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

1 INTRODUCTION

Considered an industry leader in setting standards, Kaplan welcomes this opportunity to comment on 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'.

Kaplan has a respected history of supporting Australia's financial planning profession with innovative education and professional development solutions for more than 50 years. As its core focus, Kaplan Professional (previously Tribeca, the Securities Institute and Finsia) continues to provide education from AQF Level 4 to AQF Level 8 to people working in the financial services industry.

With registered higher education and registered training organisation accreditations, Kaplan delivers higher education qualifications, industry supported professional development programs and vocational courses to thousands of individuals in this sector. Annually we provide education services to over 15,000 candidates enrolled in qualifications or accreditation programs, and to almost 30,000 users of CPD programs.

Kaplan is also a leading global provider of education programs with on-site classes in 30 countries in nearly 400 locations as well as online delivery in over 100 countries. We provide a range of services including higher and professional education, language instruction, and test preparation.

Kaplan Professional has gone on public record as supporting strategic and appropriate measures to improve the quality of advice provided to the clients of financial advisers, where that advice improves the outcomes for those clients. It is within this frame that Kaplan Professional provides its responses to the Consultation Paper.

1.1 INQUIRIES INTO AUSTRALIA'S FINANCIAL SYSTEM, AND THE PROVISION OF FINANCIAL ADVICE

As the PJC is no doubt aware, there have been almost 40 inquiries into the Australian financial system since the Campbell Inquiry in 1981. Since the collapse of Opes Prime, Storm Capital and Trio Capital there have been three in-depth investigations into the professional practices of financial providers: the 2009 PJC Inquiry into financial products and services in Australia (or the Ripoll Inquiry), the 2014 Financial System Inquiry (or the Murray Inquiry) and this most recent one. There have been some changes in regulations, known as the FoFA reforms, to legislate the implementation of some of the recommendations made in the Ripoll Inquiry.

The Australian Securities and Investment Commission have also sent out for review a number of their Regulatory Guidance documents, specifically:

- CP 153 Licensing: Assessment and professional development framework for financial advisers (2011)
- CP 212 *Licensing: Training of financial product advisers* – Updates to RG 146 (2013), and
- CP 215 *Assessment and approval of training courses for financial product advisers* – Update to RG 146 (2013).

To date, new Regulatory Guides to replace RG 146 have yet to be issued. On March 15 of this year, ASIC launched its enhanced register of financial advisers. Information about a financial adviser's qualifications, training and professional memberships will be added to the register from 23 – 30 May 2015. ASIC have preempted some of the PJC's recommendations by publishing the following statement:

> The launch of the new register meets the government's commitment to deliver an enhanced, industry-wide public register of financial advisers. It allows consumers to check whether a financial adviser is authorised to provide financial advice. It also gives employers a greater ability to assess the suitability of an adviser[1].

Kaplan understands that, perhaps because of the lack of any real change made to the quality of advice being provided as a result of these inquiries, as well as the continued high-profile advice and product failures and the increasingly louder calls for reform, that the PJC Inquiry has proposed its agenda for change and the PJC model.

1.2 The PJC Inquiry

From Kaplan's perspective, the PJC's inquiry into proposals to '*Lift the professional, ethical and education standards in the financial services industry*' represents another stage in the maturation of the financial advice sector and the environment within which it operates. It is generally accepted that there is a need to further develop the professionalism of those people that provide financial advice for a fee. To 'professionalise' a vocation, group behavioural norms need to be established, and in return for performing duties with the highest integrity and competence, the professional financial adviser can accrue a certain standing with their clients and potential clients. It is Kaplan's view that this trend towards professionalisation represents a significant and necessary cultural shift in current financial advice practice.

Systemic, institutional and personal behaviour changes such as those being proposed as required by the PJC usually involve policy mechanisms to motivate the changes. These mechanisms can range in temper from highly interventionist, such as government action and legislation to the less overtly intrusive, such as networks and advocacy. To Kaplan, it would appear that the PJC believes a more interventionist strategy is required to initiate the level of change being recommended. Kaplan would agree that some current entrenched institutional and personal behaviours will require a high level of intervention to bring about the changes required so financial advisers can count themselves as belonging to a profession.

[1] http://asic.gov.au/for-finance-professionals/afs-licensees/financial-advisers-register

Kaplan supports this strong push for change towards a more educated and accountable financial planning workforce. In particular the raising of the education standards is seen as critical to this, as is the national registration examination and the industry-wide register of financial advisers. In its response, Kaplan is both endorsing the thrust of the PJC framework and seeking clarification on a number of the planned initiatives.

Feedback sought — the PJC model Question 1.1

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

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

Kaplan's response to Question 1.1:

The fundamental structure of the financial advice industry would remain the same because financial planning it is still a product-driven industry. All financial advisers are either an Australian Financial Service Licensee (AFSL) in their own right, a director or employee of an AFSL or an authorised representative of an AFSL. Many AFSLs restrict the products their financial advisers can advise on through an approved product list (APL).

The role of those professional associations that chose to participate in this regime would increase significantly with their enhanced responsibilities (see Response to Question 2.1 and 2.2 below).

If the education and training sector is viewed as part of the financial advice industry, these changes would have significant impact on that sector. It's important to consider many larger AFSL holders are also Registered Training Organisations (RTOs). These AFSLs would still be able to continue to provide 'Tier 2' but not 'Tier 1' training.

This change would have an impact on RTOs who were HEPs. Specifically, they would have to develop and have accredited their own Bachelor Program, and then deliver it in accordance with the Higher Education Standards Framework, or Threshold Standards.

Question 1.2

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

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

Kaplan's response to Question 1.2:

The cost of attaining a bachelor qualification in many circumstances will be borne by the individual. Currently, the Diploma of Financial planning retails for between $800 and $1500 for the entire award. A bachelor degree can start in price from $15,000 per year (Equivalent Full Time Student Load). This increase in cost could potentially affect supply of financial advisers, at least in the short term.

The current Commonwealth Government's plan to deregulate university fees will not go ahead at this point in time. Should this policy move ahead, then there is the potential that the cost of a bachelor degree will increase, especially where the degree is required for professional practice.

