



FASEA Consultation Paper 6: Continuing Professional Development (CPD)

31 August 2018

Portfolio Construction Forum submission to Financial Adviser Standards and Ethics Authority (FASEA)



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V2 04 September 2018 (contains minor edits).



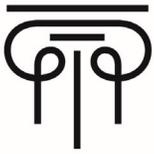
1. EXECUTIVE SUMMARY

Portfolio Construction Forum's submission is built around three central recommendations:

1. That responsibility for the Continuing Professional Development (CPD) regime should be more closely aligned with initial education requirements – specifically that CPD should be a shared responsibility between advisers and licensees, rather than the responsibility of licensees only.
 - a. If we don't do this – conflicts of interest arise, whereby licensees enforce regimes which focus CPD activity on their own in-house products.
 - b. The benefit – by adopting the shared responsibility approach, and independent CE accreditation, the potential for conflicts of interest is removed, and the chances that continuing education standards will be met are increased. Further, a mutual agreement approach supports Standard 10 of the proposed FASEA Code of Ethics, which states: "a relevant provider (financial adviser) must develop and maintain a high level of relevant knowledge and skills". In turn, this responds to FASEA's general mapping, to address issues of conduct and regulatory concern i.e. "Independence of mind, ownership, employment, payment source, product, research, quality of process and quality of education and competence."
2. That CPD should provide Australian Qualifications Framework (AQF) Level 7 equivalent continuing education – in contrast to a narrow, product-focused continuing education regime (which has been the case to date, and which is proposed to be the case into the future). Further, that the range of competencies should complement the weaknesses and specialities of the individual adviser.
 - a. If we don't do this – continuing education standards remain at the RG146 level.
 - b. The benefit – by benchmarking continuing education against AQF Level 7, the professional, ethical and education standards of financial advisers will be maintained and extended.
3. That the CPD regime should lift standards beyond what is currently practised and considered acceptable, to a whole-of-client, post-graduate level consistent with professional financial advice and public expectations.
 - a. If we don't do this – continuing education standards remain at current levels, meaning a continued focus on products and an undergraduate level standard.
 - b. The benefit – maintaining and extending the professional, ethical and education standards of financial advisers will support the evolution of financial advice, into a profession.

Understanding and appreciating the history to RG 146 is essential to understanding the current CPD environment, and to planning what the next generation of continuing education should look like. For that reason, the Forum has undertaken to include in its submission a detailed background to the process, purpose and objectives that gave rise to the Financial Services Reform Act and ASIC Regulatory Guide 146, in order to unpack the rationale for what has been to date a product training-centric framework, and from there to give a compelling rationale for the Forum's recommendations.

Portfolio Construction Forum is the specialist, independent, investment continuing education, accreditation and certification service curated for Australia's and New Zealand's investment portfolio construction practitioners. As such, the Forum has had



independent, advanced continuing education engagement with its 10,000-plus members, for more than 15 years.

The Forum is therefore uniquely well-placed to provide this submission and make these recommendations.

The Forum believes the Corporations Amendment (Professional Standards of Financial Advisers) Act 2017 is the basis for FASEA to do far more than simply lift professionalism in financial product sales. Indeed, FASEA has an opportunity to build a framework for best practice continuing education (as well as best practice initial education), which aligns with professional financial advice. Such a shift would represent a significant raising of the bar for the sector. However, it should be noted that the standards the Forum proposes have long been embraced by a substantial cohort of competent and professional financial advisers. Further, the Forum's members would consider our proposals to be entirely reasonable.

A summary critique of the FASEA CPD proposals, as it relates to the Forum's recommendations, is provided in Section 6 below.



2. HISTORY OF FSRA AND RG146 AND FINANCIAL ADVISER CPD

To better understand the impact of CPD on the financial advice industry today, it is beneficial to first understand how the Financial Services Reform Act (FSRA) came about as it had, among other effects, a material influence on the developing financial advice (or, financial planning) community in Australia.

During the 1980s and 1990s, the life insurance sales sector morphed into the financial advice or financial planning sector. The shift was contemporaneous with the insurance sector introducing investment products, which proliferated as a result of deregulation, and were highly attractive to “agents”, or “representatives”, who were only too keen to “sell” such products.

In 1996, the Australian Government established an Inquiry into the Australian Financial System, to review significant regulatory framework changes implemented since the Campbell Committee Inquiry of 1981. The “Wallis” Inquiry, as it became known, was to review these developments, consider the factors likely to drive further change, and to make recommendations for possible further improvements to the regulatory arrangements.

The Financial Services Reform Act (previously known as the Corporate Law Economic Reform Program No 6 or CLERP 6) was the legislative response to several Wallis Inquiry recommendations and was the culmination of an extensive reform program which examined regulatory requirements applied to the financial services industry.

The three key features of the new regulatory and legislative regime were to provide:

- a. A harmonised approach to licensing of financial services providers, including a disclosure and conduct framework;
- b. A single statutory regime for financial product disclosure; and,
- c. The licensing of financial markets and clearing settlement facilities.

