Association of Financial Advisers

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Stephen Glenfield
Chief Executive Officer
Financial Advice Standards and Ethics Authority

*By email:* consultation@fasea.gov.au

Dear Mr Glenfield,

**AFA Submission: 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 acknowledges the important improvements that have been made to this standard since the first version issued by FASEA in July 2018, including the following:

- A reduction in the total hours required during the professional year from 1,800 to 1,600.
- A reduction in the requirement for formal education from 800 hours to 100 hours.
- The introduction of the option for the Provisional Financial Adviser to undertake the exam at any time prior to the commencement of the third quarter.

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 critical to being able to engage, build rapport, understand and deliver on the needs of clients. 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 Policy Statement and draft Legislative Instrument could place more 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 partially addressed in the 'Client care and practice' element of the key competencies, however we believe that this requires increased emphasis.

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 considerations 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 primarily the large salaried-channel licensees that offered Professional Year programs. We believe that the changes that have been made in this new version of the standard will better facilitate a broader commitment to invest in Provisional Financial Advisers.

We have set out below our responses to FPS003 Work & Training Requirement (Professional Year) Policy Statement, however we have also addressed throughout the document any specific feedback that we have with respect to the draft Legislative Instrument.

## 2. Work and Training Standard

The third paragraph under 'Reasons for a standard on work and training' refers to the arrangement of supervision as a relationship between the individual and their licensee. We are concerned that this inappropriately leaves out the supervisor, who is a key element of this overall framework.

We recommend that this section more completely sets out the different stages that a Provisional Financial Adviser goes through and the actions required by the licensee. Now that it is accepted that the Provisional Financial Adviser can complete the exam after they start the Professional Year, but before the start of the third quarter, we believe that this needs to be clearly set out, including the ASIC notification obligations.

## 3. Responsibilities for approving work and training in the Professional Year

**Individual (Provisional Relevant Provider 'PRP')**

We note that the second paragraph in this section refers to Section 190A (definitions). We assume that this should in fact be Section 910A.

**Financial Services Licensee**

We note the reference to a Licensee having obligations under the Act to notify ASIC of 'certain matters' for the purposes of the Register of Relevant Providers; and seek elaboration on what '***certain matters'*** would include in this context.

**Supervisor of the provisional relevant provider**

The AFA believes that a supervisor should have **5 years' experience within a related financial services** environment, as a minimum. 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, economic cycle experience, human tragedy experience or client relationship experience. They are less likely therefore to have the understanding and knowledge to deal with these experiences or how to educate clients on financial matters and to encourage them to actively engage in their financial decision making or to provide informed consent.

We also note that the Policy Statement and the draft Legislative Instrument refer to the experience requirement however both fail to state that the supervisor must be a current relevant provider.

Furthermore, a financial adviser with two years of experience and no formal training on how to supervise a Professional Year candidate is, in our view, 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. We note that some of this experience may have been gained in another capacity such as a role as a manager of advisers or a manager of an advice practice. Whilst we would like to see an increased experience requirement, we are very conscious that this may not need to have been in the capacity of a relevant provider.

An alternative model is for two or more people to provide the supervision. One would be the formal supervisor who is responsible for the advice (i.e. a current relevant provider). 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. We must place a focus and importance on real experience and a proven track record of supporting clients through an extended relationship timeframe. Once again, we recommend that FASEA considers such a multiple supervisor or outsourcing type model.

We also believe that it is appropriate for FASEA to address several 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 Financial Adviser.

We note the reference to the requirement for the supervisor to maintain records of the Professional Year as part of their compliance with Standard 8 of the Code of Ethics, which is also addressed in Clause 13(2) of the draft legislative instrument. We are conscious that a supervisor may leave the licensee either before the candidate's completion of the Professional Year or after completion. It is our view that the requirement to maintain the records should more appropriately sit with the licensee.

## 4. Requirements – work and training

We note the reference to 'exceptional circumstances' where the employment has changed within the first 12 months. We believe that the following circumstances would not be considered 'exceptional', and there should be clearly defined arrangements for how a Provisional Financial Adviser can recommence a Professional Year with a new licensee or with a new supervisor. For instance:

- Where 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 the case that within a small licensee that the supervisor retires or experiences a health incident that prevents them from continuing to be a supervisor.

Such business circumstances should be allowed for to avoid unnecessarily penalising the Professional Year candidate. They should not be in the position where they would be forced to start again.

We believe that the piece around career breaks requires greater direction from FASEA. 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 and made available to advisers to complete on their return. We would recommend that they need 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 do not believe that this additional CPD requirement for career breaks is relevant to the Professional Year requirements and should be left to the CPD Policy Statement and Legislative Instrument.

### Amount of time spent in work and training

The requirement for training to be at a minimum of 2 hours per week of structured training is unnecessarily restrictive. It does not take into account annual leave or sick leave instances or absences of the supervisor, which would preclude a regular weekly training commitment. We recommend a more practical approach whereby the 100 hours is split into a minimum of 20 hours per quarter (in line with FASEA's proposed quarterly structured approach). This approach would take into consideration both the individual's and the supervisor's availability, as well as the resources and planning capacity of the licensee/business practice. It may also be the case that a Professional Year candidate wishes to utilize their structured training requirement to undertake a short course, which would make the requirement to do two hours a week or even at least 20 hours a quarter problematic. It should not be necessary to spread this across the year.

