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Professor Mark Brimble
Acting Managing Director
Financial Advice Standards and Ethics Authority

By email: consultation@fasea.gov.au

Dear Professor Brimble,

AFA Submission: Professional Work & Training Requirement (Professional Year)

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 wealth.

1. Introduction

The AFA supports the important role of a professional year in the development of a new financial adviser's skill set. This is a critical stage in their career where they transition from a focus upon the theoretical to the practical. Also, and most importantly, it is the time that they need to commence developing the client relationship skills that are so critical to being able to engage, build rapport, understand and deliver on the needs of clients. It is an important opportunity when they are partnered with an experienced practitioner and can leverage from the observation of this expertise in a two-way interaction with clients to develop an understanding of what they need to know and do in order to be a good financial adviser. The importance of the role of the supervisor and others that contribute to this practical learning phase should not be underestimated.

It is our view that the Professional Year consultation paper lacks the necessary focus upon the emotional intelligence skills that will ultimately determine whether the new financial adviser becomes a high-quality financial adviser. The emphasis on relationship skills and emotional intelligence is very different to what seems to be a very strong bias towards continuing formal education in the current FASEA proposal. In the AFA Whitepaper*, 'Financial Advice Competency Framework – An Industry Consensus'* (AFA, 2017) a key finding of the research indicates that in order for financial advice to develop as a profession, greater recognition of adviser attributes that are reflective of the adviser/client relationship is required, covering client focus, self-development and interpersonal skills.

In undertaking an overall assessment of the likely outcome of this proposal, in terms of the impact on the financial advice profession, we obviously acknowledge that it will further drive a greater level of education and qualifications. It will also provide a structured process for a new adviser to pass through, although this is already in existence in many of the larger licensees. Beyond that we are unsure of the additional benefits and therefore wonder whether this might be a lost opportunity. We talk more about this further below. We also wonder whether there should be more emphasis on how Professional Year candidates work together to develop these skills and understandings. It may be a valuable exercise to hold structured face to face events for Professional Year candidates an enable them to network with other Professional Year candidates.

The Professional Standards regime has been positioned as an integrated package of reforms to enhance the overall quality of advice and the capability of practitioners. In what we have seen in recent consultation papers, there does not seem to be a lot of focus upon integration. It is difficult to see how this proposal is integrated with the education standard or the exam standard. Equally it is not apparent how this Professional Year standard is integrated with the Code of Ethics. In particular, there is no reference to 'informed client consent', 'inappropriate personal advantage' or 'taking into account the broad effects arising from the client acting on the advice'. We appreciate the scale of the challenge to build all of the elements of the Professional Standards regime in a short period of time and recognise that in the context of such a complex environment, that it will take time and extended consultation to get it right.

Whilst we strongly support the importance of a Professional Year, it is important to ensure that it is economically viable for businesses of all sizes and specialisations to provide this opportunity to future financial advisers. This has two important dimensions. Firstly, the cost of training a new financial adviser in their professional year must be reasonable and then secondly, the Professional Year candidate must be capable of generating income during this year. These are important consideration as otherwise there will be too few businesses that are willing to provide Professional Year opportunities and there will be a risk of dysfunctional competition for financial advisers once they have graduated from the Professional Year. It is important that AFSLs and advice practices are encouraged to offer Professional Year opportunities. In our view it would be a suboptimal outcome if it was only the large salaried licensees that offered Professional Year programs.

It would also be important to ensure that the Professional Year was not overly educationally demanding or costly as this would serve to discourage career changers from moving into financial advice. The Professional Year should not become a significant barrier to entry to the profession, particularly in the context of the expected exodus of a large number of existing experienced advisers.

We note that the consultation paper on the Professional Year does not include any reference to candidates commencing the professional year prior to undertaking the exam. From our understanding of the legislation this is not precluded and the following extract from the Explanatory Memorandum specifically recognises it:

> 2.28 There are two options for persons completing their professional year. First, they may undertake work and training for the purposes of the professional year when they do not hold any authorisation to provide advice. For example, the person may perform appropriate

paraplanning or research work as determined by the body. Second, if the person undertaking their professional year has obtained a degree or higher qualification and passed the exam, they may be authorised as a provisional relevant provider.

It is our opinion that it makes much better sense for financial advisers to start their PY before they do their exam. We would recommend that they target doing their exam after about 3 or 4 months, which would better position them to pass the exam and would allow them to go into the exam with some practical knowledge. They could then after passing the exam become provisional financial advisers and start to provide supervised personal advice.

