give only general advice on Tier 1 products and/or any advice on Tier 2 products*

- 14 The remaining standards in [RG 146](#) will not be affected by the professional standards reforms. RG 146 will continue to apply to advisers who only provide general advice on Tier 1 products and/or any advice on Tier 2 products. In general:
- (a) advisers who will provide general advice on Tier 1 products must complete relevant training courses at diploma level, but their courses do not have to cover the skills requirements;
  - (b) advisers who will provide personal advice on Tier 2 products must complete training courses at the Certificate III level that cover the products they will advise on and the markets they will operate in, as well as specific skills requirements; and
  - (c) advisers who will only provide general advice on Tier 2 products must complete courses at the Certificate III level that do not need to cover the skills requirements.

**Application of training standards to responsible managers**

- 15 For responsible managers of AFS licence applicants seeking to become advice licensees, the training standards in [RG 146](#) are relevant for satisfying the knowledge components of Options 2 to 4 of Table 1 in the current RG 105, as set out in Table 2.

**Table 2: Satisfying the knowledge components of Options 2 to 4**

Option for demonstrating knowledge and skills	What a responsible manager must do to satisfy the knowledge component
Option 2	Be independently assessed by an authorised assessor as having relevant knowledge equivalent to the RG 146 approved training courses at diploma level
Option 3	Hold a university degree in a relevant discipline and complete <a href="#">RG 146</a> approved training courses at the Certificate III level
Option 4	Complete RG 146 approved training courses at the diploma level

- 16 We have not taken a prescriptive approach to the concept of ‘relevant discipline’ for the purposes of Option 3. However, we prefer this to be a degree in a discipline such as economics, commerce, business or equivalent.

- 17 Although Option 5 in Table 1 is more flexible, it still requires the AFS licence applicant to provide us with information that demonstrates that their nominated responsible manager has the appropriate knowledge and skills to fulfil their role.
- 18 We currently expect an AFS licence applicant seeking to become an advice licensee to have at least one responsible manager who meets the RG 146 training standards for an adviser who provides personal advice to retail clients on Tier 1 products. Specifically, this means that currently at least one responsible manager must meet Option 4.

## Professional standards reforms

- 19 The *Corporations Amendment (Professional Standards for Financial Advisers) Act 2017* (professional standards reforms) introduced several measures to raise the education, training and ethical standards of financial advisers.
- 20 The new professional standards apply to individuals who are authorised to provide personal advice to retail clients on ‘relevant financial products’. Relevant financial products are defined as financial products other than basic banking products, general insurance products and consumer credit insurance. This is broadly similar to the concept of ‘Tier 1 products’ (defined at paragraph 12), but differs in that personal sickness and accident insurance are Tier 1 products but not ‘relevant financial products’.
- 21 The financial advisers to whom the reforms apply are referred to as ‘relevant providers’.

### New entrants

- 22 From 1 January 2019, any individual who wishes to become a relevant provider must:
- (a) pass a financial adviser exam;
  - (b) have a relevant bachelor or higher degree (or equivalent qualification);
  - (c) complete a professional year; and
  - (d) meet continuing professional development (CPD) requirements each year.
- 23 From 1 January 2020, they must also comply with a code of ethics and be covered by a compliance scheme that monitors and enforces compliance with the code of ethics.
- 24 The Financial Adviser Standards and Ethics Authority (FASEA) is responsible for approving the relevant qualifications, setting the financial

adviser exam, determining the CPD and professional year requirements, and developing the code of ethics.

### **Transitional arrangements for existing providers**

25 Transitional arrangements apply to ‘existing providers’. An existing provider is an individual who was a relevant provider at any time between 1 January 2016 and 1 January 2019, and is not banned, disqualified or suspended on 1 January 2019.

26 We will treat a person as an existing provider if they:

- (a) have the status of ‘current’ on the financial advisers register at any time between 1 January 2016 and 1 January 2019; and
- (b) are not banned, disqualified or subject to an enforceable undertaking on 1 January 2019.

27 An existing provider has until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to obtain a relevant qualification. They do not need to complete a professional year. They must still:

- (a) comply with the CPD requirements from 1 January 2019; and
- (b) comply with the code of ethics and be covered by a compliance scheme by 1 January 2020.

### **Degree requirement**

28 FASEA has determined that the degree requirement will apply differently to financial advisers depending on whether they are a new entrant, existing provider or ‘career changer’.