The Wallis Committee formally reported in March 1997, at the conclusion of the inquiry. The key recommendations included:

- That Corporations Law, market integrity and consumer protection be combined in a single agency. This resulted in the establishment of the Australian Securities and Investments Commission (ASIC) in 1998, which combined the roles of the old Australian Securities Commission, the Insurance and Superannuation Commission and the Australian Payments System Council. Among other duties, the new ASIC was to be responsible for the administration of all consumer protection laws related to financial services.
- That disclosure requirements should be consistent and comparable.
- That profile statements should be introduced to provide more effective disclosure, including about offers of retail financial products.
- That a single licensing regime should be introduced for financial product sales, advice and dealing, with financial advisers becoming “Authorised Representatives” or “ARs”.
- That a single set of requirements should be introduced for financial product sales, advice and dealing, which should include:
 - Minimum standards of competency and ethical behaviour of financial advisers;



- Requirements for the disclosure of fees of all financial advisers and of the adviser's capability;
- Rules on handling client property and money; and,
- Financial resources or insurance available in cases of fraud or incompetence.
- That there be responsibilities for agents and employees.
- That regulation of collective investments and public offer superannuation should be harmonised.
- That ASIC should have broad enforcement powers.
- That regulatory agencies should have operational autonomy.

The Inquiry also recommended that the framework based on the four institutional regulators be replaced by three agencies established on functional lines: the Reserve Bank of Australia (RBA); the Australian Prudential Regulatory Authority (APRA) with responsibility for financial safety and prudential regulation generally; and, of course, ASIC with responsibility for market integrity, consumer protection and corporations.

ASIC adopted a consultative approach to implementing FSRA, which included heavy consultation with various financial services institutions on the practicality of the proposals. ASIC's regulatory approach to setting minimum standards of competency and ethical behaviour, captured first in IPS 146 > PS 146 at the time was criticised by industry as being too tough, or too impractical. The Wallis Report recommendation was the first time that competency requirements for directors and authorised representatives were anticipated, and while FSRA enacted these, it was up to ASIC to set the standards. ASIC was faced with three options:

- Implement no standards, which would likely encourage rogue operators and risked bringing into disrepute an industry that had worked hard to build credibility and professionalism;
- Require ARs to sit exams every two years, imposing a burden on industry; or,
- Craft the training requirements around the then existing requirements.

ASIC chose the latter option, as the most pragmatic and reasonable approach to maintaining a standard of competency and to ensuring consumers were offered a level of protection.

FSRA Objectives

The main objectives of the FSRA were to promote confident and informed decision-making by consumers of financial products and services, while facilitating efficiency, flexibility and innovation in the provision of those products and services. It also intended to promote fairness, honesty and professionalism by those who provide financial services, and to create a fair, orderly and transparent market for financial products. The final objective was to reduce systemic risk, and to provide fair and effective services by clearing and settlement facilities.

FSRA Outcomes

The above objectives were designed to drive the following outcomes:



- First, harmonisation of regulation of all financial products, including managed investments, superannuation, general and life insurance, securities, futures and derivatives, foreign exchange and deposit accounts.
- Second, provision of a single licensing framework for financial sales, advice and dealings for financial services, and uniform licenses for the authorisation of market operators and clearing and settlement facilities. This meant three new types of licence would be created by the FSRA:
 - An Australian Financial Services Licence (AFSL);
 - An Australian Clearing and Settlement Facility Licence; and,
 - An Australian Financial Markets Licence.
- The final outcome was the provision of a consistent and comparable disclosure regime across all financial products. FSRA replaced Chapters 7 and 8 of the Corporations Law, and changes were made to the ASIC Act and legislation governing the superannuation industry and retirement savings accounts, amongst others. The Act did not replace Chapter 5C of the Corporations Act, regulating managed investments.

FSRA Licensing

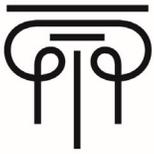
Most, if not all, financial service providers were required to have an Australian Financial Services Licence. Providing a "financial service" included being engaged in one of the following five activities:

1. Giving advice on financial products;
2. Dealing in financial products;
3. Operating a registered managed investment scheme;
4. Making a market in financial products; or,
5. Operating a custodial or depository service, or engaging in conduct prescribed by regulations.

Policy and key legislative obligations

ASIC advised that in each individual case, directors, as well as existing and new advisers, would need to read the law to see how it applied to them. If captured, the FSRA imposed general obligations on all licensees to:

- Act efficiently, honestly and fairly;
- Comply with licence conditions – remembering that there are licence conditions both in regulations and the ASIC licence, and that the licence did not reflect the conditions in the regulations;
- Comply with financial services laws;
- Ensure representatives comply with financial services laws – compliance applies to actions of the licensee and on behalf of the licensee;
- Unless APRA regulated, have adequate financial, human, IT resources;
- Maintain competency to provide the services;



- Ensure representatives are adequately trained and competent;
- Where services are to retail clients, have a complying dispute resolution system;
- Unless APRA regulated – have adequate risk management systems; and,
- Have satisfactory compensation arrangements.

PS146

Policy Statement 146 (PS146) was issued on 28 November 2001, setting out minimum initial training standards and, in addition, continuing training requirements for people who provide financial product advice to retail clients, as part of ASIC's aim to protect so called 'mum and dad' investors. The designation was changed to RG146 by ASIC on 5 July 2007.

