7 May 2015

Ms Meghan Quinn
General Manager
Financial System and Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: ProfessionalStandards@treasury.gov.au

Dear Ms Quinn

Lifting the professional, ethical and education standards in the financial services industry

CPA Australia and Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ) welcome the opportunity to provide comment to the consultation on recommendations of the Parliamentary Joint Committee (PJC) on Corporations and Financial Services' inquiry into proposals to lift the professional, ethical and education standards in the financial services industry.

CPA Australia and Chartered Accountants ANZ represent over 200,000 professional accountants in Australia. Our members work in diverse roles across public practice, commerce, industry, government and academia throughout Australia and internationally. The accounting profession has a long history of providing financial services and related advisory and service roles.

A combination of corporate collapses, product failures, and at times, inappropriate advice has resulted in many Australians losing savings and suffering considerable financial hardship. The community's trust and confidence has been undermined. This has rightly focused attention on the need for comprehensive policy improvement.

The proposals outlined in this consultation paper align with some of the key principles and framework on which the accounting profession was developed. However it should be noted that the structure of the accounting profession and the financial services industry are quite different and as a consequence, some of the proposals may not align in practical terms. The accounting profession focuses on the individual accountability of the accountant while the financial services industry responsibilities and accountability have a focus on the Australian Financial Services (AFS) licensees.

We strongly support the principles and intent of the PJC model. We remain advocates for developing stronger partnerships between stakeholders for a co-regulatory model.

Renewed credibility for the sector lies in an all-encompassing regulatory framework, robust education standards and ongoing professional development.

A commitment to professional and ethical behaviour with principles based on honesty, integrity, objectivity and competence is critical.

At a high level we support:

- increasing the minimum education level to AQF 7 Bachelor Degree or equivalent
- the introduction of a structured professional year of experience
- the use of the Professional Standards Councils (PSC) 5 E model of a professional framework to recognise a body as a professional association, and
- a co-regulatory model where professional associations have a greater role to influence ethical and professional conduct and behaviour of individuals, while AFS licensees retain final responsibility and accountability for the advice they provide.

If you have any questions regarding this submission, please do not hesitate to contact [redacted] (CPA Australia) at [redacted] or [redacted] (Chartered Accountants ANZ) at [redacted].

Yours sincerely

[redacted]
Chief Executive
CPA Australia

[redacted]
Chief Executive Officer
Chartered Accountants Australia and New Zealand

Lifting the professional, ethical and education standards in the financial services industry

The PJC Model

The introduction of the model recommended by the PJC would represent a substantial change to the current regulatory environment for financial advisers.

Question 1.1 What impact would the introduction of the PJC model have on the structure of the financial advice industry?

CPA Australia and Chartered Accountants strongly support the principles and key elements of the PJC model. If implemented, it will change the framework in which financial planning advice is provided and importantly, enhance how financial advice is both viewed and valued by consumers.

These recommendations are the most significant for the industry in over ten-years and will have some level of impact on all stakeholders which includes consumers, individual financial planners, professional associations, AFS licensees and relevant regulators.

A robust and tailored education framework complemented by a structured professional experience year is integral to ensuring the eligibility requirements to provide financial planning advice are commensurate with the level of responsibility that a financial planner has when providing such advice.

A supporting genuine co-regulatory model will ensure every licensed financial planner operates under an approved ethical and professional framework, which will also strengthen the existing regulatory framework. Given the financial services industry is structurally different to most professions, where accountability lies largely with the AFS licensee rather than the individual, this is not only a regulatory change but importantly a cultural change for both financial planners and AFS licensees.

This should positively influence professional conduct and behaviour in all client engagements, as it will place a greater level of accountability on the individual who provides the advice. Importantly it will also provide a framework for an individual to identify and address conflicts of interest which, despite existing regulatory guidance, has been a major underlying influence in many of the recent examples of poor financial planning advice. Importantly, while the implementation of a professional and ethical framework will have some immediate impact, the true benefit will be in long-term cultural and organisational behaviour.

These changes are also needed to lift the competency and standards of behaviour across the industry and are fundamental to rebuilding consumer confidence and trust in financial planning advice.

The PJC model, as proposed, does require amendment.

To avoid a significant impact on both the structure and size of the financial services industry, there are practical and operational issues that will need to be addressed to ensure an appropriate policy outcome.

The PJC model proposes that in order to become a financial planner, an individual must:

- complete a minimum AQF 7 – Bachelor Degree level qualification
- complete a structured professional year of experience
- pass a registration exam, and
- meet ongoing professional development requirements.

This framework is a significant increase on the current requirements to become a financial planner, especially given the current minimum level of training is AQF 5 – Diploma level, not a Bachelor Degree qualification. While we strongly support increasing the minimum education level to enter the industry, this change alone may significantly impact the number of individuals who enter, and the speed at which they enter the industry.

However, it is the recommendation that an individual must also be a member of a PSC approved professional association to be registered as a financial planner that will have the most significant impact on the industry.

Currently, there are only two professional associations in the financial services sector that have been approved by the PSC: CPA Australia and Chartered Accountants ANZ.

While several thousand professional accountants are licensed to provide financial product advice, the majority of industry participants are not a member of either professional association. In fact, it is estimated that more than 50 per cent of all financial planners are not a member of any financial services professional or industry body.

While the model does state that Recognition of Prior Learning (RPL) criteria would be implemented to assist existing financial planners' transition into a new framework, an individual would still need to meet the professional education and experience requirements to be granted full membership with either CPA Australia or Chartered Accountants ANZ.

It is envisaged that other associations would also apply to be approved by the PSC during the proposed transition period. However, to be approved by the PSC, the body would also need to have a Professional Standards Scheme approved for its members.

As part of this process, the association would need to demonstrate it can satisfy both initial and ongoing statutory requirements, through suitable processes, programs and practices as identified by the PSC in the 5 Es:

- **Education**: The specific technical and professional requirements to practice in your discrete professional area. This includes both entry-level formal qualifications or certification, and ongoing continuing professional development and education.
- **Ethics**: The prescribed professional and ethical standards clients can rightfully expect your members to exhibit. This includes your specific expectations of practice and conduct, and should do more than just reiterate statutory expectations.
- **Experience**: The personal capabilities and experience required to practice as a professional in your discrete professional area.
- **Examination**: The mechanism by which all of the elements above are assessed and assured to the community. This extends beyond qualification or certification requirements into expectations of regular assurance of practice, such as your compliance programs and professional audits.
- **Entity**: Your association must be an entity capable of overseeing and administering professional entry, professional standards, and compliance expectations on behalf of the community.

While this framework provides many important consumer benefits and sets an aspirational threshold for the recognition of professional associations, it is our experience that it requires a strong commitment and the allocation of ongoing resources to apply and maintain a PSC approved scheme. It is likely many industry bodies would be required to significantly increase their professional standards systems and self-regulatory capacities, which they may find challenging based on the current thresholds.

The requirement to be a member of a PSC professional association may therefore significantly reduce the number of financial planners in the industry post the conclusion of any transition period.

CPA Australia and Chartered Accountants ANZ do not believe it is therefore practical to require an association to be PSC approved for the purposes of professional recognition, given to achieve this status the association must have a Professional Standards Scheme approved.

