12 May 2015

Financial Services Unit
Financial System and Services Division
Markets Group
The Treasury
Langton Crescent
PARKES ACT 2600

Email: ProfessionalStandards@treasury.gov.au

Dear Madam/Sir,

SMSF ASSOCIATION SUBMISSION ON LIFTING THE PROFESSIONAL, ETHICAL AND EDUCATION STANDARDS IN THE FINANCIAL SERVICES INDUSTRY

The SMSF Association welcomes this opportunity to make a submission to Treasury's consultation on recommendations of the Parliamentary Joint Committee on Corporations and Financial Services' (PJC) inquiry into proposals to lift the professional, ethical and education standards in the financial services industry.

The SMSF Association has been a long-time advocate for lifting professional standards and improving education in financial advice. Accordingly, we welcome the PJC's report that proposes a new co-regulatory model to lift the professional, ethical and education standards in the financial services industry. We believe that the PJC's proposals incorporate a number of essential reforms that are needed to build a financial advice profession and improve consumer confidence in financial advice.

Lifting the education standards for financial advice is a much needed step to improving the quality of consumer advice and is wholeheartedly supported by the SMSF Association. As is a concept of compulsory professional association membership to foster professionalism and ethical behaviour. We applaud the PJC's push for co-regulation as we believe that this approach is the most effective way to foster a profession, rather than a compliance base approach to financial adviser education and ethics.

While we support the general ethos and spirit of the PJC model, we note in our submission that there are a number of practical difficulties and unintended consequences that may arise from the proposed PJC model. Of key concern are a blurring of responsibility between licensees and professional associations for the actions of advisers and the threat that the PJC model poses to specialisation in financial advice. We also do not believe that a Professional Standards Council limited liability scheme is an appropriate mechanism for approving professional associations to be part of the new co-regulatory regime. Instead, we have provided a "hybrid" model based on the Accounting Professional and Ethical Standards Board model that can deliver improve education and professional standards for financial advice.

We outline these issues in detail in our answers to the consultation questions and in the attachments.

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak professional body representing the self managed superannuation fund (SMSF) sector throughout Australia. The SMSF Association continues to build integrity through professional and education standards for advice and education standards for trustees. SMSF Association represents professionals, irrespective of their personal membership and professional affiliations, who provide advice and services to individuals aspiring to higher levels of participation in the management of their superannuation savings. Membership of the SMSF Association is principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries.

OUR BELIEF STATEMENT

- We believe that every Australian has the right to a good quality of life in retirement.
- We believe that every Australian has the right to control their own destiny.
- We believe that how well we live in retirement is a function of how well we have managed our super and who has advised us.
- We believe that better outcomes arise when professional advisors and trustees are armed with the best and latest information, especially in the growing and sometimes complex world of self-managed super funds.
- We believe that insisting on tight controls, accrediting and educating advisors, and providing accurate and appropriate information to trustees is the best way to ensure that self-managed super funds continue to provide their promised benefits.
- We believe that a healthy SMSF sector contributes strongly to long term capital and national prosperity.
- We are here to improve the quality of advisors, the knowledge of trustees and the credibility and health of a vibrant SMSF community.
- **We are the SMSF Association.**

If you have any queries about our submission please do not hesitated in contacting us.

Yours sincerely,

Andrea Slattery
Managing Director/CEO
SMSF Association

Feedback sought — 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?

The financial advice industry needs a new co-regulatory framework. The introduction of a professional model should improve consumer confidence in financial advice as consumers can trust that financial advisers have attained required education and competency requirements, are members of professional associations and are bound by professional and ethical conduct rules. A significant factor in the success of introducing a co-regulatory model is ensuring that appropriate inter-relationships are established between the different entities involved in a co-regulatory environment such as advisers, licensees, professional associations, industry councils and regulators.

The PJC model will shift greater focus on to the individual to be personally accountable for their responsibilities as a financial adviser to be professional, ethical and maintain their own currency of knowledge relevant to the advice that they provide. This will see a shift away from licensees who can could take a compliance/risk driven approach to education and ongoing learning rather than an approach that strives to improve professionalism.

Greater personal accountability for individual advisers will also encourage financial advice to become a profession. A hallmark of a profession is for individuals is to be self-directed and accountable for their own work and learning in their area(s) of expertise, so they can best service their clients.

Increasing the education and registration requirements to be a Tier 1 financial adviser may prove a barrier to entry to the financial advice market for new and some existing financial advisers. This would be expected as a natural consequence of lifting standards and entry requirements for financial advisers. We would expect some advisers may choose to stop providing Tier 1 advice as they may see the costs and criteria for meeting the new requirements would not justify staying in the Tier 1 advice market. This is to be an expected trade-off for improving financial advice standards and is acceptable if the consumer benefit of higher quality and competent financial advice is realised. Conversely, the PJC model may see the increased costs of complying with the new regime and less competition passed on to consumers as higher fees for financial advice and this needs to be managed so that it is minimised in first instance.

The co-regulatory model must be implemented in a way that encourages financial advisers to maintain or develop specialisations within the broad range and areas of financial advice. A key risk of the current proposed PJC model is that advisers will gravitate to meeting generalist requirements to provide financial advice and not strive to further specialise in areas such as SMSF advice, financial planning, investment markets, etc. Losing specialist areas of advice within the financial advice market would be detrimental to consumers.

Specialist advice allows consumers greater choice to meet their advice needs. Research undertaken by the SMSF Association in 2012, 2013 and 2014 has shown that specialised, personal advice tailored to a consumer's personal circumstances results in the consumer having increased engagement, trust and confidence with their financial future and retirement savings.[1]

Accordingly, the PJC model needs to encourage specialisation and segmentation of the financial services industry by financial advisers. This should be done through the education/training and ongoing specialist requirements for financial advisers.

We are concerned that the proposed PJC model will result in an adviser being aligned/registered through one professional association. This is likely to result in an adviser registering through an association that can broadly cover their needs, rather than help them with specialist areas of financial advice. This could create a significant risk for professional bodies covering areas of specialisation to be marginalised and their commercial viability threatened.

Accordingly, the PJC model threatens the long-term viability of specialisation in financial advice. This would result in detrimental outcomes for consumers, especially those that have more complex affairs or a need for complex financial advice (i.e. SMSF, estate planning, parents with loss of mental capacity, etc.). Specialisation in financial advice should be promoted and encouraged through the specific education standards for specialist areas rather than pushing the industry towards a generalist financial adviser. This is a key component in building a profession.

We are also concerned about an apparent shift in responsibility/liability for financial advice from licensees to professional associations. Individual advisers and licensees are legally responsible for the advice that is delivered to consumers and the PJC model should not undermine this core responsibility for those entities. It is not appropriate that a professional association could be liable for the individual activities of its members. These concerns are detailed further below.

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?

We believe that by implementing a more standardised education and training framework through an independent industry education council, financial advice businesses should have lower compliance costs over the long-term. Licensees will be more able to trust that their authorised representatives have received appropriate and adequate education and training to be deliver the advice they are authorised

This is in contrast to the existing RG 146 system which has seen many licensees not trust the veracity of courses which suggest that they satisfy the RG 146 requirements for financial advice training. Consequently, licensees have often sought to make newly employed advisers resit RG 146 compliant training rather than trust that they have previously received adequate education and training. This has been a consequence of the lack of ongoing maintenance of the ASIC training register by ASIC

[1] SPAA/Russell Investments, Intimate with Self Managed Superannuation 2012; SPAA/Russell Investments, Intimate with Self Managed Superannuation 2013; and, SPAA/Russell Investments, Intimate with Self Managed Superannuation 2014

over the last three years which also has delivered significant increases in costs without an increase in adviser quality.

We believe that larger financial advice firms will be able to use their natural advantages of size and scale to transition existing advisers into the new system more cost effectively than smaller advice firms. This can be done by larger firms obtaining better pricing for education and association membership than their smaller competitors. A side-effect to this approach may be that larger firms seek a "one size fits all" approach to adviser education and professional association membership which could lead to greater homogenisation of financial advisers' skills. The new framework must require advisers to train in the area they advise on to build expertise and professionalism.

This competitive advantage is likely to place relative cost pressures on smaller financial advice licences/firms, as they will not be able to negotiate price discounts for education relative to their size.

ASIC as the regulator for licensees will continue to regulate the compliance of licensees with their AFSL obligations, so there will need to be an adjustment to that compliance model and costs to recognise the difference in competency recognition by a body other than ASIC in any new model.

We believe a positive of the PJC model is that there will be a greater and more consistent standard of advice and professionalism irrespective of the size of licensee which advisers represent. This arises partly from higher standards themselves, and partly from a shift in emphasis from licensees to individual advisers and professional organisations.

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?

Under the proposed PJC model there is a lack of clarity of purpose for the different parties involved.

Lines are currently blurred between the roles of licensees and professional associations in regards to who is ultimately responsible for an adviser complying with education requirements in order to be placed on the register. The PJC model gives this responsibility to professional associations notwithstanding that licensees hold the ultimate legal responsibility for their advisers' competencies, conduct and the content of their advice. This creates a duplication of responsibilities in assessing whether the adviser is competent to provide advice and should be placed on the financial adviser register.

Further, the PJC model is placing a greater emphasis on professional associations involvement in registering an adviser which raises questions as to whether an association would be liable if an adviser's education had been found wanting and this had contributed to consumer detriment. This would be an inappropriate outcome of the PJC model, as professional associations cannot oversee the delivery of the advice by individual financial advisers. Liability for poor advice should remain with the individual adviser and the relevant licensee as these entities have direct control over the quality of the advice being provided to a consumer.