The training standards were established under the National Training Framework (NTF). The NTF is best described as the means by which government and industry collaborate, to ensure that training is delivered at an acceptable standard. The minimum standard endorsed by ASIC under RG146 was captured in the Financial Services Training Package constructed under the NTF (see 'What is the NTF?' below).

For the implementation phase of PS146, ASIC split compliance dates into three categories, depending on the type of financial products on which advice was being, or was to be, provided to retail clients. For example, advisers such as financial planners who advised on securities, MIS, public offer super, etc, had to meet the training standards by 30 June 2002. Concessions were made for financial advisers who had completed training that was listed on the ASIC Training Register before 1 January 1995, and such financial advisers needed only to demonstrate that their knowledge and skills were complete and current, particularly in the areas of regulation, compliance and disclosure. This meant producing evidence of relevant continuing education, or undertaking an approved supplementary gap training course.

ASIC regularly reiterated that it was/is the responsibility of the AFSL to ensure that all ARs comply with the training requirements of PS146 and therefore provide confirmatory sign-off to every AR that they had met the RG146 requirements. At this time, ASIC also outsourced its training register to the National Finance Industry Training Advisory Body (NFITAB) and allowed individual assessment by an authorised assessor, a registered training organisation (RTO), or a Self Accrediting Organisation (SAO).

Part 2 of RG146 set out the CPD requirements for ARs to comply with RG146.14. Specifically, RG146 stated that: "Licensees must implement policies and procedures to ensure that their advisers (and they themselves, if they are natural person licensees) undertake continuing training to maintain and update the knowledge and skills that are appropriate for their activities." The "continuing training" referred to in RG146 became known, colloquially in the financial services industry, as Continuing Professional Development, CPD, or PD. The guidance included a list of applicable knowledge areas to a range of products and activities relevant to the financial services sectors regulated by ASIC. ASIC did not mandate a minimum number of hours of CPD, nor accreditation/approval of CPD activities. It was left to the discretion of the AFSL. A common misconception is that the CPD requirement only applies to financial advisers, when in fact it extends to trainee advisers and para-planners monitored and supervised by an adviser who is RG 146 compliant.



What is the National Training Framework (NTF)?

The National Training Framework (NTF) consists of the nationally agreed quality arrangements for the Vocational Education and Training (VET) sector, the Australian Skills Quality Authority (ASQA), and training packages endorsed by the Australian Industry Skills Committee (AISC).

The NTF underpins Australia's nationally recognised, competency-based training system. It ensures the quality of VET in Australia. The aim of the framework is to ensure that:

- Employers who operate in more than one state or territory are able to put into place common training arrangements across the organisation;
- Skills and qualifications gained are nationally recognised, and are based on levels of competency agreed by industry; and,
- Training products and services which meet industry and enterprise needs are made available to learners through Registered Training Organisations (RTOs).

The NTF is made up of three major components: nationally endorsed training packages; the Australian Qualifications Framework (AQF); and, the National VET Quality Framework.

The training standards

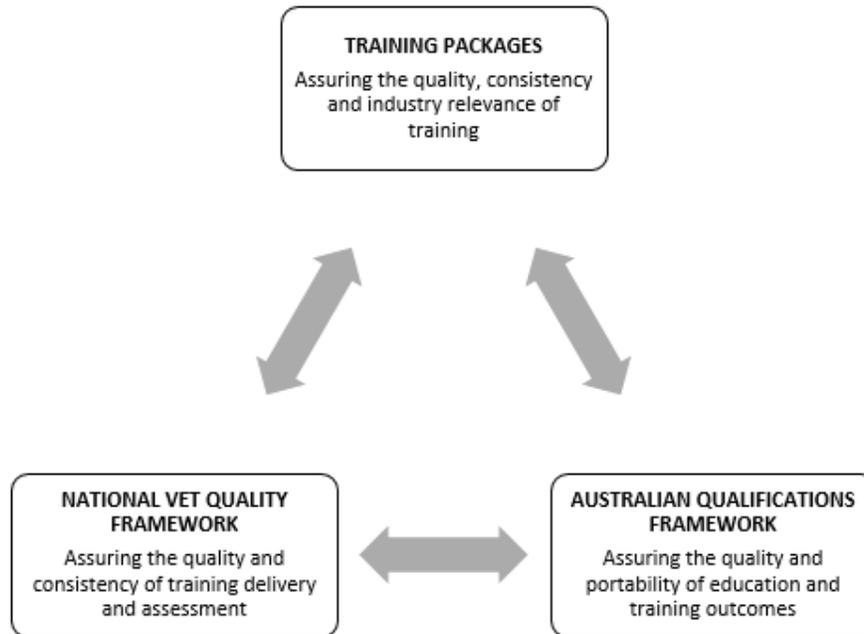
The training standards were sets of knowledge and (in some cases) skill requirements that had to be satisfied, at either the Tier 1 or Tier 2 education level, by advisers before they gave advice. The curriculum to meet the standards was developed under the NTF framework, as shown below in Figure 1 (over page).

