

# **Chapter 3**

## **Qualifications and competence**

3.1 This chapter discusses current qualification requirements, proposals to lift the education standards and qualifications of financial advisers, assessment of knowledge and competence, and continuing professional development. In considering various proposals, the committee has focussed on personal advice for Tier 1 financial products.<sup>1</sup>

### **Current regulatory requirements**

3.2 The committee received significant evidence during the inquiry calling for the qualifications of financial advisers to be increased as a way of improving the standard of advice provided to consumers. Evidence was also received to indicate that strong consideration should be given to creating a framework to mandate ongoing professional development.

3.3 The committee has considered relevant recommendations from the final report of the FSI. The final report noted that:

Consumers should have the freedom to take financial risks and bear the consequences of these risks. However, the Inquiry is concerned that consumers are taking risks they might not have taken if they were well informed or better advised.<sup>2</sup>

3.4 As discussed in Chapter 1, the final report of the FSI recommended that standards of financial advice should be improved by lifting adviser competency (Recommendation 25) and better aligning the interests of firms and consumers and enhancing banning powers (Recommendation 24).

3.5 Through its submission, ASIC informed the committee about current regulatory requirements, which include:

- the overriding obligation in the law on Australian Financial Service (AFS) licensees to ensure they and their representatives are adequately trained and competent to provide financial advice; and
- that all advisers must, as a matter of law, comply with these training standards unless they fall within certain limited exceptions.

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1 Financial products are divided into two categories, Tier 1 and Tier 2. Tier 2 products are usually simpler products and include general insurance products (except for personal sickness and accident), consumer credit insurance, basic deposit products, non-cash products and First Home Saver Accounts. Tier 1 products are more complex and include investment products—for example, securities, superannuation, managed investment schemes and life insurance. ASIC Submission 25, p. 17.

2 Financial System Inquiry, *Final Report*, November 2014, p. 28.

- 3.6 The *Corporations Act 2001* requires AFS licensees to:
- comply with the conditions on their AFS licence (s912A(1)(b));
  - maintain competence to provide the financial services covered by their licence (s912A(1)(e)); and
  - ensure that their representatives are adequately trained and competent to provide those financial services (s912A(1)(f)).<sup>3</sup>
- 3.7 Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) sets out ASIC's guidance on the minimum training standards for financial advisers and how advisers can meet these training standards.<sup>4</sup>
- 3.8 The requirements in RG 146 include the following:
- **Educational level requirements:** to give advice in relation to Tier 1 products an individual must have the equivalent of a diploma under the Australian Qualifications Framework (AQF). The level of education currently required to provide advice on Tier 2 products is broadly equivalent to a Certificate III under the AQF. These requirements apply for both general and personal advice.<sup>5</sup>
  - **Knowledge requirements:** All financial advisers providing financial product advice to clients must have specialist knowledge about the specific products they provide advice on and the markets in which they operate. Any financial adviser who advises on Tier 1 products must also satisfy a generic knowledge requirement, which includes training on the economic environment, operation of financial markets and financial products.<sup>6</sup>
  - **Skill requirements:** If the financial adviser provides personal advice they must also meet the skill requirements. As the level and type of skill varies so much for general advice, RG 146 has not mandated the skill requirements for financial advisers who only provide general advice.<sup>7</sup>
  - **Monitoring, supervision and Continuing Professional Development (CPD):** RG 146 does not prescribe any period during which new entrants to the industry must be supervised and there is no prescribed quantum of continuing professional development. Instead, AFS licensees are required to nominate an appropriate quantum for CPD, based on a financial adviser's activities and experience.<sup>8</sup>

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3 ASIC, *Submission 25*, pp 16–17.

4 ASIC, *Submission 25*, p. 16.

5 ASIC, *Submission 25*, p. 18.

6 ASIC, *Submission 25*, p. 18.

7 ASIC, *Submission 25*, pp 18–19.

8 ASIC, *Submission 25*, p. 19.

3.9 The Department of the Treasury explained the relationship between the requirements in the *Corporations Act 2001*, the regulatory guides and the responsibilities of the AFS licensees:

The regulatory regime in Australia...requires licensees to fulfil certain obligations, including taking reasonable steps to ensure that its representatives comply with laws; that licensees provide efficient, honest and fair financial services; and that they also ensure that their representatives are adequately trained and competent to provide financial services...ASIC in enforcing laws provides regulatory guidance to the industry to set out how it might view what is adequate training...They provide additional information for licensees for them to be able to comply with the law.<sup>9</sup>

### ***Concerns about RG 146***

3.10 Evidence put to the committee during the inquiry indicates that there is a high degree of concern that RG 146 does not deliver appropriate standards. The committee received submissions and oral evidence during hearings that was critical of the RG 146 requirements<sup>10</sup> and the varying standards of compliance.<sup>11</sup> The potential for RG 146 requirements to be met through completion of a short training course, possibly only requiring a few hours of study, was a common concern.<sup>12</sup> The committee was informed that while the training requirements for financial advisers can be met in three days, the training requirements for professions such as engineers, lawyers, accountants, doctors and dentists range upwards from three years.<sup>13</sup>

3.11 ASIC submitted that in its view, there are numerous and fragmented approaches to interpreting and implementing the requirements in RG 146, and that training courses vary significantly in terms of content and quality. ASIC also advised that there is no consistent measure of financial adviser competence.<sup>14</sup>

3.12 The FPA submitted that the training obligations in RG 146 are based on the definition of financial product advice in the *Corporations Act 2001* and therefore are focused on training on financial products, rather than building competencies in

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9 Ms Meghan Quinn, General Manager, Financial Systems and Services Division, Treasury, *Committee Hansard*, 13 October 2014, p. 41.

10 FINSIA, *Submission 7*, p. 4; Industry Super Australia and the Australian Institute of Superannuation Trustees, *Submission 22*, p. 5.

11 ASIC, *Submission 25*, p. 19; Australian Bankers Association, *Submission 27*, p. 5; see also Industry Super Australia and the Australian Institute of Superannuation Trustees, *Submission 22*, p. 4.