However, we strongly support the 5 E framework established by the PSC and believe that it should be used as the foundation for an alternative model that will ensure a strong and robust education, ethical and professional framework is implemented for the industry.

An alternative model which upholds the elements of the 5 E framework, delivers on the PJC's high-level policy intent and has significant advantages for practical implementation is detailed in response to Question 8.2 on the role of the PSC.

The PJC model would apply equally to advisers working in different size firms and under different licensee structures.

Question 1.2 What are the practical implications of the PJC model applying to advisers from all sizes and types of firms?

The PJC model would result in a number of practical implications for financial planners, regardless of the size of the firm or the AFS licensee they work for.

An individual looking to enter the industry would incur increased education costs and take a longer period of time to meet the education requirements. Despite this, CPA Australia and Chartered Accountants ANZ believe increased education standards are fundamental to lifting the competency of the industry.

Entry level formal qualifications are also a common characteristic of a profession.

AFS licensees or the financial planner will likely incur additional costs to facilitate the structured professional year, however there may also be practical implications and challenges for how an AFS licensee will implement this element. It is also likely that the additional costs will have a greater impact on smaller firms than larger institutional firms. Noting these challenges, it is a vital element of any proposed framework and it is our experience that mentoring embeds the skills of providing quality advice and the attributes of a code of conduct early in a person's professional career. The end result is a better experience for the consumer.

As the financial planner will operate under the professional framework of the professional association, and that the association and the AFS licensee will both oversee the completion of the professional year, it will be necessary for financial planners, AFS licensees and professional bodies to develop and maintain a more transparent and collaborative relationship.

CPA Australia and Chartered Accountants ANZ have successfully run a similar program for the accounting profession for many years. An employer who demonstrates it provides employees with access to learning and development opportunities, among other requirements, is recognised by the association for the purposes of satisfying our practical experience requirements.

However, the most significant practical implication may be the requirement to be a member of a PSC approved professional association given the limited number of current or expected-to-be-approved bodies. This may result in a large number of financial planners needing to exit the industry if they cannot meet the eligibility requirements for membership.

While this element of the proposed model may act as a significant barrier to entry for many current and also future financial planners, it is important that it does not prevent the much needed reform. Rather, alternative models must be explored that achieve the same important objectives.

Under the PJC model, ASIC, licensees, the PSC, FPEC and the professional associations will have a role in raising standards and ensuring these are met on an ongoing basis.

Question 1.3 Are the lines of responsibility clear under the PJC model?

While the model does appear at a high level to depict clear lines of responsibility for each relevant stakeholder, further analysis is still required to avoid duplication or conflict of responsibilities and, where possible, to harmonise any overlapping requirements.

The role of other stakeholders must also be considered, such as AFS licensees and interaction with approved professional associations in oversight and quality control responsibilities.

To ensure the model is successful it must also consider the role of other relevant regulators such as the Tax Practitioners Board (TPB), given that the majority of financial planners are also registered with the TPB to provide tax (financial) advice.

Importantly, the model should also articulate the responsibilities of the individual financial planner.

Current regulatory framework

Under the current regulatory arrangements, the legal obligation to ensure advisers meet the relevant training and competency standards falls on licensees. ASIC is responsible for ensuring that licensees comply with the conditions of their AFS licence.

Under the PJC model, responsibility for meeting (and ensuring compliance with) training and competency standards is expanded to individual advisers and professional associations.

Question 2.1 What are the practical implications of this overlapping of responsibilities? Would this shift have flow-on implications for other provisions in the Corporations Act, or any other parts of the licensing regime?

The PJC model would strengthen oversight of the industry by adopting a tiered approach which would result in greater consistency in the implementation, monitoring and enforcement of education, ethical and professional standards.

However, importantly the *Corporations Act 2001* places a number of statutory obligations on the AFS licensee including that it is responsible for ensuring its representatives are adequately trained are competent to provide those financial services, they comply with financial services laws and any other relevant obligations. Therefore regardless of any implemented model, the AFS licensee will retain these statutory obligations.

As noted, the proposed model expands this responsibility to the individual and the professional association of which the individual is a member. While this may result in an overlapping of responsibilities in some areas, a transparent and collaborative relationship between all parties could address potential implications.

For example, as a member of a professional body an individual will be required to meet CPD obligations. These records may be kept and maintained by the AFS licensee. In such cases, processes could be established where these records are shared with the professional body to avoid the need to maintain dual records and reduce the potential obligations of the individual.

A tiered system of responsibility could also result in additional benefits, such as the individual being accountable for ensuring they meet initial and ongoing training and competency standards, rather than just the AFS licensee. Professional associations could also assist AFS licensees meet their statutory obligations by initially validating qualifications of an individual which would assist in ensuring they have the knowledge and skills to be authorised under the AFS licence.

Question 2.2 Should licensees maintain a legal obligation to ensure advisers meet relevant training and competency standards?

AFS licensees must ensure its financial planners have the appropriate knowledge and skills for the advice they provide. The model would see professional associations taking a complimentary role by confirming an individual had complied with the competency standards.

However, it is the AFS licensee that licences the individual to provide financial product advice under its AFS licence. Under the *Corporations Act 2001* the AFS licensee has a statutory obligation to ensure that its representatives are adequately trained and are competent to provide those financial services.

Given the required training will also depend on the areas of financial product an individual is licensed to provide, the AFS licensee must also maintain a legal obligation to ensure its financial planners meet the relevant training and competency standards, even if the PSC approved professional association must ensure that an individual has completed an approved qualification. It is also the AFS licensee who has responsibility for the oversight of advice provided by the individual financial planner on a daily basis.

Leadership and oversight responsibilities within an AFS licensee must rest with the AFS licences, as the AFS licensee's leadership will significantly influence culture and the quality of advice.

The accounting standard APES 320 *Quality Control for Firms* (based on the ISQC1 – International Standard for Quality Control) identifies six elements of quality control. These include leadership responsibilities, relevant ethical requirements, acceptance and continuance of client relationships and specific engagements, human resources, engagement performance and monitoring.

Based on this standard an AFS licensee must maintain responsibility for training and competency standards.

Education and training standards of financial advisers

Question 3.1 How would the PJC model interact with existing regulatory regimes for specific types of advisers, for example stockbrokers and tax advisers?

Harmonisation of the regulatory regimes for financial planners and related disciplines will be important to reduce unnecessary duplication for individuals who are subject to multiple licensing or registration regimes.

FPEC will need to take an active role to ensure that the minimum education standards for financial planners do not conflict but rather complement those of other regulators who also provide oversight of financial planner's education requirements.

Identifying other regimes where there is or could be potential overlap is essential before the development of any curriculum for the industry to ensure that future qualifications meet all stakeholder needs.

For example, to be a registered tax (financial) adviser an individual will need to complete one unit of commercial law for tax (financial) advisers and one unit of Australian taxation law for tax (financial) advisers, as approved by the TPB. In developing the curriculum for different disciplines, FPEC could take these education requirements into consideration so they become a core component of any degree or higher qualification for financial planners who will also register as a tax (financial) adviser.