The Tier 1 and Tier 2 education levels were respectively broadly equivalent to the 'Diploma' and 'Certificate III' levels under the AQF. The knowledge and skill requirements and educational levels varied depending on the financial adviser's advice activities. That is, they varied depending on:

- a. Whether the adviser gives general or personal advice; and,
- b. What products the adviser gives advice on.

Throughout the consultation, discussion, policy making and implementation periods, IPS146>PS146>RG146 has been burdened with financial product advice as the foremost focus in setting minimum (initial and continuing) training standards for financial advisers, and providers of training and education for financial advisers. This emphasis was reinforced with the introduction of conduct and disclosure requirements, subsequently embedded in ASIC's RG175, which are referred to throughout the financial services industry as "Know your Client". RG175 was developed for persons who provide financial product advice to retail clients and their professional advisers (such as accountants and lawyers). It considers how certain conduct and disclosure obligations in Pt 7.7 and Div 2 of Pt 7.7A of the Corporations Act 2001 apply to the provision of financial product advice.

Figure 1: National Training Framework



Future of Financial Advice (FoFA) Reforms 2013/4

The FoFA reforms did not address this in their scope the lifting of education, ethical and professional standards of financial advisers. Rather, the FoFA reforms concentrated on:

- Banning conflicted remuneration;
- The duty of financial advisers to act in the best interests of their clients;
- An annual fee disclosure statement;
- An opt-in arrangement for clients to agree to their fees and service every two years; and,
- Providing ASIC with enhanced powers.



3. CURRENT CPD ENVIRONMENT

The Forum believes that an unintended consequence of the FSRA regime which commenced in the mid-1990s was the development of a narrow financial advice competency framework, centred on financial product training of financial advisers – as distinct from the development of, and commitment to, a holistic financial advice competency framework.

The product-focused framework was reinforced by ASIC having a remit that was (and still is) focused on securities and investment sales and purchases, which is a far narrower scope than full financial planning and advice. ASIC does not have a remit or skill that focuses on broad financial planning and advice. Yet, ASIC is the sole regulator of the financial planning and advice community. If a holistic approach had been mandated from the outset of FSRA, with a recognition of the critical role of quality financial advice rather than just “product advice”, this would have worked to further increase the professional, ethical and education standards of financial advisers as a whole, compared with what is currently the case.

In reality, a person of average ability had the opportunity to take only a few weeks to meet the PS/RG146 requirements. That is, with a few weeks of additional training, almost anyone could be employed in or contracted to a financial advisory firm and advise households on their lifetime savings and investments. Those committed to higher standards of professionalism than the “minimum” have been saddled with the reputational risk of less competent and scrupulous individuals being able to practice.

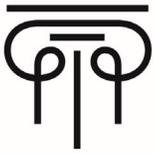
The knowledge hurdle for financial adviser authorisation was arguably not set low because the requisite knowledge was small, but rather because of a combination of pressures from self-interested groups as well as apathy and lack of cohesion across the wider financial services industry. Financial advice focuses on much more complicated questions than generally “just” insurance, but the governments and lobby groups of the times failed to see a growing failure of adviser trust and failed to act early enough to raise mandatory education standards. As a result, the product provider sector was able to resist regulation that would force its members and related adviser forces to meet professional standards and to be trained, potentially limiting sales momentum.

This background is the core reason why financial adviser regulation in Australia has proved to be ineffective, to date. It is also the one reason why the same mistakes ought not be allowed to continue and/or repeated, now that the matter is up for review.

Until the recent Corporations Amendment (Professional Standards of Financial Advisers) Act 2017, financial advisory firms successfully resisted attempts to raise the bar on the expertise required by their employees and contractors to provide financial advice. It's arguable that many financial advisers are so poorly trained they cannot provide quality advice solutions which are suitable for their clients. It's also arguable that many financial advisory firms simply have a set of cookie-cutter solutions for clients, and the financial adviser's job is to decide which cookie cutter solution is applied to which client. (See ASIC Report 279 Shadow shopping study of retirement advice, released 27 March 2012.) This is not best practice!

The current CPD regime for financial advisers and licensees aligns itself to the same knowledge areas and skill-sets defined in the FSTP curriculum developed under the NTF, and continues the emphasis on financial product training and the accumulation of CPD hours, to the detriment of both the industry and consumers.

A current primary example is that licensees have too much statutory control over what CPD programs/activities their ARs undertake. For example, research undertaken in 2017



as part of ASIC's Wealth Management Project identified 79% of financial products on the Approved Product Lists of the big four banks and AMP were external and 21% were in-house. However, 68% of client's funds were invested in the in-house products. While there is clear evidence of bias by the banks towards recommending their own products, that bias is further reinforced when the licensee itself is able to lean on the legislation to condone its control of the training its representatives receive. (See ASIC 18-019MR). In the same research, bank financial planners failed to comply with Best Interests Duty in 75% of advice files audited by ASIC between 2014 to 2017.

