FASEA, ASIC 'ambivalent' on investment oversight

Tahn Sharpe August 20, 2018

When the Financial Adviser Standards and Ethics Authority released its draft examination guidance on July 11, there was a conspicuous absence among the list of competency areas. Ethics were covered, as were behavioural finance and the Corporations Act. Advice construction sat neatly beside a bullet point, as did something called 'applied ethical and professional reasoning and communication'.

What didn't make the list of priorities was investment. In fact, a search on the consultation paper for the word 'investment' revealed a count of zero occurences.

The omission is concerning because the primary role of an adviser is to manage the money of clients with a view to helping them reach their goals. Investing is a part of that.

Theoretically, this evolution towards managed accounts should have diverted the spotlight for education standards onto the investment committees that manage the money.

Instead, whether the investment committee is outsourced, run through the licensee or in-house, an investment education benchmark is neither mandated nor monitored.

If advisers aren't trained in investment, and no one is watching the committees that are taking the job off their hands, how do we know who is qualified to run the money?

SPITTING IN THE SOUP

At the *Professional Planner* Licensee Summit in the Blue Mountains earlier this year, Graham Rich fronted Louise Macaulay, head of advice at ASIC, on the regulator's lack of interest in the education standards of investment professionals. He recalls using an analogy to make his point.

"I said that there's a lot of focus on licensees and their owners, who are like owners of restaurants, and a whole lot of focus on advisers, who are like wait staff," Rich recalls. "There's also plenty on the product providers, who represent the ingredients. But there's absolutely no focus on the investment professionals, who are the cooks in this scenario."

The problem, he says, is that ASIC has no idea how investment portfolios are being put together.

"They don't know who's spitting in the soup," he says.

Rich, who was chief executive and publisher of FPG Research before selling the firm to Morningstar in 1999, now runs Portfolio Construction Forum, the investment continuing education, accreditation and certification service which is responsible for annual Strategies Conference, Markets Summit and Finology Summit programs.

Rich says that while the government is focusing on adviser education via FASEA, the investment component is being ignored in the standards.

This mirrors ASIC's lack of focus on the investment capabilities of wealth management businesses, he adds.

"FASEA is symptomatic of ASIC's ambivalence towards the investments component," Rich says.

'THE HEARTBEAT OF QUALITY ADVICE'

The importance of education benchmarks for investment professionals is that they have an impact on the investment returns clients rely on for a comfortable retirement, Rich says.

"The heartbeat of quality advice ultimately comes down to the quality of the investment portfolio. You have no quality retirement expectation without it," he argues.

He admits his views on education standards for investment professionals are self-serving, given his company provides education programs aimed at individuals with discretion around multi-manager portfolio construction. However, he points out his business interests are a product of his perceived need for attention in this area.

Rich is also on the board of the Certified Investment Management Analyst (CIMA) Society – Portfolio Construction Forum is responsible for delivering the CIMA certification program – and states that CIMA is the type of certification that addresses the ASIC and FASEA blind spot he describes.

"There should be at least one person on each investment committee who is CIMA and, if not, one person who is a Chartered Financial Analyst," he argues.

Rich laments that ASIC's Macaulay, when pressed, was seemingly agnostic about the regulator's lack of focus on investment education standards.

The responsibility for investment education could be said to lie not with ASIC, but with licensees.

On stage with Macaulay at the Licensee Summit, Dr Hillary Ray, a partner at Cowell Clarke Commercial Lawyers, suggested that the Corporations Act 2001 was unambiguous in putting responsibility at the feet of licensees.

"I think section 912A is very clear," Ray said. "The legal requirements still apply."

Ray's point stands, in that section 912A(e) of the Corporations Act requires financial service licensees to "maintain the competence" to provide financial services, and 912A(f) states they must ensure that representatives are "adequately trained". But 912A doesn't set a standard. 'Competence' and 'trained' are negligible terms; if they're not tethered to a tangible benchmark, they are open to interpretation.

Another suggestion is that the responsible entity (RE) – a licensed body that operates a managed investment scheme – should be making sure investment committee members are adequately qualified.

The notion has merit; REs should not be allocated the task of oversight without a view on the competency of the investment committee. The problem is that the RE is often the investment platform that is hosting the managed account, and platforms aren't set up to mandate and monitor investment education. There is also inherent conflict in relying on the platforms to make these judgements because they have a commercial interest in retaining funds under administration.

In some cases, the RE isn't the investment platform, but a separate outsourced provider. This reduces the conflict issue, but also eliminates any hope of proper oversight.

Ultimately, says Dan Miles, co-chief investment officer and managing director of Innova Asset Management, the RE shouldn't be the one setting the investment education benchmark.

"It's not up to the RE to set the professional standard," Miles says. "The RE wants to make sure a process is followed, but they can't legislate. Unfortunately, REs sometimes have conflicted business models, so to say it's the RE responsibility... we know that doesn't work."

Miles says some investment platforms are quite strict on standards, while others believe "as long as you have an investment committee and a process, we don't really care if you're qualified or not".

"Depending on who they are, they can be quite strict or extremely lax," Miles says. "There's no standard."

ASIC, EDUCATION, FASEA, GRAHAM RICH, INVESTMENT EDUCATION, PORTFOLIO CONSTRUCTION FORUM

Tahn Sharpe is a Sydney-based financial services journalist with a background in financial planning. He writes on advice, superannuation, investment, banking and insurance issues, is a certified SMSF Adviser and holds an Advanced Diploma of Financial Planning. Contact at tahn.sharpe@conexusfinancial.com.au

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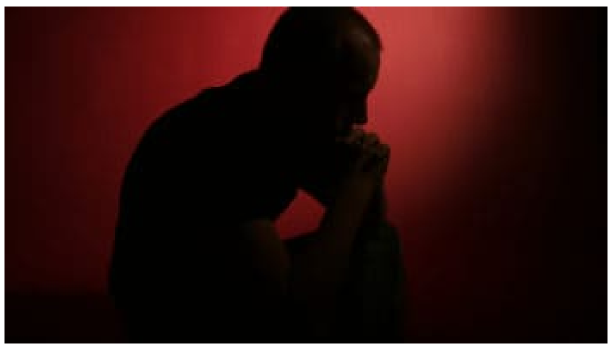

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