In order to ensure clarity in roles and in respect to liability for poor advice, we suggest that licensees bare responsibility for registering financial advisers with ASIC as this responsibility is closely aligned with the legal liabilities described above.

Further, the allocation of responsibility in administering a graduate year for advisers between licensees, professional associations and the FPEC is not clear.

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 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?

We believe that the greater responsibility for individual advisers under the PJC model is a positive change which will improve professionalism of financial advice. The roles for individuals and professional associations are clear in the PJC model. The co-regulatory approach is an essential part in achieving professionalism.

However, as described above in 1.3, the overlapping of responsibilities between licensees and professional associations is a concern, especially when the licensee is ultimately legally responsible for the advice delivered by the adviser. The role of a professional association policing its members' education, accreditation and professional conduct requirements is appropriate but cannot obviate the need for licensees to undertake similar monitoring of their advisers.

We believe that it is appropriate that licensees register their advisers on the ASIC register when they are satisfied that they have achieved the necessary education and training requirements to be a Tier 1 financial adviser. Professional associations can play a key role in this process by advising a licensee whether a particular adviser has met the association's education, continuing professional development and conduct requirements. We believe it is also important that licensees encourage their advisers to seek the highest level of accreditation and specialisation within the professional associations to deliver their advice and services to raise the bar for consumer trust and protection.

Increased responsibility for professional associations for setting education and conduct requirements for financial advisers through compulsory professional association membership will allow education standards to be more responsive to industry and legislative changes.

We believe that requiring compulsory professional association membership will create an overlap between an adviser's obligations to meet their relevant association's code of conduct and their duties and obligations in the Corporations Act. Mandatory membership of the relevant association/s will allow professionalism to flourish. We do not believe that this will be an issue.

Set out below are examples of some of the obligations advisers must comply with as set out in the Corporations Act.

- must be licensed or authorised;
- the financial services covered by the licence must be provided efficiently, honestly and fairly;
- have in place adequate arrangements for the management of conflicts of interest;
- comply with the conditions of the licence;
- comply with the financial services laws;

- take reasonable steps to ensure that its representatives comply with the financial services laws;
- unless regulated by APRA – have adequate resources (including financial, technological and human resources) to provide the financial services covered by the licence and to carry out supervisory arrangements;
- maintain the competence to provide those financial services;
- ensure that its representatives are adequately trained, and are competent, to provide those financial services;
- if financial services are provided to persons as retail clients, have a dispute resolution system which complies with the requirements of the Act;
- unless regulated by APRA – have adequate risk management systems;
- if financial services are provided to persons as retail clients, must have arrangements for compensating those persons for loss or damage suffered because of breaches of the relevant obligations set out in the Act;
- follow certain procedures as set out in the Act where the licensee breaches, or is likely to breach certain obligations in the Act;
- where a licensee identifies itself in a document, the document must include the licensee's licence number
- provide written notice to ASIC within 15 business days if the person authorises a representative to provide a financial service;
- must not use a "restricted word" unless permitted by the Act;
- certain documents to be given to client including a Financial Services Guide, a Supplementary Financial Services Guide or a Statement of Advice;
- the requirements of the above documents are set out in the Act;
- obligation to warn client that advice does not take account of client's objectives, financial situation or needs where general advice provided;
- best interests obligation
- advice must be appropriate to the client
- priority to be given to client's interest where there is conflict
- the Act sets out obligations in relation to charging ongoing fees to clients and the termination, disclosure and renewal of agreements;
- must not accepted conflicted remuneration.

We do not believe that the overlapping of responsibilities between those set by professional associations and those set out in the Corporations Act will have any practical impact. The obligations set out in the Corporations Act are minimum standards which must be complied with by advisers. Where professional associations set obligations which exceed those minimum requirements, advisers will comply with the legislative requirements by meeting the higher threshold requirements set by professional associations. We also believe that the setting of higher standards by professional associations will support professionalism and accountability in the financial services industry. Where an association's code sets conduct rules or obligations which are beyond the scope of the Corporations Act, professional associations can enforce those additional obligations on their members thus continuing to raise the standards.

The PJC proposal will have some overlap with the existing transition of financial advisers into the Tax Agent Services Act regime, the transition of accountants to a limited licence for financial advice and ASX Accredited derives adviser designation.

Question 2.2

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

Unambiguously yes.

As discussed above, licensees are ultimately responsible and liable for the advice delivered by their advisers and accordingly should have an important role in ensuring they have met relevant training and competency standards. Professional associations can assist licensees to fulfil their responsibility by advising licensees on whether a member has achieved the relevant education requirements and met ongoing CPD requirements for that association.

This should not remove an individual adviser's responsibility for ensuring that they meet the required education and training standards to provide Tier 1 financial advice. Advisers should be guided through this professional journey via their professional association(s).

While licensees should still have oversight of whether an adviser has met relevant training and competency standards, there needs to be a break from the current regulatory regime which has often seen licensees take a compliance focused approach to education and training. Under the existing RG 146 approach to financial adviser education, the compliance driven approach of having ASIC set education standards has resulted in many licensees only requiring their advisers to meet the minimum requirements of RG 146 then seek greater competencies. Often, regardless of the level of delivery, this has led to internal education delivery which has been self-appointed as sufficient to meet minimum standards without independent verification. This type of approach is an anathema to the professionalism needed in financial advice.

As highlighted in this submission, allowing professional associations (through a role in the FPEC body or an alternative standards setting body) to have a key role in determining education standards for as advisers will improve financial advice education and the quality of advice.

Having a co-regulatory approach where professional associations, who have demonstrated competency in setting education standards and curriculum guidelines for areas of financial advice, is essential. We believe that professional associations must be integral in the development of education standards going forwards.

For any new profession which in the future may be incorporated into the regime, then the independent education body must be enduring enough and flexible enough to take all reasonable measures to allow the introduction of that new profession at a suitable opportunity.

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?

At the heart of the raising the educational standards of financial advisers is the establishment of a baseline undergraduate program which encompasses all aspects of financial advice to retail clients and provides graduates with a sophisticated understanding of all aspects of the financial advice industry.

The current pathways enable a graduate from any multitude of undergraduate and VET streams to gravitate towards financial advice without any standardised or industry “fit for occupational purpose” content.

Currently the range of students entering the financial advice industry for Tier 1 products could be drawn from the following disparate channels:

	VET SECTOR			**HIGHER EDUCATION SECTOR**	
TRANSCIPT EVIDENCE	Vocational Statement of Attainment in retail financial advice in 1 to 12 financial product areas	Vocational Diploma qualifications covering a range of generic financial advice content and specific content for up to 12 financial product areas	Vocational Advanced Diploma qualifications covering a range of generic financial advice content and specific content for up to 12 financial product areas	Undergraduate qualifications covering a range of generic financial advice content and specific content for up to 12 financial product areas	Postgraduate qualifications covering a range of generic financial advice content and specific content for up to 12 financial product areas

	VET SECTOR			HIGHER EDUCATION SECTOR	
CONSTRUCT	Unit of Competence minimum performance criteria and assessment guidelines set out in Financial Services Training Package (FSTP)	Course construct options and minimum performance criteria and assessment guidelines set out in Financial Services Training Package (FSTP)	Course construct options and minimum performance criteria and assessment guidelines set out in Financial Services Training Package (FSTP)	Range of disciplines: • finance • financial planning • commerce • economics • business • tax • accountancy • law	Range of disciplines: • finance • financial planning • commerce • economics • business • tax • accountancy • law
MINIMUM ENTRY TO TIER 1 ADVICE OCCUPATIONS	Financial planners Stockbrokers (ADA L1)	Insurance brokers Accountants			
TYPICAL TIER 1 EVIDENCE FOR OCCUPATION	Financial Planners	Financial Planners Accountants Insurance brokers Stockbrokers	Financial Planners Accountants	Financial Planners Accountants	Accountants

Given the breadth and diversity of entrant studies and qualifications, there is no common base line of financial advice curriculum.

This lack of standardised curriculum presents obstacles for the industry, across each of the sectors, to create a cohesive and stepped professional development pathway for new entrants into the advice industry.

There is a range of knowledge and skills that are common across the entire advice industry, regardless of the specific sector; for example macroeconomics, economic environment, the financial advice ecosystem, behavioural economics, advice construction, taxation, commercial law, ethics, Government benefits, payments and services, marketing, technology, etc.

This range of financial advice societal knowledge and skills forms the basis from which sector specific focus can build upon.

In shaping professional attitudes an important cultural change would be for students to start shaping their long term career path early on in their studies. The current approach of broad brush perhaps tenuously linked undergraduate programs for the financial advice industry, delays the decisions and commitment a student makes to embark on their financial advice career. This decision, given the "non-specific" occupation undergraduate programs, occurs once they have concluded their studies and are shopping around for their first job and reflecting on the roles their studies may have prepared them for.

For students, accounting, medicine, law, engineering, technology are all considered and committed to primarily **before undergraduate enrolment.**

For students, financial advice is considered as an occupation primarily **after undergraduate completion.**

The lack of alignment to occupational outcomes through the current suite of feeder undergraduate programs results in vocational requirements, such as the education requirements for the ASX market integrity rules and the TPB's tax agent (financial advice) status, becoming add-ons. Once a student has graduated and decided on their pathway (by accident or design) they then encounter the required additional entry requirements for their specific sector.