It is common for a financial planner to also be a credit representative under an Australian Credit Licence. A similar process could be undertaken to ensure necessary training to be licensed as a credit representative is built into the core curriculum.

AFS licensing and non-traditional financial planning services

It is important to understand that a wide range of other advice and services are actually provided under an AFS licence. This extends well beyond what is generally understood to be the provision of financial advice to consumers by financial advisers. Specifically in relation to the accounting profession this in certain circumstance may include independent expert reports (IER), Investigating Accountant's Reports and advice that is provided by an actuary which is read by retail clients. The issues surrounding this are a consequence of the single licensing regime that now exists.

For example, ASIC has stated that IERs typically constitutes the provision of financial product advice and as such an expert must hold or be licensed under an AFS licence. Therefore any individual who prepares and signs such reports must meet the training requirements of Regulatory Guide 146.

Examples of when an IER is needed occur where there is a related party takeover, demutualisation or compulsory acquisition. The primary purpose of such a report is to protect minority investors, in particular where there is a potential conflict of interest for their board or individual directors. The report contains:

- a summary of the proposed transaction
- a description of the purpose and objectives of the report, including a discussion of the basis for providing an opinion
- an analysis of the businesses involved
- a description of the industries in which those businesses operate
- detailed analysis of the proposed transaction, usually including a valuation of one or more entities, and
- an opinion as to whether the contemplated transaction is fair and reasonable or in the best interest of investors as a whole.

This creates unnecessary complexity as the training focuses on providing personal financial product advice to a consumer and requires the completion of a statement of advice, for example. However in reality these individuals will never prepare a statement of advice and so there is a clear gap in available training to cater for these individuals created by the current focus of the training requirements.

If a new education framework is created that focuses only on financial planners, without acknowledging and catering for other advice and services provided under an AFS licence, then the same issues will be carried forward.

CPA Australia and the Chartered Accountants ANZ therefore recommend that in developing a new education framework for financial advisers that other areas of advice and services provided under an AFS licence are also identified and a curriculum developed that is appropriate for these specific activities.

Under the PJC model, financial advisers providing personal advice on Tier 1 products would be required to hold a relevant Bachelor Degree.

Question 3.2 Is holding a relevant Bachelor Degree the appropriate minimum education requirement? What is a "relevant" Bachelor Degree? Would this requirement limit the ability of other degree-qualified individuals to become financial advisers?

CPA Australia and Chartered Accountants ANZ strongly support lifting the current minimum education level from the current AQF 5 – Diploma level. However, the overarching driver of lifting education standards should not focus just on the holding of a specific qualification but more importantly it should ensure that an individual has the appropriate level of technical expertise and skill to provide quality financial advice.

It is therefore important that the minimum education level to become a financial planner is commensurate with the knowledge and skills needed to achieve this objective. . We believe the current minimum education level of AQF 5 - Diploma does not reflect the knowledge and skills to become a financial adviser and provide quality financial advice.

CPA Australia and the Chartered Accountants ANZ recommend that the new education framework raise the minimum level of education from an AQF 5 - Diploma level to AQF 7 – Bachelor Degree or equivalent.

There will be multiple benefits from lifting the minimum education level. It will result in individuals:

- having broad, theoretical, technical and coherent knowledge as well as the skills for professional work, rather than paraprofessional
- learning the skills to not only analyse but evaluate information

- having the skills to analyse, generate and transmit solutions to unpredictable and sometimes complex problems, and
- being able to communicate their knowledge, skills and ideas to others.

Together this should in turn result in individuals having the requisite knowledge and skills to enable them to consistently provide quality advice to consumers.

Further, knowing that an individual has completed a higher level of education to become a financial planner should also in time provide consumers with more confidence in this sector.

As a financial planner has a statutory obligation to act in their client's best interest, it is imperative that the minimum education level reflects the depth of knowledge and skills required to provide quality financial advice.
Lifting the minimum education level alone is not enough to ensure the provision of quality financial planning advice. Rather approved qualifications must ensure that an individual has the appropriate level of technical expertise and skill to provide quality financial advice.

The role of FPEC will be instrumental in developing a new curriculum which clearly articulates the curriculum detail and the specific learning outcomes for each core area identified for financial planners and importantly other advisory services captured under the AFS licensing regime.

Importantly, this curriculum should then be used as the basis to develop AQF 7 – Bachelor Degree to AQF 9 – Masters Degree level or equivalent education for the financial advice sector rather than requiring all individuals who wish to become a financial planner to complete a degree.

Setting a minimum education level would provide multiple pathways and greater flexibility to enter the industry, as different individuals could complete different qualifications based on their previous education and experience to meet the set education standards. Examples of possible qualifications would include Bachelor Degree, Bachelor Honours Degree, Graduate Certificate, Graduate Diploma or Masters.

This would provide the necessary flexibility for individuals looking for a career change who may have a relevant degree or relevant experience, providing flexibility for them to enter the industry.

A transitional period will be necessary to allow academia and students already enrolled in existing programs not to be unfairly disadvantaged. For example an individual who also wishes to gain recognition as a professional accountant is required to complete a Bachelor Degree which meets the minimum requirements of CPA Australia and Chartered Accountants ANZ - who share a common overall vision for accreditation, philosophy, objectives, expectations and pre-requisite knowledge requirements for accreditation of accounting degrees. These requirements are also based on international standards.

Appropriate time must be provided to allow higher education providers in Australia of the professional standards to be met for professional accreditation of any new program/s and to inform existing higher education providers in Australia of the professional standards to be met for professional accreditation of any new or revised program/s they may be planning.

This would be necessary to avoid, for example, the requirement for an individual who wishes to become a professional accountant and a financial planner to complete a double degree, which may not be a practical solution and would introduce unnecessary barriers to entry.

Question 3.3 What are the practical implications of requiring advisers to hold a relevant Bachelor Degree?

While there may be practical implications to this proposal, we again emphasis high entry-level formal qualifications are a common characteristic of a profession

Requiring individuals to complete a minimum of a Bachelor Degree or equivalent will result in a longer lead time for individuals to enter the industry and at a higher cost, noting this cost is traditionally borne by the individual prior to entering the industry.

Appropriate time will also be necessary for education providers to develop new programs that meet the curriculum and requirements developed by FPEC in order for their program to be approved.

While this may result in a longer period for the new framework to be implemented, it is important that the time is taken to build this foundation, as it will result in many benefits for the individual, the industry and importantly, the consumer seeking advice.

It will ensure the individual has completed robust education that has been tailored to the financial planning industry to provide quality financial planning advice to clients. While it will also ensure the individual has broad, technical and coherent knowledge, it will also ensure they have learnt the skills to analyse and solve complex problems, as well as communicate their ideas, knowledge and skills to others. This, in conjunction with the other elements of the model, should result in the individual consistently providing quality financial planning advice to the client.

For AFS licensees, it will address issues of portability of qualifications, which is a significant and costly issue for the industry. For example, a number of AFS licensees currently require a financial planner who is new to its AFS licence to complete their RG 146 training again with a specific education provider to address concerns around the quality of their previous training.

Lifting the education, ethical and professional standards may also attract more people to the industry including younger individuals looking for a career.