12 Mrs Andrea Elizabeth Slattery, Managing Director/CEO, SMSF Professionals' Association of Australia, *Committee Hansard*, 13 October 2014, p. 4; Mr Paul Moran, Private capacity *Committee Hansard*, 13 October 2014, p. 25;

13 Industry Super Australia and the Australian Institute of Superannuation Trustees, *Submission 22*, pp 5–6.

14 ASIC, *Submission 25*, p. 19.

providing financial advice. In addition, the FPA informed the committee that there are problems with how the training is delivered, and that the requirements of RG 146 may not be keeping up with changing markets.<sup>15</sup>

3.13 FINSIA submitted that in its view, RG 146 lists topics that any training program should cover, yet it does not specify the *volume* or *complexity* of the coverage required.<sup>16</sup> The Finance Sector Union of Australia (FSU) conducted a survey of 29 financial planners, which found that 22 out of the 29 financial planners surveyed did not consider RG 146 to be a satisfactory qualification.<sup>17</sup>

3.14 The FSU also submitted that:

Currently RG 146 places the onus on licensees to implement policies and procedures to ensure they and their advisers undertake continuing training. These policies and procedures can vary from organisation to organisation and inherently create standards that are inconsistent across the nation.

While there may be localised value in creating these at an organisational level, creating national requirements and expectations removes any localised interpretation and facilitates national enforceable standards consumers can refer to.<sup>18</sup>

3.15 Dr Deen Sanders, Chief Executive Officer of the Professional Standards Councils informed the committee that:

...before the Corporations Act was introduced there were at the time six providers of qualifications in financial services. Six months after the Corporations Act and RG 146...was introduced there were 432 providers, including ex-hairdressing colleges, who saw the opportunity. This is the challenge that emerges in education: introducing wholesale, industrywide change just tends to lead to a massive flight to the bottom and increased competition in providers.<sup>19</sup>

## **Proposals to lift standards of training**

3.16 This section outlines proposals for improved training standards for financial advisers. The discussion notes proposals developed in response to the committee's 2009 inquiry into financial products and services, and proposals by ASIC and others to the current inquiry.

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15 Mr Dante De Gori, General Manager, Policy and Conduct, Financial Planning Association of Australia, *Committee Hansard*, 14 October 2014, p. 44.

16 FINSIA, *Submission 7*, p. 5.

17 Finance Sector Union, *Submission 5*, p. 11.

18 Finance Sector Union of Australia, *Submission 5*, p. 8.

19 Dr Deen Sanders, Chief Executive Officer, Professional Standards Councils, *Committee Hansard*, 14 October 2014, p. 72.

### ***Proposals prior to this inquiry***

3.17 In 2009 the committee conducted an inquiry into financial products and services in Australia. During that inquiry, ASIC raised concerns about the training and competency of financial advisers.<sup>20</sup> The inquiry noted a considerable amount of evidence to suggest that improved training standards for financial advisers were required,<sup>21</sup> and recommended that:

...ASIC immediately begin consultation with the financial services industry on the establishment of an independent, industry-based professional standards board to oversee nomenclature, and competence and conduct standards for financial advisers.<sup>22</sup>

3.18 The government response to the 2009 inquiry included a proposal to establish an expert advisory panel to review training standards and professional standards in the financial advice industry. In November 2010 an Advisory Panel on Standards and Ethics for Financial Advisers was established and in 2011 the advisory panel made recommendations for the introduction of a new governance framework for improving training, professional and ethical standards in the financial advice industry.<sup>23</sup>

3.19 In 2011, ASIC published the findings of a consultation process in Consultation Paper 153 *Licensing: Assessment and professional development framework for financial advisers* (CP 153). CP 153 proposed introducing a mandatory examination for financial advisers, as well as a requirement for advisers to complete regular knowledge updates. The committee understands that work on the CP 153 proposals was put on hold to enable industry to implement the FOFA reforms.<sup>24</sup>

3.20 In 2013, ASIC published findings of a separate consultation process in Consultation Paper 212 *Licensing: Training of financial product advisers—Update to RG 146* (CP 212). CP 212 proposed raising the level of the training standards for financial advisers, to the knowledge and skill requirements in RG 146 and increasing the educational levels for those providing financial advice on both Tier 1 and Tier 2 financial products.<sup>25</sup>

3.21 The proposals in CP 153 and CP 212 were supported by broad-based advice AFS licensees, consumer bodies and training organisations, while industry bodies, insurance groups and stockbrokers raised concerns including:

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20 ASIC, *Submission 25*, p. 19.

21 Parliamentary Joint committee on Corporations and Financial Service, *Inquiry into Financial Products and Services in Australia*, November 2009, p. 129.

22 Parliamentary Joint committee on Corporations and Financial Service, *Inquiry into Financial Products and Services in Australia*, November 2009, p. 141.

23 ASIC, *Submission 25*, pp 19–20.

24 ASIC, *Submission 25*, p. 20.

25 ASIC, *Submission 25*, p. 20.

- that an examination was not a sufficiently sophisticated mechanism for assessing competence;
- the level of educational requirements;
- the staged implementation process and grandfathering provisions; and
- costs to implement the proposed changes.<sup>26</sup>

### **ASIC's proposal**

3.22 In its submission to this inquiry ASIC indicated that it had revised its proposals for mandatory higher training standards for financial advisers in response to comments made in relation to CP 212 and market developments. ASIC's revised proposal for training standards is set out in Box 1 below and includes training standards, assessment of competence and continuing professional development.<sup>27</sup>

#### **Box 1: ASIC's proposals for training standards**

The educational level requirements for all financial advisers who provide personal advice on Tier 1 products to retail clients should be increased. This includes financial planners working in planning businesses and superannuation funds. It also includes stockbrokers. From 1 July 2016, when accountants are required to hold a limited AFS licence, it would also apply to accountants.

The mandatory minimum training standard should increase to a minimum degree qualification in a relevant field. Relevant fields include financial planning, finance, business, accounting or commerce, and that any relevant degree should cover the knowledge and skills identified in CP 212.

This is a greater increase than the proposals ASIC consulted on in CP 212, which supported an increase to degree-level qualifications (but not a full degree in a particular field) for personal advice on Tier 1 products to retail clients. This level of education better reflects the knowledge and skill requirements that financial advisers need to provide competent personal advice on Tier 1 products to retail clients.

