

14 December 2018

Mr Stephen Glenfield  
Chief Executive Officer  
Financial Advice Standards and Ethics Authority

By email: [consultation@fasea.gov.au](mailto:consultation@fasea.gov.au)

Dear Mr Glenfield,

### **AFA Submission: Foreign Qualifications**

The Association of Financial Advisers Limited (**AFA**) has served the financial advice industry for over 70 years. Our objective is to achieve *Great Advice for More Australians* and we do this through:

- advocating for appropriate policy settings for financial advice
- enforcing a Code of Ethical Conduct
- investing in consumer-based research
- developing professional development pathways for financial advisers
- connecting key stakeholders within the financial advice community
- educating consumers around the importance of financial advice

The Board of the AFA is elected by the Membership and all Directors are currently practicing financial advisers. This ensures that the policy positions taken by the AFA are framed with practical, workable outcomes in mind, but are also aligned to achieving our vision of having the quality of relationships shared between advisers and their clients understood and valued throughout society. This will play a vital role in helping Australians reach their potential through building, managing and protecting their wealth.

## **1. Introduction**

We have noted that not much has changed in this Policy Statement when compared to the original July 2018 consultation paper, other than the reference to DET as opposed to the previous reference to NOOSR. We note that the Blueprint document, made specific reference to CPA Australia and Chartered Accountants Australia and New Zealand, however there is no specific reference to them in FPS005 Foreign Qualifications Policy. There is also some inconsistent language in terms of DET approved and approved by a DET approved body.

There is a reasonably large number of financial advisers who have emigrated to Australia and have undertaken formal education in another country. From our own member survey in April 2018, 12% of university graduates had an overseas degree. Thus, for many, this is an important standard

We are very conscious that some existing financial advisers may have a combination of overseas qualifications and Australian based qualifications. For those who have been in Australia for many years, they may also have completed courses after arriving in Australia such as the Diploma of Financial Planning (DFP), the Advanced Diploma of Financial Planning (ADFP) or professional designations. We therefore think that the assessment of these existing advisers with a range of different qualifications may in some cases be more complicated than has been addressed, although noting the approach for existing advisers is simply to assess the degree as being relevant or not.

We note the statement that credit cannot be given for elements of the required curriculum that are specific to the Australian legal, tax and practice regimes unless they have been included in the foreign qualification. The practical reality is that these regimes are constantly changing and someone who did a degree in Australia a number of years back will not have studied the legal, tax and practice regimes that apply currently. This would undoubtedly have been addressed by the further study that they have undertaken since, in terms of formal study (i.e. DFP and ADFP) and ongoing CPD. We believe that FASEA needs to take this additional Australian based education and ongoing CPD into account when considering what relevant subjects should be counted in the assessment of a relevant degree.

We believe that the standard needs to provide more guidance on DET approved bodies and whether historical DET or NOOSR approvals will be considered valid.

## 2. Background

We appreciate the purpose which is to ensure that foreign qualifications are appropriately assessed for suitability in Australia. We note the point about wide and complex fields with legal, taxation, investment and market requirements. It is worth noting that some overseas jurisdictions may have similar regimes to Australia. For example, income tax and capital gains tax are common in other countries. Capital Gains Tax for example, was introduced in Australia in 1985 and then fundamentally changed in 1999. It is now subject to debate with respect to potential further change. Whilst there are differences between countries, the study of tax is beneficial in terms of the concepts, and it may be that an awareness of the tax regime in a foreign country will be a particular asset for dealing with clients in Australia who have assets overseas. Our point is that the consideration of this issue needs to allow greater flexibility.

In the Summary Statement section of FPS005 it is stated that “FASEA may also specify one or more courses the person must undertake to satisfy the education standard”, however we seek confirmation if this creates the possibility of single unit study if an individual with a foreign degree is only missing one unit from being classified as a relevant degree, or whether this is more a reflection of what the law allows. We cannot see where this option has been adopted in the Policy Statement.

## 3. New Entrants

Sections 921B(2)(b) and 921V enable FASEA to approve foreign qualifications. It appears to us from the Policy Statement that FASEA will not actually approve foreign qualifications for new entrants. The process set down on the top of page 5 of the Policy Statement suggests that it is DET, or a DET approved body who will approve foreign qualifications. We are further confused by the fact that those with a DET approved degree, will be required to do a Graduate Diploma. Those who do not have their degree approved by DET will also have the option to do a Graduate Diploma, presumably as part of the Career Changer pathway. It does not seem to us that this provides any provision for the specific degree to be approved, but rather it is a matter that whatever degree the new entrant has previously undertaken it needs to be assessed as equivalent to the Australian AQF regime. We are uncertain as to exactly what is being achieved as a result of this process, because the benefit to someone who has undertaken a financial planning degree in a similar jurisdiction is not apparent.

Point four states that the individual should submit a request to FASEA for approval of a foreign qualification and pay a fee of \$120. The diagram however does not demonstrate any role in this process for FASEA.

We are surprised by the lack of recognition around the type of degree held by the New Entrant. We question where the benefit lies for a New Entrant with a foreign qualification specific to financial advice as it would appear that an individual with a foreign degree in Aeronautical Engineering would have the same outcome as an individual with a foreign degree in Financial Planning, other than the potential for a different level of RPL.

The approval regime detailed in FPS005 gives a “best outcome” of having to complete an approved Graduate Diploma for a New Entrant with a foreign qualification, even when that degree has been DET approved. With the process for New Entrants outlined in FPS005 we question why a New Entrant would have their foreign qualification assessed by DET, if they would be able to enter as a Career Changer with the same outcome in terms of the requirement for future study.