The important role of independent AFSLs should not be underestimated. The use of the word 'independent' is restricted under s923A of the Corporations Act 2001. It can only be used by AFSLs that operate without "the conflicts of interest arising out of their relationship with issuers of financial products that might reasonably be expected to influence the licensee in how they provide their services or carry out their business".

Truly independent AFSLs, by virtue of this restriction, do not have the same cash reserves available to those AFSLs aligned to product providers. The financial burden to attain tertiary qualifications may result in individuals who might otherwise choose to operate independently and hold their own AFSL to seek the financial support availed to authorised representatives of vertically integrated AFSLs.

These smaller independent firms are often referred to as boutique or niche firms. The term is fitting given the role they play in the provision of advice to particular demographics. We believe a healthy and robust advice industry requires both the larger advisory firms and these smaller independents to cater for the different needs of different individuals and socio-economic demographics.

Dr. June Smith's report on her 2010 PhD thesis, *Ethics and Financial Advice: The Final Frontier,* shows her research found

> the consumer complaint analysis, focus group data and the ethical climate and culture survey results suggest that unethical conduct and poor decision making by financial advisers is influenced by remuneration and reward structures as a contextual factor within AFS Licensee organisations.
>
> … it is inevitable that corporate payment structures will place pressure on the ability of individuals to meet conflicting professional and commercial obligations and imperatives.

Given the context of this consultation (ie Lifting the professional, ethical and education standards in the financial services industry) the impact of this possible trend should be considered.

The cost of the qualification, and the cost of the professional year, would have a significant impact on all businesses, regardless of their size or number of clients and may impede or dissuade potential students to undertake this qualification.

Kaplan understands that some industries struggle to take responsibility for the education and training of their employees, while others assume this responsibility as par for the course. Many of the financial planning businesses within the larger financial institutions already provide in-depth training to planners, but Kaplan would concede that this commitment may not necessarily exist across all financial planning businesses, regardless of their size.

Further, the current pathway from Diploma of Financial Planning to employment as a financial adviser is not necessarily a straightforward or clear cut one. People currently come to financial planning from a number of routes, for example from technical analysis, portfolio management, stockbroking, accountancy, para-planning, banking or credit management roles but not often straight from school. The Diploma of Financial Planning is understood, as it is meant, to be an entry-level qualification and that further and ongoing workplace training is generally required and provided to prepare these graduates for professional practice as a financial adviser.

Consequently, it could be argued that the proposed professional year already exists but neither as a standard practice nor a standardised practice in the financial planning sector. Kaplan's response to the role of the professional associations in managing this professional year is provided in Question 4.1 and 4.2 below.

Many AFSLs run graduate programs to induct graduates that commenced tertiary study either straight from school or after a 'gap year'. There is also, however, a very strong demand for career changers. Kaplan understands clients often express a preference to receive advice from a mature person, which is someone who is assumed to have more life and professional experience.

Kaplan welcomes the greater engagement of all financial planning employers in the preparation of financial advisers. Kaplan envisages a significant push from employers and employees alike for the 'recognition of prior learning', 'grandfathering' or access to a 'bridging program' to cover all aspects (qualification, exam and professional year requirements) of the proposed framework. This push would be made to ensure continuity of business as well as minimising the time and money cost to both the individual and the employer in meeting the new requirements.

Question 1.3

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.

Are the lines of responsibility clear under the PJC model?

Kaplan's response to Question 1.3:

We believe the lines of responsibility are ambiguous in some circumstances under the PJC model.

Many advisers are members of multiple professional associations. Some AFSLs may also mandate membership of a particular professional association. This might be for reasons such as a requirement placed on the AFSL as a principal member or a requirement of the AFSL for their financial advisers to hold a specific designation (eg Certified Financial Planner).

Kaplan understands financial advisers also like to use post-nominals available to them as a result of designations offered by different professional associations (eg CFP through the Financial Planning Association or SSA through SMSF Professionals Association of Australia).

In these circumstances, it is unclear which association would assume responsibility for performing the tasks assigned to them under the PJC model such as informing ASIC a member has passed the registration exam.

Considering a hypothetical situation where professional associations disagree in their view as to whether an adviser is suitable to be registered or remain registered, it is unclear what body this would be escalated to.

We recommend a solution where a financial adviser nominates which of their professional associations is their primary association. This association would then assume the tasks in relation to that financial adviser as outlined in the PJC model.

The issue of multiple professional association memberships is also problematic in regards to codes of ethics. We discuss this in more detail in answer to question 8.1.

With reference to this question, it’s also important to consider the Tax Agents Services Act. Financial Advisers are now required to register as tax (financial) advisers or Tax Agents with the Tax Practitioners Board (TPB). Once registered with the TPB certain legislative obligations are placed on them.

One example of these legislative obligations is the requirement to comply with the Code of Professional Conduct under Subdivision 30A of The Tax Agents Services Act (Cmth) 2009 (TASA).

Application of this legislation to financial advisers was the first instance of a code of conduct being a legislative requirement to operate as a financial adviser when providing tax (financial) services.

The definition of what is a tax (financial) service captures the types of financial advice that would also arguably be covered by codes of conduct of professional associations within the PJC model.

Any requirements (such as but not limited to Codes of Conduct) would need to consider the TASA to ensure there is consistency and clarity in obligations placed upon an AFSL and their financial advisers.

1. Feedback sought — 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 license.

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?

Kaplan's response to Question 2.1:

Kaplan would always support a framework where reporting lines and responsibilities were clear, and if possible unique. This approach allows for a more efficient application of the requirements and maximises accountability, an important component of the PJC's recommendations.

Without lines of accountability, a number of checks and balances need to be implemented to ensure all requirements are being met—accurately and within advertised timeframes. To be effective, these checks and balances would need to be carried out by a meta-authority—be it the FPEC or ASIC—who would need to involve all key stakeholders in these processes.

This appears, at least on the face of it, to be a wieldy and time consuming process, vulnerable to errors and inaccuracies, and one that would therefore not necessarily add anything to the quality assurance mechanisms.