While a degree qualification would impose increased initial costs on financial advisers, this would be consistent with the expectations of the community that advisers are professionals. It should also, in combination with other efforts to increase ethics and professional standards for financial advisers, result in better quality advice.

There would need to be an appropriate transition period for the introduction of increased educational level requirements to allow time for courses to be developed, although we note that there are a number of higher education courses already in the market. Consideration also needs to be given to whether existing financial advisers should be required to meet any increased minimum training standards.

ASIC, *Submission 25*, p. 22.

26 ASIC, *Submission 25*, p. 21.

27 ASIC, *Submission 25*, pp 21–22.

### ***Other proposals and views***

3.23 This section outlines other proposals and views on training standards for financial advisers. Many submitters supported proposals to require a degree qualification (AQF level seven) for financial advisers providing Tier 1 financial advice.<sup>28</sup>

3.24 In 2010 the FPA announced a requirement that all new members hold an approved degree. The FPA also recommended that from January 2018 new financial planners and financial advisers hold an approved degree to be eligible to provide Tier 1 financial advice and have experience equivalent to one full year within the last three years.<sup>29</sup> The FPA set out proposals for curriculum requirements, including:

- a minimum degree program (AQF level seven);
- covering eight core knowledge areas each as discrete units of study;
- the equivalent of approximately 39 hours of contact time and 120 hours of non-contact time for each of at least the 8 core FPEC subjects; and
- assessment undertaken at a minimum AQF level seven.<sup>30</sup>

3.25 CPA Australia and Chartered Accountants Australia and New Zealand agree that there are important benefits to increasing the requirements to degree level, including that advisers would:

- have broad, theoretical, technical and coherent knowledge as well as the skills for professional work, rather than paraprofessional;
- learn the skills to not only analyse but evaluate information;
- have the skills to analyse, generate and transmit solutions to unpredictable and sometimes complex problems; and
- be able to communicate their knowledge, skills and ideas to others.<sup>31</sup>

3.26 CPA Australia and Chartered Accountants Australia and New Zealand suggested that in their view financial advice has a broader scope than financial product advice and recommended that 'a comprehensive review is undertaken to identify the knowledge and skills required to become a holistic financial adviser.'<sup>32</sup> They also called for findings from such a review to be a basis for a new curriculum.<sup>33</sup>

28 CPA Australia and Chartered Accountants Australia and New Zealand, *Submission 15*, p. 6; Australian Bankers Association, *Submission 27*, p. 5; see also Dean Evans & Associates Pty. Limited, *Submission 2*, p. 2; FINSA, *Submission 7*, p. 2; Finance Sector Union of Australia, *Submission 5*, p. 12; Superannuation Consumers' Centre, *Submission 11*, p. 4

29 Financial Planning Association of Australia, *Submission 6*, pp 2, 4.

30 Financial Planning Association of Australia, *Submission 6*, pp 12–13.

31 CPA Australia and Chartered Accountants Australia and New Zealand, *Submission 15*, p. 7.

32 CPA Australia and Chartered Accountants Australia and New Zealand, *Submission 15*, pp 8, 9.

33 CPA Australia and Chartered Accountants Australia and New Zealand, *Submission 15*, pp 8, 9.

3.27 Mr Robert Brown supported the introduction of a degree level qualification for financial advisers and noted that this had been implemented successfully in other professions such as the Chartered Accountants program, which requires an appropriate undergraduate degree (not necessarily in accounting), followed by an intensive diploma-style course in accounting related disciplines.<sup>34</sup>

3.28 SPAA emphasised the difference between undertaking a complete degree and completing separate units taken from an AQF level seven course, and called for the introduction of a requirement that financial advisers have degree-level qualifications:

SPAA believes it should be recognised that undertaking units of study at AQF Level [seven] Bachelor Degree level is different to undertaking an entire Bachelor degree. Undertaking a Bachelor degree is a cumulative, knowledge building process in a particular area that allows a student to build an in-depth understanding of a subject area as well as cumulatively improve their ability to analyse and explain a subject. This is quite different to the skills based training that the current RG 146 has embodied.<sup>35</sup>

3.29 The FPA informed the committee that 17 universities already offer financial planning degrees, however the uptake of this degree is limited because some employers only require completion of RG 146 which is a diploma level qualification.<sup>36</sup>

3.30 ASIC and the FPA noted announcements by large AFS licensees regarding changes to the training standards, including degree requirements and Certified Financial Planner designations for their financial advisers.<sup>37</sup> However, ASIC noted that the announcements, if implemented, will not completely address the inadequacy of financial adviser training standards because:

- the announced changes are voluntary;
- the proposed higher training standards differ from licensee to licensee;
- the higher training standards do not cover the whole financial advice industry;
- the new arrangements involve extensive grandfathering provisions; and
- it is not clear how compliance with the announced higher standards will be monitored and enforced.<sup>38</sup>

3.31 The Association of Financial Advisers (AFA) supported the introduction of a degree level qualification for new financial advisers entering the profession from

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34 Mr Robert Brown, *Submission 21*, p. 2.

35 SMSF Professionals' Association of Australia, *Submission 29*, p. 11.

36 Mr Dante De Gori, General Manager, Policy and Conduct, Financial Planning Association of Australia, *Committee Hansard*, 14 October 2014, p. 45.