We believe that the FASEA assessment should give consideration as to whether the foreign qualification is a genuine financial planning degree, a related degree or an unrelated degree. In the case where it is a genuine financial planning degree then there should be the option of a bridging course to ensure that the candidate can meet the full requirements. Where it is a related degree then we would recommend that they should undertake an approved Graduate Diploma. Where it is an unrelated Degree the individual would be able to enter as a Career Changer, if they meet the requirements.

We seek clarity on the ability for a New Entrant to seek Recognition of Prior Learning (RPL) if they undertake a Graduate Diploma specifically with reference to RPL based on work experience. We also suggest a point is added that, should an individual’s foreign qualification NOT be approved by a DET approved body, that they have the ability to seek RPL into the FASEA approved bachelor’s degree or Graduate Diploma, subject to the Higher Education Providers RPL policy. There is the possibility that the New Entrant may have other relevant Australian based qualifications and/or work experience in Australia, including in a related area such as a para-planning or customer service roles. In order to undertake such roles, they may have already completed the DFP or ADFP or other qualifications.

We are not convinced that FASEA has put in place a process that would enable them to comply with the requirement to approve foreign qualifications under Sections 921B(2)(b) and 921V(4)(a).

#### **4. Existing Advisers**

Our first point is that this process does not provide for FASEA to approve foreign qualifications. Instead, the policy provides a mechanism for FASEA to classify foreign degrees as relevant degrees. In our view this is not the same thing as approving a degree as is set out in Section 921B(2)(b) and 921V(4). We therefore question whether this meets the requirements of Section 921V(3) to either approve or refuse to approve a foreign qualification.

We broadly agree with what FASEA have proposed with respect to the relevant degree and non-relevant degree pathway in FPS005, although we believe that there should be a single application to FASEA that addresses both the stages (DET approval and FASEA assessment) as we stated in our August 2018 submission. FASEA could outsource the DET approval process. We believe that this will deliver scales of economy and a greater level of consistency. This also would result in the adviser having a ‘once-off’ approval process with a single layer of fees covering the determination of AQF equivalency and degree relevance.

We seek clarity on the point “Credit cannot be given for elements of the required curriculum that are specific to the Australian legal, taxation and/or practice context unless they have been included in their foreign qualification.” Does this mean that no credit would be given for an adviser who has undertaken legal or taxation or financial advice study in a foreign country? We question the validity of this in the context of an assessment for a relevant degree. The Australian legal system is largely based upon the UK system, so legal studies in the UK (and other similar countries) would surely be relevant. Similar arguments would apply for taxation. We also note that the adviser may also hold an Advanced Diploma of Financial Planning (ADFP) (or equivalent) and/or a professional designation, which along with ongoing CPD, would surely mean that they have the required Australian knowledge? FPS005 refers to FPS001, without making specific reference to recognition of prior learning as set out in FPS001. We would recommend that there is a specific reference to eligibility to receive credits for the ADFP (or equivalent) and/or professional designations. In the absence of access to this RPL it may be more beneficial for them to simply go through the “No Degree” pathway for Existing Advisers and receive the four credits for their ADFP and professional designation.

We also raise the question about the statement in point 2 that an adviser with a foreign qualification, that is not approved by DET, is required to complete a FASEA approved degree. Should this be more appropriately described as being required to complete a Graduate Diploma?

Clarity also needs to be provided on how FASEA will assess that an individual would be classified as an “existing adviser” under the definition in the Corporations Act 2001 – Sect 1546A, particularly:

- (b) a person who:
  - (i) at any time between 1 January 2016 and 1 January 2019, provides personal advice in a foreign country to retail clients in relation to relevant financial products; and
  - (ii) is not prohibited under the law of the foreign country from providing such advice on 1 January 2019.

If there is no certificate of registration or a register of practitioners in that foreign country, then how can they prove that they are an existing adviser?

## 5. Precedent Database

Whilst we agree with FASEA keeping a Precedent Database, we believe there is a missed benefit in only using it to set a precedent on DET approvals and not for FASEA determinations. We also believe that there is a need for greater clarity on how similar the degree needs to be in order to rely upon the record of the DET approval on the Precedent Database. Does it need to be the same education provider, the same course, the same year awarded and the same subjects. Or alternatively is it based upon similarity and the same broad timeframe. In any event this should be further clarified to reduce the risk of uncertainty.

As it stands in FPS005, the Precedent Database would simply serve to assist in the decision of an individual between seeking to have their foreign degree assessed by FASEA or discounting their degree and following the “no degree pathway.”

We also believe that the database should be updated “frequently” (we would recommend that it should be updated at least monthly) rather than “periodically” to ensure that individuals have access to the most up-to-date list to base their decision on seeking assessment.

It would also be appropriate to consider whether “Year Awarded” be changed to a 5 year range for that specific degree. This would be more useful for consideration by potential applicants.

## 6. Resources and Templates

The AFA supports the proposal with respect to resources and templates, subject to the provision of greater clarity on the Policy Statement as discussed above.

## 7. Concluding Remarks

We thank you for the opportunity to provide feedback on the proposed foreign qualification requirements. We have questioned whether this Policy Statement actually meets the requirement for FASEA to approve or not approve foreign qualifications. With new entrants, whatever approval is provided seems to be of limited benefit to the applicant, which we feel requires reconsideration. We have also proposed some alternatives to address the complications with having a two-stage process and different DET approved assessment units. We believe that across the board, there is a need for greater clarity on the requirements in this Policy Statement and how foreign qualifications will be treated.

For any questions on this submission, please contact us on (02) 9267 4003.

Yours sincerely,



**Philip Kewin**  
Chief Executive Officer  
Association of Financial Advisers Ltd