14 December 2018

Stephen Glenfield
Chief Executive Officer
Financial Adviser Standards and Ethics Authority

Email: consultation@fasea.gov.au

Dear Mr Glenfield,

SMSF ASSOCIATION SUBMISSION ON RELEVANT PROVIDER DEGREES, QUALIFICATIONS AND COURSES STANDARD LEGISLATIVE INSTRUMENT

The SMSF Association (SMSFA) welcomes the opportunity to make a submission on the Financial Adviser Standards and Ethics Authority's (FASEA) Relevant Providers Degrees, Qualifications and Courses Standard Legislative Instrument.

Increasing the education standards and professionalism of financial advisers is a matter that the SMSFA strongly supports and believes is fundamental to the future of financial advice in Australia.

The Association is supportive of the inclusion of the 'career changer' pathway and some broad improvements regarding recognition of prior learning (RPL) and the relevancy of degrees. However, we have significant concerns that FASEA has not recognised or accounted for the existence of the limited licence advice regime and the RPL which is relevant to these advisers.

By failing to recognise or account for the limited licence regime, FASEA has effectively prescribed a one month timeframe by the end of 2018 for existing accountants to consider applying for a limited licence or authorised representative status to become an existing adviser before it becomes impractical. From 1 January 2019 onwards, for an experienced accountant to begin providing limited licence advice they will need to meet the FASEA requirements as a new entrant which will be unfeasible for most accountants in this position.

The proposed education standards also compel existing limited licence advisers to spend considerable time, money and effort in studying multiple subjects that are not relevant to the advice they provide.

Disregarding a legislated section of the financial advice framework appears to be contrary to FASEA's purpose to set education, training and ethical standards for all financial advisers who provide personal advice on relevant financial products to retail clients. We have proved more detail on issues regarding limited licence advisers and the FASEA standards in the **Appendix.**

We have also highlighted for consideration:

- Further consistent guidance on RPL for older advisers, limited licence SMSF advisers (including the SMSF Specialist Adviser designation), and advisers with degrees.
- Clarity regarding the aggregation of relevant degrees.
- Including superannuation, retirement and insurance planning as designed fields of study.
- Recognising SMSF knowledge as a specialisation.

Create a limited licensed adviser pathway

We believe the education standards that advisers with a limited licence must comply with should adequately represent the advice that they provide on a day-to-day basis.

It is most likely that individuals operating under a limited licence, particularly those specialising in advising SMSFs, will have a relevant degree with accounting subjects, a diploma in financial planning which is Regulatory Guide 146 compliant focused on the advice relevant to their licence and a relevant professional designation.

Under the proposed standards, it is likely that existing limited licence accountants with a degree will be required to undertake a maximum of four courses of study as follows:

(i) Financial Advice Regulatory & Legal Obligations bridging course
(ii) Ethics and Professionalism (including the FASEA Code of Ethics and Code Monitoring Bodies) bridging course
(iii) Behavioural Finance: Client and Consumer Behaviour, Engagement and Decision Making
(iv) FASEA approved unit (Financial Advice Capstone subject)

They will most likely have never completed a financial planning designation or an advanced diploma in financial planning as these qualifications are not relevant to the provision of limited licensed services and therefore will not receive any credits.

Conversely, an existing adviser who has completed a relevant degree and a financial planning designation or an advanced diploma in financial planning will receive three credits of RPL and will only be required to undertake the FASEA Code of Ethics and Code Monitoring Bodies bridging course.

A financial planner who is providing a full range of advice services will only need to study one subject if they have a relevant degree and post graduate degree qualifications or accreditation, yet a limited licence adviser who is only offering SMSF services, with an SMSF designation must complete four subjects. This highlights how the FASEA education standards do not have equitable treatment for limited licence advisers due to not having a specific pathway for these advisers.