For the consumer, they can have confidence that the individual they are seeking advice from has completed appropriate education and that they have the in-depth knowledge and skills to consistently provide them with quality financial planning advice.

Under the PJC model, financial advisers providing personal advice on Tier 1 products would be required to undertake a professional year and ongoing professional development.

Question 3.4 What are the practical implications of requiring new advisers to undertake a structured professional year at the outset of their careers as financial advisers, as a way to develop on-the-job skills?

CPA Australia and Chartered Accountants ANZ support the proposal for all new financial planners to undertake a structured professional year, as this will help embed the skills of providing quality advice and the attributes of a professional early in a financial planner's career, resulting in a better experience for the consumer. The key component of the professional year is not just developing the skills but moulding the behaviours of the financial planner. The issues highlighted in the last couple of years can largely be attributed to the behaviours of financial planners and the culture within the AFS licensees.

The professional year will also provide a foundation from which a financial planner can build on as a pathway to specialisations should they wish. The professional year for accountants provides the foundation for the accountant who in due course may proceed down a pathway to be a specialist in tax or audit for example.

It also ingrains the ethical behaviours, such as how to address conflicts of interest and a more collaborative relationship between the AFS licensee and professional association will also help address cultural issues in the long term.

A structured professional year should have defined skill sets relevant for the adviser's area of discipline, be it a holistic financial planner, risk specialist or stockbroker for example. The oversight and formal assessment of the professional year should assess the technical and compliance obligations of the individual when providing quality financial planning advice.

The professional year and ongoing professional development requirements already exist for professional accountants. The proposed model for the professional year could be modelled on programs already existing for accountants where a candidate must demonstrate that they have obtained a minimum period of mentored professional experience and competence in set skill areas such as technical, business and personal effectiveness. In the accounting profession the mentor must be a member of the professional association to ensure alignment of the expected conduct and behaviours.

Opportunities could be explored to identify how this requirement could be implemented in an efficient and effective way. For example, approved financial planning degrees could, and often already do, include an industry placement during the third year of the qualification. The placement year could be structured to be the professional year of experience, where all the work completed is supervised by an approved mentor.

A high degree of flexibility will be required to ensure this proposal can be successfully implemented without excessively impacting or burdening AFS licensees. For example, we do not believe there should be prescriptive requirements on how many new financial planners a supervisor can supervise at one time. Factors such as the size of the practice, how many clients the new financial planner will be seeing and what percentage of time the new adviser will be providing financial planning advice must also be considered. Further details including the role and expectations of the supervisor will also impact the number of new advisers a supervisor could supervise.

Any added cost this requirement may impose will be offset by providing a better experience for the consumer and will also help to build confidence in both financial advisers and the industry.

Structure and role of a standard-setting body

The PJC model would establish an independent FPEC as the central body to set education standards, professional year requirements, registration exam content and ongoing professional development requirements.

Under the PJC's recommendations, FPEC would be funded by approved professional associations and would comprise representatives from those associations, academics, consumer advocates and an ethicist.

Question 4.1 What are the practical implications of FPEC performing this role? For example:

- **how would FPEC interact with regulators and government agencies, such as ASIC, and education bodies?**

The financial planning industry needs a strong and robust education framework as part of its framework if it is to evolve from an industry to a profession. It must cater for the broad spectrum of advice and services that can be provided under the AFS licensing regime and address current issues such as portability and consistency in the quality of education being delivered.

Key stakeholders must be successfully brought together in a mutual partnership to achieve efficiency as previously noted.

CPA Australia and Chartered Accountants ANZ believe this role should be performed by an independent education council such as the FPEC model proposed by the PJC.

Once established, FPEC would be responsible for:

- lifting the current minimum education level for individuals providing Tier 1 advice from AQF 5 – Diploma to AQF 7 – Bachelor Degree or equivalent
- developing a new holistic curriculum which clearly articulates the knowledge and skills to provide holistic quality personal Tier 1 advice to clients, for all relevant disciplines under the AFS licensing regime, with specific learning outcomes and set quantum of study for each core area identified
- mandating a mix of rigorous and independent assessment forms which require an individual to demonstrate the achievement of the set learning outcomes for each core area

- approving education programs against the set curriculum and maintaining a register of approved qualifications, and
- prescribing a minimum level of CPD over a triennium, including minimum levels of CPD that must be achieved each year.

In ASIC Consultation Paper 215 Assessment and approval of training courses for financial product advisers: Update to RG 146 (August 2013) ASIC stated that it is not its role or function to be the regulator of training courses and it was time that ASIC step back from the role of approving training courses in relation to financial product advice. However, the financial planning industry needs a robust education framework and consistent curriculum to ensure individuals who enter the industry have the required knowledge and skills to provide quality financial planning advice.

FPEC could fulfil this role by acting as advisory body to ASIC, where ASIC accepts and endorses the recommendations of FPEC as the education and training standards for the industry. This endorsement could be reflected in ASIC Regulatory Guidance or other alternatives could be explored if required.

To ensure that ASIC as the principal regulator of the industry had strong engagement and a transparent relationship with FPEC, a subcommittee could be formed that may also include other relevant regulators such as the TPB. This could be an efficient mechanism to ensure transparency and timely communication of any emerging issues in the industry that FPEC should consider in developing its recommendations.

FPEC would also be responsible for working with education bodies to ensure that all relevant stakeholders are clearly aware of industry standards and in turn any relevant qualifications developed must meet the set criteria and be formally approved. Similarly the FPEC framework would provide a central point for liaison with the Government training bodies TESQA and ASQA.

Moving some key responsibilities from regulators to professional bodies and the PSC may reduce the overall regulatory burden on financial planners.

- **would FPEC need to be supported by legislation in order to perform its role?**

To ensure that FPEC had the required authority and that it could fulfil its role as the recognised advisory body on education standards for the financial services industry, FPEC may need some form of regulation. This may also be necessary to ensure efficient and transparent relationship with ASIC and other relevant stakeholders.

It would also require a Charter of Purpose and a formal review process every three to five years to ensure it is achieving its objectives.

- **is the recommended FPEC membership appropriate?**

While CPA Australia and Chartered Accountants ANZ support FPEC comprising of academics, consumer advocates and an ethicist, we question whether there is a role for representatives from professional associations or whether there is a need for an independent nomination process to appoint representatives.

This process may require professional associations to nominate a member of that association who meets specific criteria who would then act as an independent representative on the board. Alternatively, a sub-committee which comprised of a representative from each professional association that reported and worked with FPEC could be another option to explore

What is important is that FPEC membership is appropriately merit based and comprises of the necessary expertise and independence to successfully perform its role.

Question 4.2 Are there alternative arrangements that would be more appropriate or effective?

Any implemented education framework must not only focus on the technical knowledge but importantly the skill to provide quality financial planning advice. Further, the final model implemented to lift education (as well as ethical and professional) standards must not be decided purely on cost but the long term benefits it will deliver to the industry to enable to be recognised in the future by the community as a profession.