Further, questionable practices by financial advisers are often brought to the attention of licensees (and the media) by retail clients and/or other financial advisers. With overlaps in lines of reporting, the body to which a complaint or concern may be directed for resolution is unclear and may impede swift action or discourage the issue being raised in the first place. Further, the responsibility for the protection of the "whistleblower", currently ASICs, may be lost in this arrangement.

Question 2.2

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

Kaplan's response to Question 2.2:

Kaplan believes that licensees should maintain their legal obligation to ensuring their financial advisers meet relevant professional standards (qualification, professional year and registration examination, and ongoing professional development). This emphasises the importance of the PJC framework and provides an important single point of accountability for this aspect of the framework.

Kaplan also understands that this would require some adjustment to licensee's current practice and expects that the burden of reporting on-going compliance will fall to both the individual financial adviser and the financial planning associations. This may serve to add a further layer of complexity to operations, the cost of which may be passed onto retail clients.

Kaplan anticipates that ASICs register of financial advisers will become a vital tool for planners and licensees in managing their reporting requirements.

Kaplan's response to the role of the professional associations in managing the national register is provided in Questions 4.1 and 4.2 below.

Given that ASICs Consultation Paper 212 has not yet been completely finalised into its next iteration of RG146, an opportunity exists to incorporate the PJCs recommendations into that new version.

2. Feedback sought — 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?

Kaplan's response to question 3.1

As the PJC would be aware, AFSLs and authorised representatives) who also provide tax (financial) services are required to comply with, as per the transition arrangements, the Tax Agent Services Act 2009 (TASA) as amended by the Tax Laws Amendment (2013 Measures No. 3) Bill 2013. From 1 July 2014, under this Act, financial advisers were required to register as tax (financial) advisers or be supervised by a tax (financial) adviser or tax agent when providing tax (financial) services.

Individuals already registered as Tax Agents do not need to also register as a tax (financial) adviser.

To qualify for registration as a tax agent, a person must satisfy certain qualification and experience requirements (there are six recognised pathways to registration). These can range from a degree or post-graduate award in accounting to being voting member of an approved association along with 8 years full time experience in the preceding 10 years.

Depending on the pathway to registration, a person may need to do one or more courses in taxation law, commercial law and basic accountancy principles. A person may also need to be a member of a professional association, which may indicate the need for a qualification, having successfully undertaken an education program leading to a designation and/or maintaining a record of relevant continuing professional development.

Under current arrangements, it is understood that registered tax agents only provide what could be understood to be 'general advice' where they are not an AFSL or a representative of an AFSL, or can provide 'personal advice' if they are an AFSL or a representative of an AFSL. To be able to provide 'personal advice' a person would have had to meet the education and training requirements of RG 146.

Under the proposed arrangements, it would appear that all registered tax agents would be required to successfully complete education in those 'Tier 1' products which they are providing advice in, and further that this education would have to be at AQF Level 7.

Kaplan interprets this as meaning the 'Tier 1' education would have to part of a bachelor degree or higher, and if the tax agent already had a relevant bachelor degree or higher, they would only need to study 'Tier 1' subjects that are part of a degree and relevant to their professional practice.

If this is the case, then there is little substantive change to the process of a registered tax agent becoming qualified to provide personal advice in a 'Tier 1' product.

Kaplan understands however that there would be a change in the level of the education and the cost of that education.

Kaplan would also like clarification on 'Tier 1' education being provided at post-graduate level, as its business currently does. This has proved a popular and efficient option for people who already have a relevant degree, especially as it provides students with a postgraduate qualification.

As the PJC would be aware, for *stockbrokers*:

- There are ‘full service brokers’ who offer advice on buying and selling securities, make recommendations, compile research and prepare tailored investment plans.
- Stockbrokers who provide personal advice to retail clients are, like financial advisers, required to meet the minimum education and continuing professional development requirements of RG 146.

The Professional Stockbrokers Program, as offered by the Stockbrokers Association of Australia is

> ‘Australia's only professional qualification for securities and financial market participants. There are no eligibility requirements for entry into the Program. According to the Association, the outcomes of the Program meet RG 146 minimum training requirements. Upon successful completion of the Program, students receive the Stockbrokers Association of Australia Professional Diploma in Stockbroking™.
>
> (Source: http://www.stockbrokers.org.au/Education/Become-a-Stockbroker)

According to TEQSA’s National Register of Higher Education Providers, and ASQA’s National Training Register of Registered Training Organisations, the Stockbrokers Association of Australia is neither a higher education provider (HEP) nor a registered training organisation (RTO).

As per *registered tax agents*:

- Under the proposed arrangements, it would appear that all stockbrokers would be required to successfully complete education in those ‘Tier 1’ products which they are providing advice in, and further that this education would have to be at AQF Level 7.

    - Kaplan interprets this as meaning:
        - if the stockbroker already had a relevant bachelor degree, and
        - the Tier 1 education was part of a bachelor degree, then
        - they would only need to study those ‘Tier 1’ subjects relevant to their professional practice.

    - If this is the case, then there is little substantive change to the *process* of a stockbroker becoming qualified to provide personal advice in a ‘Tier 1’ product.

      Kaplan understands however that there would be a change in the level of the education and the cost of that education.

Kaplan would also like clarification on the legitimacy of ‘Tier 1’ education being provided at post-graduate level, as its business currently does. This has proved a popular and efficient option for people who already have a relevant degree, especially as it provides students with a postgraduate qualification.

Question 3.2

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

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?

Kaplan's response to question 3.2

Kaplan supports the raising of the educational standards to AQF Level 7 (Bachelor degree) or higher.

We note this question is posed in the context of personal advice for 'Tier 1' products. We are concerned limiting the discussion to within this context as there are potential risks to ignoring requirements for general advice for Tier 1 products.

We recognise renaming 'general advice' is a recommendation made in the final report of the Financial Services Inquiry. Notwithstanding this, regardless of the term used, the provision of "general advice" will still continue and should be considered in the context of minimum education standards.