A limited licence existing adviser with no or an unrelated degree, will potentially face up to eight subjects of the FASEA required curriculum which would be excessive and unnecessary for these advisers. For example, subjects in applied financial planning, insurance advice, comprehensive commercial law for financial planning, and, investments which focus on the full range of financial services would be unrelated to an accountant transitioning to limited SMSF advice under a limited license.

Accordingly, we believe that FASEA should establish education and training requirements that are appropriate for individuals who operate within the limited licence framework. This may involve a reduction in the amount of FASEA related units that need to be studied for existing limited advisers.

Consequently, individuals will be required to complete an appropriate amount of FASEA related units that are specifically related to the advice they provide. For example, a limited licence adviser can tailor their choice to FASEA approved units that are similar to the three main subjects SMSF Best Practice, Understanding SMSF Trustees and SMSF Strategic Advice which are offered in the SMSFA's graduate certificate in SMSF, rather than undertaking up to five subjects on the specialised advice they provide or subjects not relevant to their advice. This reduction in FASEA approved units will then be coupled with the bridging courses available by FASEA to provide an appropriate transition to degree level education for limited licence advisers. The reduction therefore reflects an appropriate number of subjects to raise education in a specialised area of limited advice.

Creating specific limited licence adviser education pathways should also include and recognise different RPL that is relevant to limited licence advisers. This is extremely important because currently the RPL which FASEA recognises in its guidance is only relevant to full financial advice providers. We believe there are many professional designations relating to specific limited licence advice, such as SMSFs, that should be eligible for credits when considering specialist advice.

Therefore, we propose that a relevant degree and limited licence adviser pathway is created to acknowledge that the limited licence regime is a legislated part of the advice framework and recognise the appropriate RPL that exists for these individuals. We believe the pathway should be designed as follows:

NO DEGREE

Under the propose standards, existing limited licence without an AQF7 or above qualification will be required to undertake a maximum of six courses of study as follows:

(i) Financial Advice Regulatory & Legal Obligations bridging course
(ii) Ethics and Professionalism (including the FASEA Code of Ethics and Code Monitoring Bodies) bridging course
(iii) Behavioural Finance: Client and Consumer Behaviour, Engagement and Decision Making bridging course
(iv) 3 related units – to be selected by the existing adviser from a FASEA approved list relating to the limited licence

Recognition of Prior learning will be awarded as follows (in addition to RPL already prescribed by FASEA):

Existing advisers who have not completed a degree and have completed approved study to attain a professional designation which is relevant to a limited licence (SSA, SSAud) will be required to undertake

(i) Financial Advice Regulatory & Legal Obligations bridging course
(ii) Ethics and Professionalism (including the FASEA Code of Ethics and Code Monitoring Bodies) bridging course
(iii) Behavioural Finance: Client and Consumer behaviour, Engagement and Decision Making bridging course
(iv) 2 related units – to be selected by the existing adviser from a FASEA approved list relating to the limited licence

NON-RELEVANT DEGREE

Under the propose standards, existing limited licence non-relevant degree holders will be required to undertake a maximum of five courses of study as follows:

(i) Financial Advice Regulatory & Legal Obligations bridging course
(ii) Ethics and Professionalism (including the FASEA Code of Ethics and Code Monitoring Bodies) bridging course
(iii) Behavioural Finance: Client and Consumer Behaviour, Engagement and Decision Making bridging course
(iv) 2 related units – to be selected by the existing adviser from a FASEA approved list relating to the limited licence

Recognition of Prior learning will be awarded as follows (in addition to RPL already prescribed by FASEA):

Existing advisers who have completed a degree and have completed approved study to attain a professional designation which is relevant to a limited licence (SSA, SSAud) will be required to undertake

(i) Financial Advice Regulatory & Legal Obligations bridging course
(ii) Ethics and Professionalism (including the FASEA Code of Ethics and Code Monitoring Bodies) bridging course
(iii) Behavioural Finance: Client and Consumer behaviour, Engagement and Decision Making bridging course
(iv) 1 related unit – to be selected by the existing adviser from a FASEA approved list relating to the limited licence

