

# Overview of the committee's recommended approach

This inquiry has been undertaken by the committee during a period of significant change and scrutiny of the financial advice industry. The committee wishes to emphasise that while increasing the professional, ethical and education standards applied to financial advisers is only one of a range of measures required to protect consumers, it is an important defence mechanism to help reduce the risk of failure in the broader system.

The committee's recommended approach includes:

- clarifying who can provide financial advice by protecting the title and function;
- improving the qualifications and competence of financial advisers;
- enhancing professional standards and ethics; and
- implementing transitional arrangements.

## Clarifying who can provide financial advice

As set out in Chapter 2 of this report, the committee is proposing to clarify who can provide financial advice, through measures such as protecting titles and clarifying what is financial advice and what is sales information. The committee is recommending in recommendations 1 to 4 that:

- the term 'general advice' would be replaced by the term 'product sales information' which more closely reflects the nature of the information that is currently given to the consumer under the term 'general advice';
- the term 'personal advice' in the *Corporations Act 2001* be replaced with 'financial advice';
- an individual must be registered as a financial adviser in order to provide 'financial advice'; and
- the government should bring forward legislation to protect the titles 'financial adviser' and 'financial planner' and require that to be eligible to use the title 'financial adviser', an individual must be registered as a financial adviser.

The committee considers that the government register of financial advisers is an important step forward. The committee supports the use of all the information fields detailed in the government's announcement of the register on 24 October 2014. In addition, the committee is recommending further enhancements to the register in recommendation 5 to ensure that only suitably qualified and competent financial advisers are allowed to provide financial advice.

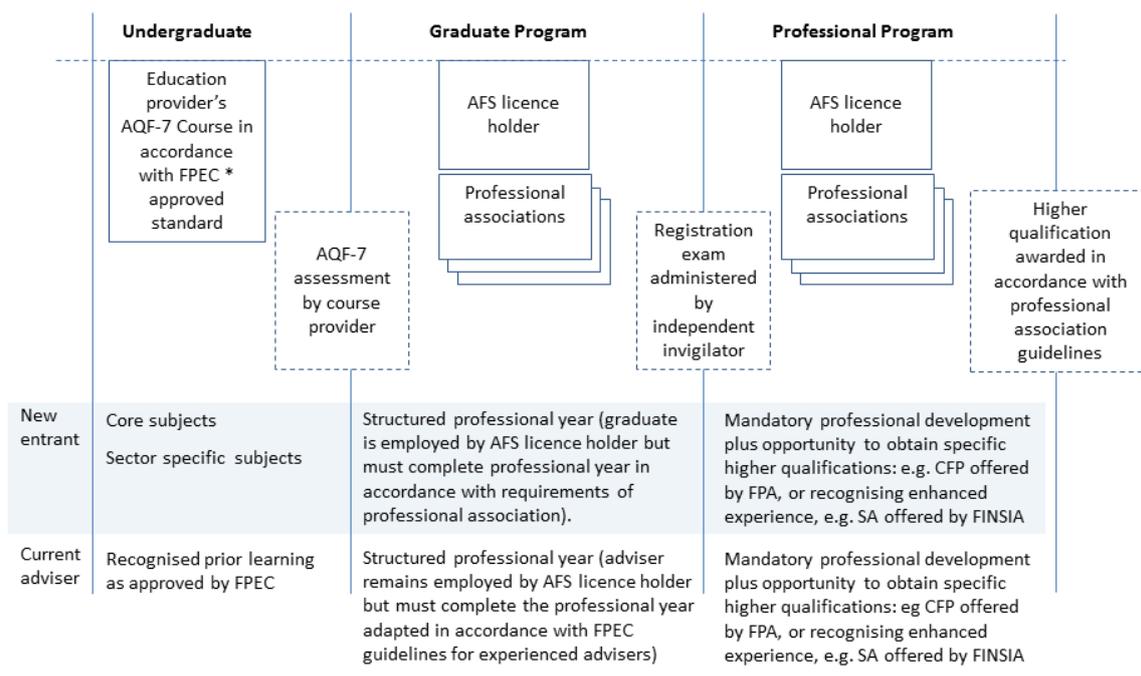
## **Improving the qualifications and competence of financial advisers**

In Chapter 3 of this report, the committee considers improvements to the qualifications and competence of financial advisers. The committee supports the findings of previous reviews that there should be an independent body established to set and monitor the educational framework that applies to financial advisers. The committee recommends in recommendation 10 that the professional associations establish an independent Finance Professionals' Education Council that:

- is controlled and funded by professional associations which have been approved by the Professional Standards Councils (PSC);
- comprises a representative from each professional association (which has been approved by the Professional Standards Councils), an agreed number of academics, at least one consumer advocate, preferably two who represent different sectors and an ethicist;
- receives advice from ASIC about local and international trends and best practices to inform ongoing curriculum review;
- sets curriculum requirements at the Australian Qualifications Framework level seven standard for core subjects and sector specific subjects (e.g. Self Managed Superannuation Fund services, financial advice, risk, insurance or markets);
- develops a standardised framework and standards for the graduate professional year to be administered by professional associations;
- develops and administers through an external, independent invigilator a registration exam at the end of the professional year; and
- establishes and maintains the professional pathway for financial advisers including recognised prior learning provisions and continuing professional development.