There are other inconsistencies in the guidance provided by the regulator on education and CPD standards, including for other sector roles. For example:

- ASIC does not prescribe a minimum number of hours under RG146 yet under RG206 Credit licensing: Competence and training, it is encouraged that an adviser do between 10 and 30 hours with 20 hours set as the minimum for an adviser providing advice in home loan credit assistance. The Guide also outlines a number of activities that could constitute CPD. RG146 omits suggesting any such hours or activities.
- ASIC Regulatory Guide 243 relates to the registration of SMSF auditors and prescribes a minimum of 120 hours of CPD over a three-year period, which must include 30 hours of development on superannuation and at least eight hours of development on auditing. Once more, ASIC does not prescribe a minimum number of hours under RG146.

There is also further inconsistency and a lack of cross-standardisation among the member associations representing financial advisers, including those supporting periphery or complementary professional services in tax, accounting, SMSF and audit.

For example, the two main associations which represent more than half the financial advisers in Australia – the Financial Planning Association of Australia (FPA) and the Association of Financial Advisers (AFA) – promote diverse CPD standards including:

- An hours model versus a points system;
- Knowledge domains the hours and/or points are allocated to; and,
- The accreditation criteria that determines whether the activities are valid and, in the case of the AFA, extend to recognise the quality of an activities design, development and/or delivery standards.

Note, until 2015, the FPA CPD policy recognised CPD activities that integrated best practice learning theory with the potential to achieve a higher CPD points allocation, and thus encourage the development of activities that promoted adult learning principles, instructional design concepts and andragogical design elements to foster reflective practice, critical thinking and self-directed and oriented learning in advisers. Unfortunately, this was repealed and a standard hour's approach was applied across all CPD activities, regardless of quality, in order to comply with the Tax Practitioners Board (TPB) requirements. This was to the detriment of encouraging the delivery of activities that provided better learning outcomes for their members and was a backwards step.

By way of example, a two-hour 'product flog' can attract up to two CPD hours, while a two-hour intensive workshop on critical thinking and analysis of cognitive skills in decision-making, facilitated by a subject matter expert, and which includes case study analysis and supplemental professional learning materials, can only claim the same CPD hours allocation.

4. CONSULTATION INTERESTS OF FASEA

S3.1. 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?

Yes, to 50 hours a year (approx. 4 hours 10 minutes a month).

No, to 70% approved by the licensee.

The Forum believes that mandating that 70% of CPD be approved by the licensee is not in line with what should be a mutual arrangement between the licensee and its advisers. The Forum believes that allowing a licensee to control more than half the CPD for an adviser amounts to a conflict of interest, whereby the licensee enforces a regime that focuses CPD activity on its own in-house products over others on the APL, to the detriment of the best interests of both the adviser and the end-client. CPD should be mutually agreed, at least in principle, between the licensee and the adviser, at the time of developing an annual professional development plan accounting for, in-part, the adviser's obligation under Standard 10 of the proposed FASEA Code of Ethics which states: "a relevant provider (financial adviser) must develop and maintain a high level of relevant knowledge and skills."

The Forum also believes that 50% of the minimum 50 hours required should be accredited by either FASEA or an independent third party with experience and expertise in higher and/or executive education, in order to remove the potential for further conflicts of interest and to ensure the continuing education standards are being met.

S3.2. Do you agree with the proposed licensee approved CPD approach and the proposal for a published CPD policy? If not, why not?

No.

This is conflicted and skewed towards licensees' products on the APL, to the detriment of others that may arguably be more suitable for a client. Advisers should have some discretion over what CPD they want and need to do. FASEA is responsible for setting CPD requirements and the Forum considers that to go beyond setting a (CPD) framework and should include developing and implementing a CPD policy of its own for advisers. Enabling licensees to develop and implement their own CPD policies is to continue the existing regime of aiding and abetting unethical and conflicted behaviours and practices.

S3.3 Do you agree with the proposal to develop and maintain a Professional Development Plan? If not, why not?

Yes.

The Professional Development Plan should be mandatory. Aside from the benefits of a plan (see below), it facilitates the greatest opportunity for reflective practice by the individual and their manager, as well as creating a point of discussion and, ultimately, mutual agreement as to the individual's learning objectives and targeted activities over the upcoming period. Such a plan should initially focus on closing the gaps within the topics in which an adviser scored least in the statutory exam. RG146 mandated a training (compliance) plan for all ARs. A PDP would further encourage and facilitate a more holistic view and engagement by the adviser to maintain and build upon their



professionalism. To not encourage/mandate a PDP under the new regime would be a backwards step. The Forum considers other benefits of a PDP to be:

- Inspiring and raising self-awareness;
- Setting goals and direction;
- Improving focus to retain strengths and address opportunities for professional effectiveness;
- Providing motivation to continuously improve;
- Building resilience to change; and,
- Facilitating more fulfilling relationships with managers, peers, clients and the profession.

S4.1 Do you agree with the proposal for an hours based system of CPD calculation? If not, why not?

Neutral.

An hours-based system is consistent with other membership and regulatory bodies e.g. FPA, TPB, CIMA Society, CPA, CAANZ etc. It makes measuring, allocating and recording CPD activities easier for the adviser and licensee, given many advisers hold multiple memberships with association bodies who also measure CPD in hours.