37 ASIC, *Submission 25*, p. 21; see also Financial Planning Association of Australia, *Submission 6*, p. 34.

38 ASIC, *Submission 25*, p. 21.

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December 2019. However, the AFA suggested that such a goal may be difficult to achieve in the short term.<sup>39</sup>

3.32 The committee also notes evidence from submitters and witnesses that did not support the introduction of a degree level qualification. Axiom argued that a degree level qualification is theoretical and limited in relevance. Axiom did not support the introduction of a degree level qualification.<sup>40</sup> Mr Peter Corrie argued that existing educational requirements were adequate as, in his view, the percentage of advisers involved with complaints or malpractice was low.<sup>41</sup>

3.33 FINSIA argued against a specific financial planning degree or vocational diploma as they consider these specific qualifications would exclude those wishing to move into the sector from other disciplines.<sup>42</sup>

There are not many entry-level adviser positions existing...it is largely a career change and postgraduate degree. Financial services providers, particularly the larger ones, will draw upon people who have pre-existing financial services knowledge. They may have worked in a contact centre at a bank or in a different sort of role. They may be progressed through a para-planner type strategy before they move into a client-facing role.<sup>43</sup>

3.34 Mr Paul Moran informed the committee that he had similar concerns:

It should not be raised to a degree level...People who come into financial planning tend to come in slightly older and one of the issues with the undergraduate program that has been started is that no-one is enrolling and a lot of the courses have been stopped. People are realising that if they do an undergraduate degree in financial planning at 21 years, what then? Where do I get a job as a financial planner?<sup>44</sup>

3.35 Instead of a degree level qualification, FINSIA proposed the following options, both of which could be tested by a national exam:

- A specific undergraduate degree (e.g. in finance, economics or financial planning) and adherence to an accreditation framework, the latter combined with two to five years of relevant experience; or
- A non-specific undergraduate degree and adherence to an accreditation framework, the latter combined with two to five years of supervised mentoring by an employer.<sup>45</sup>

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39 Association of Financial Advisers, *Submission 14*, pp 2, 4.

40 Axiom Wealth Pty Ltd, *Submission 34*, p. 6.

41 Mr Peter Corrie, *Submission 31*, p. 1.

42 FINSIA, *Submission 7*, p. 2.

43 Ms Siobhan Brahe, Head of Accreditation and Development, FINSIA, *Committee Hansard, 14 October 2014*, pp 24–25.

44 Mr Paul Moran, Private capacity *Committee Hansard*, 13 October 2014, p. 26.

45 FINSIA, *Submission 7*, p. 4.

### ***Committee view***

3.36 The committee considers that little progress has been made to improve the training standards of financial advisers since the committee's previous inquiry and report in 2009. The committee accepts the view expressed by a number of submitters and witnesses that increasing minimum training requirements are insufficient on their own to comprehensively improve consumer outcomes. However, the committee maintains that a suitable standard of education is an important element in the system of defences.

3.37 The majority of evidence received by the committee in the current inquiry supports raising the minimum training standard to a relevant AQF level seven degree for financial advisers providing personal advice on Tier 1 financial products. 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 (discussed in more detail in the section on the Finance Professionals' Education Council later in this chapter).

3.38 The committee view is that this body should oversee not just the initial education requirement to an AQF level seven standard, but also the competence and theory requirements of a professional year. The professional year would be administered by a relevant professional association.

3.39 An exam, to be set by Finance Professionals' Education Council, or FPEC, would be the final threshold test prior to registration as a financial adviser. This view is discussed in more detail in the next section of this chapter.

3.40 The committee notes the work undertaken by ASIC identified in CP 212 and recognises that there will be relevant fields of study (such as financial planning, finance, business, accounting or commerce) that may be common across the various professional sectors involved in the financial services industry.

3.41 The committee's view is that the Finance Professionals' Education Council should set core subjects to be undertaken by all students, and on advice from the constituent professional associations, set sector specific subjects that a student can choose to complete if they wish to become a member of that particular professional group. As a minimum, the FPEC is likely to have sub-panels working on the educational requirements for professional streams including: financial planning, SMSF, insurance/risk and markets. The core and sector specific subjects set by FPEC should cover both AQF level seven education standards and the professional year to be administered by the professional associations.

## **Recommendation 7**

**3.42 The committee recommends that:**

- the mandatory minimum educational standard for financial advisers should be increased to a degree qualification at Australian Qualification Framework level seven; and
- a Finance Professionals' Education Council should set the core and sector specific requirements for Australian Qualifications Framework level seven courses.

### **Assessment of competence**

3.43 This section outlines proposals for assessing the competence of financial advisers. ASIC's proposal for a national exam, as well as other proposals and views put to the committee during the inquiry are considered.

#### ***ASIC's proposal***

3.44 A national exam to assess competence and deliver compliance with minimum standards was proposed by ASIC. In its submission to the inquiry, ASIC argued that in the past there have been significant issues with the consistency of training and assessment and that a national exam is the most objective and efficient way of assessing whether financial advisers can demonstrate competence and meet the standards required of them. ASIC advised that implementation of this proposal would require law reform and funding.<sup>46</sup>

#### ***Other proposals and views***

3.45 Many submitters and witnesses supported the implementation of a national exam.<sup>47</sup> FINSIA noted that a national exam would ensure all participants would have to meet the same technical knowledge benchmark.<sup>48</sup> It was also noted that the national exam could be implemented more quickly than other education requirements.<sup>49</sup>

3.46 The Superannuation Consumers' Centre advocated minimum entry level standards in the form of a university degree combined with specialised learning which would be assessed through specialist accreditation standards.<sup>50</sup>

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46 ASIC, *Submission 25*, p. 23.

47 FINSIA, *Submission 7*, p. 10; Association of Financial Advisers, *Submission 14*, pp 3, 4; Industry Super Australia and Australian Institute of Superannuation Trustees, *Submission 22*, p. 2; Finance Sector Union of Australia, *Submission 5*, p. 14; Superannuation Consumers' Centre, *Submission 11*, p. 9; CHOICE, *Submission 20*, p. 1.

48 FINSIA, *Submission 7*, p. 3; Ms Siobhan Brahe, Head of Accreditation and Development, Financial Services Institute of Australasia, *Committee Hansard*, 14 October 2014, p. 19.

49 Mrs Bianca Richardson, Senior Policy Manager, Advice, Financial Services Council, *Committee Hansard*, 14 October 2014, p. 35.