As regulator of the industry, ASIC set the current training standards over a decade ago. We acknowledge that ASIC has previously identified deficiencies in the current framework and in response, proposed changes in Consultation Paper 153 Licensing: Training and assessment framework for financial advisers (2011) and Consultation Paper 212 Licensing: Training of financial product advisers – Updates to RG 146 (2013). However, we believe that the proposals on both occasions would have failed to appropriately address the identified issues and therefore have little impact on improving the quality of advice provided to consumers. In fact, we believe that both of these consultations proposed a piecemeal rather than a holistic approach and as a result would have failed to address even the grass root deficiencies ASIC identified. For example, Consultation Paper 153 proposed to introduce a national examination or multiple examinations which all individuals would have been required to pass before they could become a licensed financial planner. We do not support this model as it would fail to address the current deficiencies in both the education standards and the consistency and quality of training and assessment (noting this training would still need to be completed before sitting for the examination or examinations).

Further, while it may be an objective method to ensure all advisers demonstrate a minimum level of knowledge, it will not ensure a financial adviser has the requisite competency, being a combination of knowledge and skills, required to provide quality financial advice. We believe this is the fundamental issue that must be addressed.

The introduction of an examination model would also be seen as an opportunity for some training providers to develop and market new products focused only on passing the examination. This would shift the focus away from ensuring a financial adviser has the requisite competence to adequately perform their duties to strategies for passing an examination.

Given other overseas examination models, such as in the United States of America, focus on investment advisers and stockbrokers rather than holistic financial planners we question what success such a model would have in Australia in lifting education standards. It may ensure an individual has a level of technical knowledge, however without the necessary skills and ability to apply this knowledge and communicate effectively with clients this knowledge is arguably of no relevance.

We also have concerns regarding the efficiency of such a model, given little detail on a proposed model was ever released for consultation.

It is for these reasons that CPA Australia and Chartered Accountants ANZ support the development and implementation of a new education council such as FPEC to act as an expert advisory education board to ASIC and developed a robust education framework for the financial planning sector.

Registration

Under the PJC model, individuals must be listed on the Register in order to practice.

Question 5.1 What are the practical implications of requiring individuals to be registered in order to provide financial advice?

The *Corporations Act 2001* already requires an individual to be licensed under the AFS licensing regime, which in effect is already a form of registration.

Before an individual can be authorised, or licensed, to provide financial planning advice the licensee is required to undertake a number of checks, including:

- good fame and character
- police checks
- bankruptcy checks, and importantly

- ensure that the individual has the appropriate knowledge and skills for the areas of advice they will be authorised to provide financial planning advice in.

The recently established Register of Financial Advisers, maintained by ASIC, has in some ways addressed this issue, registering all individuals who provide personal financial advice to retail clients on Tier 1 products. Consideration could be given to including all licensed individuals which would extend to include those who provide advice only to wholesale clients.

There are also some elements of the proposed model that need to be further explored to ensure it delivers on the objectives of lifting standards in a workable manner.

Question 5.2 Should it be the role of professional associations to notify ASIC that all requirements have been met for an adviser's registration, and of factors which affect their subsequent fitness for registration?

The professional association will have an integral role in the proposed model and could be the entity responsible for ensuring that an individual has met the requirements to be registered as a financial planner. However there does need to be a clear delineation of the role of the professional association and the AFS licensee, as well as consideration in how they will work together in complimentary roles. While the professional association can inform ASIC that an individual has met the initial requirements, it should also inform the AFS licensee who should provide final consent for the individual to be listed on the register under its AFS licence. The AFS licensee has responsibility for the advice provided and may want the individual to complete addition training or induction prior o being registered.

Professional associations will play an important role, however further work will need to be undertaken to ensure the appropriate delineation of roles and a collaborative relationship between AFS licensees and professional associations.

There are also practical issues with the proposal for an individual to nominate one professional body to be responsible for verifying and the ongoing oversight of the financial planner, where the individual is a member of multiple approved professional associations. Even if a professional association is not nominated, they will still ensure compliance with its relevant professional standards, ongoing professional development and other relevant requirements. Further consideration must be given to practical implications that may arise from this situation before the implementation of a final model.

There is also a need to consider circumstances where a financial planner fails to meet their ongoing professional association obligations and how to address the potential risk of the individual then joining another professional association to retain their status as a financial planner. It is vital that there is transparency and communication between all stakeholders including professional associations, AFS licensees and the regulator to address this potential risk.

The PJC recommends that, in addition to the information currently required to be listed on the Register, an adviser's completion of the relevant education requirements, professional year and registration exam, and their professional association membership, higher qualifications and any censure or ASIC action, also be listed.

Question 5.3 What are the practical implications of having these criteria listed on a public adviser register?

There are a number of issues that should be considered. We must be mindful of the primary role of the register. If the primary role is for consumer use then it is vital it is transparent and the information is simple to understand. We strongly encourage appropriate consumer testing of this information and obtaining confirmation as to what the information means.

It could be argued that if the minimum requirement to be registered as a financial planner is the completion of an approved qualification, professional year and a registration exam, then including this information on the Financial Advisers Register is unnecessary and may be confusing to the consumer.

For example, a consumer who uses the register may interpret that completion of a degree, professional year and any other mandatory requirement as the financial planner being highly qualified when in fact they have met the requirements to become a financial planner. This is the current risk and flaw of the education and qualifications information that is being included in the Financial Advisers Register.

What will be important for the consumer and the sector to know is which recognised professional associations the financial planner is a member of and any censure or action taken by ASIC.

There may be value in including relevant higher qualifications, provided there are suitable criteria on what is considered a relevant qualification. This may also encourage financial planners to continue their education and even complete post-graduate qualifications.

The key is appropriate consumer testing.

Question 5.4 Are there alternative or additional criteria that should be listed on the Register?

At this time we do not believe so, only information that is going to assist a consumer verify a financial planner's credentials which does not form part of the mandatory requirements to become a financial planner should be included.

The current Register requires licensees to provide information to ASIC about individual advisers. Under the PJC model this responsibility would be shifted to professional associations.

Question 5.5 What are the practical implications of having professional associations perform this role? For example, are professional associations sufficiently resourced and how would they interact with ASIC in relation to these requirements? Does this approach dilute the responsibility of licensees?

While professional associations already have in place compliance and oversight processes for its members, the proposed model will place a greater administrative and oversight role on approved professional associations, which may require additional resources. The cost of these additional resources may need to be passed on in a form of a levy per financial planner or recouped through other means.

Professional associations may be able to inform ASIC that certain requirements have been meet, however the advice provided by a registered financial planner will still remain the responsibility of the AFS licensee. As previously stated AFS licensees should also provide the final consent for registration, given it may have additional internal requirements it requires a financial planner to complete prior to being on the register.

AFS licensees will also still be responsible for ensuring an individual has knowledge and skills appropriate to the areas of advice they are authorised to provide advice in, and that the advice provided by any representative meets compliance and legislative obligations.

There may also be opportunities for licensees and professional associations to work together to avoid duplication of some oversight functions such as the completion of ongoing professional development.

Question 5.6 Is legislative protection of the titles 'financial adviser' and 'financial planner' necessary?

At a conceptual level the regulation of specific terms may introduce complexity and additional costs, which would inevitably be passed on to the consumer. Therefore, it needs to be clearly demonstrated that implementing further regulation is in fact in the public interest and will deliver positive benefits to the public and more specifically to those who seek professional financial planning advice.