As the PJC would be aware, the Corporations Act differentiates personal and general advice only by whether or not a client's needs, objectives or personal circumstances have been considered when providing the advice (ie personal advice does whereas general advice does not).

The education standards should be no different given a retail client may still choose to act on general advice. There is a risk that some individuals may rely on general advice in circumstances where they may consider personal advice to be too expensive. This demographic is likely to have lower levels of income and arguably lower levels of financial literacy than those choosing to receive personal advice.

We agree with ASIC's identification of the relevant fields; namely financial planning, finance, business, accounting or commerce.

We are of the view that it is the underlying units of study that are important when considering if study has been in a relevant field. It is more important that the relevant study covers the learning outcomes at the requisite level.

We presume responsibility to define these will fall within the remit of FPEC. Similarly we expect the FPEC to approve units of study on the basis of covering the necessary learning outcomes at a minimum level.

This approach will ensure other degree-qualified individuals will have pathways to become financial advisers.

Question 3.3

What are the practical implications of requiring advisers to hold a relevant Bachelor Degree? **Kaplan's response to Question 3.3**

Based on its knowledge of the sector, Kaplan understand that there a number of distinct cohorts and will deal with each separately.

The practical implications of *upskilling current financial advisers*

- Time and cost of *recognising* existing education/training and experience
- Time and cost of *educating* the current financial advisers without a relevant bachelor degree.

From the adviser's perspective, there will be, for many, a necessary shift in learning for them. The industry has historically educated advisers via the Vocational Education Training (VET) sector. In contrast to VET which is competency based and focusing on the knowledge and skills required to perform specific tasks or roles, Higher Education takes a more academic and critical thinking approach.

Higher Education in certain areas (such as financial planning) can still focus on a specific vocation which necessitates practical learning outcomes and skills. Kaplan recognises, for example, interpersonal skills are intrinsic for the provision of quality advice. One of the core subjects of Kaplan's Graduate Diploma of Financial Planning is titled *Client Engagement*.

Kaplan is seeking clarification from the PJC about whether these financial advisers need a degree or to have successfully completed Tier 1 subjects that are part of a relevant degree or financial planning bachelor degree (or higher) to meet requirements.

The practical implications of *attracting and educating new financial advisers*

- Financial planning is more often than not a 'career change' occupation for more mature workers. Kaplan wonders if these people would be willing and/or able to undertake a bachelor degree at this point in their lives
- Again the issue is time and cost; linked closely to this is the matter of 'return on investment'. Would future remuneration justify the time and cost spent on attaining the necessary higher education qualification?
- As for upskilling above, would this cohort be able to undertake a suite of subjects, rather than a whole degree, to gain entry into the financial planning workforce?

We assume the PJC's intention is for Bachelor Degree (or AQF 7 level education) to be the minimum level of education required but would not preclude higher levels of education (ie post-graduate study) from being recognised as meeting minimum standards.

As stated in our answer to question 3.2, we are of the view that it is the underlying units of study that are important when considering if study has been in a relevant field. It is more important that the relevant study covers the learning outcomes at the requisite level.

Question 3.4

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.

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?

Kaplan's response to Question 3.4

Kaplan understands, as detailed in Question 1.2, graduates from a Diploma and/or Advanced Diploma of Financial Planning are employed because they have the entry level qualification, and then participate in a program of in-house training to prepare them for work as a financial adviser. Some financial services institutions have their own in-house education facilities, others approach the on-the-job training in a less structured, but not necessarily less effective manner.

Consequently, the idea of on-the-job training is not new to the sector. However, as detailed above in Question 1.2, the conduct of this training is not necessarily a standard nor a standardised practice.

The management of a standard professional year for new financial advisers would require significant effort on the part of the employer and touch on some of the following:

- Capacity of all workplaces to deliver the professional year
- Capacity of all workplaces to deliver the same type and level of on-the-job training
- Communicating the structure of the professional year to all stakeholders
- Holding all workplaces to the educational and professional requirements of the professional year
- Recruitment strategies for new planners
- Ability of existing employees—whether financial advisers or training and development staff to manage and monitor new planners during the professional year
- The requirements of the professional year and the capacity to customise this for each workplace
- The transferability of skills and knowledge from one workplace to another.

It is conceivable that only the larger financial practices will be able to take on new entrants and manage them through the professional year. This could skew the recruitment of planners towards these larger institutions, leaving smaller practices at a disadvantage. Further, it is well within the realm of possibility that the larger institutions would adopt a range of strategies to discourage their new entrants from leaving for another practice to take up work for another licensee. This would again disadvantage the smaller practices.

Kaplan believes there are other options for managing the professional year, and these are outlined below in Kaplan's response to Question 4.2 below.

We would like to point out that although this question is made within the context of new advisers, the outline of the PJC model in section 1.1 of the consultation paper states completion of a professional year is necessary for registration.

We understand the intent of the PJC is to only apply the professional year requirement to new advisers and would expect this drafting omission to be addressed in the final recommendations of the PJC.

Existing financial advisers, in many cases, are likely to already demonstrate the ability to perform their roles at a level expected of a new financial adviser at the end of their professional year. A form of assessment to determine this on a case by case basis may be applicable.

3. Feedback sought — 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?
- Would FPEC need to be supported by legislation in order to perform its role?
- Is the recommended FPEC membership appropriate?

Kaplan's response to Question 4.1

It is in Kaplan's view that the role of FPEC, as described, is considerably strengthened from its current position. Kaplan understands the PJC is wanting the financial planning sector to own and implement its framework, and that a key aspect of that strategy is getting the sector to set its own education and training standards.

We note FPEC already exists as a council established by the Financial Planning Association in 2011. We understand the PJC's intention is for the new FPEC to be substantially different in composition and Charter given its intended role.

Given the proposed brief for FPEC, and its proposed membership, the Committee would need an Executive Officer and a secretary to manage its work and to provide stable points of contact for all communications and correspondence. The EO would then be responsible for ensuring the work was carried out as required, including interacting with stakeholders. Kaplan envisages that the EO would develop a number of strategies to conduct this interaction.