2. Purpose of the Professional Year

We recommend that further detail be provided around the purpose of the Professional Year. In our view this would include greater emphasis on the development of specific skills, such as client engagement, self-development and interpersonal skills.

We note the reference to 'the Professional Year is expected to build on education and professional qualifying programs approved by FASEA'. We question what this reference to professional qualifying programs refers to as there is no further context.

3. Responsibilities for Approving Work and Training in the Professional Year

Page 3 of the Consultation Paper states that an AFSL needs to identify an individual with relevant qualifications to be the supervisor, however does not define what those relevant qualifications are. This is a very important part of the framework and should be clearly articulated.

Question 3.1: Do you agree with the requirement for supervisors to have a minimum of 2 years' experience as a relevant provider?

The AFA believes that supervision could be a shared responsibility and there may be a number of different and equally effective ways to achieve the desired goal. At the simple end, it might just be one person who is doing all the supervision and education/training. In this case they would be responsible for all the advice and all the education/training for the candidate. In this context, it may not be suitable for them to have only 2 years of experience. Whilst it may be possible that a financial adviser has the necessary technical experience to train the PY candidate, they are unlikely to have the necessary life experience or client relationship experience. They will most likely not have experienced a stock market crash or the divorce or death of a client. They are less likely to understand how to deal with these experiences or how to educate clients on financial matters and to encourage them to actively participate in financial decisions or to provide informed consent. The '*Financial Advice Competency Framework'* research highlighted the value that experienced advisers bring to new advisers. It was found that experienced advisers, if harnessed in mentoring and coaching roles, can contribute positively to the acquisition of competencies relating to client focus, self-development and interpersonal skills by younger advisers.

We would want to ensure that the supervisor has experienced a market cycle, the full process of a divorce or the complete process of a death or TPD claim. In our view the minimum should be 5 years for someone who is supervising on their own.

In our view, when left on their own, a financial adviser with two years of experience and no formal training on how to supervise a Professional Year candidate is not an adequate solution. They need more experience and the benefit of formal training on supervision or coaching or access to a detailed guide on being a supervisor.

An alternative model is for two people or more to provide the supervision. One would be the formal supervisor who is responsible for the advice. Another person could take greater responsibility for the education and training (a coach or mentor). This could be an experienced adviser and also potentially someone who is no longer practicing. They might also have had the benefit of formal training on being a supervisor and a mentor to a new adviser. Such a person is more likely to have the life experience, economic cycle experience and human tragedy experience in order to assist a new adviser with how to manage and respond to such situations. We must place a focus and importance on real experience and a proven track record of supporting clients through an extended relationship timeframe. We recommend that FASEA gives consideration to such an outsourcing type model.

We also believe that it is appropriate for FASEA to address a number of other matters with respect to the role of a supervisor:

- Would it be possible for the supervisor to be authorised by a different licensee, which might be a necessary solution for either advisers in regional and remote locations or for small licensees?
- How many professional year candidates can one supervisor supervise at the same time, noting that this might be a reduced number for the first stage of supervision as opposed to the supervision of candidates who are in the indirect supervision stage? This may also vary where advice supervision and coaching responsibilities are split.
- How can technology be effectively utilised for the supervision of candidates in regional and remote locations?
- Will FASEA be requiring supervisors to complete a formal accreditation program to verify their competence to adequately supervise and validate the competence of the Provisional Relevant Provider.

4. Requirements – Work and Training

We note the reference to 'exceptional circumstances' where the employment has changed within the first 12 months. We would not think that this would be all that exceptional, and there should be clearly defined arrangements. It might be that a business decides during the 12 months of the Professional Year that they cannot afford to continue with the candidate and decide as a result to let the candidate go. It might also be that the case within a small licensee that the supervisor retires or experiences a health incident that prevents them from continuing to be a supervisor. Such a scenario should be allowed for and should not work to unnecessarily disadvantage the Professional Year candidate. They should not be in the position where they were forced to start again.

We expect that one key outcome of the Professional Year is a good understanding of the licensees' standards or rules, which will assist a Professional Year candidate to better understand their obligations. This might be either formal or informal. This would include a thorough understanding of the administrative and documentation requirements for the provision of personal financial advice.

Question 4.1: Do you agree with the requirement for individuals that return after a career break?