#### **New entrant degree standard**

29 FASEA has announced that new entrants will have to complete a bachelor degree (made up of 24 courses, of which 12 courses will be core) covering fields that include:

- (a) ethics, professional attitudes and behaviours;
- (b) financial planning and advice process; and
- (c) technical requirements.

#### **Existing provider degree standard**

30 On 20 March 2018, FASEA released a consultation paper—[Proposed guidance on education pathways for existing advisers](#)—which sets out five pathways for existing providers depending on what qualifications the individual already holds. The proposed pathways are summarised in Table 3.

**Table 3: Proposed pathways for existing providers**

Current qualification	Pathway	Details
No degree	Graduate diploma (or degree/masters)	Eight courses, including courses on the Corporations Act, the FASEA code of ethics and behavioural finance  Note: Recognition of prior learning (RPL) credits may be available for financial advisers who have completed educational programs and/or professional designations.
Unrelated degree	Graduate diploma	Eight courses, including courses on the Corporations Act, the FASEA code of ethics and behavioural finance  Note: FASEA expects greater RPL credits to be available for financial advisers with formal qualifications.
Related degree	Bridging course	Three courses, consisting of courses on the Corporations Act, the FASEA code of ethics and behavioural finance
Related degree and related post-graduate qualification	Single subject	One course on the FASEA code of ethics
Approved Financial Planning Education Council (FPEC) Qualification	Single subject	One course on the FASEA code of ethics

- 31 A 'related degree' is a bachelor degree or above majoring or specialising in:
- (a) financial planning, advice or services;
  - (b) accounting;
  - (c) finance;
  - (d) tax;
  - (e) law; or
  - (f) economics.

- 32 Consultation on the proposed guidance closed on 29 June 2018. FASEA has stated that it is aiming to finalise these standards by the end of 2018.

#### **Career changer degree standard**

- 33 FASEA defines career changers as people who will be entering the financial advice industry with experience gained from careers in another industry. These individuals will be required to undertake further education at a postgraduate level, which is likely to consist of a graduate diploma, covering the same fields as new entrants. At this stage, FASEA has not consulted on or publicly provided any further details about this category.

## Impact of professional standards reforms on responsible managers of advice licensees

- 34 At the AFS licensee level, the reforms will apply automatically to individuals with AFS licences (individual AFS licensees), but not to responsible managers of AFS licensees that are corporations, partnerships or groups of trustees (corporate AFS licensees).
- 35 An individual AFS licensee who provides personal advice to retail clients on relevant financial products falls within the definition of ‘relevant provider’ and will be subject to the professional standards reforms. Therefore, from 1 January 2019, an individual seeking an AFS licence who is not an ‘existing provider’ (defined at paragraph 25) will need to meet the new education and training requirements before their licence is granted.
- 36 If the individual is an existing provider, the transitional arrangements will apply. An AFS licence can be granted to that individual provided that they meet the RG 146 training standards. They will then have until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the degree requirement.
- 37 However, as the new education and training standards do not apply to corporate AFS licensees they also do not apply to their responsible managers unless those responsible managers are existing providers. Therefore, absent any changes made by ASIC, the training standards in RG 146 will remain the only relevant standards that apply when assessing the competence of responsible managers of corporate AFS licensees.

## Overview of our proposals

- 38 We are proposing to update our organisational competence requirements for advice licensees to reflect the higher standards of professionalism expected in the financial advice industry.
- 39 Specifically, we are proposing to amend Table 1 in the current RG 105 to introduce new Option 6, which will reflect the new education and training standards for financial advisers. We are also proposing to require that advice licensees have at least one responsible manager who satisfies Option 6.
- 40 To satisfy the knowledge component of Option 6, we consider that a responsible manager should have to pass the financial adviser exam, satisfy the degree requirement and comply with CPD requirements. However, we think that a responsible manager should be able to satisfy the degree requirement by meeting the existing provider degree standard.

