Association of Financial Advisers

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

By email: consultation@fasea.gov.au

Dear Professor Brimble,

AFA Submission: Continuing Professional Development (CPD)

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

The AFA supports a stringent Continuing Professional Development (CPD) regime that works to ensure that that financial advisers remain up-to-date. The standard needs to give due consideration to the requirements that exist in similar professions. It is our view that a total of 50 hours exceeds the requirements of similar professions and the allocation of time to individual categories of CPD requires some refinement. We have set out some recommended changes below.

We are very conscious of the additional cost of CPD that would come from increasing the current benchmark of 30 hours to 50 hours. CPD activity costs money to attend and it also costs money in terms of time out of the office and away from clients. In the context of a range of other cost increases impacting the sector at present, we think that this is an important factor that should be taken into consideration.

Financial advisers will need to comply with both the FASEA CPD standard and also the Tax Practitioners Board's (TPB) CPE standard. The TPB effectively requires tax (financial) advisers to do 20 hours per year, although it is assessed over a three-year period. Under the TPB CPE Guidance, it is possible for CPD to count towards the AFSL requirements and also the TPB requirement, where it incorporates a tax element. It is important that the FASEA standard takes into account the requirements of the TPB and that the FASEA approach facilitates CPD activity that will count towards both the FASEA target and the TPB target. Otherwise the TPB requirements end out being in addition to the FASEA requirements, which would make the overall hours target even more extreme.

We would recommend that this consultation paper should address the guidance on the requirements in the first year of the new CPD regime and the requirement for a licensee to define a CPD year. It appears that there is some confusion in the financial advice market as to whether this regime starts from 1 January 2019 or the first day of a licensees' new CPD year after 1 January 2019. Section 1546E of the Corporations Act explains that the CPD requirement starts from 1 January 2019, however the obligation to notify ASIC of non-compliance with the CPD standard and the record retention obligation only start from the beginning of a licensees next CPD year that commences on or after 1 January 2019. Section 921U(2)(iv) specifically refers to FASEA setting CPD standards for the first part year period as specified in Section 1546E(5). This consultation paper does not appear to address these requirements. Thus, we believe that further clarity on these requirements is necessary.

There is also a potential issue with respect to the treatment of new financial advisers who commence part way through a CPD year. Example 2.4 in the Explanatory Memorandum refers to a specific example, where a pro-rata requirement may be set. This should also be addressed.

Another situation that needs to be addressed is where an adviser moves licensee during the course of the CPD year. How is this treated, particularly where the new licensee may have a different CPD year to the previous licensee?

It is noted that the CPD requirement does not apply to either Provisional Relevant Providers or "limited-service time-sharing advisers". We believe that the consultation paper should address this. We also note the reference in the Professional Year Consultation Paper to the requirements for financial advisers having a career break of greater than 2 years, and suggest that this requirement should be specifically addressed in the CPD standard.

2. Purpose of Continuing Professional Development

We note the point in Section 2 about a "summary expectation of the CPD requirement is that all relevant providers will participate in development programs and activities that ensure they maintain and extend their professional capabilities, knowledge and skills". Whilst we support this statement, as expressed above, we note that this standard does not apply to "limited-service time-sharing advisers".

We broadly support the statement with respect to professional proficiency in Section 2, however believe that the reference to "independently applying" may require some clarification. We believe that the introduction to these four points on "might also be seen in outcomes that focus on" might require some further clarification. What is meant by "outcomes" in this context? We also note that these four bullet points were also included in the "Competencies Required" Section of the Professional Year Consultation Paper.

3. Responsibilities for Continuing Professional Development

We note the requirement for record retention by relevant providers in point 3 on Page 3. This states that the relevant provider must keep records for 6 years from the end of each CPD year. This is inconsistent with Section 922HC of the Corporations Act, which states that evidence of CPD activity must be retained for 12 months after the end of the CPD year. We would assume that the requirements of the legislation should prevail in this case.

Whilst a 12-month record keeping requirement is reasonable for both licensees and relevant providers, if the law was changed to increase the requirement to 6 years, then we would recommend that there was specific recognition for financial advisers to outsource this requirement to licensees. We do note that this presents particular challenges when an adviser changes licensee or where a licensee closes down and would suggest that a standard protocol needs to be built around the provision of CPD records to advisers when they leave a licensee.