Examining the ASX market integrity rules and the TPB's tax agent (financial advice) status, much of this required content could be covered by an appropriately designed undergraduate and graduate program pathway in which underpinning knowledge could be incorporated into a standardised bachelor curriculum for financial advice.

This diagram outlines a model for establishing financial advice as a consideration for enrolling students:

New entrants:

Bachelor of financial advice

CORE STREAMS (Years 2 and 3)				
Financial Planning	**Markets**	**SMSF/Retirement**	**Risk**	**Banking**
Introduction level: -Financial planning -Financial coaching -Portfolio management -Managed investments	Introduction level: -Securities -Derivatives* -Stocks -Foreign Exchange -Margin lending	Introduction level: -Superannuation - Retirement income streams -Strategy & structure advice -Pre retirement planning -Post retirement planning -SIS Act/Tax law -Trustee drivers	Introduction level: -Broking service -Life Insurance -General Insurance -Risk assessment -Underwriting -Claims	Introduction level: -Margin Lending -Deposit products

CORE: Australian financial advice program (Year 1)		
Microeconomics	Behavioural finance	Taxation **
Macroeconomics	Risk profiling	Corporations Law
Financial services ecosystem	Operating under an AFSL	Marketing
Ethics and professionalism **		Technology
Commercial law **	Advice construction	

Note: *current ASX ADA Level1 **current TPB Tax Agent (Financial Product) status

Completing an undergraduate program, with the standardised broad spectrum curriculum, would provide students with baseline knowledge and skills and provide them with the introductory level of knowledge of the diverse range of retail financial advice sectors. This exposure would equip them with sufficient experience and understanding to identify which area/s of financial advice they would like to pursue.

This reduces the lag time between graduating and settling on a financial advice occupation. It also allows students to consider a double major in their undergraduate program allowing a greater opportunity to become employed after graduating which is similar in design to other professional courses.

By designing the undergraduate program to align to the various financial advice occupations, it enables the graduate year curriculum design to dovetail and form a sensible and cohesive learning pathway.

For example:

Graduate Year Financial Advice streams

Financial Planning	Markets	SMSF/Retirement	Risk Adviser	Banking
Advanced financial plan strategies Complex Fin Plan research Superannuation Managed Investments Life Insurance Estate planning	Securities Derivatives* Foreign exchange Margin lending Portfolio construction	SMSF Trustee drivers Limited licence scope (Intermediate Superannuation, SMSF, Managed Investments, Securities, Life insurance, General insurance.) Adv. Retirement income streams Adv. Strategy & structure advice Adv. Pre and post	Insurance broking Life insurance General insurance Reinsurance Loss adjusting Claims	Deposit products and non-cash banking Credit and lending** Margin lending

		retirement planning Adv. SIS Act/Tax law		

Note:*ASX ADA Level 2 **currently not a financial product under Corporations Act

Establishing a vocational undergraduate and graduate program would eliminate the need for occupational centric add-ons and enable better contextualisation of learning outcomes; that is, as a component of the studies not a required bolt-on to "tick a box" for the purposes of employment.

The development of this proposed dove-tail undergraduate and graduate year model requires close involvement and direction by subject matter experts from professional associations to ensure relevant and appropriate program development.

We have illustrated a career pathway including the graduate year in Attachment B.

EXISTING PARTICIPANTS:

The current ASX accreditation has been operating effectively for over a decade. For those currently requiring this accreditation, there is no need for any immediate change for existing participants.

However, those without ADA level 2, this could be incorporated into the Graduate Year once built.

The TPB Tax Agent (financial advice) status requirements are in the midst of implementation, with notification by December 2015 and completed transition (including education components) by 30 June 2017. The introduction of this regime upon financial planners has already introduced a current change requirement, so there is no need for any immediate change for existing participants.

Question 3.2

Is holding a relevant Bachelor Degree the appropriate minimum education requirement?

There are many available definitions which describe the role and responsibilities of a financial professional, commonly it is referred to as a qualified professional who helps individuals and corporations meet their long-term financial objectives by analysing the client's status and setting a program to achieve that client's goals.

Contrasting this job role definition, with the Australian Qualifications Framework and the application of knowledge and skills, the table below indicates that there is little distinction between the learning outcomes of Diploma through to Degree, except for the inclusion of "self-directed work and learning" at the Degree level.

Application of knowledge and skills			
AQF5 – Diploma	**AQF6 – Advanced Diploma**	**AQF7 – Degree**	**AQF8 – Graduate Certificate**

Graduates at this level will apply knowledge and skills to demonstrate autonomy, judgement and defined responsibility in known or changing contexts and within broad but established parameters	Graduates at this level will apply knowledge and skills to demonstrate autonomy, judgement and defined responsibility in contexts that are subject to change within broad parameters to provide specialist advice and functions	Graduates at this level will apply knowledge and skills to demonstrate autonomy, well-developed judgement and responsibility in contexts that require **self-directed work and learning** within broad parameters to provide specialist advice and functions	Graduates at this level will apply knowledge and skills to demonstrate autonomy, well-developed judgement, adaptability and responsibility as a practitioner or learner

The nature of providing help to individuals to meet their long-term financial objectives by analysing the client's status and setting a program to achieve that client's goals by definition must dictate self-directed work and learning depending on the circumstances that arise in each and every client scenario.

For this reason we believe that setting the minimum education requirement to a degree level is appropriate and necessary to match the self-directed work and learning required for financial advice.

Further, as explained below, it is important that existing experienced and well qualified financial advisers that do not have a bachelor degree (or relevant bachelor degree) have appropriate recognition of other accreditation/qualifications that illustrate their competencies.

What is a "relevant" Bachelor Degree?

The current range of "deemed relevant" degrees range from finance, financial planning, commerce, economics, business, tax and accountancy.

Given the broad focus of these undergraduate programs, if the course has not included content on the provision of financial advice and financial products study (as say currently outlined in Appendix A and B of the Regulatory Guide 146 for example) then they would be required to complete a bridging course.

It is well known within the industry that some of the finest financial advice professionals have emerged from careers in teaching as a result of student (customer) centric focus, and, engineering, with their focus on process and systems. The subtle skillsets these occupations have that position these individuals with success for financial advice is possibly learnt and refined from "on the job" exposure rather than from the curriculum of their degree.

Would this requirement limit the ability of other degree-qualified individuals to become financial advisers?

Right now, having specific degree requirements would impact on other degree-qualified individuals becoming financial advisers. However, a bridging course of some type will always be required (i.e. currently RG146 short course) as there are as many "deemed relevant" graduates as "not deemed relevant" graduates that require bridging courses. This is because the curriculum covered by the diverse range for "deemed relevant" courses is so broad many short courses are required to become job-ready. It is incorrect to assume that "deemed relevant" courses will adequately and appropriately cover all sectors of the financial advice industry. Bridging programs will always be required unless the underpinning undergraduate program is standardised and moves to a "bachelor of financial advice" as outlined in 3.1.

As with professional occupations it is accepted that a career change from accounting to lawyer requires significant additional study. Why would we expect less significant additional study for those moving to financial advice?

How differently would the occupation of financial advice be perceived by the community and therefore pursued by the student if a range of double degree options became the norm? For example, law/financial advice, accounting/financial advice etc.

Existing advisers

As explained in our answer to Question 9.3 a robust recognised prior learning (RPL) and recognised current competency (RCC) framework is required to transition existing advisers into the new financial advice regime. Such a prior learning recognition framework should give recognition to advisers that have significant experience and achieved high-level industry accreditation, such as the SMSF Association's Specialist SMSF Advisor accreditation or the FPA's CFP accreditation. This should alleviate the need for experienced advisers to undertake an undergraduate degree where they do not have one or their degree requires further study.

Implementing this framework is crucial to the success of the reforms, especially in regards to reducing the costs of transition for existing advisers and retaining advisers in the market. If costs are too high or too many advisers leave the financial advice market, the costs of financial advice for consumers may become prohibitive. This would undermined the intent of the PJC model changes.

We believe that any adviser who is currently on the ASIC register of financial advisers be placed on a 'probationary approval' until they have illustrated that they have met all of the relevant competency requirements through a transition phase. We have serious concerns for consumer protection at present given that all recognised Tier 1 advisers on the register are only compliant to RG146 standards. These standards have been acknowledged by all as being insufficient for consumers to be able to rely on.

We believe that this approach will also give existing advisers an incentive to undertake the necessary transition requirements in a timely manner rather than wait to the end of the transition period to act. Having "probation" or "transition" status against an adviser's register entry would provide a behavioural incentive for them to meet the transition requirements. We note that the transition arrangements for financial advisers entering the TPB regime for tax advice has a similar framework which appears to be working well.

Question 3.3

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

The implications will be very significant in the transition stage for some of the financial advice sectors.

In recent years, there has been a shift towards higher education qualifications for new entrants into some areas such as financial planning, accounting, SMSF advice, etc.

There are many highly experienced advisers in the financial advice sector who have strong and relevant accreditations (e.g. CFP or SSA), deep practical experience in the provision of advice to clients, have high ethical standards, but who are not degree qualified. The requirement for <u>all</u>

participants, new and existing to hold Bachelor degrees would make the transition cost very high, and unreasonably disruptive and potentially prejudicial to the interests of highly experienced and strongly accredited advisers. If the impact was to hasten their exit from the advice industry, consumer interests would not be well served.