Notwithstanding the above, we believe that restricting the term 'financial planner' to only those individuals who are appropriately licensed to provide financial planning product advice may be in the public interest.

However, we do not support restricting the use of the term 'financial adviser' and any other word or expression that is of like import. We believe this is unnecessary and overly restrictive. In addition, it would add complexity to consumers' understanding.

The term 'financial adviser' is recognised and used in broader terms by professionals other than those licensed to provide financial product advice to retail clients. This includes professional accountants and financial institutions such as investment banks that provide financial advice both in Australia and internationally. It is also widely used by other professional advisers who provide financial product advice to wholesale clients.

We also have concerns about the potential implications of restricting any other word or expression that is of like import. This proposal will arguably impact commonly used terms in other related areas of financial advice. For example many professional accountants commonly use titles such as Financial Planning and Analysis Manager, Manager Finance and Planning, Manager Financial Planning or Financial Planning Manager. These titles are all reflective of individuals who operate in finance departments of national and multinational businesses who have no connection to regulated financial product advice and services.

The underlying objective of this proposal is to improve the trust and confidence of consumers in the financial planning industry.

To achieve this objective, it is important that the proposed regulation provides clarity to the industry and clearly assists the consumer identify those individuals who are appropriately qualified to provide licensed financial planning advice. The most effective way to ensure this is to enshrine only one expression and ensure that the specific expression clearly reflects the primary function of the individual; to provide financial planning advice.

We would therefore not be opposed to the implementation of new regulation, provided that it only restricted the use of the expression 'financial planner' and it can be demonstrated that implementing further regulation is in fact in the public interest. It must not only deliver positive benefits to the public but more specifically to those who seek professional financial planning advice.

Exam

The PJC model introduces a registration exam at the end of the structured year of professional development.

Question 6.1 Do you consider a registration exam should be a component of a framework to improve professional standards? Should the exam apply to both existing and new advisers?

Based on the proposed model, CPA Australia and Chartered Accountants do not support the inclusion of a registration exam as a necessary component of a framework to improve professional standards.

If the framework is appropriately developed to include appropriate minimums standards of education, with key learning outcomes that appropriately reflect the knowledge to provide quality financial planning advice and this is coupled with a professional year that is structured to formally assess key skills, then the exam itself is unnecessary.

A tailored exam may be an efficient mechanism for transitioning some financial planners into the new framework (discussed further below).

Question 6.2 What are the practical implications of the use of a registration exam?

To appropriately understand the practical implications we must first understand the exam's objective, which is unclear. Further, is it a single exam or multiple exams?

It is important to acknowledge that a registration exam will not address the many issues of poor advice primarily driven by conflicts of interest that have to come to light through the media and senate inquiries. These issues remain a product off poor culture and behaviour rather than technical competence.

While we understand the potential value of portability that an exam may bring, we are unsure what further assurance a registration exam will provide that has not been addressed through the combination of robust education, professional year and membership of a professional association.

At a base level a registration exam or exams adds an unnecessary layer of compliance and cost without delivering any additional assurances to consumers.

Question 6.3 What content should be covered in the exam?

As previously stated, without understanding the purpose of the exam we cannot comment what it should cover.

However, an exam that is focused on compliance and ethics could be one efficient mechanism to transition less experienced existing financial planners into any new regime.

It could be based on a similar exam under the FINRA model being Series 66 – noting that each series 66 exam is tailored to the relevant area of advice. In this regard it could be tailored for different advisory functions within the sector.

Question 6.4 Is FPEC the appropriate body to set the exam? Who should be responsible for invigilating the exam? Who should be responsible for marking the exams?

As already stated, we do not support the inclusion of a registration exam as a necessary component of a framework to improve professional standards. However, for transition purposes, FPEC, if established appropriately would be the right body to set the exam.

Ongoing professional development

The PJC model requires mandatory ongoing professional development for financial advisers.

Question 7.1 What are the practical implications of the proposed ongoing professional development requirements?

Professional development is fundamental for a profession and therefore an integral component for the financial planning industry to move towards professional recognition.

There is a need to establish a minimum threshold to ensure consistency in the industry, with some broad guidance of what is relevant CPD for the individual's advisory function.

This still provides professional associations with the ability to implement further requirements relevant to their financial planners such as those with specialisations.

Many AFS licensees have in place a framework for the approval of ongoing professional development for their financial planners. It would be expected under the proposed framework that professional development offered by recognised professional associations would be recognised by AFS licensees as part of their requirements.

Question 7.2 Are professional associations well-placed to administer ongoing professional development requirements?

Professional associations have well-established professional development frameworks and capabilities.

It will be an essential requirement to be approved as a professional association to not only have an entry-level formal qualifications or certification, but also ongoing professional development and education that meets such requirements developed by FPEC.

It needs to be reiterated that while the professional associations will have a role to play, the AFS licensee still retains the responsibility and accountability of the financial planners' competence and advice. As a member of a professional association, the individual financial planner will also have a responsibility to ensure their ongoing professional development as well.

Professional and ethical standards

Code of ethics

The PJC recommended that professional associations be required to establish codes of ethics that are approved by the PSC.

Question 8.1 What are the practical implications of having each professional association create its own code of ethics? For example, what are the implications of having multiple codes as opposed to a single code?

We are of the opinion that a code of ethics is essential for a profession as it not only informs professionals of the shared values and behavioural expectations but it also communicates them to stakeholders. A code of ethics is one of the elements of the ethics infrastructure and assists in the development and sustenance of client confidence and trust.

While codes of ethics fundamentally have common fundamental principles, it is important that each profession develops and shares a code. This is the case with the accounting profession and the global Code of Ethics for Professional Accountants of the International Ethics Standards Board for Accountants.

A code of ethics for financial advisors should be developed and apply to all financial advice professionals. Such a code should be built on the core principles of:

- honesty and integrity
- independence and objectivity
- competence; and
- confidentiality.

A statutory code would align with other segments of the advice industry, such as tax where the Tax Practitioners Board is responsible for the oversight and enforcement of a statutory Code of Professional Conduct.

The many benefits of one statutory code of ethics that is principles based include:

- effectively foster the development of an ethical culture, increase professionalism
- apply to all individuals under the AFS licensing regime, regardless of the advice or service they provide
- clearly sets out a consistent and uniform framework of expected behaviour that will act as an umbrella to existing legislative obligations, without adding another layer of compliance
- advice and services provided to clients are in accordance with appropriate standards of professional and ethical conduct

- does not require the approval of multiple codes, which can lead to inefficiencies and inconsistencies in application and therefore has limited ability to achieve a consistent professional framework; and
- can apply to all individuals, regardless of whether they are a member of a professional or industry body.

However, there has not been widespread support for this model.

Therefore implementing a model where the PSC approves associations will also achieve a level of harmonisation as all codes and professional standards for each association will be assessed against the same framework.

Question 8.2 What are the practical implications of requiring that a code of ethics be approved by the PSC? Are there alternative approaches that would be more appropriate or effective?

A single code of ethics would be the most effective and efficient approach as it would assist in the professionalisation of financial advice, provided it was supported by appropriate discipline mechanisms.