Question 3.1: Do you agree with the proposed requirement for 50 hours of CPD per year, 70% of which should be approved by the licensee? If not, why not?

The AFA believes that 30 hours of CPD should be a sufficient minimum standard for financial advisers. In terms of comparison with other professions, this reflects a reasonable balance. It would not be quite as much as the professional accounting associations require, however it would be significantly more than the lawyers are required to do. It is our view that 50 hours is excessive. We also make the point that given the specific targets in each category of CPD, that someone would typically need to do more than 30 hours in total to achieve the necessary amount in each category.

In placing a requirement that 70% of activity needs to be approved by the licensee, consideration needs to be given to the fact that this obligation would need to apply to both large institutionally owned licensees with training teams and also the very small licensees. There will inevitably be a fixed cost in running a CPD regime at the licensee level. According to the 1 August 2018 version of the Financial Adviser Register, there are 1,643 licensees with five or less advisers, representing a total of 3,198 advisers. There are a total of 845 single adviser licensees. It is impractical to place an obligation on each of these licensees to have an accreditation program for CPD. This invites inefficiency and a lack of consistent standards. We believe that the CPD requirement needs to have greater flexibility to take into account the different circumstances of smaller licensees.

In our view, there needs to be a sensible provision for smaller licensees to outsource the CPD accreditation requirements to specialist providers (i.e. education providers and professional associations). There are potentially a range of parties who could undertake this activity. In our view, it would be important to ensure that there are clear standards and requirements for people approved to undertake CPD approval/accreditation activity.

We believe that all the CPD that is undertaken should be approved or accredited by either the licensee or a recognised accreditation provider or training provider (i.e. education providers and professional associations).

Question 3.2: Do you agree with the proposed Licensee approved CPD approach and the proposal for a published CPD policy? If not, why not?

Whilst the requirement for a CPD policy is sensible, it is unclear what is meant by the requirement to publish. Does this mean that it would need to be included on a licensee's website? It is unclear what the policy objective is in terms of publishing a CPD policy. Is it proposed that this would be something that clients could check to ensure that they were satisfied, or is it something that code monitoring bodies would assess? Alternatively, is the requirement to publish, simply to ensure that financial advisers are aware of their obligations? Given that FASEA will define specific CPD requirements, we do not believe that there would be a great deal of benefit for consumers to inspect a licensee's CPD policy. Clients simply expect their financial adviser to have the required level of competency. In the absence of a stated objective, it is difficult to comment further on this proposal.

Whilst we accept the argument for publishing a CPD policy for larger licensees, we do not believe that this should be necessary for smaller licensees. It may be sensible to limit this requirement to licensees above a certain size. There are 88 licensees with 50 or more advisers and 142 with 25 or more advisers. If the requirement was to publish a CPD policy on the website, then we would recommend that this be based upon the licensee having at least 25 financial advisers.

We also make the point that there are many small licensees who do not have their own website and therefore it would be problematic to require them to publish their CPD policy. We also believe that if a licensee outsources their CPD accreditation to a third party, as we have proposed, then they should not be required to separately maintain and publish a CPD policy.

One question that we do have is whether FASEA has the power to mandate requirements with respect to licensees in regard to CPD activity and requirements. Section 921U(2)(iv) refers to the powers for FASEA to create legislative instruments that include setting requirements for CPD. Sections 921B(5) and 921D apply to relevant providers and not licensees (unless they are individually licenced). We do not oppose setting requirements for licensees, however we believe that it is important to ensure that these powers exist.

Question 3.3: Do you agree with the proposal to develop and maintain a Professional Development Plan? If not, why not?

The AFA believes that CPD should be considered in the context of a financial adviser's longer term plan to develop and maintain knowledge and skills in the area that they have selected to operate within. We therefore believe that it is appropriate that all advisers have a Professional Development Plan. We also recommend that FASEA develop a template for the documentation of such a Professional Development Plan.

We also note that financial advisers operate within very different business models. A Professional Development Plan for a salaried adviser might look more like an agreement between the adviser and their manager. For a self licenced adviser it would look very different. In a self employed Authorised Representative context it might reflect an agreed plan with the licensee. Accordingly, we suggest that there might need to be alternative templates for different business models.