- 41 Finally, we are proposing to give both new and existing responsible managers until 2021 to pass the financial adviser exam and until 2024 to meet the existing provider degree standard.
- 42 The proposals in this paper are based on FASEA's draft guidance and may change depending on FASEA's final guidance. In particular, as at the date of publication, FASEA's draft guidance indicates that only existing advisers or those seeking to become financial advisers will be eligible to sit the financial adviser exam.
- 43 We have written to FASEA to ask it to consider expanding the categories of people eligible to sit the financial adviser exam. FASEA has stated that it is open to this but that ASIC will have to engage with the exam provider after FASEA has finalised its preferred provider. If FASEA's preferred provider is unwilling to open the exam to responsible managers, then only the degree requirement and CPD requirements could apply.
- 44 FASEA has also indicated that it will finalise its guidance by the end of 2018.
- 45 We have attached to this consultation paper a draft updated RG 105, which incorporates our proposals. The relevant amendments have been made to Section C of the guidance.
- Note: Draft updated RG 105 is available on our website at [www.asic.gov.au/cp](http://www.asic.gov.au/cp) under CP 305.
- 46 This consultation paper seeks your feedback on the proposed updates.

## B Updating the organisational competence requirements for advice licensees

### Key points

This section seeks feedback on our proposals for updating the organisational competence requirements for advice licensees.

We are proposing to:

- introduce a new option for demonstrating the knowledge and skills of a responsible manager (Option 6); and
- require that advice licensees have at least one responsible manager who satisfies Option 6.

We are also proposing that to satisfy the knowledge component of Option 6, a responsible manager should have to pass the financial adviser exam, meet the degree requirement and comply with ongoing CPD requirements. However, we think that a responsible manager should be able to satisfy the degree requirement by meeting the existing provider degree standard.

## Introduction of Option 6

### Proposal

**B1** We propose to:

- add to the existing options for demonstrating the knowledge and skills of responsible managers by introducing Option 6, which will reflect the new education and training standards for financial advisers; and
- require advice licensees to have at least one responsible manager who satisfies Option 6 (see draft updated RG 105).

### Your feedback

**B1Q1** Do you agree that ASIC should update the options for demonstrating the knowledge and skills of responsible managers in light of the professional standards reforms? If not, why not?

**B1Q2** Do you agree with our proposal to require advice licensees to have at least one responsible manager who satisfies Option 6? If not, why not?

**B1Q3** Please provide any feedback you have on the possible cost implications of our proposals.

B1Q4 Do you think there is a better way to amend ASIC's organisational competence framework to reflect the higher levels of competence expected in the industry? Please provide reasons for your answer.

## Rationale

- 47 The professional standards reforms aim to lift standards of competence and professionalism in the financial advice industry in order to improve the overall quality of advice for consumers. We consider that we should update the options for demonstrating organisational competence in RG 105 to reflect the higher levels of competence expected in the financial advice industry.
- 48 Proposal B1 is designed to strengthen these reforms by ensuring that financial advisers will be supervised by at least one person who satisfies the new education and training standards. At the same time, AFS licensees would still have the existing flexibility to nominate responsible managers with other skills and experience (as only one of their responsible managers would need to meet the new standards).
- 49 The proposal maintains our existing expectation that corporate AFS licensees that are authorised to provide personal advice to retail clients on more complex financial products have at least one responsible manager who meets the same education and training standards that apply to a financial adviser who provides such advice: see paragraph 18.
- 50 In addition, the proposal would remove an apparent inconsistency between the standards that will apply to responsible managers of corporate AFS licensees with the standards that apply to individual AFS licensees. Although responsible managers of corporate licensees who do not provide advice arguably perform a different role from individual licensees, we expect responsible managers to have a significant role in the supervision of financial advice services. Therefore, we think it is important for at least one responsible manager of an advice licensee to maintain the minimum competency standards that apply to financial advisers.

## The knowledge and skills components in Option 6

### Proposal

- B2 We propose that Option 6 will consist of:
- (a) a knowledge component made up of the new financial adviser exam, the degree requirement and the CPD requirement; and
  - (b) a skills component of three years relevant experience over the past five years (see draft updated RG 105).



*Your feedback*

- B2Q1 Do you think there are any elements in our proposed knowledge component that should not apply to responsible managers? Please provide reasons for your response.
- B2Q2 Do you think there are other elements of the professional standards reforms that should be added to our proposed knowledge component for Option 6?
- B2Q3 Do you think there is a better way for Option 6 to reflect the higher training and education standards for financial advisers? Please provide reasons for your answer.
- B2Q4 Do you agree with our proposed skills component of three years relevant experience over the past five years? If not, why not?
- B2Q5 Do you think there is a better way for responsible managers to satisfy the skills component of Option 6? Please provide reasons for your answer.