To reduce the impact of the transition for existing participants, the transition rules will require the introduction of a bachelor degree equivalent. There would need to be a process of determining "equivalent" and applying a criteria of evidence of original studies, completed professional development and demonstration of experience to satisfactory equate to the bachelor degree learning outcomes.

Should situations arise where equivalence hurdles cannot be satisfied, then completion of Graduate year assessments should be expected.

Using the current range of common "deemed" relevant undergraduate programs the myuniversity.gov.au website lists there are 179 finance related single degrees available in Australia. Of these only 25 courses have currently been approved by the Financial Planning Association as being appropriate for that advice occupation - are there enough universities providing relevant programs for the broader financial advice industry? (We note, there are universities delivering SMSF studies at a higher level than undergraduate now under the SMSF Association's direction.)

The process to form an advisory education panel (such as an FPEC or similar), standards build, curriculum build, revise existing courses and/or development of new "financial advice" courses and advisory education panel (i.e. FPEC or similar) approval process will certainly take time and money to establish. We estimate, given our experience with education standard setting and working with universities, this will be in the order of at least two years or longer.

Given the current array of entry points for new entrants to join the industry, establishing a single higher threshold, a three year degree, will create a longer timeframe for new entrants to join the industry (whilst having appropriate transitioning arrangements as proposed above). However, given the single intent of this inquiry is to raise the professional standards and education requirements of the financial advice industry, it is a leap that has to be made. The approach of waiting for degree qualified graduates to become the norm over time appears to defeat the intent of this inquiry. However, we stress the need to balance this move to a financial advice degree requirement with appropriate transition rules and recognition for existing advisers as explained above and in our answer to Question 9.3.

Question 3.4

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

As part of the 2014-15 Budget, the Australian Government announced the Upholding Quality – Quality Indicators for Learning and Teaching measure.

https://education.gov.au/upholding-quality-quality-indicators-learning-and-teaching

This measure included a range of surveys and analysis resulting in the Employer Satisfaction Survey Report for the Department of Education, June 2014 conducted by the University of Sydney. This report summarises the outcomes from the Employer Satisfaction Pilot Survey project.

http://docs.education.gov.au/system/files/doc/other/ess_final_report_june_14_0.pdf

The employing organisation ratings of employment characteristics of the graduate is examined:

Table 36: Supervisor overall, technical and foundation skills ratings by workplace characteristics

	Supervisor rating		
	Overall	Technical	Foundation
Enterprise size			
1 to 19 employees	87.0	82.4	91.4
20 to 99 employees	95.8	89.1	95.8
100 or more employees	92.9	86.5	95.6
All	92.4	86.1	94.8
.			
Sector			
Public/Government	93.6	86.6	95.4
Not for profit	93.1	86.2	96.4
Private	92.1	86.1	94.5
All	92.4	86.1	94.8
Industry			
Agriculture, mining, manufacturing, construction, transport, utilities, wholesale trade	95.2	88.0	96.4
Retail trade, hospitality, personal and recreation services	96.1	78.9	94.4
Information, business, financial and property services	88.7	84.0	91.8
Government administration, education, health and community services	92.9	89.3	96.3
All valid industry responses	92.5	86.1	94.8

It is interesting that the industry including financial services rated the lowest overall.

This research provides an independent call for a graduate year to be introduced and conducted by the industry.

By designing the undergraduate program to align to the various financial advice occupations, it enables graduate year curriculum design to dovetail and form a sensible and cohesive learning pathway.

For example:

Graduate Year Financial Advice streams

Financial Planning	**Markets**	**SMSF/Retirement**	**Risk Adviser**	**Banking**
Advanced financial plan strategies Complex Fin Plan research Superannuation Managed Investments Life Insurance Estate planning	Securities Derivatives* Foreign exchange Margin lending Portfolio construction	SMSF Trustee drivers Limited licence scope (Intermediate Superannuation, SMSF, Managed Investments, Securities, Life insurance, General insurance.) Adv. Retirement income streams Adv. Strategy & structure advice Adv. Pre and post retirement planning	Insurance broking Life insurance General insurance Reinsurance Loss adjusting Claims	Deposit products and non-cash banking Credit and lending** Margin lending

		Adv. SIS Act/Tax law		

Note:*ASX ADA Level 2

Establishing a vocational undergraduate and graduate program would eliminate the need for occupational centric add-ons and enable better contextualisation of learning outcomes; that is, as a component of the studies not a required bolt-on to “tick a box” for the purposes of employment.

The introduction of a Graduate year would delay the timeframe for participants to start providing unsupervised advice on Tier 1 products to consumers, however, the increased practical knowledge acquired through a graduate year would provide a universal consumer protection safety net across the entire advice industry regardless of the business model employed by the licensee.

The practicalities of conducting a graduate year will impact on all areas of the industry depending on who is given the remit.

If the professional associations are responsible for managing the Graduate year (via PJC co-regulatory model)

> This would require a graduate to nominate (join) the association that can provide them with a graduate year and provide ongoing professional development in the stream they elect after completing their undergraduate program.
>
> There is no professional association within financial services currently equipped to fully manage a financial advice graduate year. It would demand effort and resourcing into development, building and execution.
>
> Certainly one or two associations have the framework in place to extend upon their current graduate year programs, however, as these are unrelated to financial advice (i.e. accounting), no association is “ready to go”.
>
> Managing a Graduate Year can range from conducting all the theoretical training and work-placed learning with the graduate member through to just developing a development plan and case managing its execution with the graduate member.
>
> Conducting all the theoretical training and work-placed learning would be a huge impact on all the current Associations as no single association has the required subject matter expertise to develop, conduct and manage the variety of advice areas a graduate might need – which is why there is the current demand for specialist associations.
>
> If a Graduate Year model based on vocation focus was adopted, as outlined above, then an approved Association’s Graduate Year would maintain and build upon the undergraduate curriculum and focus on the quality and contemporary issues facing their sector.
>
> This model supports the concept presented in the PJC report which speaks to approved associations being only those that have individual member bases. There are currently only five associations that have dedicated themselves solely to the development of individual members; coincidently there are five Graduate Year streams in the model we have provided.

If the licensees are responsible for managing the Graduate year as an alternative model (i.e. via ASIC)

> Practically, licensees will need to have a central role in administering a graduate year in conjunction with professional associations, especially in regards to on the job experience and mentoring

Under the current system, there is no standardised entry requirement other than attainment of RG146 in all its various forms and no standardised first year employment structure. This has resulted in inconsistency of performance not only for consumer but also for the second and subsequent employer of the individual. It is unlikely that under current conditions, licensees have the appropriate knowledge or resources to administer a graduate year without professional association involvement.

We believe that greater interaction between professional associations and licensees in running a graduate year, in addition to increased education standards and professional association membership will resolve current issues and provide an effective graduate model.

Regardless of the administrator of the graduate year, it will require a graduate to gain employment in the advice sector and be appointed a mentor. Appropriate mentor criteria will need to be established, based on education and experience etc. Will there be enough appropriate mentors for the Graduate Year system to operate effectively?

One of the key elements for success of the Graduate Year is to start the career pathway in the undergraduate program. This will enable the student to gain an appreciation of the various financial advice pathways available during their foundation years and be in a position to make an informed choice regarding their preferred Graduate Year program.

If the career pathway is not commenced in the undergraduate program, then by introducing the graduate year, as a cold start, at the time of entry into employment may encourage the graduates to chop and change to settle on the right financial advice pathway for them. We would also encourage flexible graduate year requirements which allow for people to undertake their bachelor degree part-time and graduate program concurrently. We note that this arrangement is available for other professions such as the legal profession.

Upon completing the Graduate Year in their selected stream, with knowledge and skills systematically built upon from undergraduate through to their graduate year, the practitioners will be better placed to undertake their professional year; better practitioners with specialist skills earlier – a good outcome for consumers and the industry.

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 the role of a standard-setting body?

- 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?

The development of the dove-tail undergraduate and graduate year model requires close involvement and direction by an industry education board or council, which should be comprised of subject matter experts unfettered by corporate bias.

We believe that a Ministerial Council (we are referring to this body as the Financial Services Professional and Education Standards Board (FSPESB)) should be established and should stand independent of regulators. This council should be made up of independent ministerial appointees with support from professional associations through a Financial Services Education Advisory Council (FSEAC) that advises on developing education standards. Appropriate ministerial appointees could include subject matter experts, a retired member of the judiciary, an ethicist, eminent members from the financial services industry, etc. These appointees should not have any professional or commercial conflicts in sitting on this body. Governance processes and decision making for this proposed FSPESB should be by majority decision making, rather than unanimous decision making, to avoid deadlocks and any one FSPESB member holding FSPESB to ransom because of their own strongly held views.

We believe that this the body should be supported by a committee comprised of approved professional associations, ideally one for each advice stream. Our experience is that standards development by large and diverse committees can be ineffective where there is no clear leader. This can result in either diluted or biased outcomes.

Industry led support for developing education standard and curriculum is more appropriate than having a regulator such as ASIC undertake this role in the pursuit of professionalism. Further, ASIC has stated repeatedly that they do not regulate education, hence their withdrawal from the approval process of RG146 courses via the ASIC Training more than three years ago.