What is regrettably omitted under an hours-based model is recognition and distinction of quality between CPD activities. By quality, we mean activities that incorporate adult learning principles, instructional design, including stated learning objectives, outcomes and/or the formative and/or summative assessment of outcomes and holistic evaluation process. The quality of the faculty and their knowledge, skills and experience, professionally designed learning materials and pre- and/or post-program work are all essentially overlooked. An hours-based model simply does not distinguish between the learning experience and outcomes associated with an active learning program that seeks to build knowledge, skills and application, versus passive activities designed to simply impart information. Active and semi-active learning CPD activities align with and support the AQF learning criteria in the contexts that require self-directed work and learning.

S4.2 Do you agree with the types of CPD activities proposed? If not, why not?

Generally, yes.

However, the Forum does not agree that there should be a limitation of 25 CPD hours for formal relevant education. Placing such a limitation is penalising advisers for engaging with and undertaking formalised study towards a qualification or designation relevant to their practice. Surely formal and relevant study is the highest form of CPD for an adviser and further raises the standard of education FASEA is being commissioned to advocate? This limitation is inconsistent with non-formal education that does not have a hours limitation and contradicts the proposed standard.

For example, an adviser studying towards a Masters of Financial Planning would only be able to claim a maximum 25 CPD hours – but an adviser studying towards a professional designation has no such limitation on the CPD claimed. How can that be fair? What is the rationale? The Forum queries why a limitation should exist at all on any approved types of CPD, given it is inconsistent with our belief that the



appropriateness of the CPD activities undertaken should be developed in a PDP that is mutually agreed between the licensee and the adviser.

The Forum also disagrees with a limitation on professional or technical reading of 7.5 hours per CPD year and that such reading require licensee approval, as opposed to by mutual agreement with the adviser. A limit of 7.5 hours equates to approximately 10 minutes of reading per week. Professional reading needs to be defined by FASEA. Is a licensee newsletter professional reading? Trade publications? Research papers or white papers? Editorials? The Forum believes the constructs of some professional reading material/activities meet and sometimes exceed formal education standards where andragogical theory and elements are present. Professional reading is a carry over label that originally was associated with magazines and trade publications, as opposed to academic, editorial-styled publications that provoke critical thinking and reflection.

An example of the absurdity of the limit of 7.5 hours professional reading would be the *Financial Planning Research Journal*. The journal is published twice yearly, each publication includes six articles of up to 5,000 words each – high-quality, original, scholarly, peer-reviewed articles from a wide variety of personal finance, investment and taxation disciplines. These include, but are not restricted to, economics, finance, management, accounting, marketing, taxation, behavioural finance, financial literacy, financial education and law. Using the rudimentary calculation provided in the FPA Guide to Accrediting Professional Reading, one publication of the Journal is the equivalent of 2 hours and 40 minutes reading/CPD. Given the comprehension, interpretation and analysis of the research embedded in the journal, an adviser is more than likely going to need to read the Journal twice. To therefore read just two issues of the Journal in one CPD year would equate to more than half the adviser's allowable professional reading allocation. The Forum believes that in circumstances where professional reading material references evidence-based research, is original, scholarly, and peer-reviewed, then it is as good as those activities under the formal and non-formal education types in FASEA's proposal, and that a maximum 7.5 hour limitation should not apply.

S4.3 Do you agree with the proposed evidence and record keeping requirements? If not, why not?

Yes.

However, keeping records for five years following the conclusion of an adviser's CPD year would be consistent with the maintaining of ATO records.

S4.4 Do you agree with formal education as a contribution to the CPD requirement? If not, why not?

Yes.

However, there should not be a cap/limitation imposed that potentially discourages advisers motivated to undertake higher education, when it is proposed they will need to achieve minimum CPD hours in the CPD categories proposed by FASEA in any case. If there is a concern from FASEA that an adviser would only focus on their formal study to the detriment of other CPD, then that in effect is also an argument for a PDP to be in place, which accounts for a holistic approach to CPD and is mutually agreed between the licensee and the adviser. FASEA is right in prescribing minimum hours but should not put caps in place i.e. prescribe maximum hours as well.



S4.5 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?

In theory, the Forum does agree.

However, the categories need to be further defined and accompanied with a syllabus in order to focus on the requisite intended topics, align such topics with the minimum education standards for a new adviser at AQF7, and avoid the risk of duplication of some categories i.e. client care and practice versus regulatory compliance, and consumer protection versus professionalism and ethics. The Forum also believes it needs to be made explicit that the minimum hours set per year are a MINIMUM and that nominal hours should realistically be accounted for in the PDP that is mutually agreed between the licensee and adviser.

S4.6 Do you agree with the proposal that FASEA will not accredit CPD activities or providers, but will provide a guide with principles, to optimise consistency in the Licensee self-assessment approach? If not, why not?

No.

Providing a 'guide' is not optimising consistency in any approach. All major associations optimise consistency through publishing a CPD policy and accreditation standards/criteria, supported by an audit function with disciplinary regulations to manage members who breach standards. FASEA should be consistent with industry, at least while the new standards are being embedded, with a view to dialling down its functions once it is satisfied optimisation of efficiency has been achieved. To date, the evidence available through various government inquiries, regulatory research and studies shows a significant failure of the industry's ability to self-regulate, while being contrary to the very establishment of higher education and conduct standards FASEA is seeking to implement.

S5.1 Do you agree that templates are useful and should be used as a guide only?