We also make the point that for a Professional Development Plan to be most effective, it needs to be reviewed on a regular basis and updated as the adviser develops or changes their specialisation.

4. CPD Requirements

Question 4.1: Do you agree with the proposal for an hours based system of CPD calculation? If not, why not?

We support an hours based approach, subject to their being clear guidelines as to what activity will qualify. It is important to ensure that there is a minimum standard for training and development activity that will qualify as complying CPD.

We also note that the TPB's standard is measured in terms of hours per triennium and recommend that the FASEA requirements are aligned as closely as possible to the TPB requirement, although noting that the Professional Standards regime is built on the concept of a CPD year.

We note the proposed limit of 7.5 hours for professional or technical reading. We suspect that this relates to self-assessment of reading activity. As previously stated, we do not support such self-assessment activity and would favour the current approach where such reading activity is captured through an on-line system (i.e. Kaplan Ontrack).

Question 4.2: Do you agree with the types of CPD activities proposed? If not, why not?

We broadly agree with the intent of the first four CPD categories, although we would suggest some changes to terminology and coverage. We do not agree that there should be a large category for "Other Advisers/Licensee Selected". We cannot see what value such an open ended category might provide. Our detailed feedback is as follows:

- **Technical Competence.** We agree with this and it is our view that this category would include technical knowledge across the broad spectrum of knowledge areas. We note that traditionally this has been split into separate knowledge areas and believe that this is appropriate for advisers operating in multiple areas.
- **Client Care and Practice.** We would recommend that this is expanded to include client relationship skills, emotional intelligence skills and client education. We addressed these skills in some detail in our Professional Year submission. These are critical skills that a good financial adviser develops over time and should be an integral part of an adviser's Professional Development Plan. We assume that Client Care is focused upon delivering to the needs of the client. We are uncertain as to what the "Practice" part refers to.
- **Regulatory Compliance and Consumer Protection.** We support the inclusion of content on regulatory compliance, however we are unsure as to whether certain regulatory developments might fit within this category or Technical Competence. We are less certain as to what Consumer Protection relates to. Is this training on the complaints process, or alternatively does it relate to the provision of quality advice?
- **Professionalism and Ethics.** We support inclusion of a specific category on ethics. We also support the specific recognition of Professionalism, although it is less clear what this category may include.
- **Other Advisers/Licensee Selected CPD.** We do not support the inclusion of this category and believe that any allocation to this category should be reassigned to the other categories.

Question 4.3: Do you agree with the proposed evidence and record keeping requirements? If not, why not?

We broadly agree with the evidence requirement, although noting the six year timeframe proposed on page 3 is inconsistent with the 12 months timeframe set out in Section 922HC of the Corporations Act. We agree with the requirement in regard to documentation of activities undertaken and evidence of completion, however we are uncertain what is expected with respect to documentation of outcomes obtained. Does this refer to specific learning outcomes or is it simply a reference to proof of completion of the training?

Question 4.4: Do you agree with formal education as a contribution to the CPD requirement? If not, why not?

We strongly support the inclusion of formal education in the CPD requirement. Where an adviser makes the commitment to undertake additional formal education, then this should be recognised within the overall CPD regime. As highlighted in the consultation paper, this might include study such as bridging courses and other study towards degree equivalence and we therefore believe that this study is particularly relevant and should be included within the CPD requirement.

We do not agree with the need for a cap of 25 CPD hours on formal education. Given the different minimums for each of the separate categories, it is clear that an adviser will not be able to meet their full CPD requirement from undertaking a single formal education course. We therefore see no benefit in putting a cap on formal education.

Question 4.5: Do you agree with the CPD framework which provides examples of the different categories of learning activity and the rules for hours accrual in each category? If not, why not?

We do not agree with the allocations that have been proposed. In addition to the comments above, including the fact that we do not support 50 hours and our feedback on the titles and coverage of some of the categories, we have proposed refinements to the categories and the time weighting. We have proposed a percentage weighting instead of a fixed number of hours as we do not agree with the proposed total hours. Our recommendation includes a significant increase in Technical Competence and a reduction in Ethics/Professionalism. The significant focus upon ethics and professionalism as part of achieving degree equivalence and in the preparation for the exam should be taken into account. Whilst this awareness needs to be maintained, it will be addressed in other CPD activity and does not need to be at an impractical level.