We believe that this section could have been more clearly expressed. We have understood this to mean that the financial adviser could take a career break for less than two years and that they would not need to have undertaken CPD whilst not on the register and they would not be required to undertake any catch-up CPD in order to return. We have also understood that in the case of someone who has had a career break for longer than 2 years that they would need to undertake some level of catch-up CPD. Whilst we consider this to be reasonable, we question why it is left as vague as "appropriate CPD". In our view an amount should be specified or alternative specific catch-up CPD programs should be designed by FASEA and made available to advisers to complete on their return. We would recommend that they needed to complete it within their first three months of return. It would be unreasonable to expect them to complete it prior to their return, particularly in the case of a new mother returning to work following an extended period of maternity leave.

We also note that this career break issue has not been addressed in the CPD Consultation Paper.

Question 4.2: Do you agree with the proposed amount of time and split between work and training required for the proposed Professional Year?

We question the entire approach. We believe that it would be better to specify particular learning requirements for the Professional Year, rather than to specify an arbitrary, but excessive number of hours for education. We also disagree with the stated preference for education that is measurable, appropriately assessed and leads to further qualifications outcomes. Obtaining further external qualifications should not be the objective of a Professional Year that is intended to be a period to learn the practical requirements of the role and to focus upon client relationship skills.

We would also suggest that the total 1,800 hours should be reduced to cater for leave, public holidays, special leave and sick leave. 1,500 or 1,600 may be more suitable.

Whatever the approach to setting the standard for education, we believe that 800 hours of education and training is excessive – this roughly equates to two working days per week. We note that section 4 does not refer to this as accredited hours, yet Section 7 on Exit Criteria refers to it as accredited education and training. This needs to be clarified. We also strongly disagree with what appears to be a focus upon formal education. A Professional Year candidate should be able to focus upon learning the practical applied elements of being a financial adviser and not going back to formal studies immediately after passing their approved degree. This seems to be misplaced and completely missing the point of a Professional Year. The suggestion that candidates would complete a professional designation during their Professional Year is underestimating the importance of gaining a solid practical background in the profession before seeking to undertake further study. It is important to appreciate that endless further education is not a panacea to address all the issues in the industry.

We note that there is no discussion of the distinction between formal and informal education and training. This is an important distinction and must be clearly demonstrated. We would consider that a lot of activity in the first three months of the Professional Year in observing the supervisor would have a training element, where they might undertake a de-brief after each client experience, where the supervisor explains to the PY candidate the key points during the meeting, the meaning of the body language, the reasons for a change of approach, or the reason for a particular question. This type of training is critically important, although it is more ad-hoc and informal.

We believe that the actual level of formal training should be much less, given that there will be a lot of informal training. We do not believe that there is any great need for further higher education or qualifications-based education during the Professional Year. Having recently completed their degree, it is unlikely that they would want to commence further qualifications and incur significant additional cost. Neither would their employer like to take on the cost of formal qualifications before the Professional Year candidate has had the opportunity to demonstrate their potential. The investment in a Professional Year candidate is already very high even before the cost of any formal education course(s) is considered.

We note the comment on page 5 of the Consultation Paper that completion of one or more of the FASEA bridging course units would be considered relevant formal study, however a Professional Year candidate is expected to have already completed an approved degree and met the degree requirement, so why would they need to do any further bridging course?

We also note the comment by the TPB, that the requirement to undertake 800 hours of education during the Professional Year may mean that the Professional Year candidate has not met the TPB requirement of an adviser to have 12 months full time equivalent experience before being eligible to be registered as a tax (financial) adviser. We believe that it would be problematic for someone to have passed their Professional Year, but to not have met the TPB 12 month experience requirement.

In our view formal education and training during the Professional Year should be in the vicinity of 250 hours.

Question 4.3: Do you agree that formal education should contribute to the training requirement of the proposed Professional Year?

Although we agree that formal education could contribute to meeting the training requirement of the proposed Professional Year, we do not agree that the primary objective for the Professional Year candidate should focus upon formal education during their Professional Year. Neither do we accept that a focus on formal qualifications should be allowed to distract the Professional Year candidate from learning the practical lessons on financial advice and developing the critical client relationship skills that they require to effectively perform the role of a financial adviser.