50 Superannuation Consumers' Centre, *Submission 11*, p. 4.

3.47 CHOICE informed the committee of the advantages of requiring both the degree and national exam:

We see an exam as a first step within a process. It is something that can be set up relatively quickly compared to a long phasing in of bachelor degree requirements and continuing professional development—all of that infrastructure that needs to be developed to lift education and qualification standards.<sup>51</sup>

3.48 Industry Super Australia and the Australian Institute of Superannuation Trustees informed the committee that a national exam for financial advisers is in place in the United States, the United Kingdom, Canada, Singapore and Hong Kong.<sup>52</sup> This was confirmed by ASIC's submission which noted that:

- in the United States, to be a general securities representative, a person must pass the Financial Regulatory Authority's Series 7 examination;
- in Canada, registered representatives dealing with retail customers must complete an examination that is administered by the Canadian Securities Institute;
- in Hong Kong, a representative must pass an examination that is administered by the Hong Kong Securities Institute.<sup>53</sup>

3.49 Some submitters and witnesses did not support a national exam on the basis that it is not a suitable way of assessing practical competency in the workplace.<sup>54</sup> CPA Australia expressed concern that while exams might be an objective method to ensure that advisers can demonstrate a minimum level of knowledge, an exam will not ensure that a financial adviser has the combination of knowledge and skills required to provide quality financial advice.<sup>55</sup>

3.50 Several submitters and witness raised concerns about the rigor of some exam formats and argued for independently assessed, well-structured exams with a mixture of multiple choice, long form answer and case study questions.<sup>56</sup>

3.51 The FPA did not support a national exam and submitted that in its view, a national exam would not be required if a degree level qualification and an education framework were implemented.<sup>57</sup>

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51 Ms Erin Turner, CHOICE, *Committee Hansard*, 14 October 2014, p. 2.

52 Industry Super Australia and the Australian Institute of Superannuation Trustees, *Submission 22*, p. 6.

53 ASIC, *Submission 25*, pp 23–24.

54 Australian Financial Markets Association, *Submission 13*, p. 4; CPA Australia and Chartered Accountants Australia and New Zealand, *Submission 15*, p. 6.

55 Mr Paul Drum, Head of Policy, CPA Australia, *Committee Hansard*, 13 October 2014, p. 17.

56 Ms Siobhan Brahe & Mr Russell Thomas, FINSIA, *Committee Hansard*, 14 October 2014, p. 21; Superannuation Consumers' Centre, *Submission 11*, p. 7; Financial Planning Association of Australia, *Submission 6, Supplementary submission, 'Australian Higher Education Curriculum and Accreditation Framework in Financial Planning'*, p. 18.

### ***Committee view***

3.52 The committee recognises the value of a national standard being set through the requirement that all financial advisers undertake a common exam. While a valid and useful defence in the system, the committee does not believe that an exam by itself is sufficient to drive ethical application of the knowledge obtained through study. The committee view supports the contention that competent and ethical application of knowledge and professional behaviours is best developed via a structured mentoring program. The need for FPEC to allow for current participants in the industry to have their knowledge and experience recognised through a process of Recognition of Prior Learning is discussed further in this report at paragraphs 3.94 and 3.95.

3.53 The committee supports the concept of a professional year administered by a recognised professional association in accordance with the requirements established by the FPEC and in cooperation with the AFS licence holder. The formal assessment of professional year outcomes undertaken by the professional association would be complemented by an exam set by the FPEC and then conducted at the end of the professional year.

3.54 The committee view is that the FPEC would be best placed to:

- set parameters for a structured professional year that enables professional associations to conduct both mentoring and assessment of competence in a range of specified areas;
- set an exam to assess theoretical and applied knowledge which must be passed prior to a professional association recommending to ASIC that an adviser be registered; and
- select and monitor the work of external invigilators to administer the exam.

3.55 The committee considers that FPEC would be best placed to establish a policy on the setting and conduct of the exam, including a policy on re-examination options available to an individual who fails to pass at their first attempt. The committee also notes that the proposal to assess financial adviser competence through a national exam was supported by many submissions and witnesses to the committee's inquiry. The committee also notes that the final report of the FSI did not recommend a national exam for advisers, however the FSI suggested an exam could be considered if issues of adviser competency persist.<sup>58</sup> The committee considers that issues with financial adviser competence and standards have been allowed to remain unresolved for too long and that a comprehensive system of defences, including an exam, are warranted. The committee has noted that an exam is part of the regulatory regime in a number of comparable jurisdictions and therefore offers a precedent in the Australian context.

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57 Financial Planning Association of Australian, *Submission 6*, pp 4, 50–51.

58 Financial System Inquiry, *Final Report*, November 2014 p. 225.

3.56 Concerns were raised during the inquiry about the rigor of exams and the integrity of the process and conditions under which they are conducted. The committee observes that in other regulated sectors such as aviation and maritime licencing, as well as some universities, exam invigilators are used to ensure that exams are conducted in a rigorous way.

3.57 The Civil Aviation Safety Authority (CASA) has approved invigilators to oversee aviation exams. The exams are presented on the approved invigilator's computer that is stored in a secure examination room. The invigilator is restricted to the functions of examination administration and supervision of the examination sitting. The invigilator must not provide technical advice on the examination.<sup>59</sup>

3.58 The Australian Maritime College also uses invigilators to supervise examinations. Their role does not include marking papers or providing advice to candidates about their performance. In addition, the invigilators do not have access to the examination answers and do not retain copies of the questions. This approach is designed to minimise the possibility of misconduct by invigilators and is intended to be consistent with current practices of most educational institutions in regard to invigilators.<sup>60</sup>

3.59 The committee view is that successful completion of the exam should be a prerequisite for the professional association to make the recommendation to ASIC that a financial adviser be listed on the ASIC register of financial advisers. The committee therefore recommends that ASIC should only list a financial adviser on the register when the nominated professional association advises that a candidate has successfully completed the assessed components of the professional year and passed the registration exam administered by an independent invigilator.

### **Recommendation 8**

**3.60 The committee recommends that 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 administered by an independent invigilator.**

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59 Civil Aviation Safety Authority, *Application to conduct PEXO exams*, [http://www.casa.gov.au/scripts/nc.dll?WCMS:STANDARD::pc=PC\\_90080](http://www.casa.gov.au/scripts/nc.dll?WCMS:STANDARD::pc=PC_90080), (accessed 9 November 2014).