Category	Weighting
Technical Competence	45%
Client Relationships and Care	25%
Compliance and Quality Advice	20%
Ethics and Professional Conduct	10%

The AFA produced a whitepaper in October 2017 called “Financial Advice Competency Framework – an Industry Consensus”, which set out a range of knowledge domains and competencies, which were identified by the broader industry as being key to the development of financial advisers. These knowledge domains included the following:

- **Technical Services** – Financial Advice Process, Insurance, Cashflow Management, Investment, Retirement and Estate Planning, and Taxation.
- **Professionalism** – Professional and Ethical Conduct, Regulations and Compliance, Professional Development, and Training & Expertise.
- **Client Focus** – Client Needs, Client Management, Contemporary Advice, Customised Service, and Client Education.
- **Self-Development** – Judgement, Personal Values, Adaptability, Systematic, and Resilience.
- **Connecting with People** – Trust, Effective Communication, Interpersonal Skills, Coaching, and Psychology.

We believe that this whitepaper provides a useful framework for the consideration of the most appropriate categories for CPD, and would encourage FASEA to review this document (www.afa.asn.au/afa-white-papers).

We do not believe that the split between “Minimum” and “Minimum Approved” is beneficial, nor the way that for “Regulatory Compliance and Consumer Protection” and “Professionalism and Ethics” the “Minimum Approved” was 100% of the “Minimum”, whereas it was very different for the other categories. We favour that all CPD is approved, although it may be approved by an education and training provider or professional association, rather than a licensee.

We note the reference to a CPD framework, however we are uncertain as to exactly what the "framework" specifically refers to.

Question 4.6: Do you agree with the proposal that FASEA will not accredit CPD activities or providers, but will provide a guide with principles, to optimise the consistency in the Licensee self-assessment approach? If not, why not?

We agree with the proposal that FASEA will not accredit CPD activities, however we are concerned about how consistency of CPD standards can be maintained if there is no process for the accreditation of CPD assessors, particularly where there are over 2,100 licensees who, under the proposed model, would all undertake their own assessment and accreditation of CPD. We believe that the assessment and accreditation of CPD is a specialist skill and that some formal training should be provided before someone is able to commence this activity. In practice, we do not believe that it makes sense for small licensees to do their own assessment and suggest that smaller licensee should be able to rely upon outsourcing this activity to specialist providers (i.e. education providers or professional associations) who should be duly qualified to undertake this activity.

The training on CPD accreditation and the assessment of capacity could be delivered by an on-line course and testing module.

5. Proposed Templates as Guidance Only

Question 5.1: Do you agree that templates are useful and should be used as a guide only?

We agree that templates would be useful in a number of areas, particularly in the case of small licensees. Given the different business models that exist, we also agree that they should be a guide rather than being mandated. Large licensees would probably already have a range of such templates and they should be able to continue to use them.

We recommend that templates be developed for CPD activity records, CPD activity approval or accreditation applications and Professional Development Plans.

Question 5.2: Are there any other templates that would be useful?

In addition to the points made above, we recommend that further guidance is provided for licensees to assist them to understand what is included in each of the nominated CPD categories and to ensure that accreditation is undertaken on a consistent basis. We note the reference to FASEA guidelines in the CPD approval section. We assume that this is an additional guidance documentation that FASEA proposes to make available.

Another tool that we would recommend is a mapping guide to compare the current RG 146 knowledge area approach to the new FASEA CPD categories to assist both CPD providers and licensees to understand how well the current library of activity will meet the future requirements and whether there are any major gaps that need to be addressed. In the short period of time prior to the new CPD regime commencing, it is important that the financial advice sector has an awareness of the extent of preparation required for the new FASEA CPD regime.

Concluding Remarks

We thank you for the opportunity to provide feedback on the proposed CPD requirements. We have proposed a reduction in the overall level of required CPD hours and some refinements to the different categories of CPD activity and the amounts of hours required.

The AFA welcomes further consultation with FASEA. For any questions, please contact us on (02) 9267 4003.

Yours sincerely,

Philip Kewin
Chief Executive Officer
Association of Financial Advisers Ltd