With regards to legislation and benchmarking against other professional associations:

- CPA Australia, the AMA, Chartered Accountants Australia and New Zealand, the FPA are professional bodies not supported by regulation;
  - these bodies can provide education, or continuing professional education and development to their members;
  - these bodies rely on their membership numbers, closely linked to the benefits of belonging to the association for their presence in the marketplace,

Kaplan believes it is not necessary for the FPEC to be supported by regulation if it is only setting education standards. However, given the responsibilities they will be charged with, then Kaplan thinks that this may be a necessity.

Kaplan believes the recommended membership is appropriate. The question remains as to how the membership would be selected, what the criteria would be for participation (beyond professional association status) and how conflicts of interest would be managed:

On the subject of conflicts, there are a number of associations representing various interests of members. It is common for a financial adviser to be a member of multiple associations.

Given the specialisation of some of these associations (such as SMSFA which represents Self Managed Superannuation Specialists) their importance comparative to their size could present challenges when determining equitable distribution of FPEC membership.

To ensure the FPEC is not hampered or delayed in discharging its duties; we recommend its Charter specify the need for sub-committees and working groups comprising only those bodies related to specific specialisations. For example, a sub-committee to develop education standards in relation to SMSF may comprise SMSFA, ASFA, academics and an ethicist.

The Charter should also mandate strict timeframes for consultations. Timeframes required for the council to discharge its duties should also be mandated. To support these mandates, the Charter should also specify dispute resolution processes and escalation procedures.

Question 4.2

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

4.2.1 The professional year—for undergraduates commencing study in 2016

As raised in Kaplan's response to Question 3.4 above, Kaplan sees an opportunity to include an internship/work integrated learning program into an undergraduate higher education degree for new entrants into the profession. This would have the effect of ensuring that:

- 'Interns' would also be 'students' and would therefore be participating in accredited higher education degrees
- There was clear responsibility for student/intern outcomes
- Time spent and costs incurred by a student preparing for professional work were rationalised.

By integrating a 'professional year' into a bachelor degree, the time and cost constraints mentioned above could be minimized and the responsibility for achieving the outcomes of the professional year shared more evenly between the higher education provider, the student and the employer.

However, this position is altered considerably by Kaplan's thoughts on the bachelor degree.

4.2.2 The professional year—for currently practicing financial advisers

Kaplan believes this may be accounted for in this way:

- As members of professional associations a financial adviser would generally have met financial planning experience requirements, as well as education and ongoing professional development requirements.
- To ensure that *all* members of these professional associations were at the same standard, then ongoing membership from a given date could be confirmed by the member successfully attempting the new National Registration Exam. For those that did not meet the grade in one area or another, registration as a financial adviser could be made provisional until evidence had been provided to the professional association of the successful completion of a program of remedial education and training.

4.2.3 *The minimum education requirement*

Kaplan supports the raising of the education standards for financial advisers to a **minimum** of AQF Level 7 Bachelor degree.

Although we support AQF Level 7 as being the minimum education level for a financial adviser, we also believe in the benefits to an adviser and their clients of attaining higher levels of qualifications at post-graduate level. The benefits of an adviser attaining higher levels of qualifications (ie inevitable improvements to the quality of advice they provide) would also naturally extend to regulators, employers/licensees, and most importantly – the adviser's clients.

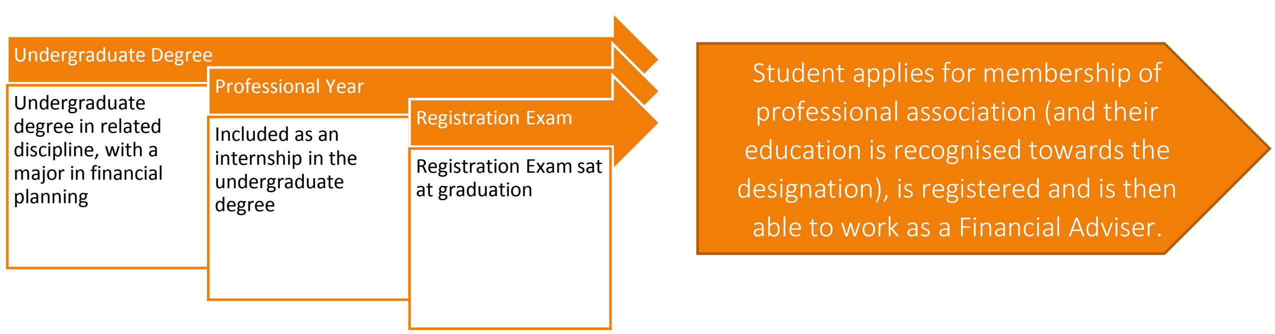
We believe this is especially relevant to existing financial advisers that may already hold undergraduate qualifications in relevant disciplines.

Kaplan currently offers their students a Masters of Financial Planning with a Graduate Certificate in Financial Planning and a Graduate Diploma in Financial Planning, as study-stages and exit points. These qualifications provide students with a pathway from their undergraduate degree in a related or non-related area and/or career changers with or without relevant work experience to gain a qualification in Financial Planning. This is because entry requirements for a Graduate Certificate and a Graduate Diploma allow for a range of skills sets, work experience and previous study to be recognised as ability to undertake study at this level, and in this field. Entry requirements are usually managed in accordance with each Higher Education Provider's rules, and are set in accordance with the Australian Qualifications Framework and the Threshold Standards for Higher Education Providers.

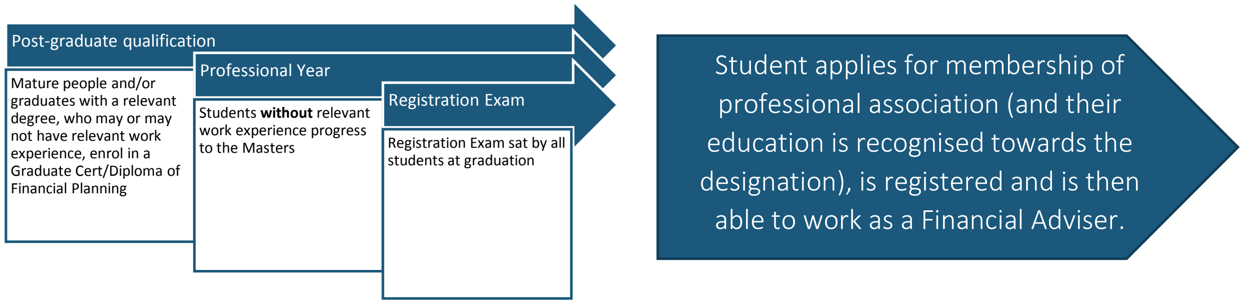
For those mature students with no relevant experience and no relevant degree, a supervised study/experience pathway could be included in the Master's degree, so that they graduate – after two years – with both technical knowledge and workplace experience at AQF Level 8.