60 Australian Maritime College, *Invigilators – Marine Radio Operators Certificates*, p. 1.

## **Continuing professional development (CPD)**

3.61 This section discusses proposals for CPD for financial advisers. The FPA informed the committee about the importance of CPD:

It is not possible for a university program to train students in all the attributes required for high quality financial planning practice. Rather, initial education needs to be supplemented by further vocational training and meaningful Continuing Professional Development (CPD) experiences enabling individuals to critically evaluate progressive changes in financial planning professional practice requirements, and to apply their knowledge appropriately throughout their professional career.<sup>61</sup>

### ***ASIC's proposal***

3.62 In its submission, ASIC argued that initial and ongoing on-the-job training, monitoring and supervision, as well as CPD are important parts of competence. ASIC supported the introduction of:

- mandatory ongoing professional education requirements for financial advisers who give personal advice on Tier 1 products to retail clients;
- a minimum of 30 hours of relevant CPD each year, including at least 15 hours of structured training; and
- the introduction of mandatory supervision for one to two years of new entrants to the financial advice industry who provide personal advice on Tier 1 products to retail clients.<sup>62</sup>

3.63 ASIC noted that these proposals are consistent with the ongoing requirements imposed on lawyers, accountants and tax agents.<sup>63</sup>

### ***Other proposals and views***

3.64 A number of submitters and witnesses supported requirements for periods of work experience, mentoring for new advisers and CPD.<sup>64</sup> Dean Evans & Associates supported mentoring of new advisers:

The real benefit for the adviser (and ultimately the client) comes from this practical experience, gleaned from the “coal-face” of financial planning and investment advice. That is why it is crucial to have new advisers under the wing of more experienced advisers, for a considerable time, so that (1) they

61 Financial Planning Association of Australia, *Submission 6*, p. 20.

62 ASIC, *Submission 25*, p. 24.

63 ASIC, *Submission 25*, p. 25.

64 FINSIA, *Submission 7*, p. 2; Financial Planning Association of Australia, *Submission 6*, pp 2, 4; Industry Super Australia and Australian Institute of Superannuation Trustees, *Submission 22*, p. 2; CPA Australia and Chartered Accountants Australia and New Zealand, *Submission 15*, p. 3; CHOICE, *Submission 20*, pp 1–2; Australian Bankers Association, *Submission 27*, p. 5; Mr Jock Kreitals, Real Estate Institute of Australia, *Committee Hansard*, 13 October 2014, p. 54.

may be trained emotionally to deal with clients throughout various market cycles, and (2) learn to devise practical strategies for clients and so nurture them through the worst of market cycles.<sup>65</sup>

3.65 SPAA highlighted the need for experience in specialist areas such as SMSF advice and explained that it sets a minimum of two years' relevant work experience for its SMSF Specialist Advisor program.<sup>66</sup>

3.66 The FPA, Industry Super Australia (ISA) and the Australian Institute of Superannuation Trustees (AIST) submitted that there is currently no minimum experience requirement to be authorised to provide personal advice and that it is up to each licensee to determine the supervision and experience requirements.<sup>67</sup> The FPA advised that it requires one year of supervised experience before an adviser will be eligible to be a 'Financial Planner AFP' member, and three years experience to be eligible for 'CFP Professional' membership.<sup>68</sup>

3.67 ISA and AIST recommended compulsory monitoring and supervision of new entrants into the industry by the licensee. They also suggested that there should be some limitation on specialised areas of practice during the period of supervision to ensure consistency of experience for new entrants into the industry.

3.68 FINSIA advocated for the supervision and mentoring framework first suggested in CP 153 and noted that a period of supervision and experience is already required by many employers as a way of managing risk.<sup>69</sup>

3.69 The FPA noted the requirements of the Tax Practitioners Board for CPD, which include a minimum of 60 hours over three years with a minimum of seven hours in one year. The FPA recommended that all financial planners and financial advisers be required to meet minimum CPD requirements of 90 points or hours over a three year period.<sup>70</sup>

3.70 Mr Paul Moran argued for a flexible approach suggesting an advanced formal examination every three years or a total of 120 hours of approved CPD each three years.<sup>71</sup>

3.71 ISA and AIST supported independently set annual CPD requirements overseen by licensees covering professional and technical skills, regulatory updates, ethics and professional conduct, and practice management and business skills. ISA and AIST also submitted that:

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65 Dean Evans & Associates Pty. Limited, *Submission 2*, p. 2.

66 SMSF Professionals' Association of Australia, *Submission 29*, p. 11.

67 Financial Planning Association of Australia, *Submission 6*, p. 19; Industry Super Australia and Australian Institute of Superannuation Trustees, *Submission 22*, p. 10.

68 Financial Planning Association of Australia, *Submission 6*, p. 19.

69 FINSIA, *Submission 7*, p. 9.

70 Financial Planning Association of Australia, *Submission 6*, pp 4, 20–21.

71 Mr Paul Moran, *Submission 1*, p. 4.

In ensuring that advisers meet these requirements, there may be merit in adopting a similar approach to that in the UK, which requires each individual financial adviser who sells investment products, securities or derivatives to have a current ‘Statement of Professional Standing’. The Statement (which must be reviewed annually) indicates that they have completed at least 35 hours of professional training each year, signed up to a code of ethics and that they are up to date with changes in both industry and regulation.<sup>72</sup>

- 3.72 The Australian Bankers Association offered the following suggestions:

Continuing professional development (CPD) should provide a pathway for ongoing training and competency development and improvement. CPD attainment could be received through a variety of modes, including face-to-face and online channels, however, should focus on relevant knowledge and skill learnings and mandatory ethics components. CPD should be completed to maintain accreditation achieved by the financial adviser.<sup>73</sup>

- 3.73 SPAA advocated moving the CPD requirements out of RG 146 and tasking professional associations with setting specific CPD requirements for their own members. SPAA submitted that in its view, CPD would then be more targeted to improving and challenging advisers’ skills, rather than being viewed as a minimum compliance requirement by advisers and licensees.<sup>74</sup>

#### ***Committee view***

- 3.74 The committee found that there is wide support to enhance the work experience, supervision and CPD requirements for financial advisers as it provides yet another systemic defence of consumer outcomes. The committee heard a range of views about the level, number of hours and content of work experience, supervision and CPD requirements. While ASIC’s proposal appears to provide a workable balance, the committee recognises that the professional associations will have a primary obligation to comply with the PSC requirements. The committee view is that while professional associations must administer an appropriate level of continuing professional development to meet the PSC requirements, each association should also work with the FPEC to achieve a level of cross-industry standardisation.