RELEVANT DEGREE

Under the proposed standards, existing limited licence relevant degree holders will be required to undertake a maximum of three courses of study as follows:

(i) Financial Advice Regulatory & Legal Obligations bridging course
(ii) Ethics and Professionalism (including the FASEA Code of Ethics and Code Monitoring Bodies) bridging course
(iii) Behavioural Finance: Client and Consumer Behaviour, Engagement and Decision Making

Recognition of Prior learning will be awarded as follows (in addition to RPL already prescribed by FASEA):

Existing limited licence advisers who have completed a Relevant Degree and have completed approved study to attain a professional designation a professional designation which is relevant to a limited licence (SSA, SSAud) will be required to undertake

(i) FASEA Code of Ethics and Code Monitoring Bodies bridging course
(ii) 1 related unit – to be selected by the existing adviser from a FASEA approved list relating to the limited licence

Rationale

- *Existing limited licence advisers are required to complete two fewer subjects than an existing adviser, regardless of RPL, reflecting an appropriate number of subjects to raise education in a specialised area of limited advice.*
- *Existing limited licence specific RPL is worth a maximum of one credit.*

This places limited licence advisers with an appropriate number of subjects to complete when compared with a full licence when they have completed a professional designation which is relevant to their licence.

Recognised Prior Learning Options

The SMSFA supports the clearer standardised guidance for RPL that FASEA has provided. This ensures that education providers will apply RPL principles as per the FASEA policy in a consistent way for all existing advisers. It also allows existing advisers to have some certainty moving forward as to what their education requirements will likely be. Given the scale of the coming transition to higher education standards, it is extremely important to the financial advice profession that the process has a high level of clarity.

We support the standardised RPL credits that are offered for the completion of the Advanced Diploma of Financial Services/Planning and completion of education undertaken in the process of attaining an approved professional designation. The SMSFA intends to apply for RPL recognition for our Specialist SMSF Adviser (SSA) designation.

We also support the inclusion of RPL credits for the Financial Advice Regulatory and Legal Obligations and Behavioural Finance bridging courses if appropriate substitute courses have been approved by FASEA.

The Association believes that further guidance regarding RPL for existing advisers with formal education will be beneficial for the financial advice profession who are seeking credits for some of their coursework. This may include providing examples of certain scenarios where RPL is offered under TEQSA guidelines. For example, how an individual with a non-relevant degree may use certain subjects studied like 'investments' to provide for a credit for a subject in FASEA's approved list of electives and reduce the amount study they must undertake.

Experience and CPD

The Association continues to believe that RPL credit should be awarded for current informal learning, most notably experience and ongoing continuing professional development (CPD). This credit would be particularly relevant and justified for existing advisers who do have a relevant degree and must undertake upwards of five related units to be selected by the existing adviser from a FASEA approved list of electives.

Many advisers have over 10 years of full time experience providing quality financial advice to Australians. Proposals which do not recognise the significant experience and CPD undertaken by advisers will have inappropriately evaluated the composition of the financial advice industry.

Furthermore, throughout this practical experience, advisers have completed ongoing CPD in order to be authorised by an AFSL and to maintain any memberships and accreditations with professional associations.

As highlighted in our previous submission, CPD is extremely valuable to advisers, especially the longer since an adviser completed their initial education. It is a common refrain from members that the knowledge and skills gained from completing quality CPD has been more valuable to them in servicing their clients than the formal qualifications they have completed.

The existing advisers which most likely fall into the category of long term experience and CPD are advisers who have entered the financial advice industry when suitable formal graduate or post-graduate financial planning education products were not available. Without resorting to studying a new graduate diploma, which is expensive and timely for established and experienced financial advisers, many of these advisers have done all that can be reasonably expected to ensure they are giving quality financial advice. This would include, diplomas in financial planning, CPD, and designations such as the SSA or Certified Financial Planner.