**Rationale**

- 51 Each of the options for demonstrating organisational competence consists of a knowledge component and a skills component: see Table 1 of draft updated RG 105.

**Knowledge component**

- 52 The education and training elements of the professional standards reforms are:
- (a) the financial adviser exam;
  - (b) the relevant bachelor or higher degree (or equivalent qualification);
  - (c) the CPD requirements; and
  - (d) the professional year.
- 53 We do not consider that the professional year requirement would necessarily be appropriate for responsible managers. The aim of the professional year is to ensure that a new entrant to the industry receives appropriate monitoring and supervision to develop the skills required to provide competent advice.

Note: See paragraph 19 of the [Explanatory Memorandum](#) to the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2016.

- 54 We do not think that a responsible manager is likely to require the professional year because they must already satisfy the skills component of one of the options in Table 1, which generally requires three years of experience over the past five years.

Note: Although Option 5 is slightly more flexible, it still has a skills component. Responsible managers would have to make a case to ASIC that they have experience that is appropriate to their role.

- 55 On the other hand, the financial adviser exam, degree requirement and CPD requirements are essential to lifting the standards of competence across the industry and will apply to both new entrants and existing providers. These elements of the reforms are intended to ensure that financial advisers develop and maintain the knowledge and skills required to provide competent advice. As s912A(1)(e) imposes an obligation on AFS licensees to maintain the organisational competence to provide their financial services, we think it is appropriate to apply these elements of the reforms to responsible managers.
- 56 Our proposal seeks to achieve a balance between requiring responsible managers to achieve and maintain the standards expected in the industry, while avoiding any unnecessary requirements.

### Skills component

- 57 We are proposing that Option 6 should have the same skills component as Options 1, 3 and 4 in Table 1—that is, three years of relevant experience over the past five years. This is the standard minimum experience requirement for responsible managers and is designed to ensure that such persons have sufficient recent experience to perform their roles.
- 58 As the purpose of Option 6 is to reflect the new education and training requirements, we do not think it is necessary for Option 6 to have a different skills component.

## The degree requirement in Option 6

### Proposal

- B3** We propose that responsible managers should be able to meet the degree requirement in Option 6 by satisfying the ‘existing provider’ degree standard: see draft updated RG 105. This means they could adopt one of five education pathways (ranging from a graduate diploma to a single subject), depending on what qualifications they already hold.

#### *Your feedback*

- B3Q1** Do you agree that the existing provider degree standard is the most appropriate standard to apply to responsible managers under Option 6? If not, why not?
- B3Q2** If ASIC adopts the existing provider degree standard for responsible managers, do you think that in the future we should review whether this is still the appropriate standard? If so, when do you think we should review the degree standard and why?

B3Q3 Do you think there is a better way for responsible managers to satisfy the degree requirement under Option 6? Please provide reasons for your answer.

## Rationale

- 59 As discussed in paragraphs 28–33, the degree requirement will apply differently to financial advisers depending on whether they are a new entrant, existing provider or career changer. In summary:
- (a) new entrants must complete a full bachelor degree (new entrant degree standard);
  - (b) FASEA proposes that existing providers could adopt one of five education pathways depending on what qualifications they already hold—these range from a graduate diploma to a single subject (existing provider degree standard); and
  - (c) FASEA proposes that career changers will need to undertake further study at the postgraduate level, which is likely to consist of a graduate diploma (career changer degree standard).
- 60 We consider that the most appropriate degree standard for responsible managers is the one that FASEA proposes to apply to existing providers.
- 61 This is because, out of the three categories identified by FASEA, responsible managers are most comparable to existing providers. As previously highlighted in this paper, most of the options in Table 1 require a responsible manager to have at least three years of relevant experience over the past five years. Under RG 105, relevant experience generally means experience in:
- (a) deciding how the financial services or products their role relates to are provided; and
  - (b) either providing those financial services or products or supervising others who do.
- 62 For responsible managers of advice licensees, this generally means either directly providing financial advice or supervising the provision of financial advice.
- 63 As a result, we do not think that responsible managers should have to meet degree standards that were designed for individuals who are new to the industry.
- 64 However, we note that under FASEA’s existing proposals, the existing provider degree standard will eventually become obsolete for financial advisers. The existing provider degree standard will only apply to any individual who is a relevant provider at any time between 1 January 2016 and 1 January 2019. From 1 January 2019, all new advisers and returning advisers who do not meet the definition of ‘existing provider’ will have to

meet either the new entrant degree standard or the career changer degree standard.