However an alternative approach would be a framework based on the elements of the PSC 5 E's framework for professionalism, without requiring the approval of a Professional Standards Scheme.

Role of the PSC

The PJC model uses the PSC as a key mechanism to drive continuing improvements in the professional standards of the financial advice industry. Under the PJC model, a professional association will need to have schemes approved by the PSC in order for its members to be registered as financial advisers, and for the association to be a member of FPEC.

Question 8.3 Is the PSC the appropriate body to drive improvements in professional standards in this industry? Are there alternative arrangements that would be more appropriate or effective?

We believe the PSC is the appropriate body to support and drive improvements in professional standards. However, we do not believe under the current framework this model would be practical as it is unlikely that the majority of existing associations would be in a position to have a Professional Standards Scheme approved, so as to attain a PSC approved professional association status.

The PSC is responsible for the approval, monitoring and enforcing of professional standards schemes, with the goal to protect consumers by demanding high levels of professional standards and practice from those professionals who participate in professional standards schemes.

Applying for a Professional Standards Scheme is an intensive process and once an application is approved, the association and its members have ongoing statutory obligations to meet under professional standards legislation.

Meeting these requirements may prove challenging for many industry associations at their current level of development.

The requirements for a professional association to be approved cannot be individualised, which means that the PSC could not approve a professional association unless they approve a Professional Standards Scheme for that body.

There are many benefits to a Professional Standards Scheme for the consumer, such as ensuring there will be insurance or assets available to pay damages awarded by the court which is currently an issue for the financial planning sector. However, to have a scheme approved an association must meet an aspirational threshold that distinguishes it from other associations and it is likely that the majority of current financial services associations would be unable to reach this threshold. In addition currently the approval of schemes is stated based and all potential associations would need to obtain approval in each state, which has practical implications.

Therefore an alternative model is needed to the PSC that still upholds the elements of the 5 E framework and is accessible by the majority of associations or professional bodies.

While the PSC is the combined Australian government's statutory body, the Professional Standards Authority (PSA) is the expert services and advisory agency for the Professional Standards Councils with responsibility to the PSC for the monitoring and enforcement of professional standards schemes.

The PSA could be the body which approves associations that have in place elements that satisfy the 5 E framework, without the additional requirement for the association to have a Professional Standards Scheme approved for recognition.

This would ensure the elements of a profession are embedded within the financial services sector, without setting a threshold that might be unachievable for many associations.

The PSA has a strong commitment to professionalism and improving professional standards, which would be of great benefit to the financial planning sector and importantly to consumers who seek financial planning advice.

It would also help the industry move from a position of commercial to professional interest, with associations moving from member advocacy to public interest advocacy. This fundamental shift in core values is central to the financial planning sector being recognised by the public as a profession.

Question 8.4 What are the practical implications of having the PSC perform this role? For example, how would the PSC interact with ASIC?

Improving standards and professional and ethical behaviour requires a holistic approach, supported by a code of ethics, regulation, education and professional development. As such the cooperation of a number of entities is required which perform different functions and have diverse responsibilities.

In the accounting profession the existing co-regulatory model requires the interaction of professional bodies, standard setters and regulators such as ASIC.

While ASIC can regulate certain aspects of behaviour, we are of the view that the professionalisation of financial advice requires attention to education and ethical standards which will enhance the development of financial advisors' professional identity.

The ASIC Act requires ASIC to:

- maintain, facilitate and improve the performance of the financial system and entities in it
- promote confident and informed participation by investors and consumers in the financial system
- administer the law effectively and with minimal procedural requirements
- enforce and give effect to the law
- receive, process and store, efficiently and quickly, information that is given to us
- make information about companies and other bodies available to the public as soon as practicable.

As the financial services regulator, ASIC license and monitor financial services businesses. These businesses typically deal in superannuation, managed funds, shares and company securities, derivatives and insurance.

With a strong focus on compliance with regulation and oversight of the AFS licensing regime the role of ASIC would be largely unchanged if the PSA model was implemented.

The objective of the PSA would be to improve professionalism through the 5 E framework and work with approved professional associations to help them:

- develop self-regulation initiatives
- improve their professional standards
- meet their self-regulatory commitments
- comply with their legislative obligations, and
- protect Australian consumers of professional services.

It would result in positively influencing individual financial planner's behaviour and conduct, as well as helping financial planners to more appropriately identify and address conflicts of interest. Conflicts of interest have been the main driver of poor advice in recent times and it is in the community's interest for a new framework to address this in a more holistic manner.

It is also important to consider the interaction between other stakeholders in the process, such as AFS licensees and PSA approved bodies, to avoid duplication of responsibilities and to achieve harmonisation of responsibilities where there is some overlap.

Question 8.5 What are the practical implications of requiring professional associations to hold a PSC-approved scheme? Approval of a scheme under the PSC has previously meant capped liability for participants.

There are many benefits to a Professional Standards Scheme, including that every professional that takes part in their association's Professional Standards Scheme must have insurance or assets in place to meet any damages awarded at or below the formal liability limit. Such a framework would also arguable remove the need for a compensation scheme to address the issue of unpaid compensation to consumers who have received inappropriate advice.

However, we do not believe it is prudent or necessary at this time to implement this as a mandatory requirement for the financial planning sector. Rather we believe that a more appropriate framework could be to take the key elements based on the 5 Es and apply this through the PSA.

This would remove the need for an association to have a Professional Standards Scheme approved in order to be recognised as a professional association.

If such a model was implemented, we would recommend that any existing PSC approved professional associations in the financial services sector would be automatically recognised for the purposes of this model.

Question 8.6 Is it appropriate that liability in relation to financial advice/services be limited at this time? Is limitation of liability a necessary element for the operation of the PJC model?

Following our earlier comments, while we support the framework and many benefits for the consumer of a Professional Standards Scheme we do not believe that it is a necessary element for the operation of the PJC model.

However, this is a mandatory element of the PSC framework and therefore the model would need to be amended. This could be achieved by the PSA being the body that approved associations based on the 5 E framework already established.

Question 8.7 What are the practical implications of capping liability? For example, what changes to Commonwealth and/or state and territory legislation would be required?

CPA Australia and Chartered Accountants ANZ do not believe it is necessary to mandate a capped liability scheme for the financial planning sector at this time.

Question 8.8 Would an alternative arrangement, under which a scheme's approval would not limit liability, be practicable?

Please refer to our response to Question 8.3.

Role of professional associations

Question 8.9 What are the practical implications of mandating membership of a professional association? Are there implications arising from the increased responsibility on professional associations rather than on the licensee?

There are benefits in being a member of a professional association. It is noted that some AFS licensees are already mandating their financial planners become members of a professional or industry body.

There will be practical implications as a result of mandating membership of a professional association, such as the required time financial planners will need to meet the requirements to be approved by a professional association and the ongoing cost of membership.

However, fundamental change is needed to address the conflicts of interest and lack of professional framework that currently exist within the financial planning industry (this is at both the financial planner level and management level of AFS licensees). This is essential to not only increase confidence and trust in the sector in order to encourage consumers to seek advice, but necessary to ensure that when they do they receive consistent quality financial planning advice.