- 3.75 The committee recommends that the government require professionals in the industry to complete a mandatory program of professional development each year administered by their respective approved professional association. Beyond the professional year, if an AFS licence holder or the professional association assesses an adviser as requiring additional supervision in some areas of practice, this could be a recommendation made to ASIC for inclusion on the register. Such actions would represent best practice for both the AFS licence holder and professional association

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72 Industry Super Australia and Australian Institute of Superannuation Trustees, *Submission 22*, p. 10.

73 Australian Bankers Association, *Submission 27*, p. 6.

74 SMSF Professionals’ Association of Australia, *Submission 29*, p. 11.

fulfilling their responsibilities under the Corporations Act and Professional Standards legislation.

### **Recommendation 9**

**3.76 The committee recommends that the government 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.**

### **Finance Professionals' Education Council**

3.77 This section discusses the committee's consideration of setting, maintaining and accrediting the qualifications and continuing professional development standards that should be applied to financial advisers.

3.78 FINSIA submitted that the regulation of qualifications and continuing education standards, as well as an exam, (if implemented) should be carried out by an independent industry-led body. Membership of the body would include ASIC, peak industry bodies with accreditation frameworks and educators, but no adviser training businesses or training arms, to avoid possible or perceived conflicts of interest.<sup>75</sup>

3.79 The FPA submitted to the committee that in its view:

The lack of an overarching framework to financial adviser and financial planner education has led to a piece-meal approach developed and added to over more than two decades, which contains unworkable, incompatible and inappropriate requirements, as well as gaps in the holistic system needed to ensure an increase in advice provider competency is achieved.<sup>76</sup>

3.80 The FPA informed the committee that the training obligations in RG 146 are based on the definition of financial product advice in the *Corporations Act 2001* and are therefore focused on training on financial products rather than building the competencies required to provide financial advice.<sup>77</sup> The FPA further submitted that in its view:

RG146 was developed in 1997 prior to the introduction of both the Financial Services Reform (FSR) Act and the Future of Financial Advice (FOFA) reforms. The changes introduced under these two regimes were so substantial they have significantly changed the shape of the financial planning profession and financial services industry more generally. The FPA argues that basing any changes to financial adviser and financial

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75 FINSIA, *Submission 7*, pp 11–12.

76 Financial Planning Association of Australia, *Submission 6*, p. 5.

77 Financial Planning Association of Australia, *Submission 6*, p. 5.

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planner education on the existing structure of the RG146 will significantly undermine the objectives of the change.<sup>78</sup>

3.81 The FPA argued for an approach that provides a clear set of minimum education requirements, includes course requirements, course approval, CPD, experience and on the job training and an adviser register.<sup>79</sup> The FPA advised the committee that it has operated its own education council since 2011 as a way increasing the standards of advice provided by its members:

In 2011, we established the Financial Planning Education Council...an independent body chartered with the responsibility of raising the standard of financial planning education and setting the standards for accreditation of financial planning education programs.<sup>80</sup>

3.82 The FPA proposed that the current RG 146 be replaced with a broader, more holistic industry wide framework for financial adviser and financial planner education.<sup>81</sup>

3.83 The Superannuation Consumers' Centre proposed an option that included the establishment of an industry based, professional and competency standards body or board which would have:

- governance by an independent chair and equal numbers of consumer and industry representatives;
- three yearly independent reviews;
- adequate funding; and
- responsibility for both competency standards and professional and ethical standards.<sup>82</sup>

3.84 The Financial Services Council suggested the development of an Advice Competency Standards Board (ACSB) that would oversee an adviser competency framework with the following components:

- education requirements (including ethics training);
- continuing education;
- and/or a national exam;
- professional standards or a code of conduct;
- experience requirements;
- an enhanced register of advisers including employee representatives;

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78 Financial Planning Association of Australia, *Submission 6*, p. 5.

79 Financial Planning Association of Australia, *Submission 6*, p. 8–9.

80 Financial Planning Association of Australia, *Submission 6*, p. 2.

81 Financial Planning Association of Australia, *Submission 6*, p. 4.

82 Superannuation Consumers' Centre, *Submission 11*, p. 16.

- a training/course register to enable advisers, licensees and regulators to keep track of which courses meet ACSB requirements; and
- powers to recognise professional associations.<sup>83</sup>

3.85 In contrast, the FPA argued for the administration of education standards to be separated from the administration of professional and ethical standards:

The expertise and structures required to develop, implement and enforce professional and ethical standards, are fundamentally different to those required for identifying, developing and implementing appropriate education standards for financial advice providers.

A co-regulatory model should be implemented via a dual holistic education and professional standards framework which includes:

1. An education framework - based on the existing Financial Planning Education Council's...National Accreditation and Curriculum framework, and
2. A professional and ethical standards framework - which leverages the existing additional oversight of advice providers through membership of recognised professional bodies.<sup>84</sup>

3.86 ASIC informed the committee that in its view the preferred approach would be a single, independent body to set educational standards:

It should have the expertise to set the educational standards. It should have the resources it requires to set those standards. It should consult with all the relevant stakeholders and it should be independent of the key interested parties, which are the industry and the education providers.<sup>85</sup>

### ***Committee view***

3.87 The committee considers that to have multiple bodies administering the educational requirements for financial advisers is not in the best interests of consumers. The committee notes that some submitters suggested that a single body should cover educational standards along with professional and ethical standards. However, such a body does not currently exist and would have to be established. In Chapter 4 the committee discusses options for bodies to oversee professional and ethical standards. In Chapter 4 the committee concludes that the PSC provides a suitable vehicle to regulate professional and ethical standards without the need to create a new body.

3.88 The committee notes that the PSC is not currently fulfilling the function of setting and maintaining educational standards, nor is it resourced to do so. The committee therefore considers that a separate body is needed to set and maintain educational standards for financial advisers.

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83 Financial Services Council, *Submission 26*, p. 3.