- 65 We are seeking your feedback on whether, in the future, we should review whether the existing provider degree standard is still the appropriate standard for responsible managers—and, if so, when you think we should undertake this review.

## C Transitional arrangements

### Key points

This section seeks feedback on our proposed transitional arrangements for new and existing responsible managers who wish to satisfy Option 6.

We are proposing to give both new and existing responsible managers until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the 'existing provider' degree standard.

### New responsible managers

#### Proposal

- c1 We propose that all new responsible managers who wish to satisfy Option 6 will have until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the existing provider degree standard.

#### *Your feedback*

- C1Q1 Do you think that ASIC should offer transitional arrangements for new responsible managers? Please provide reasons for your answer.
- C1Q2 Do you think that our proposed transitional arrangements will give AFS licence applicants and new responsible managers enough time to adapt to the new requirements? If not, why not?
- C1Q3 Alternatively, do you think we should shorten the timeframes in our proposed transitional arrangements for new responsible managers? If so, please explain why and what you think the timeframes should be.

#### Rationale

66 We expect responsible managers of advice licensees to play a significant role in supervising financial advisers. Ideally, responsible managers would meet the new education and training standards before they commence their role.

67 However, we are conscious that, in the short term, this may create a significant barrier to entry because many new responsible managers may need a few years to meet the new education and training standards (even to the existing provider degree standard) unless they already have a relevant degree or an approved FPEC qualification.

- 68 We expect that most people working full time could only realistically complete one course per semester.
- 69 To give AFS licence applicants and new responsible managers time to adapt to the requirements, we are proposing to give new responsible managers the same transitional arrangements that will apply to existing providers. This would give new responsible managers until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the degree requirement. In the meantime, the training standards referred to in paragraph 12 would continue to apply as interim training standards.
- 70 Table 4 sets out how the knowledge component of Option 6 would apply depending on the date a new responsible manager is nominated by an AFS licence applicant.

**Table 4: Transitional arrangements for new responsible managers**

Date of application	What a responsible manager will need to satisfy the knowledge component of Option 6 under the proposed transitional arrangements
Between 1 January 2019 and 1 January 2021	The responsible manager must have: <ul style="list-style-type: none"> <li>• completed the relevant RG 146 training at the diploma level; and</li> <li>• intend to pass the financial adviser exam by 1 January 2021 and satisfy the existing provider degree standard by 1 January 2024.</li> </ul>
Between 1 January 2021 and 1 January 2024	The responsible manager must have: <ul style="list-style-type: none"> <li>• completed the relevant RG 146 training at the diploma level;</li> <li>• passed the financial adviser exam; and</li> <li>• intend to satisfy the existing provider degree standard by 1 January 2024.</li> </ul>
After 1 January 2024	The responsible manager must have: <ul style="list-style-type: none"> <li>• passed the financial adviser exam; and</li> <li>• satisfied the existing provider degree standard.</li> </ul>

- 71 After they have been approved by ASIC, responsible managers will also need to comply with the CPD requirements from 1 January 2019.
- 72 We think that proposal C1 strikes an appropriate balance between giving new responsible managers a realistic timeframe in which to meet the new standards, while raising the standards of education and training over time.

## Existing responsible managers

### Proposal

- c2 We propose that existing responsible managers will have until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the existing provider degree standard.

*Your feedback*

- C2Q1 Do you think that ASIC should offer transitional arrangements for existing responsible managers? Please provide reasons for your answer.
- C2Q2 Do you think that our proposed transitional arrangements will give AFS licensees and existing responsible managers enough time to adapt to the new standards? If not, why not?
- C2Q3 Alternatively, do you think that we should shorten the timeframes in our proposed transitional arrangements for existing responsible managers? If so, please explain why and what you think the timeframes should be.

**Rationale**

- 73 Ideally, we would require an existing responsible manager seeking to satisfy Option 6 to pass the financial adviser exam and meet the existing provider degree standard before the new education and training standards become applicable to financial advisers.
- 74 However, many existing responsible managers may need a few years to meet the new education and training standards (even to the existing provider degree standard) unless they already have a relevant degree or an approved FPEC qualification.
- 75 To give AFS licensees and existing responsible managers time to adapt to the new standards, we are proposing to give existing responsible managers the same transitional arrangements that will apply to existing providers, regardless of whether or not they have been listed on the financial advisers register at any point between 1 January 2016 and 1 January 2019. This would mean that existing responsible managers would have until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the existing provider degree standard.
- 76 We think that proposal C2 strikes an appropriate balance between allowing AFS licensees to continue to use existing responsible managers, while raising the standards of education and training over time.