Education is just one element of the wider system and should be considered across the whole of career of a financial adviser, with the professional pathway that spans undergraduate, graduate and professional stages as shown in Figure 1 below. Professional associations can elect to provide even higher levels of qualifications in the professional stage if they see fit.

**Figure 1: Professional pathway for a financial adviser**



\* FPEC is the Financial Professionals' Education Council. The council will be based on the existing Financial Planning Education Council which is industry controlled and industry funded. The FPEC will have a member from each PSC approved association (representing individual professionals as opposed to AFS licence holders), as well as an agreed number of academics (currently 4, chosen by the 17 universities involved in providing courses), at least one consumer advocate, preferably two who represent different sectors and an ethicist. Transitional arrangements will apply while professional associations are being approved by the PSC.

The committee is also recommending, in recommendations 7 to 9 improvements to education standards, assessment of competence through a structured professional year with assessed elements followed by a registration exam, and requirements for professional development as follows:

- the mandatory minimum educational standard for financial advisers should be increased to a degree qualification at Australian Qualification Framework level seven;
- following the transition period, ASIC should only list a financial adviser on the register when they have:
  - satisfactorily completed a structured professional year and passed the assessed components; and
  - passed a registration exam set by the Finance Professionals' Education Council and administered by an independent invigilator.
- the government should require mandatory ongoing professional development for financial advisers that:
  - is set by their professional association in accordance with Professional Standards Councils requirements; and
  - achieves a level of cross industry standardisation recommended by the Finance Professionals' Education Council.

## **Enhancing professional standards and ethics**

Professional standards and ethical conduct are also essential elements of the system as discussed in Chapter 4 of this report. The committee observes that requiring adherence to a code of ethics through membership of a professional association may put some cost pressure on industry bodies and industry participants. From the evidence received in this inquiry, industry participants and bodies generally acknowledge that those resulting cost and competition pressures are outweighed by the benefits of adopting codes of ethics to enhance professional and ethical standards. The committee therefore recommends in recommendation 11 that professional associations be required to establish codes of ethics which are compliant with a Professional Standards Scheme under the Professional Standards Councils.

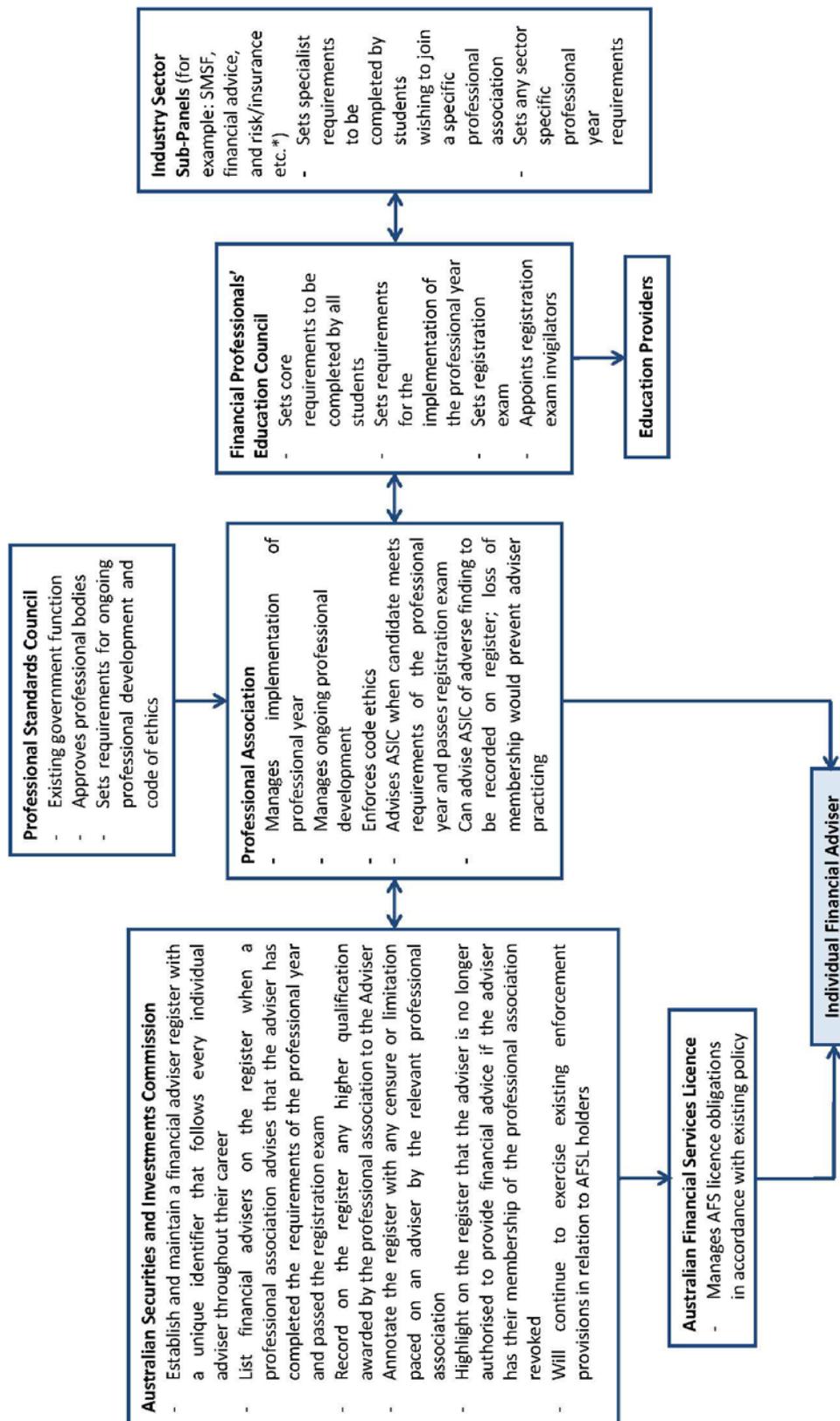
In order to link professional and ethical standards to the register of financial advisers, the committee is also recommending in recommendations 12 and 13 that:

- professional associations that wish to have representation on the Finance Professionals' Education Council and to be able to make recommendations to ASIC regarding the registration of financial advisers should be required to establish Professional Standards Schemes under the Professional Standards Councils within three years:
  - the committee suggests that ASIC would act to suspend or ban a financial adviser on the advice of the professional association that the individual concerned has not complied with ongoing professional development requirements or has breached the code of ethics; and
- any individual wishing to provide financial advice be required to be a member of a professional association that is operating under a Professional Standards Scheme approved by the Professional Standards Councils and to meet their educational, professional year and registration exam requirements.

All parts of the system need to be operating effectively to provide appropriate safeguards for consumers and investors while allowing efficiency, innovation and growth within the industry. The committee is therefore proposing the approach set out in Figure 2 which brings together recommendations from this inquiry. The figure demonstrates:

- ASIC's role in establishing managing the register of financial advisers as already announced by the government with the changes recommended in Chapter 2;
- the role of education providers and the Financial Professionals' Education Council and its professional sub-sector panels as recommended in Chapter 3;
- the role of professional associations in delivering professional and ethical standards under the oversight of the Professional Standards Councils as recommended in Chapter 4; and
- the role of AFS licensees in managing licence obligations.

**Figure 2: Financial advice education stakeholder relationships**



\* Scope to include other existing sectors that wish to come under this structure, and other developing specialities such as philanthropy

## Transitional arrangements

The committee is firmly of the view that swift and decisive action is required in order to raise the professional, ethical and education standards of financial advisers. Bearing that in mind, the committee has proposed the transitional arrangements set out in the table below.

| <b>Transitional arrangements and timeframes</b>  | <b>Date</b> |
|--|-------------|
| Provisional registration (available to existing financial advisers from the implementation of the proposed government register until 1 Jan 2019 to address the goal of transparency) | Mar 2015    |
| Finance Professionals' Education Council (FPEC) established  | 1 Jul 2015  |
| FPEC releases AQF-7 education standards for core and professional stream subjects  | Jun 2016    |
| Establishment of codes of ethics compliant with Professional Standards Scheme guidelines   | Jul 2016    |
| FPEC approved AQF-7 courses available to commence  | Jan 2017    |
| FPEC releases recognised prior learning framework (dealing with existing advisers and undergraduates who commence AQF-7 courses prior to Feb 2017)                                   | Jul 2016    |
| FPEC releases professional year requirements including a recognised prior learning framework for existing advisers   | Jul 2016    |
| Professional associations operating under PSC Professional Standards Schemes   | 1 Jan 2017  |
| Target date for existing financial advisers to qualify for full registration   | 1 Jan 2018  |
| Cut-off date for full registration – provisional registration no longer available  | 1 Jan 2019  |

The committee notes that its recommended approach does not create new government or regulatory entities, but instead uses the existing functions of the Professional Standards Councils and expands the membership and function of an existing industry led and funded council that sets educational standards. The approach complements measures already announced by government, including the register of advisers and addresses the concerns identified by stakeholders during the inquiry.