5. Competencies Required for Satisfaction of Work and Training Standard

As discussed above, we believe that Professional Year candidates should place a strong focus upon client relationship skills, in order to enhance their capacity to develop strong relationships with their clients and contribute to better client outcomes. Some of the key elements of this would include the following:

- Developing the capacity to establish trust and build rapport, leading to clients feeling comfortable in discussing their personal circumstances.
- Knowing how to ask questions to get a client to provide additional details about their situation or to open up about what their goals are.
- Developing questioning techniques designed for different client types and situations.
- Reading a client's body language and learning to read the interplay between a husband and wife during the course of a client meeting.
- Understanding the best way to approach the education of clients.
- Developing the skills to positively contribute to client financial capability and understanding how to avoid making a client feel embarrassed about their lack of financial literacy.
- Developing an environment that encourages clients to ask questions.
- Developing the skills to encourage clients to appreciate the importance of making decisions.
- Encouraging clients to be open to changing their behaviours in order to increase the prospect of achieving their goals.

We do not believe that these skills have been addressed in the specified competencies.

One additional area that we would like to see addressed in the Professional Year is a detailed understanding of what is required to comply with the Best Interest Duty and Related Obligations. Some recent reports by ASIC, including Report 562 (Vertical Integration and Conflicts of Interest) and 575 (SMSF Advice), highlight that some of the requirements are not as well understood as is required. We believe that training on the requirements to comply with the Best Interest Duty and Related Obligations should be an important element of the Professional Year. This might also address typical advice mistakes and good practices that contribute to a reduced risk of inappropriate advice and good documentation standards.

Question 5.1: Do you agree with the competencies expected to be demonstrated before conclusion of the work and training period?

We agree with the four competency areas that have been set out on page 6, however make the following points:

- There needs to be more focus upon client relationship skills and emotional intelligence. It is important to note that none of the outcomes listed on the bottom of page 6 and the top of page 7 of the Consultation Paper talk to the importance of being able to get clients to do something. All of these outcomes seem to be technical attributes. It appears to discount the importance of the role of the client and are all worded in terms of how they demonstrate their technical competency.
- In terms of the technical competence requirement, we note the reference to “the ability to ensure that advice strategies are suitability aligned to different consumer groups”. We have two questions with respect to this statement. The first is with respect to whether “suitability” should have been “suitably” and the second is with respect to what the reference to different consumer groups actually means. We noted this reference with respect to the exam and expressed concern that this implied a requirement to align strategies with the characteristics of broader consumer groups, rather than being tailored to the needs of a specific individual. This is not consistent with the Best Interests Duty.
- One of the important learnings during the Professional Year is an in-depth understanding of the financial advice process. It is unclear if this is implied by technical competence.
- In terms of client care and practice and the reference to a “client centric practitioner”, we agree with this, however feel that it does not go far enough in terms of describing the client relationship skills that an adviser needs to have.
- We believe that there is insufficient information on the proposed competencies, and suggest that more detail is required.
- As previously stated, we believe that the competencies should be more specifically aligned to the requirements of the Code of Ethics.

Question 5.2: Do you agree with the proposed quarterly supervised approach and indicative key activities aligned to each quarter?

As stated previously, we believe that Professional Year candidates should be able to commence their Professional Year before they have completed the exam, although they would not be able to provide advice (either directly supervised or indirectly supervised) prior to completing the exam and being registered as a provisional financial adviser. We would anticipate that they could complete the exam at the end of the third or fourth month.

It is our view that rather than talking about quarters, it would be more important to talk about phases and that the progression from one phase to the next is dictated by the completion of the required training and the demonstration of the required skills. It is our view that this might be more likely to be three four-month periods, rather than getting to the final stage after just six months. We believe that this understates the importance of a longer period of time in providing supervised advice and that it enables them to move to indirect supervision possibly before they are ready.

We make the following additional points on this quarterly approach:

- As the Professional Year candidate is only observing in the first quarter, it is unlikely that there is much room to identify opportunities for improvement.
- The detail in terms of client meetings in Quarter 2 is insufficient. Is this intended to be a reference to first meetings, subsequent meetings of the advice delivery meeting? Does it imply that these Professional Year candidates were going to be delivering Statements of Advice to new clients or just Records of Advice to existing clients? Alternatively is it intended that

they would be doing review meetings? Clarification on this is required and it should be noted that they may necessarily need to progress towards the delivery of holistic advice to new clients, although noting that this might take some time in terms of the development of the skills and the full process from initial discussion to implementation.