The SMSFA proposes the existing advisers are eligible, depending on the relevant pathway, for RPL where they have ten years' experience in providing retail advice and documented ongoing CPD over that time frame. FASEA could award a maximum of one credit for a FASEA approved elective to an existing adviser that meets this requirement.

Application for the SMSF Specialist Advisor accreditation to count for RPL

The SMSFA intends to lodge an official application for the SSA accreditation to be recognised as professional designation education.

The SSA is a specialised designation that demonstrates the highest level of SMSF knowledge from the leading SMSF industry body. As will be expanded upon in our application, advisers who demonstrate their experience and knowledge via the SSA, which is conducted through a stringent examination, have the necessary education which is equivalent to the knowledge requirements in a superannuation AFQ7 or 8 level course.

SSAs are able to analyse superannuation structures and strategies, explain the taxation implications of superannuation strategies, analyse retirement income streams, formulate strategies to maximise superannuation benefits and understand strategies in divorce, bankruptcy and death benefits.

If accredited by FASEA, the SMSFA proposes existing advisers are eligible, depending on the relevant pathway, for RPL where they have completed the SSA. A maximum of one credit could be awarded for a FASEA approved elective to an existing adviser that meets this requirement (e.g. in place of a retirement/superannuation elective).

In regards to RPL for professional designations, we strongly recommend that FASEA take a flexible approach to approving designations for RPL. The key requirement should be whether the designation is of a standard which ensures that those that hold it have proven a credible level of knowledge underpinning the accreditation. How it has been delivered through different education modes should be a secondary issue and reflect that there have been different approaches to delivering industry accreditations which raised standards.

Clarity surrounding relevant degrees

The SMSFA is broadly supportive of FASEA's definition of a relevant degree. The fact that individuals must self-assess their degrees (if this is the case) removes the administrative difficulty for external providers, however this does introduce more subjectivity rather than focussing on the major of the degree.

We believe it is necessary for FASEA to clarify if an existing entrant can aggregate their courses over several qualifications to meet at least eight courses in the designated fields of study. On reading FPS001, it seems likely that an individual must have completed all eight courses in one qualification.

The Association believes a distinction in the number of degrees is not relevant in determining if an individual has completed enough courses to satisfy the requirement of relevant degrees. For example, an adviser who has completed a Bachelor of Commerce which includes six designated courses and a Master of Economics which includes four designated courses may be restricted from accessing the relevant pathway even though they clearly have achieved the knowledge requirements to meet FASEA's related degree standard.

This ensures that individuals are not unfairly restricted from accessing the relevant degree pathway when they have demonstrated they have relevant course experience even it is spread across several qualifications.

Include superannuation, retirement and insurance as relevant degree subjects

The SMSFA believes that superannuation, retirement and life insurance courses should be included as designated fields of study for the purposes of determining a relevant degree.

These subjects are synonymous with the provision of financial advice and provide education that is relevant for the purposes of increasing the education standards of financial advisers. Furthermore, they are established core knowledge areas of the Financial Planning Education Council's curriculum which FASEA have used to form the basis of their financial planning curriculum.

It would be unreasonably restrictive to prohibit advisers from accessing the relevant degree pathway because their superannuation, retirement or life insurance AQF7 or higher level courses are not recognised by FASEA. For example, an adviser who has completed a graduate qualification related to finance may fall short of the eight courses if they cannot include superannuation and retirement advice.

Recognising SMSFs as a specialist area of knowledge

The SMSFA continues to advocate that advisers who provide advice to individuals about SMSFs should have specific SMSF education and qualifications that underpin their advice.

SMSFs are a major part of the advice framework and are complex vehicles that need to be accompanied by high quality and specialised advice, especially given they are only appropriate for certain types of individuals. This was also indicated in ASIC's Report 575 where ASIC stated the results of their review of SMSF advice indicated a need to increase the education and training requirements for advice providers who provide personal advice on SMSFs. We understand ASIC are discussing this with FASEA.

In conjunction with the recognition of the limited licence regime and new and existing entrants, we encourage FASEA to consider SMSF advice as a specialist learning outcome.