Yes.

Any templates should mirror best practice guidance, contain clear language and be simple to use and maintain.

S5.2 Are there any other resources or templates that would be useful?

- An example PDP plan that integrates mapping of the statutory exam areas for further training;
- A syllabus or taxonomy of topics relevant to each CPD category;
- A list of the principles that underpin the distinction of quality CPD hours;
- A CPD recording template; and,
- A guide to approaching and constructing a PDP.

5. SUMMARY CRITIQUE OF THE FASEA CPD PROPOSAL

What the Forum likes

- The professional proficiency outcomes described in the proposal under the purpose of CPD however we would like to see them extended upon, formalised and mandated.
- The proposal for an adviser to develop and maintain a PDP however we believe it should be by mutual arrangement with the licensee.
- The requirement for an adviser to complete a minimum of 50 hours of CPD activity in a CPD year.
- The requirement for a licensee to maintain and publish its CPD policy in the public domain, so long as the policy does not overlay the standards set by FASEA to the detriment of any ARs. An example of this would be a licensee who mandates using its own business rules to approve (and therefore control) all CPD for its ARs.
- The CPD categories approach, however we believe they need to be supported by a syllabus or taxonomy of topics.
- The setting of minimum hours for each CPD category per year. We believe this could be used as a tool to adjust weightings of minimum hours for categories where it may be deemed appropriate in the future, in order to respond to recurring opportunities in the industry.
- The types of CPD categories proposed i.e. formal, non-formal and other. However, we believe they require further definition, including the distinction between a designation versus a professional designation.

What the Forum doesn't like

- The Forum does not believe the CPD proposal achieves or encourages cross-industry standardisation.
- Allowing a licensee to approve 70% of an adviser's CPD will not improve consumer outcomes and increase public confidence in the sector. How can licensees be trusted to self-regulate when so many have proven they cannot?
- The Forum does not believe the words 'financial product advice' should be used and should be substituted with the words 'appropriate financial strategies'.
- The Forum does not believe the words 'continuing professional training' should be used and should be substituted with the words 'continuing professional development'.
- That it does not distinguish between quality constructed CPD and poorly constructed CPD in terms of design, development and delivery. Having a quality criteria is a means to distinguish between good quality activities with demonstrable outcomes, and directly supports the lifting and maintaining of standards of CPD at the level desirable and recommended at AQF 7.
- That there is no definition of CPD to establish stricter parameters of scope and interpretation.



- There should be a descriptor for each CPD category similar to AQF levels to set parameters around, knowledge, skills and application (AQF L7), and a sample syllabus to guide interpretation of the CPD categories e.g. professionalism, client care, consumer protection. Etc.
- Setting a 25 hour CPD limit for formal relevant education provided by an Education Provider is bereft of common-sense and logic, in that it penalises motivated advisers seeking to acquire an education level above the minimum requirements. It is also inconsistent in that an adviser studying towards a professional designation is not prohibited from claiming unlimited CPD hours for arguably less intensive academic study.
- A CPD hours model needs to be flexible in recognising CPD activities that meet a higher quality criteria and support active or semi-active learning, as opposed to passive activities whereby only information is being imparted.
- A definition of professional reading is required.
- There should be a distinction made between professional reading materials and the application of a professional reading cap to those materials that do not comply with a quality criteria, or eliminate inferior quality professional materials from the definition of professional reading.
- 50% of the minimum 50 hours of CPD should be approved by FASEA and not the licensee, until such time as the industry has satisfied the regulator that it can self-regulate against the intended requirements of FASEA's standards. This could also assist FASEA in raising revenue to further improve its capabilities to monitor and audit compliance with its principles.
- A PDP should be mandatory. What isn't planned, isn't done.
- Licensees should have to relinquish their CPD records to FASEA in a reasonable timeframe for the purposes of audit.

6. SUMMARY CRITIQUE AS IT RELATES TO THE FORUM'S RECOMMENDATIONS

This section relates the Forum's comments and recommendations (made in response to the FASEA CPD proposal, and listed immediately above) to its three central recommendations, namely:

1. That responsibility for the CPD regime should be more closely aligned with initial education requirements – specifically, that CPD should be a shared responsibility between advisers and licensees, rather than the responsibility of licensees only.
 - a. If we don't do this – conflicts of interest arise, whereby licensees enforce regimes which focus CPD activity on their own in-house products.
 - b. The benefit – adopting the shared responsibility approach, and independent accreditation removes the potential for conflicts of interest, and increases the chances that continuing education standards will be met. Further, a mutual agreement approach supports Standard 10 of the proposed FASEA code of ethics, which states: "a relevant provider (financial adviser) must develop and maintain a high level of relevant knowledge and skills". This in turn responds to FASEA's general mapping, to address issues of conduct and regulatory concern i.e. "Independence of mind, ownership, employment, payment source, product, research, quality of process and quality of education and competence."
 - c. Responses and recommendations:
 - o The Forum supports the proposal for an adviser to develop and maintain a PDP however it should be by mutual arrangement with the licensee.
 - o The Forum supports the requirement for a licensee to maintain and publish its CPD policy in the public domain, so long as the policy does not overlay the standards set by FASEA to the detriment of any authorised representatives. An example of this would be a licensee who mandates using its own business rules to approve (and therefore control) all CPD for its authorised representatives.
 - o Allowing a licensee to approve 70% of an adviser's CPD will not improve consumer outcomes and increase public confidence in the sector. How can licensees be trusted to self-regulate when so many have proven they cannot?
 - o The Forum does not believe the words 'financial product advice' should be used and should be substituted with the words 'appropriate financial strategies'.
 - o The Forum believes that 50% of the minimum 50 hours of CPD should be approved by FASEA and not the licensee, until such time as the industry has satisfied the regulator that it can self-regulate against the intended requirements of FASEA's standards. This could also assist FASEA in raising revenue to further improve its capabilities to monitor and audit compliance with its principles.
 - o The Forum believes a PDP should be mandatory. What isn't planned, isn't done.
2. That CPD should provide AQF Level 7 equivalent continuing education – in contrast to a narrow, product-focused education (which has been the case to date, and which is proposed to be the case in future). Further, that the range of competencies should complement the weaknesses and specialities of the individual adviser.