Industry stakeholders, including financial planners, AFS licensees and associations, must make this commitment in the public interest.

Importantly, professional associations will generally have multiple categories of membership. For example full membership with the professional accounting bodies, including voting rights, is not granted until the individual has successfully completed the relevant education and professional years. The appropriate level of membership with a recognised professional association must be considered as part of any new model.

It must be noted that any changes must entail AFS licensees and professional associations working in partnership to achieve the appropriate public policy outcome. While under these proposals professional associations have a greater level of involvement, this is not instead of the AFS licensees. The AFS licensee must continue to have the overall accountability and responsibility.

Other issues for consideration

Transitional arrangements

Question 9.2 Do you consider FPEC to be the best entity to determine transitional arrangements for existing advisers and advisers wishing to move within the industry?

It is important to have a consistent approach for new and existing advisers entering any new framework. To ensure a level of consistency it would be appropriate for FPEC to have oversight in determining the transitional arrangements. This approach would ensure there are no gaps or potential anomalies. In addition it would provide reassurance to consumers that all advisers are operating at a similar and consistent level.

Question 9.3 Do you consider Recognised Prior Learning a suitable transitional arrangement for existing advisers?

CPA Australia and Chartered Accountants ANZ propose that a tiered transitional framework could be developed which recognises the experience and expertise of the licensed adviser. The use of Recognised Prior Learning would be an appropriate mechanism to consider, provided a one-size-fits-all approach is resisted.

Any transitional arrangement should reflect the principals of the new framework, which centre on education and professional behaviour.

Question 9.4 What is an appropriate timeframe over which existing advisers should transition to the new system?

An appropriate timeframe will depend directly on the final model and without knowing these details it is difficult to make a recommendation.

Question 9.5 Are there any alternative transitional arrangements that would be more appropriate or effective, for either new or existing advisers?

As previously stated, to ensure a level of independence and consistency FPEC may be the most body to develop RPL and transition pathways into any new framework.

However, one possible pathway may be to distinguish existing financial planners and other advice providers based on their level of experience as follows:

1. Minimum three years licensed experience
2. CPD records for the past three years, mapped to the areas of authorisation (to ensure relevant to each individual)
3. Good fame and character test
4. Formal assessment against the skills sets of the professional experience year

1. Exam based on compliance and ethics, tailored to the relevant discipline of the adviser (e.g. risk, stockbroking)
2. Good fame and character test
3. Formal assessment against the skills sets of the professional experience year

Membership of a PSA approved professional body

Where the adviser is already a member of a PSA approved professional body, they would not need to comply with the requirement to complete a Good fame and character test or formal assessment against the skills of the professional experience year requirements.

This option would recognise those advisers with more experience, yet still replicate the attributes of the new education and professional standards framework for financial planners. It would also provide a pathway for advisers who are not a member of an association a pathway to membership.

To ensure efficiency and also to address the issues of conflict of interests within the industry, the exam could be focused on ethical and compliance requirements, with some tailoring to different disciplines under the AFS licensing regime.

This model is similar to the US Model, where an individual completed a series 66 examination

Timing

The PJC recommended an implementation timeline that would see FPEC establish education standards by June 2016, professional associations operating under a PSC approved scheme by 1 January 2017 and all advisers (new and existing) to be fully registered by 1 January 2019.

Question 9.6 Are there any particular elements of the PJC model that present timing challenges?

The proposed timing by the PJC is achievable, provided it has bipartisan support and the support of all key stakeholders.

However, final timing should not be considered until a model is developed to ensure a thorough understanding of the required elements and the steps that need to be undertaken to successfully implement each element.

Question 9.7 What timing or phasing would most effectively balance the recognised need to raise standards and competency in the short-term against practicalities of implementing a new model to raise standards of new and existing advisers over the longer term?

There are no short term measures that will address the current deficiencies and immediately rebuild trust in this sector. Further, it cannot be a superficial piecemeal approach. Instead it must be a coherent and all encompassing framework that addresses the necessary elements required to provide quality financial advice.

Therefore we would strongly recommend that the time is spent developing a robust model that can evolve with the industry and has the support of stakeholders to ensure the longer term objectives of raising standards and improving the quality of advice can be achieved.

Regulation impact

To help inform the RIS process, which will consider a range of policy options (one of which would likely be the introduction of the PJC model), we are seeking information on the current structure and education of the industry.

Question 1 How many/what proportion of financial advisers are likely to be affected by the introduction of a new professional standards framework (such as that proposed by the PJC)? If you are a licensee, how many/what proportion of your advisers would likely be affected?

If the model is implemented as proposed, as many as 50 per cent of existing financial planners may be impacted by the proposed changes. Therefore consideration must be given to alternative models that achieve the same objectives without undermining the principles of the model.

Question 2 What proportion of financial advisers working in the industry are typically new entrants (for example, graduates and those coming from other professions) versus existing advisers who have been in the industry for a number of years? If you are a licensee, what proportion of your advisers are new entrants (versus existing advisers)?

While we are unable to provide any exact data, queries through our respective associations would indicate the bulk of participants are entering the industry from related disciplines or through a complete change of career. Therefore they tend to be middle-aged individuals, some with previous relevant qualifications, but many with no relevant education or in some cases no formal education at all.

Question 3 What is the typical education level of financial advisers? If you are a licensee, what proportion of your advisers hold a relevant tertiary degree?

Regulatory Guide 146 sets a minimum training threshold for Tier 1, which is broadly equivalent to the AQF 5 - Diploma level under the Australian Qualifications Framework (AQF). The AQF is a national government system that provides the criteria for qualifications issued by the school sector, vocational education and training sector (e.g. TAFEs and private RTOs) and the higher education sector (e.g. universities).

Importantly, ASIC does not prescribe that an individual must undertake a formal diploma course (or any other specific qualification) or the quantum of study that must be undertaken. Rather, the reference is to provide a guide for comparative purposes only. While ASIC has encouraged industry to build on these minimum training standards, the reality is the minimum threshold has generally been adopted by the sector and consequently by many training providers.

Question 4 What proportion of advisers are currently members of a professional association(s)? If you are a licensee, what proportion of your advisers are members of a professional association(s)?

We estimate that approximately 50per cent of the existing 23,000-plus financial planners are not a member of any relevant industry or professional association.

The PJC model would represent a substantial change to current requirements.

Question 5 What are the likely costs (labour and non-labour costs) associated with the various elements of the PJC model? These costs could include, for example, the direct costs to:

- **individual financial advisers;**
- **professional associations; and**
- **licensees.**

Are costs likely to vary between different size advice firms, different professional associations, etc? If so, how?

There will be increased costs through the professional year of experience, which will likely be borne by the AFS licensee.

The requirement to be a member of an approved professional association for each financial planner may be a cost that either the financial planner or the AFS licensee may bear, depending on the AFS licensee.

It is likely that approved professional associations will also bear increased costs, especially those who are not currently approved by the PSC.

The RIS will canvass various options and models for raising professional standards.

Question 6 Are there alternative options (other than the PJC model) which would provide an enhanced cost-benefit outcome?

Please refer to our response to Question 8.3.