We believe that current suggestion of approval of professional associations by the Professional Standards Council and the resulting limited liability scheme status is too complex and onerous and would prove to be seen as consumer detriment at this stage in rebuilding the confidence and trust in financial advice professionals. The Professional Standards Council also requires significant legislative change to be able to be the approval body (through the Professional Standards Authority (PSA)) as well as approving the limited liability scheme for professional associations offering product advice and sales.

However, we are strong advocates of utilising specialists and are committed to building a community of SMSF advice specialists. Aligned with this principle of utilising the existing "specialist" entities for each element of the professionalisation build is eminently logical.

Therefore, the overarching consumer protection philosophy, processes and systems employed by the Professional Standards Authority, the secretariat of the PSC, should not be dismissed. A mid-way approval process which encompasses all of the elements of association approval without the aspects that specifically relate to limited liability should be maintained and applied to this approval process.

An alternative to this augmented PJC model is a broader model which we described briefly above and in Attachment A. This hybrid model is based on the Accounting Professional and Ethical Standards Board (APESB) model in accounting which sets a broad code of conduct and ethics for accountants and is picked up by the Corporations Act and ASIC regulation. In this proposed model, the industry body (equivalent or similar to that of APESB) establishes both education standards that encourage ethical behaviour and a broad financial advice code of conduct. Effectively, the education role remains with industry but removes the need for a code approval body such as the PSC. This is detailed in the Attachment.

We believe that the examination assessments process should be developed by ministerial council with industry support. This model should set fees which are sufficient to cover the administrative costs of ASIC invigilation which also include a suitable recompense for the development costs incurred by the industry advisory panel members/associations.

As a result of using demonstrated expertise, we believe the best co-regulatory model would be as outlined below:

Professionalisation components	PJC Recommendation	Augmented PJC model	SMSF Association proposed hybrid model
Education	AQF7	AQF7	AQF7
Training standards	Graduate Year by Professional associations	Graduate Year by Professional associations	Graduate Year by Professional associations
Registration	ASIC Register	ASIC Register	ASIC Register
Structure and body of a standard setting body	Industry driven panel comprised of Professional Standards Council (PSC) approved professional associations, academics and consumer representation	Industry driven panel comprised of *Professional Standards Authority (PSA)* approved professional associations, academics and consumer representation	Ministerial appointed committee supported by industry advisory group. (similar to APESB)

Examination (administration and invigilation)	Approved PSC Professional associations	ASIC	ASIC
Ongoing professional development	Approved PSC Professional associations	Approve PSA Professional associations	Professional associations that are part of standard setting body
Professional and ethical standards	Approved PSC Professional associations	Approved PSA Professional associations	Ministerial council sets both conduct and education standards with support from industry advisory group

In all scenarios, professional associations advising the FSPESB should be limited to those associations that can demonstrate their systems, process and ethos have focussed on enhancing the professional knowledge, skills and behaviour of their members.

By definition; professional standards target improving and monitoring individuals:

- *standards of education and training that prepare individuals with the particular knowledge and skills necessary to perform the role of that profession.*
- *codes of conduct enshrining rigorous ethical and moral obligations*

We believe that corporate membership skew attention and focus away from this individual advancement.

<u>Transition arrangements</u>

The PJC concept provided a three year transition period for associations to achieve the status of "approved association". During this transition period, any association could signal intent and form part of the initial advisory group. Any approval process, regardless of who is the relevant approval body (whether it be the PSC, PSA or ASIC) needs to have increased scrutiny applied to "transition entry". A signal of "intent to seek approval" is too broad and provides an opportunity for initial influence and no longer term commitment by the various associations which exposes the advisers and consumers to a range of risks during that three years period.

<u>Funding:</u>

The PJC suggested an initial investment of $50,000 should be sufficient to establish an industry advisory panel (FPEC) to set education standards. We believe that this funding model is not sufficient, especially in the build phase of new standards.

The remit of this group should be to establish education standards and required curriculum for the undergraduate program, set the curriculum criteria for the graduate year program in tandem with the appropriate professional associations, approve undergraduate and graduate programs and build the examination and assessment standards and criteria for the graduate year.

Contemplating the reality of the remit of the FPEC/ FSPESB to set and maintain education standards, $50,000 is grossly underestimated. We believe that in order to establish this process successfully it will require dedicated resourcing and technology investment; similar to the model applied to the establishment of the Tax Practitioners Board.

This issue would extend to our hybrid proposal too. (Refer to Attachment A)

Genuine commitment to building professional standards in financial advice will require a Government funding commitment to ensure that standards that are built in a genuine and robust manner and are then sustainable and enduring.

Question 4.2

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

There are two alternative frameworks to pursue the objectives of higher education, ethical and professional standards - namely, an ASIC model and a 'hybrid' model being proposed by the SMSF Association.

The first alternative may be a regulatory solution by ASIC. However, we strongly believe that financial advice requires professional individuals who are encouraged to be self-directed in their work and learning to achieve the best outcomes for their clients.

This professional encouragement model cannot be achieved by a regulatory solution which by definition is driven through a compliance lens and maintaining acceptable minimum thresholds.

This minimum standard set by a regulator model has been operating for financial advice for over a decade and has not been successful in ensuring an appropriate standard for financial advice training and education. Previous elements of the ASIC minimum standard approach do not align with the PJC model's ambitions:

KEY COMPONENT OF PJC MODEL	EXISTING ASIC PROCESS AND POWERS
Education	No requirement (RG 146.59)
Training standards	RG146 last significant curriculum content update 2008
Registration	Responded to Government request in 2015
Structure and body of a standard setting body	ASIC Training Register suspended in 2012
Examination	Nil
Ongoing professional development	No quality or quantum specified (RG 146.14)
Professional and ethical standards	RG183; no code has been approved and *RG183.76* applies significant restraint to

association codes being approved

The question must be asked, why would an ASIC regulatory model work now?

We believe that there must be a financial advice “regulatory rethink” which includes all parties having responsibility to contribute their demonstrated expertise.

Following this philosophy is our hybrid proposal described above and detailed in Attachment A. This model maintains a focus on professional associations building the required standards but with a greater role for ASIC in adopting proposed conduct and education standards through the Corporations Act.

Feedback sought — 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?

Requiring financial advisers to meet registration requirements and then be registered in order to provide financial advice is an appropriate mechanism to ensure that only advisers that have attained the required education and competencies are providing financial advice.

Also, allowing consumers to check whether an adviser is registered and has met the education and training requirements to be providing the relevant financial advice will help build consumer trust in financial advice.

While registration should provide an effective mechanism to ensure that only appropriately qualified advisers are providing Tier 1 advice, its effectiveness will depend heavily on ensuring that the underlying registration requirements are of an appropriate standard and effectively enforced. We believe that the best result for the register will be achieved through co-regulation where professional associations, individual advisers and licensees are involved in registering with ASIC.

A substantial issue regarding the proposed PJC model of registration is that it envisages advisers to have a single professional association that looks after all of their needs, including registering them on the ASIC register. We believe that this element has **three key downside risks**:

1. It does not reflect the reality that many advisers are members of multiple professional associations.
2. It will discourage advisers from specialisation in particular areas of financial advice.
3. No single association has the subject matter knowledge across all sectors of advice.

It is normal for financial advisers to belong to more than one professional association and undertake education/CPD through those associations. For instance, an accountant providing Tier 1 financial advice may be a member of an accounting association (e.g. CAANZ, CPA, and IPA) as well as the SMSF Association if they have a strong focus on advising SMSFs. Similarly, a financial planner may be a member of the Financial Planning Association of Australia (FPA) and the SMSF Association or a stock broker could be a member of the Stockbrokers Association of Australia and the SMSF Association or FPA. For these advisers, their education/CPD and professional needs are met by multiple associations that underlie the types of advice they deliver to clients within the financial services regime.

The PJC model of requiring an adviser to register through one association does not reflect that advisers seek the benefits of professional association membership from multiple sources with specialist services coming from different associations. The PJC model does not reflect this and instead appears to be predicated that one professional membership will meet all of an advisers needs.

Further, the single association registration requirement will discourage advisers from specialising in niche areas of financial advice. We believe that in order to comply with the PJC model's requirements, advisers/licensees are likely to select one association that covers their broad needs for education and CPD. This will have the detrimental effect of advisers taking on less specialised education and CPD, which will result in poorer advice for consumers, especially in complex areas such as SMSF, estate planning, business succession, complex investments (i.e. derivatives), etc. This could also endanger the role of specialist professional associations in the broader financial advice landscape.

We note that it is common in other established professions for professionals to have more than one professional association membership, especially where they have a specialisation. For instance, medical professionals will often be a member of the Australian Medical Association and also a member of the specialist association (i.e. Royal Australasian College of Surgeons, Australian Association of Plastic Surgeons, etc.).

As indicated above, we believe it is more appropriate that advisers are registered with ASIC by their licensees with support being provided by professional associations in verifying education and CPD records of members. This will remove these downside risks of having a gravitation towards a single professional association.

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?

As explained above we believe it is more appropriate that licensees undertake this function within the PJC model as they are ultimately legally responsible for the competency of their advisers and the advice that they provide. Professional associations are not liable for the advice provided by members, even though they monitor the education, training, and professional conduct of members. This level of responsibility for professional associations is common for professional associations in other industries. Following on from the example of the medical profession above, the AMA is not liable for the quality of treatment provided by one of its members.

This registration role of licensees can be supported by professional associations in verifying whether an adviser that is a member has attained the required education/training requirements and has not breached any relevant ethical or conduct requirements. Professional associations already have some of the capabilities required to undertake this role. For example, the SMSF Association has had a disciplinary process where members have been removed from our membership for breaches of our code of conduct or not meeting their CPD obligations.

