

Senate Estimates Committee 2 June 2021

FASEA Opening Statement

Good afternoon. At our last appearance before the Committee FASEA highlighted the progress relevant providers had made towards meeting parliament's vision of reforms to raise the education, training and ethical standards of financial advisers and improve consumer confidence in the profession of financial advice as legislated in the Corporations Amendment (Professional Standards of Financial Advisers) Act 2017.

In making these amendments parliament reflected key findings of the Financial System and PJC Inquiries which highlighted that low minimum competency standards have been a feature of the financial advice industry for a substantial length of time and that change is needed. These inquiries highlighted that cases of inappropriate financial advice had a negative impact on consumers' confidence.

FASEA's role has been to legislate standards that promote the transition of the provision of financial advice to a profession to assist in increasing consumer confidence and trust in obtaining financial advice.

Pleasingly, progress in lifting standards is continuing at a rapid rate. With the 31 December 2021 deadline for existing relevant providers to pass the exam approaching and the end of the 2025 transition period for meeting minimum education standards looming, FASEA commends the thousands of advisers willing to raise their standards by undertaking additional education to meet the requirements of the Corporations Act, through sitting and performing well in the relevant providers exam and committing to maintenance and improvement in their advice knowledge through ongoing CPD.

Over 13,500 advisers had passed the exam at the end of March 2021 with 4 exams remaining to the end of the transition period. This is in excess of 65% of registered advisers.

With close to 1900 advisers recently sitting the May 2021 exam and over 1500 already registered for July, coverage will shortly be over 70%.

The current overall pass rate is 89% demonstrating a strong performance from existing advisers.

One of the primary requirements of the Corporations Act requirements is that by the end of 2025 all existing advisers will hold a FASEA approved bachelor or higher-level qualification. Over the two years the education standards have been in place, FASEA has witnessed a significant rise in the number of courses existing and potential advisers are enrolled in to lift their education qualifications ahead of the end 2025 deadline.

In 2019 our survey of higher education providers indicated that there were 11,000 individual units of study that new and existing advisers were enrolled in. Higher education provider returns for 2020, just 12 months later, document a close to 300% increase with new and existing advisers enrolled in 33,000 individual units of study.

Based on that survey, between 2019 and 2020 the number of undergraduate students (not existing advisers) studying FASEA approved degrees has increased over 300% between with approximately 2,800 enrolled (using TEQSA standards).

Higher education providers have embraced financial advice as a course/degree offering with 24 higher education providers offering FASEA approved courses and a steady stream continuing to apply for accreditation.

The number of new entrants commencing their professional year is steadily rising from 46 in 2019 to over 400 today.

EXAM

Section 921B(3) of the Corporations Act requires all relevant providers to pass an exam approved by the standards body. The Act defines a relevant provider as a person who is authorised to provide personal advice to retail clients, as the licensee or on behalf of the licensee, in relation to relevant financial products.

The exam is a general exam that tests practical application by relevant providers of the following 3 basic competency areas that are applicable to their role as a relevant provider regardless of specialisation:

1. Legal and regulatory requirements that they need to comply with when providing financial advice.
2. How financial advice should be constructed.
3. How to provide financial advice in an ethical manner.

The relevant providers exam is a high stakes exam, but it is an achievable exam for prepared advisers as evidenced by the fact that nearly 9 out of 10 advisers who have sat the exam have passed.

FASEA provides access to a range of resources to assist advisers in their preparation including curriculum, reading guide, practice exam questions, pre and post exam webinars and feedback with their results.

FASEA has offered the exam on 12 occasions since July 2019 with a further 3 sittings scheduled across the remainder of 2021. Each exam is offered in person in multiple city and regional centres and online across 5 days with up to two sittings per day. This has presented multiple opportunities for relevant providers to sit.

Unsuccessful advisers may re-sit the exam within legislated timeframes. A relevant provider who sat the first exam in 2019 has up to 8 attempts to pass the exam.

To date, 882 unsuccessful candidates have re-sat the exam with 578 (66%) passing at a first or subsequent re-sit.

FASEA notes recent media commentary suggesting the exam is not appropriate for specialist advisers and is too difficult for them to pass. Consistent with the requirements of the Corporations Act, the exam is set as a core competency test applicable to advisers in their role as a relevant provider and is not a specialist exam.

The current exam pass rate of 89% overall demonstrates the exam is achievable for relevant providers regardless of their advice specialty.

Analysis of the composition of the 1437 who have been unsuccessful in passing the exam to date does not demonstrate a disadvantage between generalist financial planners and specialist financial advisers with a split of approximately 60/40% respectively composing those who had failed.

CODE

To raise understanding of how to interpret and apply the Code of Ethics and its values and standards, FASEA released for consultation in October last year a draft Code of Ethics Guide. The draft guide explains the intent and application of each of the standards and provides practical examples on how to assess whether relevant providers are acting within the spirit of the ethical code. It uses fundamental questions to help illustrate the application of the Code and highlights the requirement for relevant providers to exercise their professional judgement in the best interests of their client guided by the values and standards of the Code. The release of standards guidance to explain interpretation of the formal standard is consistent with the approach adopted by other standards setters and regulators.

For example, on standard 3, the guide provides clarity on how FASEA interprets the standard and how it may be applied by relevant providers. In particular the guide notes inter alia that in applying standard 3 the Code is concerned with

an actual conflict between duties advisers owe their client and any personal interest they have or an actual conflict between duties they owe their client and duties they owe another individual or organisation. This requires advisers to make a professional assessment as to whether their personal interests or other personal duties/relationships are incompatible or at variance with the interests of, and duties owed to their client. The Code requires advisers making an assessment of conflict to ensure that, before giving advice, they have met the ethical values and standards contained in the Code and to confirm that their client's interests are given priority and are not in conflict with any personal interest or other interests.

The guidance further notes: "The Code does not seek to ban particular forms of remuneration, nor does it determine that particular forms of remuneration will always give rise to an actual conflict of interest or duty."

Consultation on the guide closed at the end of last year. 37 submissions were received expressing a range of views on both the draft guide and the Code itself. Respondents are generally seeking further guidance and examples to be incorporated into the guide or the standard itself to further assist with understanding and implementation. Standard 3 of the Code received particular comment with a broad range of suggestions made including:

- Retain the standard as is.
- Incorporate the wording and intent from the draft guide into the standard to give it legal application.
- Incorporate a reasonable person and materiality test into the standard.
- Revert to the original wording of the standard re inappropriate advantage.
- Change the standard to provide for a disclose and manage approach.

FASEA will further consult with stakeholders on the wording and interpretation of standard 3 in the second half of 2021 to ensure the intent of the standard is both understood and workable. In light of the Government's announced intention to transfer the standards making powers of FASEA to Treasury, FASEA

will liaise with Treasury to ensure they are across the range of stakeholder views to inform future decisions with the Code.

CLOSING

In closing, FASEA highlights the importance of the vision of the reforms, to raise the education, training and ethical standards of advisers and improve consumer confidence in the profession of financial advice. FASEA commends the progression towards professionalised financial advice being led by the thousands of advisers who are raising their personal and industry standards by meeting the enhanced requirements of the Corporations Act in advance of legislated transition periods. The underlying reasons in the Corporations Act to raise standards remain sound.