- We believe as a result that the second stage as set out in Quarter 2 will necessarily take somewhat longer than three months.
- With respect to the presentation on 2 to 3 ethical dilemmas in Quarter 3 and 4, we note that a Professional Year candidate may not experience the required number of ethical dilemmas or they may simply be ethical considerations rather than dilemmas. We recommend that further guidance is provided on this and that there should be provision for a Professional Year candidate to use a hypothetical example if they don't experience real examples. This is an example of an activity that could be signed off by a specialist (coach), rather than relying upon the nominated supervisor.
- In terms of the assessment of readiness to proceed to becoming a Relevant Provider, we would recommend that this is something more suited to the decision of a licensee panel, rather than just the supervisor on their own. The Professional Year candidate may be expected to present to this panel and describe a particular client case.

6. Evidence Collection

Question 6.1: Do you agree with the combination of approaches for the measurement of competence and the collection of evidence?

We note the reference in Section 6 to the combination of approaches, however do not believe that these different approaches have been set out.

We believe that more detail is required and that FASEA should make available a guide for the measurement of competence and a template for the documentation of compliance with this standard.

Page 12 in the section on 'Consultation Interests of FASEA' refers to output and input based approaches, however this is not clearly explained in Section 6.

Question 6.2: Do you agree with the proposed periodic review between the Provisional Relevant Provider and the Supervisor?

We support a periodic review process, noting that this may be provided by more than one person playing a role in work and training activity as part of the Professional Year program. Whilst a quarterly formal review may be appropriate, it is likely that this would be undertaken more frequently and potentially on a monthly basis.

7. Exit Criteria

Question 7.1: Do you agree with the proposed exit criteria and the requirements of the Provisional Relevant Provider?

We agree with the proposed exit criteria and the requirements of the Provisional Relevant Provider, subject to the discussion above and the following points:

- It may be appropriate to allow Professional Year candidates to present on hypothetical ethical dilemmas if they have not been exposed to actual ethical dilemmas during their Professional Year.
- The requirements of a Career Development Plan have not been adequately defined.

- We disagree with the proposal for 800 hours of accredited education or training as stated above.
- It may be appropriate to allow the Professional Year candidate to complete some of the tasks during the course of the year, rather than being subject to assessment of all elements at the end of the year.

Question 7.2: Do you agree with the proposed exit criteria and the requirements of the Supervisor?

We agree with the proposed exit criteria and the requirements of the Supervisor, subject to the discussion above and the following points:

- It may be more appropriate to enable more than one person to contribute to the supervision and training/coaching role as discussed previously.
- The audit of 5 files may not be meaningful as the advice is provided in the name of the supervisor and the supervisor may have made multiple changes to the work proposed by the Professional Year candidate. In reality, this is an audit of the supervisor's files.
- We believe that there should be consideration given to a licensee panel approach to the formal assessment of the competence of the Professional Year candidate to progress to full recognition as a financial adviser.
- We recommend consideration being given to a situation where the panel would have the chance to consider and question the Professional year candidate on the delivery of advice to a particular client.

We ask the question whether there should be any independent checking of the Professional Year activity and documentation which could be done by FASEA on a sample basis.

8. Potential Resources and Templates

Page 12 in the section on 'Consultation Interests of FASEA' list the proposal for potential resources and templates and refers to further details in Section 6, however there are no further details on page 10.

Question 8.1: Do you believe that templates may be useful and could be used as a guide only?

We certainly agree that templates would be beneficial and that they could be used as a guide. It needs to be noted that the licensee for a Profession Year candidate may be a large or small licensee. Large licensees have greater capacity to develop their own guidelines and can leverage off what they have previously done. For smaller licensees, templates and guidelines will be very beneficial and having them provided by FASEA will avoid duplication of effort.

We agree that they should be guides only in order to allow flexibility for licensees. This will also enable licensee with existing professional year programs to continue to use these arrangements or to modify them.

Question 8.2: Are there templates in respect of any other matters that would be useful?

We recommend that a guideline document is prepared and provided to supervisors to ensure that they have a genuine understanding of the role of a supervisor. Ideally this would be supplemented by some kind of formal training, which might be via an on-line training package.

Concluding Remarks

We thank you for the opportunity to provide feedback on the proposed Professional Year requirements. We believe that what FASEA has proposed can be enhanced by a greater focus on the development of skills that are important to the provision of financial advice, particularly the development of client relationship and people skills. We believe that the focus of the education requirements should be on particularly competencies, rather than fixed and excessive education targets with a preference for formal qualifications.

The AFA welcomes further consultation with FASEA on all elements of the Professional Standards regime. We would like to have the opportunity to discuss our views in more detail. For any questions, please contact us on (02) 9267 4003.

Yours sincerely,

Philip Kewin
Chief Executive Officer
Association of Financial Advisers Ltd