Further to this, these post graduate qualifications are pathways to professional designations in Financial Planning, including the Financial Planning Association's *Certified Financial Planner®* and the Association of Financial Adviser's *Fellow Chartered Financial Planner* (FChFP).

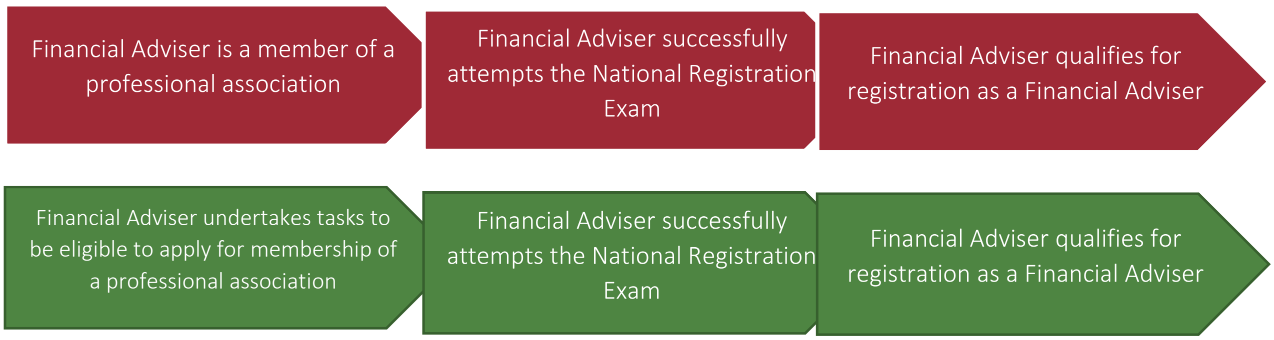
For new & young entrants:



For mature entrants – the education pathway:



For existing Financial Advisers – the professional experience pathway:



4. Feedback sought — registration

Question 5.1

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

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

Kaplan's response to Question 5.1

Please note, our response to this question is limited to our expertise as an educator.

Kaplan understands this would be primarily an administrative process.

Based on Kaplan's experience of collecting documentation from financial advisers to validate their claims for recognition of prior learning and/or experience this can be a time consuming process requiring a lot of communication with the applicant.

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?

Kaplan's response to Question 5.2

Kaplan understands that professional associations work very closely with relevant authorities in the investigation of complaints against financial advisers, and that this work is carried out diligently and promptly. Consequently, Kaplan sees no reason to change the professional association's role in advising ASIC, as is the case now, whether or not a financial adviser is a 'fit and proper person' for the purposes of continuing to or not continuing to be on the register of approved financial advisers.

Kaplan believes that it should not be the professional association's responsibility to notify ASIC that all requirements have been met for an adviser's registration. Rather, it would be the professional association's responsibility to issue the adviser with the documentation that confirms their membership of the association.

Under this model, the requirements of membership may be to be standardised across all relevant professional associations to ensure that members have acknowledged and signed a code of conduct, understand and met their continuing professional development requirements.

Kaplan acknowledges that membership of a professional association is not the same as attainment of a professional designation.

As mentioned previously in this submission, we have concerns in relation to multiple association membership. We recommend a solution where a financial adviser nominates which professional association they choose to nominate as their primary association. This association would then assume the tasks in relation to that financial adviser as outlined in the PJC model.

Question 5.3

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.

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

Kaplan's response to Question 5.3

In September 2014 the five large wealth managers with aligned advisers notified the markets of their intention to lift minimum education standards. This resulted in the need for each of them to confirm current qualifications of their existing advisers.

This has highlighted the non-standardised and inconsistent manner in which qualifications have been issued by various training institutions since Policy Statement 146 Training of financial product advisers (PS 146) was issued in November 2001.

As a Registered Training Organisation, we are an ASIC Authorised Assessor. As such, we are being approached by many AFSLs to confirm RG146 compliance of their existing and potential representatives.

The update to PS 146 in January 2003 to include a Skills Requirement adds additional complexity to legacy training data and qualifications. Kaplan has issued PS/RG 146 competencies from their inception. Despite this experience, navigating an individual's training history often challenges us.

We highlight this to bring attention to the fact that despite an adviser's qualifications being listed on the register, until the minimum standards are lifted and standardised there will be little consumer protection as a result.

We agree censure or ASIC action should be listed on the register. We also believe, however, in the concept of reform and rehabilitation. We believe care should be taken in how the register reflects minor infractions to avoid tarnishing an adviser's record for the remainder of their career. We contend that further industry and consumer group consultation on this issue is necessary.

Question 5.4

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

Kaplan's response to Question 5.4

Given the rise in importance of professional designations, then it would seem reasonable to have this data included on the Register.

Question 5.5

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.

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?

Kaplan's response to Question 5.5

As mentioned previously in this submission, we have concerns in relation to multiple association membership. We recommend a solution where a financial adviser nominates which professional association they choose to nominate as their primary association. This association would then assume the tasks in relation to that financial adviser as outlined in the PJC model.

Kaplan believes that the licensee must still have the responsibility for ensuring their employees meet all the criteria and standards for appointment and ongoing employment of their financial advisers.

Question 5.6

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

Kaplan's response to Question 5.6

Kaplan believes that this is an essential part of any ongoing governance framework for the financial planning sector. Kaplan appreciates that this would require a significant amount of work in the first instance and that the transition period to this requirement would need to be rigorously managed.