We believe it would be unfortunate for new advisers to be able to reach the required FASEA threshold to give financial advice and be able to give SMSF advice without specific SMSF knowledge being part of the required learning outcomes.

This is essential given that SMSFs are a specialised retirement savings vehicle and are distinctly different to large superannuation funds. SMSF advice requirements should not be a minor subset of financial advice education requirements of the superannuation and retirement planning advice core knowledge area.

The table below compares the learning outcomes relating to superannuation in a graduate diploma of financial planning to a graduate certificate in SMSFs. It highlights the difference in specialist SMSF education and broader superannuation/retirement education that can be undertaken by financial advisers.

The following is a comparison in learning outcomes between a broader financial planning post-graduate qualification in superannuation and an SMSF focused qualification:

Graduate Diploma of Financial Planning (Kaplan Professional: Superannuation and Retirement Advice)
• Analyse superannuation structures and strategies for various client situations. • Explain the taxation implications of superannuation strategies for contribution, withdrawal and insurance at the fund level. • Analyse superannuation retirement income stream strategies according to their benefits, tax implications and social security treatment as they relate to different client situations. • Formulate strategies to maximise superannuation benefits and clients' entitlements to social security benefits and aged care. • Discuss the advantages and disadvantages of equity release schemes as a source of retirement income. • Design superannuation strategies in respect of divorce, bankruptcy and death benefits. • Develop a compliant statement of advice (SOA).
Graduate Certificate in Self-Managed Super Funds (Kaplan Professional)
• Explain how the different SMSF-related occupations can contribute to the optimal operation of an SMSF. • Integrate regulatory and legislative requirements into SMSF advice functions. • Research, assess and apply best practice methodology to the operation of an SMSF. • Critically review relevant contemporary behavioural finance models. • Evaluate the application of behavioural finance models in the adviser – trustees. • Research and explain factors resulting in measurable, systemic biases in investment decisions including difference between collective and individual decision-making processes. • Analyse impact of behaviour biases on SMSF fund investment strategies.

- Develop a methodology for mentoring and guiding SMSF Trustees.
- Elaborate on the differences and similarities between SMSF strategic financial advice and comprehensive SMSF financial advice, with reference to the literature.
- Research and explain the strategic purpose of a range of SMSF strategies.
- Model a range of strategies to achieve fund/trustee objectives.
- Explain to trustees the identified strategy, the associated benefits, risks and restrictions and how it supports the SMSF strategic objective.
- Undertake research on significant SMSF auditing issues.
- Apply the Auditing Standards to identify compliance issues in an SMSF.
- Complete an SMSF audit that is compliant with both Australian Auditing Standards and SIS Regulations.
- Create the required Australian Taxation Office reports and Fund reports.
- Research and explain the legal regulations that apply to SMSFs.
- Research and critically evaluate the special taxation rules applicable to superannuation contributions, superannuation funds and superannuation benefits.
- Develop and critically evaluate an SMSF strategy to deal with regulatory and tax requirements in a complex SMSF scenario.
- Justify an SMSF strategy to deal with regulatory and tax requirements in a complex SMSF scenario.
- Critically analyse a trust deed for compliance, including all compulsory statutory provisions and those provisions that cannot or should not be included.
- Research and explain the common triggers for SMSF Trust Deed review and propose amendments to minimise compliance risk.
- Compare and contrast a range of publicly available SMSF trust deeds to determine suitability for use.
- Review SMSF trust deeds using best practice principles.

Delaying consideration of specialist or key areas of financial we believe forgoes a substantial opportunity to lift the standard of SMSF advice. Given this opportunity to create new professional standards, FASEA in discussions with ASIC, should consider mandating an increase in SMSF education and advice standards.

If you have any questions about our submission, please do not hesitate in contacting us.

Yours sincerely,

John L Maroney

John Maroney
CEO
SMSF Association

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak professional body representing SMSF sector which is comprised of over 1.1 million SMSF members who have $755 billion of the funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.