## D Regulatory and financial impact

77 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) updating our organisational competence requirements for advice licensees; and
- (b) minimising the impact on compliance costs.

78 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).

79 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.

80 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.



## List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to:</p> <p>(a) add to the existing options for demonstrating the knowledge and skills of responsible managers by introducing Option 6, which will reflect the new education and training standards for financial advisers; and</p> <p>(b) require advice licensees to have at least one responsible manager who satisfies Option 6 (see draft updated RG 105).</p>	<p>B1Q1 Do you agree that ASIC should update the options for demonstrating the knowledge and skills of responsible managers in light of the professional standards reforms? If not, why not?</p> <p>B1Q2 Do you agree with our proposal to require advice licensees to have at least one responsible manager who satisfies Option 6? If not, why not?</p> <p>B1Q3 Please provide any feedback you have on the possible cost implications of our proposals.</p> <p>B1Q4 Do you think there is a better way to amend ASIC's organisational competence framework to reflect the higher levels of competence expected in the industry? Please provide reasons for your answer.</p>
<p>B2 We propose that Option 6 will consist of:</p> <p>(a) a knowledge component made up of the new financial adviser exam, the degree requirement and the CPD requirement; and</p> <p>(b) a skills component of three years relevant experience over the past five years (see draft updated RG 105).</p>	<p>B2Q1 Do you think there are any elements in our proposed knowledge component that should not apply to responsible managers? Please provide reasons for your response.</p> <p>B2Q2 Do you think there are other elements of the professional standards reforms that should be added to our proposed knowledge component for Option 6?</p> <p>B2Q3 Do you think there is a better way for Option 6 to reflect the higher training and education standards for financial advisers? Please provide reasons for your answer.</p> <p>B2Q4 Do you agree with our proposed skills component of three years relevant experience over the past five years? If not, why not?</p> <p>B2Q5 Do you think there is a better way for responsible managers to satisfy the skills component of Option 6? Please provide reasons for your answer.</p>

Proposal	Your feedback
<p>B3 We propose that responsible managers should be able to meet the degree requirement in Option 6 by satisfying the 'existing provider' degree standard: see draft updated RG 105. This means they could adopt one of five education pathways (ranging from a graduate diploma to a single subject), depending on what qualifications they already hold.</p>	<p>B3Q1 Do you agree that the existing provider degree standard is the most appropriate standard to apply to responsible managers under Option 6? If not, why not?</p> <p>B3Q2 If ASIC adopts the existing provider degree standard for responsible managers, do you think that in the future we should review whether this is still the appropriate standard? If so, when do you think we should review the degree standard and why?</p> <p>B3Q3 Do you think there is a better way for responsible managers to satisfy the degree requirement under Option 6? Please provide reasons for your answer.</p>
<p>C1 We propose that all new responsible managers who wish to satisfy Option 6 will have until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the existing provider degree standard.</p>	<p>C1Q1 Do you think that ASIC should offer transitional arrangements for new responsible managers? Please provide reasons for your answer.</p> <p>C1Q2 Do you think that our proposed transitional arrangements will give AFS licence applicants and new responsible managers enough time to adapt to the new requirements? If not, why not?</p> <p>C1Q3 Alternatively, do you think we should shorten the timeframes in our proposed transitional arrangements for new responsible managers? If so, please explain why and what you think the timeframes should be.</p>
<p>C2 We propose that existing responsible managers will have until 1 January 2021 to pass the financial adviser exam and until 1 January 2024 to meet the existing provider degree standard.</p>	<p>C2Q1 Do you think that ASIC should offer transitional arrangements for existing responsible managers? Please provide reasons for your answer.</p> <p>C2Q2 Do you think that our proposed transitional arrangements will give AFS licensees and existing responsible managers enough time to adapt to the new standards? If not, why not?</p> <p>C2Q3 Alternatively, do you think that we should shorten the timeframes in our proposed transitional arrangements for existing responsible managers? If so, please explain why and what you think the timeframes should be.</p>