Both terms should be simultaneously protected. If only one of the terms is protected the consumer protection offered would be questionable as they are unlikely to discern any difference between the two.

5. Feedback sought—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?

Kaplan's response to Question 6.1

Kaplan firmly supports the implementation of a national registration exam for both existing and new advisers.

Existing advisers

Due the range of providers of financial planning qualifications in Australia, and despite quality assurance mechanisms associated with education provider registration and course accreditation, Kaplan understands that educational outcomes of these courses differ.

Further, existing adviser's workplace experiences differ, due to factors like place of employment and longevity of professional practice. There is no shared public benchmark for acceptable workplace performance.

Consequently, the range and depth of knowledge, skills and experience will differ from adviser to adviser.

As the PJC wants to ensure that all advisers have, at the very least, a shared knowledge base and common skills set, then the first step in this process would be to implement a National Registration Exam for all advisers.

Kaplan is seeking clarification as to who would receive detailed data on a financial adviser's results in an examination, specifically the exam results of an existing employee. Astute licensees would want to use this Exam as an assessment to diagnose the strengths and weaknesses of their current employees so they can then design individualised training plans for their financial advisers.

The National Registration Exam would also provide a benchmark of educational outcomes for the proposed Professional Year, and therefore should apply to new advisers as well.

Question 6.2

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

Kaplan's response to Question 6.2

Any national examination requires significant academic, assessment design expertise and operational resources to establish and implement.

Kaplan Professional has been designing, testing and running examinations for both higher education and vocational education and training qualifications for more than fifty years. Kaplan Professional can attest to the effort involved in creating and conducting exams (either supervised online or invigilated onsite) managing student data, access to exams and marking exams, collating results, and notifying students and providing certification of their results.

To protect the security and the integrity of the exam, to allow for re-attempts, and to cover the breadth and depth of knowledge areas, we estimate a bank of 1,000 questions might be necessary for the registration exam. In our experience, one multiple choice question (MCQ) costs approximately $1000 to develop. The cost of developing an adequate bank of questions could be anywhere up to $1m on this basis.

Kaplan can advise the PJC that they have recently been working on industry wide knowledge tests. We are planning to develop new sets of questions on a regular basis to augment and supplement the MCQs in the first release.

We would be pleased to work with FPEC once it forms to enable a registration exam to be developed off the back of our already substantive work.

Question 6.3

What content should be covered in the exam?

Kaplan’s response to Question 6.3

Kaplan believes that it would be presumptive to provide a comprehensive list of content to be covered, as the curriculum for the degree or the outcomes of the professional year have yet to be determined.

The exam will be undertaken at the end of a new adviser’s professional year. As such, we envisage it would be at AQF Level 7 covering content FPEC deems essential to operate effectively as a financial adviser.

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?

Kaplan’s response to Question 6.4

Kaplan Professional believes that FPEC is the appropriate body to steer the development of the exam, but despite the representation on FPEC, would not have the capacity to set, deliver or mark the exams. Kaplan also doubts, with all due respect to the Committee and its members, that they would be in a position to handle queries about the exam, requests for re-marks, or complaints about the management of the exam and/or exam conditions.

Kaplan also fully appreciates the resources and associated costs it take to establish and manage exam centers, including arranging for invigilators, validating candidate identity, managing access to the exam (whether paper based or online) and ensuring the security of the exam after completion.

This is a business in itself, and the PJC will need to consider this in their future deliberations on this aspect of their proposed framework. We would be pleased to work with FPEC once it forms to enable them to leverage off our already substantive experience in this area.

6. Feedback sought — 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?

Kaplan's response to Question 7.1

Kaplan Professional believes that this is an essential component of the PJC's model. Kaplan also understands, that while there is no industry wide standard for CPD points for financial advisers, most undertake some CPD to meet the requirements of their license and membership of a professional association.

Therefore, Kaplan sees no substantive change to current practice except the standardisation of CPD point requirements across the sector. We support FPEC's proposed function to standardise the requirements. We understand standardisation to cover number of hours required, topics to be covered and minimum content and assessment requirements.

The legislative requirements of the Tax Agents Services Act in relation to CPD (as administered by the Tax Practitioners board) need to be considered and either amended or aligned to the requirements under the PJC model.

Question 7.2

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

Kaplan's response to Question 7.2

Professional associations currently set their own requirements for CPD of their members. These requirements should be amended by standardisation requirements set by FPEC.

The issue of multiple memberships as mentioned a number of times in this submission should also be considered. We view standardisation of requirements a step in right direction to ensure advisers are more readily able to meet requirements of multiple association memberships.

7. Feedback sought — professional and ethical standards

Section 8 is outside our scope as an education provider.

8. Feedback sought — other issues for consideration

Advice on tier 2 products

Question 9.1

How could the PJC model interact with the existing Tier 2 adviser training and competency requirements?

Kaplan's response to Question 9.1

We believe there is a place for Tier 2 adviser training and competency requirements.

RG146 currently sets Tier 2 training requirements at Certificate III Level. We believe there may be a case to lift these standards and provide licensees with more guidance as to how this training should be delivered. We see FPEC, once established, as the ideal body to review this and set final standards.

Question 9.2

Transitional arrangements

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

Kaplan's response to Question 9.2

We believe FPEC, once formed, will be well placed to determine transitional arrangements for existing advisers and advisers wishing to move within the industry.

We believe there should be robust consultation with industry to ensure the arrangements are pragmatic and commercially sensible. Given the implications, we believe consultation should be undertaken as soon as possible.

Question 9.3

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

Kaplan's response to Question 9.3

We consider Recognition of Prior Learning, when undertaken with robust and rigorous frameworks, to be an effective assessment of an adviser's ability to perform their role.

We see FPEC, once formed, as the ideal body to formulate the standards for training organisations wishing to recognise prior learning for existing advisers.

Question 9.4

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

Kaplan’s response to Question 9.4

Refer to the table below for suggested changed to proposed implementation timeframes and our rationale for the changes.