We note that this section does not refer to the 100 hours as accredited hours, yet the Exit Criteria section refers to it as 'accredited education and training'. This should be clarified.

### Formal education as a contribution to Professional Year requirement

Although we agree that formal education could contribute to meeting the training requirement of the proposed Professional Year, we do not agree that the focus upon formal education is appropriate in the context of the primary objective of the Professional Year being the development of practical skills and the reduced time allocated to education and training.

We are concerned that the Structured training options set out in Section 13 of the draft legislative instrument are overly restrictive. Section 11(1)(b) refers to courses approved by FASEA for existing advisers, which does not seem appropriate. We also make the point that an allocation of 100 hours is not sufficient to obtain a professional designation. From an overall perspective we feel that these options are unnecessarily limited and that there should be broader options, including courses that may be developed in the future by education providers to specifically cater to Professional Year candidates. It may also be appropriate for some of the structured training to include existing structured CPD options or attendance at particular conferences and other events.

We also note that the policy outlines 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 have met the new curriculum, so why would they need to do any further bridging courses?

## 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 a client meeting.
- Understanding the best way to approach the education of clients.
- Developing the skills to positively contribute to clients obtaining 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 financial 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, although it is possible that they are implied in the 'Client care and practice' category.

As set out in our previous submission, one additional area that we would like to see addressed in the Professional Year is a detailed practical understanding of what is required to comply with the Best Interest Duty and Related Obligations. 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 promote good practises that contribute to a reduced risk of inappropriate advice and good documentation standards. Once again this may have been considered in part of the 'Regulatory compliance and consumer protection' category however we believe that it would be preferable to clearly articulate this.

With respect to the four competency areas that have been set out in the policy statement, we make the following additional points:

- 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.
- 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.
- We also believe that the competencies should be more specifically cross-referenced to the requirements of the Code of Ethics.

Whilst we note the emphasis on quarters, we recognise the acknowledgement that some Provisional Financial Advisers might move through the first two stages more quickly and inevitably some may take longer. We are concerned that it may be unrealistic to expect a Provisional Financial Adviser to get to the indirectly supervised stage in just six months.

We make the following additional points on this quarterly approach:
- The detail in terms of client meetings in Quarter 2 is insufficient. Is this intended to be a reference to first meetings, subsequent meetings or the advice delivery meeting? Does it imply that these Professional Year candidates are 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.
- With respect to the presentation on 2 to 3 ethical dilemmas in Quarters 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. Alternatively, FASEA could produce or provide a library of ethical case studies for use by licensees to provide to their Provisional Financial Adviser for the purpose of meeting this requirement.

## 6. Evidence Collection

We note the reference in this section 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 a competency and a template for the documentation of compliance with this standard. For example, FASEA should provide templates for the supervisor attestation of completion and the 'program of PY activities'.

## 7. Exit Criteria

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

- It may be appropriate to allow Professional Year candidate to present on hypothetical ethical dilemmas if they have not been exposed to sufficient actual ethical dilemmas during their Professional Year.

- It may be appropriate to allow the Professional Year candidate to complete some of the tasks during the year, rather than being subject to assessment of all elements at the end of the year.

We agree with the proposed exit criteria and the requirements of the supervisor; however, we note that it may be more appropriate to enable more than one person to contribute to the supervision and training/coaching role as discussed previously. A guidance paper should be provided for supervisors and licensees for how a supervisor is expected to determine if a competency has been met, as supervisors are not learning or education professionals.

## 8. Potential Resources and Templates

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 suggest that they should be guides only in order to allow flexibility for licensees. This will also enable licensees with existing Professional Year programs to continue to use these arrangements or to modify them.

We also recommend that a guideline document is prepared and provided for 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.

## 9. Further Feedback on the Draft Legislative Instrument

We provide the following additional feedback with respect to the draft Legislative Instrument:

- Section 6(1) – we suggest that 'at the end of the year' should be replaced with 'by the end of the year', given the exam needs to be passed before quarter 3.
- Section 6(2)(a) – we suggest 'efficiently' is replaced with 'effectively' as it is more important to a licensee for a Professional Year candidate to complete competency activities successfully than to be quick in completing them.
- Section 6(2)(e) – we suggest 'judgment' be replaced with 'judgement', because a judgment is an adjudication provided by a judge while a judgement is to weigh up or be judicious in evaluating options.
- Section 14(a) appears to imply a requirement to notify ASIC where a Provisional Financial Adviser has been assessed for 'Accelerated progression' (Section 12(4)). We are not aware that this is the case. Nonetheless as mentioned above, we believe that there is a requirement to notify ASIC when the Provisional Financial Adviser has passed the exam.

## 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.

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

Yours sincerely,

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