- a. If we don't do this – continuing education standards remain at the RG146 level.
 - b. The benefit – by benchmarking continuing education against AQF Level 7, the professional, ethical and education standards of financial advisers will be maintained and extended.
 - c. Responses and recommendations:
 - o The Forum likes the professional proficiency outcomes described in the proposal under the purpose of CPD however they should be extended upon, formalised and mandated.
 - o The Forum supports the CPD categories approach, however they need to be supported by a syllabus or taxonomy of topics.
 - o The Forum does not believe the words 'continuing professional training' should be used and should instead be substituted with the words 'continuing professional development'.
 - o The Forum believes there should be a descriptor for each CPD category similar to AQF levels to set parameters around, knowledge, skills and application (AQF L7), and a sample syllabus to guide interpretation of the CPD categories e.g. professionalism, client care, consumer protection. Etc.
 - o The Forum believes that a CPD hours model needs to be flexible in recognising CPD activities that meet a higher quality criteria and support active or semi-active learning, as opposed to passive activities whereby only information is being imparted.
3. That the CPD regime should lift standards beyond what is currently practised and considered acceptable to a whole-of-client, post-graduate level, consistent with professional financial advice and public expectations.
- a. If we don't do this – continuing education standards remain at current levels, meaning a continued focus on products and an undergraduate level standard.
 - b. The benefit – maintaining and extending the professional, ethical and education standards of financial advisers will support the evolution of financial advice, into a profession.
 - c. Responses and recommendations:
 - o The Forum supports the requirement for an adviser to complete a minimum of 50 hours of CPD activity in a CPD year.
 - o The Forum like the setting of minimum hours for each CPD category per year. This could be used as a tool to adjust weightings of minimum hours for categories where it may be deemed appropriate in the future, in order to respond to recurring opportunities in the industry.
 - o The Forum does not like that the proposal does not distinguish between quality constructed CPD and poorly constructed CPD, in terms of design, development and delivery. The Forum believes having a quality criteria is a means to distinguish between good quality activities with demonstrable outcomes, and directly supports the lifting and maintaining of standards of CPD at the level desirable and recommended at AQF 7.
 - o The Forum does not like that there is no definition of CPD to establish stricter parameters of scope and interpretation.



- The Forum believes that setting a 25 CPD hour limit for formal relevant education provided by an Education Provider is bereft of common-sense and logic, in that it penalises motivated advisers seeking to acquire an education level above the minimum requirements. It is also inconsistent in that an adviser studying towards a professional designation is not prohibited from claiming unlimited CPD hours for arguably less intensive academic study.
- The Forum believes there should be a distinction between professional reading materials and the application of a professional reading cap to those materials that do not comply with a quality criteria, or eliminate inferior quality professional materials from the definition of professional reading.



7. QUESTIONS FOR FASEA

1. Under an hours-based system of CPD calculation, will cumulative sessions of less than one hour be eligible to be consolidated and claimed e.g. a one-day conference comprising 20 x 20-minute sessions. Each session is under one hour but cumulatively 20 x 20-minute sessions = 400 minutes, or 6 hours and 40 minutes. Assuming the adviser attends all conference sessions and they meet the FASEA standards, what can an adviser claim?
 - 6 hours
 - 7 hours
 - 6.75 hours
 - 0 hours

2. Section 4 of the proposal mentions "the quality of CPD hours is critical and to be assessed through principles to ensure time, complexity and required effort by the relevant provider".
 - What are the principles?
 - Will CPD activities that meet the principles assessment be able to allocate more than one hour of CPD, to an hour-long activity?



8. CONCLUSION

Given its pracademic skill set mixed with long experience, the Forum is uniquely positioned to express views and make recommendations on the FASEA Consultation Paper 6: Continuing Professional Development (CPD).

In this context, the Forum has significant concerns about the robustness of the proposed CPD regime. It falls short of any reasonable community expectations of FASEA and what drove its formation and fails to lift the educational standards required of an emerging profession.

The Forum believes, that if its recommendations are adopted, it would substantially improve the likelihood of financial adviser CPD resulting in a material lift in the professionalism of and trust and confidence in Australian financial advisers.