Transitional arrangement and timeframes	PJC proposed date	Our proposed date	Rationale
Provisional registration (available to existing financial advisers from the implementation of the proposed government register until 1 Jan 2019 to address the goal of transparency)	Mar 2015	Sep 2015	AFSLs already given extension
Finance Professionals’ Education Council (FPEC) established	1 Jul 2015	1 Jan 2016	To allow consultation in relation to Charter and composition
FPEC releases AQF-7 education standards for core and professional stream subjects	Jun 2016	Jan 2017	Given delay to proposed FPEC establishment date
Establishment of codes of ethics compliant with Professional Standards Scheme guidelines	Jul 2016	Jul 2016	No change
FPEC approved AQF-7 courses available to commence	Jan 2017	Jul 2017	Given delay to proposed FPEC establishment date
FPEC releases recognised prior learning framework (dealing with existing advisers and undergraduates who commence AQF-7 courses prior to Feb 2017)	Jul 2016	Jan 2017	Given delay to proposed FPEC establishment date
FPEC releases professional year requirements including a recognised prior learning framework for existing advisers	Jul 2016	Jan 2017	Given delay to proposed FPEC establishment date
Professional associations operating under PSC Professional Standards Schemes	1 Jan 2017	1 Jan 2017	No change
Target date for existing financial advisers to qualify for full registration	1 Jan 2018	1 Jan 2020	More realistic

Cut-off date for full registration – provisional registration no longer available	1 Jan 2019	1 Jan 2020	Refer responses to this entire section for rationale

Based on Kaplan's Responses to Questions and the suggestions for alternative arrangements, transition to the new system would depend on:

- The National Registration Exam operational on a large scale
- The response time for existing associations to become professional associations
- The time it would take a financial adviser to become a member of a professional association, if they were not already members.

Question 9.5

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

Kaplan's response to Question 9.5

Refer to the table included in our response to question 9.4.

Question 9.6

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

Kaplan's response to Question 9.6

Kaplan believes that:

- As the models for education standards for Financial Adviser already exist that the FPEC could leverage off, then this would appear reasonable expectation
- Extensive consultation has occurred off the back of ASIC's CP212 to guide FPEC
- As the PSC advises it would take an association twelve months to undergo the process of becoming a professional association, then this would appear to be a reasonable expectation
- Under Kaplan's proposal for alternative arrangements, the post-graduate education pathway to meet education requirements for new planners would make this timeline a *not* entirely reasonable expectation, specifically for those new planners who could only study part time.

  This would hold true for those undertaking a related undergraduate degree and who commence study in 2016; studying full time would mean these new planners would not complete studies until the end of 2019, and graduate in 2020.

  In addition, Higher Education Providers of these qualifications would need to design, build and then offer degree or the financial planning major. Non self-accrediting providers would be disadvantaged here as they would need to apply for accreditation of their degree/major from the national regulator. The process for course approval can take up to 12 months.

- Students would then need to apply for membership of a professional association, as well as study and sit the National Registration Exam.

Therefore Kaplan is recommending that this timeline be extended to 1 January 2021 for new financial advisers.

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?

Kaplan's response to Question 9.7

Based on Kaplan's Response to Questions 9-2 to 9-7 above, and assumed that all parts of the PJC model were in operation, Kaplan believes that this phased approach would be reasonable:

Existing planners	Fully registered by 1 January 2020
New planners	Fully registered by 1 January 2021

Attachment A Feedback sought – 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?

Kaplan's response to Question 1

Kaplan understands that all financial advisers will be effected to a greater or lesser extent with the introduction of the proposed professional standards framework, for all the reasons provided above.

A conservative estimate of the number of financial advisers currently providing advice to retail clients would be 18,000.

We believe only new entrants will be affected by the professional year.

Continuing professional development requirements will impact all financial advisers.

Approximately 65% of existing advisers will need to upgrade their qualifications (approx. 11,700)

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)?

Kaplan's response to Question 2

Based on data collected by Kaplan between September 2013 and April 2015 of the students enrolled in a diploma or Tier 1 subject, approximately 46% have been working in the industry from 5 to more than 10 years. Less than 20% have been working in the industry for one year and only 6% are working in an unrelated industry.

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?

Kaplan's response to Question 3

Based on Kaplan's knowledge of the sector and information gained from its relationships with its corporate clients, the number of financial advisers with a tertiary degree or a relevant tertiary degree is less than 35%.

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)?

Kaplan's response to Question 4

Based on Kaplan's knowledge of the sector and information gained from its relationships with the professional associations, approximately 50% of advisers are members of a professional association.

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?

Kaplan's response to Question 5

	Financial Adviser	Licensee	FPEC
Education (Bachelor degree)	No less than $45,000 Earnings lost	No less than $45,000 Earnings lost	Cost of establishing standards and education framework
Recognition of Prior Learning	Dependent on provider and process • Application Fee • Assessment Fee • "Gap" training Fee	Dependent on provider and process • Application Fee • Assessment Fee • "Gap" training Fee	Cost of establishing standards and education framework
Professional year	Reduced income due to earnings lost This would also extend to any mentors who would also likely have reduced income due to earnings lost.	Earnings lost Administration	Cost of establishing standards and education framework Managing recording of FPs status on register
Register	Preparation of application Application fee	-	Administration Publication

Exam	As an indication CFA = $US900 (Level 1) CFA = $US700 (Levels 2 & 3) CFP Certification = $AUS1480 CPA Foundation Exam = $AUD550	-	Writing and updating the exam Managing exam operations Reporting exam results
Reporting acts of alleged misconduct	Gathering of documentation Submitting and making the allegation Participation in any investigations	Gathering of documentation Submitting and making the allegation Participation in any investigations	Gathering of documentation Working with Commissioner/FOS Investigating the claim with FOS

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

Question 6:

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

Kaplan's response to Question 6

Professional Year

- Given that almost 50% of people studying to be a financial adviser have been working in the industry for 5 or more years, accept a certain grade in the Registration Exam as evidence of their competency.
- For new entrants (1-4 years' experience in the financial services industry in a relevant role) could integrate the requirements for a professional year into a Masters of Financial Planning, as described above.

Registration Exam

As described.