84 Financial Planning Association of Australia, *Submission 6*, supplementary submission, p. 2.

85 Ms Joanna Bird, Senior Executive Leader, ASIC, *Committee Hansard*, 14 October 2014, p. 53.

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3.89 The committee notes the existence of the Financial Planning Education Council established by the FPA and considers that it provides a useful model as it is controlled by a professional body and is industry funded. It operates efficiently and at no cost to government. The FPA submission to the inquiry indicated that the FPA would be willing to cede control of this council to a governance model that included equal representation of members from other professional associations.<sup>86</sup> The council currently has four academic members, drawn by mutual agreement from the 17 universities who provide courses for the financial services sector. Given the failure to assure good outcomes for consumers highlighted in recent inquiries, the committee considers that the council should also include a consumer association representative and an ethicist.

3.90 The committee recommends that an independent Finance Professionals' Education Council be established, and that it be controlled and funded by the industry professional associations. The committee does not support membership of the council being available to corporate AFS licence holders. The committee considers that the Council's membership should include:

- a member from each professional association that is operating under a professional standards scheme approved by the PSC;
- an agreed number of academics with relevant expertise;
- at least one consumer advocate, preferably two who represent different sectors; and
- an ethicist.

3.91 The committee notes that transitional arrangements would be required until the professional associations have established Professional Standards Schemes under the PSC. The committee view is that during the transition period, representation on the FPEC should be open to professional associations that have individual members (as opposed to corporate members) working in the financial services sector who intend to establish a Professional Standards Scheme under the PSC.

3.92 In framing its recommendations, the committee has been mindful of the need for transitional arrangements for individuals who are currently practicing in the industry. The committee has received some evidence in submissions and hearings about transitional arrangements for the recommendations in this report.

3.93 In respect to both educational standards and the assessment of competence through the professional year, the committee notes that a variety of transitional arrangements may be needed for financial advisers who are at different stages of their careers. The committee also accepts the arguments put forward by FINSIA that there is a case for allowing a transitional path for people changing careers. The integrity of the profession will only be maintained, however, if the extent of recognition of prior learning for both cases is assessed in a structured and consistent manner.

3.94 The committee is aware that even if they do not hold formal tertiary qualifications, years of practice has equipped many existing advisers with the knowledge and experience to provide effective and ethical advice to consumers. The committee view is that such advisers require a pathway to transition to full registration. There may also be professionals seeking to transfer from related fields into financial advice who already possess satisfactory knowledge in relevant areas. A supplementary role for the FPEC should therefore be to determine the Recognition of Prior Learning (RPL) criteria for such pathways.

3.95 The committee view is that the FPEC should establish standard frameworks for RPL of both AQF level seven and professional year assessment requirements, as well as adjudicating on individual cases that fall outside of standard parameters. The committee view is that when considering RPL, the FPEC should take into account the length of time the adviser has been in the industry, the scope and nature of the advice that the adviser has been providing, the nature of the ASF licensee that the financial adviser is working under and any sanctions or complaints (or lack thereof) regarding the financial adviser's demonstrated knowledge or past conduct. To ensure the integrity of the profession, all advisers would still be required to complete the agreed RPL professional year requirements and pass the registration exam in order to be registered by ASIC. The committee suggests that the FPEC should be able to implement a modified professional year for existing financial advisers, that takes account of the experience of the financial adviser where competence in the assessed areas can be demonstrated.

3.96 The committee recommends that the Finance Professionals' Education Council establish and maintain the professional pathway for financial advisers as outlined in the report overview and in Figure 3.1.

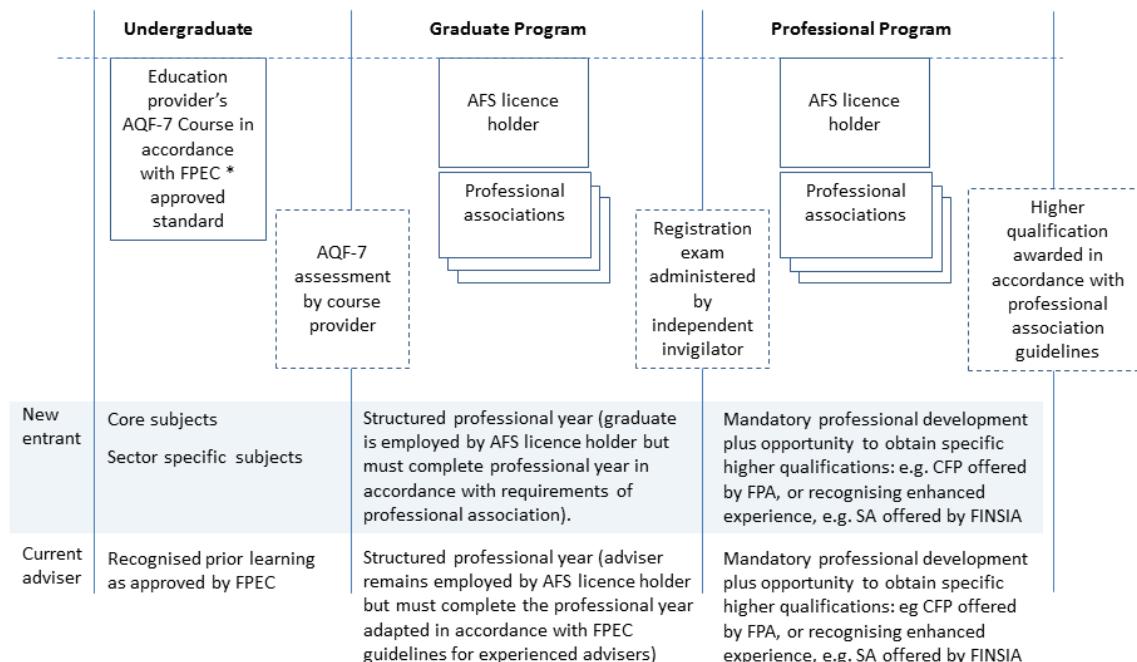
### **Recommendation 10**

**3.97 The committee recommends 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;**
- **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, insurance/risk or markets);**
- **develops a standardised framework and standard 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.

**Figure 3.1: 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.