In effect this has been happening with the existing financial adviser register, with a number of licensees contacting the SMSF Association to ascertain whether an adviser is a member, or is accredited by our association. Effectively, this provides a cross-check between information held by licensees and professional association. We believe that this is an effective form of co-regulation between licensees, associations and ASIC, and is constructive to building consumer confidence in financial advice.

Further, licensees may be better resourced to undertake this compliance role as they have this role already in regards to the ASIC register. Professional associations review and audit members annually, but generally this is done on a percentage of total membership/survey/random basis or of a complaint is received, rather than auditing all members on an annual basis. In a co-regulatory approach involving licensees and professional associations the burden of checking an adviser's qualifications, training and conduct is spread between licensees and professional associations, reducing costs for both and increasing the accuracy of the register.

The only way the register is to be more accurate is to have mandatory membership of professional associations so that all registered Tier 1 advisers are captured.

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?

We support having these additional criteria added to the register as we believe they will provide much needed integrity to the register of financial advisers.

As a result, there will be more compliance activity for licensees, professional associations and ASIC. However, as described above, if licensees take the key role in registering advisers, the burden can be shared in a co-regulatory manner. Over time will become an efficient system which meets consumers' needs to be able to verify an adviser's credentials, particularly if the mandatory membership criteria forms part of the system.

Question 5.4

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

SMSF advice **must** be listed as a separate specialist advice area on the Register in addition to the current 12 specialist areas of Subject Matter Expertise (SME). There are other complex advice areas that require specific expertise that could also added to the Register.

There are 13 current financial product specialist knowledge areas which underpin the segments of the financial advice sector. They are:

- Financial Planning
- Managed Investments
- Basic Deposit Products and Non-cash payments
- Margin Lending
- Life Insurance
- General Insurance
- Insurance Broking
- Securities
- Derivatives
- Foreign Exchange
- Superannuation
- Regulated Emissions Units
- SMSF (not yet approved as a specialist subject matter of expertise)

External to the 13 financial product specialist areas, there is Banking, Credit and Lending

While it has been acknowledged by all that SMSF advice must be included as a specialty area and is a complex area of advice covering subject matter areas of pre/post retirement, complex tax and structures, strategic and limited licensing advice etc. ASIC has not taken the requisite steps to progress its inclusion. ASIC has publically acknowledged it has a very low risk tolerance to the SMSF sector and has introduced a range of misconduct programs. As an aside the ATO, as the regulator for SMSFs, has consistently acknowledged the importance and the stability of the SMSF sector highlighting that compliance in the SMSF sector is quite high.

Based on the SME above, plus the inclusion of SMSF Advice, we believe a segmentation of financial services sector into at least four segments – financial planning, markets, risk and SMSF is appropriate.

We also believe for a full picture of the financial services sector that banking, credit and lending should form part of the system when considering building a profession. This is why in subsequent sections, we have determined that there are five segments to consider when developing education and curriculum standards - financial planning, markets, risk and SMSF/retirement and banking. We have acknowledged retirement aligning with the SMSF advice expertise as this is an appropriate part of the SMSF advice expertise to highlight the broad range of the SMSF advice SME.

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?

As explained in the previous questions, we believe that licensees should maintain their role in registering advisers with the ASIC Register with support from professional associations in a co-regulatory manner. Professional associations would need to be able to notify the licensee and ASIC directly if the adviser's circumstances changed.

This would require a direction relating to confidentiality issues and criteria would need to be set so that financial advisers could not shop around for professional associations if they had been removed from one association for breaches of codes or similar.

Question 5.6

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

Previously, we have not endorsed the need for these terms to be protected by legislation as the existing standards have not justified a protected term.

With registration limited to those that have met the relevant standards, the term 'financial adviser' should be limited to those that have met the relevant standards and are registered.

We do not believe that 'financial planner' is needed as a protected generic term for advisers as this would cause confusion for consumers, as financial planning is a specialisation of the broader area of financial advice.

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?

We believe that examination is a useful test of baseline knowledge.

However, given that financial advice is guidance, the success of quality financial advice centres on the soft-skills of the guidance provider. These soft-skills cannot be satisfactorily assessed by the suggested examination.

We believe there should be a range of assessments throughout the undergraduate and graduate year that assesses both soft and hard skills across a wide range of topics. We believe the industry body (FPEC/FSPESB) should set the requirements for assessment (with support from FSEAC) and associations should prepare their members to undertake a final knowledge examination, with criteria set and approved by FPEC/ FSPESB and invigilated by ASIC through their existing examination facilities. Of course, the Graduate year is not the end-point in professional development and given the diversity of the financial advice industry, continuing to pursue specialist knowledge and status provides for the industry participant a continuing career challenge and for consumers a range of specialists who have honed their knowledge and skills to specific complex areas.

Examinations as means of testing specialist knowledge as part of professional programs in specific complex financial advice areas is appropriate.

International standards exist for Recognition of current competency (RCC):

- Valid – must demonstrate competence that relates to the specific scope of advice.
- Sufficient – sufficient evidence must be provided to cover all aspects of competency and show consistent, repeatable performance to the required standard.
- Current – must demonstrate current performance. CPD records.
- Authentic – must belong to the candidate.

For existing financial advisers this might include:

1. Copies of qualification transcripts
2. Copy of three years of verified CPD records
3. References
4. Currency assessment (changes in recent year etc. (We do not envisage existing advisers to undertake the graduate year exam unless they fail RCC)

Our association has implemented an online currency assessment for our members to utilise to guide them in their professional development needs. Feedback from members indicates this is simple tool gives them a benchmark of their strengths and gaps and a CPD map for the coming year. We would suggest that this concept should be developed by across the various sectors.

Question 6.2

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

The required learning outcomes being assessed should be established by the FPEC/ FSPESB. These learning outcomes will require assessment of soft and hard skills which can be incorporated in to the undergraduate program and graduate year.

As means of entry for registration a final knowledge examination should be developed by members of FPEC/FSPESB. A purposeful broad scale, whole of industry examination is not possible given the breadth of the sectors.

However, having designed a dove-tailed undergraduate and graduate program that starts channelling individuals towards their ultimate speciality, this reducing the scope of the examination of the graduate year and enables more complex than generic learning outcomes to be examined.

There are significant costs to prepare and undertake examinations. The sitting fee should be based on cost recovery and disbursed to the entity/ies that incurred the expense.

An outline of practical steps to introduce a final knowledge examination for financial advice can be achieved by referencing the ASIC SMSF Auditor Competency exam introduced in 2013:

- http://asic.gov.au/for-finance-professionals/self-managed-superannuation-fund-smsf-auditors/applying-for-smsf-auditor-registration/smsf-auditors-competency-exam/

The decisions and development of the final examinations need to address the following aspects:

- Who needs to pass the exam?
- What is the exam?
- Is there a pre-requisite course of study for the exam?
- How will the exam be booked and delivered?
- Where and when will the exam be provided?
- How many attempts to pass the exam do participants get?
- What is the pass mark?
- What do the exam questions cover (what is the syllabus)?
- What material is useful in preparing for the exam?
- What reference material do I need to bring with participants?
- Are there other exam details or rules that participants need to be aware of?
- Who is the contact for further queries about the exam?

Question 6.3

What content should be covered in the exam?

Graduate Year Financial Advice streams

Financial Planning	**Markets**	**SMSF/Retirement**	**Risk Adviser**	**Banking**
Advanced financial plan strategies Complex Fin Plan research Superannuation Managed Investments Life Insurance Estate planning	Securities Derivatives* Foreign exchange Margin lending Portfolio construction	SMSF Trustee drivers Limited licence scope (Intermediate Superannuation, SMSF, Managed Investments, Securities, Life insurance, General insurance.) Adv. Retirement income streams Adv. Strategy & structure advice Adv. Pre and post retirement planning Adv. SIS Act/Tax law	Insurance broking Life insurance General insurance Reinsurance Loss adjusting Claims	Deposit products and non-cash banking Credit and lending** Margin lending

Note:*ASX ADA Level 2

TRANSITION:

Existing advisers who have not been able to satisfy the RCC evidence requirements within the transition time frame can undertake the graduate year exams as dictated by their scope of advice authority to show they satisfy the required competency level. However, we do **not** agree that all existing advisers should be required to undertake the graduate year examinations.

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?

The required learning outcomes being assessed should be established by the FPEC/FSPESB.

These learning outcomes will require assessment of soft and hard skills which can be incorporated in to the undergraduate program and graduate year.

As means of entry for registration a final knowledge examination should be developed by members of FPEC/FSPESB and conducted using existing ASIC examination facilities:

- https://aslau-asic.aspeqexams.com/
- http://asic.gov.au/for-finance-professionals/self-managed-superannuation-fund-smsf-auditors/applying-for-smsf-auditor-registration/smsf-auditors-competency-exam/

A purposeful broad scale, whole of industry examination is not possible given the breadth of the sectors.

However, having designed a dove-tailed undergraduate and graduate program that starts channelling individuals towards their ultimate speciality, reduces the scope of the examination of the graduate year and enables more complex than generic learning outcomes to be examined. Subject matter expert professional associations that are part of the FPEC/FSEAC should have influence over the content and form of the exam relevant to their knowledge area and be eligible to be a training program provider.

There are significant costs to prepare and undertake examinations. The sitting fee should be based on cost recovery and disbursed to the entity/ies that incurred the expense in developing the content.