Appendix

Limited Licence Advice and FASEA standards – Appendix

The SMSF Association has significant concerns the FASEA standards do not appropriately recognise or account for the limited licence advice regime.

Effectively, by failing to recognise or account for the limited licence regime, a legislated section of the financial advice framework, FASEA has prescribed a one month timeframe by the end of 2018 for existing accountants and other professionals to consider applying for a limited licence or authorised representative status to become an existing adviser before the standards become inappropriate for them.

Background

Prior to 1 July 2016, an accountants' licensing exemption permitted a recognised accountant to recommend the establishment or winding up of an interest in an SMSF without being licensed under the Australian Financial Service (AFS) licensing regime. This exemption was repealed from 1 July 2016.

It is important to note however, that exemptions permitting a range of accounting services including compliance, tax advice related to financial products and broad asset allocation advice are available to unlicensed accountants.

To facilitate this, a new limited AFS licence was established, particularly for professional accountants who hold a public practice certificate/certificate of public practice.

Obtaining a limited AFS licence or becoming an authorised representative of another entity's AFS licence enables individuals to provide a range of SMSF advice and 'class of product' advice. However, individuals are not able to provide full financial product advice, including product recommendations, in a broad range of areas.

Individuals must have met the specific scaled RG 146 training in the specialist knowledge areas of advice that they will be providing advice to clients, for example, SMSFs.

This allowed professionals a scaled ability to continue providing quality specialist SMSF services in the best interest of the SMSF trustees.

FASEA Approach

The proposed FASEA approach applies rigid standards to individuals who are operating under a limited licence or will potentially enter the limited licence regime.

The standards currently do not differentiate between a financial adviser who is able to provide a full range of financial advice services and a financial adviser who is able to provide a limited range of financial services.

As we expand in our submissions, a limited financial adviser or prospective limited financial adviser may need to:

- Complete more subjects than a full financial adviser.
- Complete subjects which are financially costly, impose significant time costs and not relevant to the financial advice they provide.
- Undertake a supervised professional year of 1600 hours. (E.g. impractical for an experienced accountant obtaining a limited AFS licence).
- Undertake an examination with topics that may not be relevant to their financial advice.

Outcomes of FASEA approach

The requirements under the legislative instruments will likely discourage the majority of professionals who are intending to add financial advice to their services and to a lesser extent advisers who currently provide limited financial services from meeting the FASEA standards and providing advice.

The professional year and subjects which are not relevant to the provision of specialist advice will reduce the number of professionals offering this type of advice, particularly to SMSF trustees. The 'business case' of undertaking a graduate diploma in full financial advice and undertaking a professional year will not be viable for the provision of SMSF advice.

Accountants acting as limited financial advisers (e.g. SMSF specialist advisers) are often a significant source of SMSF information and advice. On average, an SMSF trustee uses two different advisers or professionals on average.

Recent SMSFA research indicates that upwards of 250,000 SMSFs have unmet advice needs, due to factors such as trust, cost and inconvenience. By ignoring the limited licensing regime and making advice more difficult for accountants to provide there is likely to be an increase in the number of SMSFs who are unable to have their advice needs met as advisers leave or professionals do not enter the system.

Additionally, as limited licence advisers leave the advice industry and individuals fail to become licensed, the provision of 'execution-only' services will increase. This is a significant risk to the integrity of the SMSF industry as trustees will be unable to access quality SMSF advice. Furthermore, it may blur the line of advice and information. This is an issue recently highlighted by the Australian Securities and Investments Commission.

The SMSFA does not believe that FASEA should be reducing the education standards for limited advisers, however, FASEA should recognise and account for limited licence advisers by providing appropriate pathways for their education and entry to the system which is relevant to the services they provide.

Disregarding a legislated section of the financial advice framework is contrary to FASEA's purpose to set the education, training and ethical standards of all financial advisers who provide personal advice on relevant financial products to retail clients