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?

We agree with the proposal for approved associations (PSA or FSPESB/FSEAC as part of our proposed hybrid model) to set the required CPD in alignment with other industry CPD policies to achieve a level of cross industry standardisation.

We believe that Advisers should be required to do CPD that aligns with the advice they provide under their authorisations.

Our association has implemented an online currency assessment "CPD Compass" for our members to utilise to guide them in their professional development needs. Feedback from members indicates this is simple tool gives them a benchmark of their strengths and gaps and a CPD map for the coming year. We would suggest that this concept should be developed by across the various sectors.

CPD programs should encourage industry wide ongoing learning without detracting from the specialty areas of knowledge.

Question 7.2

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

We believe that professional associations with individual members are well-placed to administer the ongoing professional development requirements of financial advisers.

For those associations with individual members, there is already a requirement for those associations to have processes and systems in place to foster, deliver, manage, record and monitor their members' professional development. This should also include management of disciplinary programs where evidence can be obtained from history and records.

Feedback sought — professional and ethical standards

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?

Under the proposed PJC model, it would be likely that there would be a number of codes of conduct that cover the financial advice profession as is the current case. However, we do note that while there has been no effort to standardise or homogenise the existing codes of conduct, there are many common elements that can be found across different professional associations' codes.

We do not believe there is a concern in having multiple codes of conduct. Codes will differ where associations cover different parts of the financial advice landscape. For instance, it is to be expected that the SMSF Association's code of conduct would differ to that of the FPA and the Stockbroker's Association of Australia due to the different areas of advice that the associations cover.

An alternative approach would be to develop a broad financial advice code of conduct which addresses the PJC model requirements and is endorsed in both the Corporations Act (giving ASIC ability to use the code as part of its regulation of financial advisers) and by professional associations, as outlined in our hybrid proposal. In addition to this basic code, associations can have "extra" parts to their code that meet their specific needs.

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?

In order to have a code approved by the PSC, many existing association codes would need to be rewritten to meet the PSC's guidelines and expectations. While this would not likely make codes more homogenous, it is likely that codes will be of a similar standard of quality and rigour.

However, this result can be achieved by having another body oversee code development. There are two alternative approaches which could be considered for code approval:

- ASIC; or
- An independent professional standards body that could develop a standard code for financial advice.

ASIC could take a central role in approving codes of conduct of professional associations that are involved in the regulation of financial advice. This would leverage off ASIC's existing role as the financial advice regulator.

However, we would be wary of ASIC undertaking its role as, being a regulator, it has traditionally focussed on regulating misconduct rather than promoting and fostering professional conduct. Also, ASIC has an existing code approval power under the Corporations Act but has never exercised it to approve a code of conduct for financial services. ASIC's approach to approving codes of conduct (as specified in RG 183) seeks to harmonise codes for financial services into a single code, rather than approve multiple codes. This would seem mismatched to the objectives of the PJC model.

Further, we would be concerned that the role of ASIC approving codes, without strict legislative criteria to follow would likely result in the introduction a set of conduct rules based on compliance. This differs from the intention of the PJC to have codes of conduct that primarily seek to encourage ethical behaviour of individual advisers.

A second option is for an independent industry professional standards body to establish a board industry wide code for financial advice. This would operate in a similar manner to how the AASB and APESB set conduct rules and ethical standards respectively for the accounting profession in Australia. Using this approach would bring the benefits of independence in creating financial advice conduct rules with influence from professional associations who are in the best place to understand and represent their members. The conduct and ethics requirements from this body would be endorsed through the Corporations Act and mandatory for those registered as financial advisers.

This would be part of a "hybrid model" that we will are putting forward to Government in Attachment A.

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?

After the Government roundtable held on this issue by the Assistant Treasurer on Wednesday 29 April 2015 it is clear to us that there are three clear models to drive improvements in financial advice. In addition to the current PJC model there is a model focussed on ASIC setting and administering financial advice standards and also a model where the PSC can approve associations to be part of the FPEC arrangement without a limited liability scheme. We believe a fourth "hybrid" model should be considered too.

The PJC model proposes a radical shift in how financial advisers are regulated, especially with the introduction of the PSC in approving which associations are able to be part of the proposed FPEC. While we acknowledge that the PSC is a leading body in improving and fostering professions, we believe that applying for a PSC limited liability scheme to be part of FPEC is too onerous and costly for professional associations. A large part of this cost is driven by the PSC's assessment of an association to be worthy of a PSC limited liability scheme. For example, the PSC approval process would involve compiling a long professional indemnity insurance claims history of an associations members. (We also note, that such requirements can make it difficult for new or emerging professions to fulfil the PSC application criteria).

The need to have a limited liability scheme from the PSC does not seem to be necessary to prove that a professional association is bona fide in its ability and intentions to raise the standards of financial advice. As discussed below, we do not believe that a limited liability scheme is an appropriate mechanism for improving professionalism in financial advice at this current time.

The PSC does not currently cover any professional associations which focus on providing financial advice, and hence there are no limited liability schemes that cover Tier 1 financial advice and product sales. Accordingly, it is difficult to gauge whether membership of a PSC scheme would be effective in raising financial advice standards. We also note that the PJC report did not undertake a cost-benefit analysis of whether PSC limited liability schemes generally improve services to clients or would be effective in the financial advice landscape.

Existing PSC scheme approval has been limited to professions with a single occupation. This may make it difficult for associations that have a multi-disciplinary membership to attain a PSC scheme. Multi-disciplinary associations are important in the context of financial advice, where advisers can have a number of professional backgrounds (i.e. finance, accounting, law, tax, etc.).

Accordingly, we believe that alternative proposals to the PJC report proposal should be considered.

Alternative Proposal - PSC as gatekeeper without limited liability scheme – the Professional Standards Authority (PSA) model

The existing PJC model could be augmented by removing the requirement to have a limited liability scheme but retain association approval by the PSA, the current approval body for the PSC.

This model has the benefits of having an independent authority acting as gatekeeper that can verify if an association is appropriate to be part of FPEC arrangements. The PSA could build on their existing code approval framework with changes to their powers and criteria to deliver this service, without requiring a limited liability scheme.

This would present a less complex and costly option for associations to enter the FPEC arrangement. As explained above, we believe the majority of cost in applying to the PSC under the PJC model is involve in seeking a limited liability scheme. At the same time, the PSA's expertise in developing professions and improving professional conduct can assist in association's building effective codes of conduct and disciplinary procedures require to move financial advice to a profession.

A more streamlined role for the PSA would also reduce the time it takes for associations to apply for approval to be part of the FPEC or similar arrangements.

While there are these positive elements of an augmented PSA model, there is uncertainty to whether the PSA's existing legislative powers can allow it to undertake this role, and whether the PSA would want to add this role to its existing PSC scheme administration business. This proposal also sacrifices the added safeguards of associations undertaking a full application with the PSC.

Alternative – ASIC as gatekeeper

Another possible gatekeeper to associations joining the FPEC/FSPESB arrangement could be ASIC. Having ASIC take a central role in regulating who joins FPEC/FSPESB has the upside of possibly being less complex than a PSC/PSA scenario and less costly for associations initially. We note that ASIC has existing code approval procedures under the Corporations Act and RG 183.

If ASIC were to take this role though, we would have significant concerns that ASIC would be able to appropriately fulfil this role. Factors which would concern us are:

- We believe that during its time as a regulator of financial adviser standards the ASIC-led approach has not established a successful model for improving standards of financial advice. Accordingly, we do not believe there is sufficient industry confidence in ASIC taking on a role as a gatekeeper in the PJC model.
- An approach that focusses on "top-down" regulation rather than a co-regulatory approach
- A focus on regulating misconduct rather than developing a financial advice profession

- A focus on compliance based codes of conduct approval instead of the proposed encouragement of codes that promote and foster ethical behaviour
- ASIC's approach to code approval which seeks to homogenise financial services codes, resulting in no industry codes being approved by ASIC.
- Blurring ASIC's role between regulating compliance with setting financial advice standards
- ASIC already facing significant resourcing issues in regulating financial advice without further responsibilities being added

Further, we would have stronger concerns regarding a model where ASIC seeks to set a standard adviser exam, set education and CPD requirements, and register advisers without the involvement of professional associations. We believe that this model would merely change the existing RG 146 compliance focussed model with an exam (albeit with higher education standards).

We do not believe that a standard exam focussed model would bring about the desired shift to a more professional financial advice sector. This approach would merely set a new minimum for advisers to reach rather than promote ongoing education and continual professional improvement. We believe that a standard exam would spawn education program aimed at passing the exam rather than building in depth knowledge and understanding of financial advice.

This would replicate the existing compliance focused RG 146 model which is inherently different to the professional model that the PJC model is promoting.

Alternative proposal – hybrid model

We have developed a hybrid model which is based on the APESB governance and ethical model which could be used to advance professionalism in financial advice.

This model utilises an independent committee that is advised by an industry council to develop both education standards and an industry wide "financial advice code of conduct".

We believe that this model would achieve the PJC model objective but in a more streamlined manner that leverages an existing successful model of professionalism and current industry resources.

Please see Attachment A for the details of this proposal.

Question 8.4

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

As explained above there are a number of complex practical issues facing the PJC model using the PSC and limited liability schemes to determine membership of an FPEC/FSPESB arrangement.

Under the proposed model, ASIC would be limited to a compliance role without direct involvement in education and professional standards. We propose that the PSC as a member of an advisory committee is an appropriate model.

Question 8.5

What are the practical implications of requiring professional associations to hold a PSC-approved scheme?

Please see our answer to question 8.3 above.

Approval of a scheme under the PSC has previously meant capped liability for participants.

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?

We do not believe that a limited liability scheme is appropriate for improving the professionalism of financial advice at the current time. The current level of professionalism in financial advice does not warrant a limited liability scheme. Implementing a limited liability scheme for financial advice would not foster improved consumer trust in financial advice at the current time.

Seeking a limited liability scheme should be an independent choice for a professional association and its members, not a compulsory element of broader financial advice regulation.

Further, existing professional indemnity insurance requirements, and ASIC's capabilities to monitor adherence to professional indemnity insurance requirements, should be reviewed. Ensuring an appropriate standard of professional indemnity insurance in the financial services sector and a more systemic regulatory approach by ASIC would resolve many of the issues experienced by investors who have suffered financial losses in the past due to the misconduct of their financial advisor. This is essential in fostering consumer trust in financial advice. Professional indemnity insurance and third party compensation schemes are still to be reviewed as part of the FOFA reforms.

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?

As explained above, a major limitation is that existing legislation restricts the PSC to considering single vocation associations, excluding multi-disciplinary associations from attaining a PSC scheme. We believe legislative changes would be required to the varied professional standards act across state and federal jurisdictions to allow for multi-disciplinary associations or new professions to be considered.

We also note that there are no PSC schemes that cover Tier 1 financial advice and so there are no associations that are eligible at the current time.

Question 8.8

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

As discussed above, and in Attachment A there are alternative models for approving participating associations but do not involve a PSC limited liability scheme. Our preferred model is a hybrid model as detailed in Attachment A.

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?

As discussed in question 2, we do not believe that licensees' responsibility to ensure they have competent advisers should be abrogated by an increased role for professional associations under the PJC model. As licensees and advisers are legally responsible for advice delivered to clients, their responsibilities should not be greatly diminished and professional associations should not be legally liable for advice delivered by a member.

Professional association membership is a key tenant of a profession, as individuals become part of a broader community that seeks to improve standards of conduct and behaviour. Professional association membership ensures that a financial adviser will be personally accountable to a code of conduct, ongoing professionalism and peer reviews and CPD training requirements. These standards maintained by professional associations are important in fostering consumer trust.

Associations are the right vehicle to improve adviser quality and behaviour as there should be less commercial conflict than other entities that are part of the financial advice sector, as associations do not stand to profit from the delivery of advice.

We accept that there will be some cost shifted from licensees to professional associations under the PJC model, especially in verifying education/CPD requirements, as well as monitoring aspects of adviser behaviour. Professional associations will need to invest to ensure they have appropriate governance and review programs to meet their required role under the PJC model. The new framework must encourage an early adoption of the transition by the individual advisers. Please refer to questions 9.3 and 9.4.

It will be important that advisers cannot "forum shop" if they banned from a professional association for not meeting required education or ethical standards. This will require cooperation between licensees, ASIC and professional associations.

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?

Whilst acknowledging that consumers want different financial advice from different types of providers via different access channels, such as general insurance over the phone or the internet, deposit products from bank tellers, in reality it is difficult to separate out training and competency requirements for Tier 2 financial advice from Tier 1.

We would agree that the complexity of the product aligns to more self-directed consumer approach, easier to understand equates to easier to self-select.

However, from an educational perspective, the quality of learning outcomes and measurement of competency should not vary depending on the complexity of the subject, it is the content that changes.

For example, take a course that an insurance broker might do for life insurance (Tier 1) and general insurance (Tier 2): from an education perspective, the approach would not be changed mid-course dependent on the product being discussed.

Similarly a holistic statement of advice provided by a financial planner is not separated into Tier 2 and Tier 1 advice categories, to the consumer it is a comprehensive advice statement that may include Tier 2 products and Tier 1 products. The education standards should be consistent.

We believe in consistency across the entire financial advice sector, mindful that many advisers provide advice on both Tier 1 and Tier 2 products that FPEC/FSPESB should develop education standards and curriculum for both.

We appreciate that expecting higher professional and educational standards presents a significant issue for those licensees who quarantine Tier 2 financial products advice to specific delivery areas i.e. bank tellers and call centres, this issue would need to be resolved as part of the FPEC/FSPESB considerations.

We believe that training and competency standards should, for consistency and integration with Tier 1 advice areas, be within the remit of the FPEC/ FSPESB.

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?

We believe that the education needs and wants of the industry are best driven by the industry in partnership with educators and consumers and current international standards for Recognition of Prior Learning (RPL) and Recognition of Current Competency (RCC). Refer to our suggested model and the current SMSF Association practices and programs as discussed previously

Question 9.3

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

We consider Recognition of Current Competency a suitable transitional arrangement for existing advisers.

International standards exist for Recognition of Current Competency (RCC):

- Valid – must demonstrate competence that relates to the specific scope of advice.
- Sufficient – sufficient evidence must be provided to cover all aspects of competency and show consistent, repeatable performance to the required standard.
- Current – must demonstrate current performance. CPD records.
- Authentic – must belong to the candidate.

For existing financial advisers this might include:

- Copies of qualification transcripts
- Copies of industry accreditations and designations (SSA, CFP etc.)
- Copy of three years of verified CPD records
- References
- Currency assessment (changes in recent year etc.)

This framework should recognise an adviser's experience in providing financial advice as well as industry accreditations that are assessed to be of suitable rigour and quality.

Question 9.4

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

We believe that existing advisers should have the three year time frame to transition to the full regime. However, the transition period should provide genuine incentives for advisers to undertake any required learning <u>early</u> in the transition period.

Previous changes to introduce professionalism into the financial services regime have allowed transitional arrangements to be used by industry as a time to continue to practice without change until the very last minute, often requiring the regulator to provide extensions (e.g. the SMSF auditor registration program). Every effort must be made to encourage early take-up of the new proposed arrangements as there needs to be a development of education and professional disciplinary programs that meet the needs of raised competency and consumer protection. Any delays in take-up will mean that the rigour of the system will be compromised.

We propose that all existing advisers on the register should remain on the register under a "provisional" or "probationary" listing and flagged appropriately for consumer's awareness. Once they have attained the required standards, the "provisional" listing should be removed and be adjusted and acknowledged onto a full listing. Highly competent advisers that have attained credible industry accreditation of a high standard should have recognition under this scheme to have a "full" registration (e.g. SMSFA Specialist SMSF Advisor or FPA CFP qualifications as discussed in question 3.2).

This will reduce the risk to ASIC and licensees and enhance the consumer protection objective. The TPB transition arrangements should also be reviewed as well as other alternative arrangements as there has been a reasonable early take-up in their program by financial advisers.

Question 9.5

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

We do not have any alternative proposals for transition other than those above.

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?

- *FPEC establish education standards by June 2016,*

  If the construction of the FPEC/FSPESB was made up of the correct participants, the initial legwork of the education standards should be truncated as they would already have developed education standards and/or curriculum to some degree.

  If the make-up extends to a wide number of representative bodies, this will hamper progress and delay creation of the education standards – standards construction by a large multipurpose committee will result in diluted and generic outcomes.

- *professional associations operating under a PSC approved scheme by 1 January 2017*

  We believe that individual membership of only professional associations approved by the Professional Standards Authority, or an alternative body as proposed in our suggested "hybrid" model, should be the vehicle for Approved Association status – not the PSC.

- *and all advisers (new and existing) to be fully registered by 1 January 2019.*

  The Financial Adviser Registration process is underway.

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?

For the benefit of consumers, industry participants both current and future we hope this regulatory rethink opportunity delivers an improved, trusted and desirable industry.

This should, given the importance of the task, take time and effort.

However, we have outlined below our modified PJC timeline:

Transitional arrangement and timeframes	**PJC Proposed Date**	**Our Suggested Date**
Provisional registration with full recognition for suitably accredited advisers	Mar 2015	Already underway

Transitional arrangement and timeframes	PJC Proposed Date	Our Suggested Date
(available to existing financial advisers from the implementation of the proposed government register until 1 Jan 2019 to address the goal of transparency)		
Finance Professionals' Education Council established	1 Jul 2015	1 Jan 2016
FPEC releases AQF-7 education standards for core and professional stream subjects	Jun 2016	Based on 5 or 6 individual membership associations using their existing education standards and curriculum January 2017
Establishment of codes of ethics compliant with Professional Standards Scheme guidelines	Jul 2016	N/A
Establishment of codes of ethics compliant with Professional Standards Authority guidelines		January 2017
FPEC approved AQF-7 Courses available to commence	Jan 2017	Jan 2019
FPEC releases recognised prior learning framework (dealing with existing advisers and undergraduates who commence AQF-7 courses prior to Feb 2017)	Jul 2016	Dec 2016
FPEC releases professional year requirements including recognised prior learning framework for existing advisers	Jul 2016	FPEC/FSPESB releases graduate year requirements including recognised current competency framework for existing advisers Dec 2016
Professional associations operating under PSC Professional Standards Schemes	1 Jan 2017	Professional associations operating under PSA Professional Standards Authority Hybrid model June 2016
Target date for existing financial advisers to qualify for full registration	1 Jan 2018	1 Jan 2018
Cut-off date for full registration - provisional registration no longer available	1 Jan 2019	1 July 2019

ATTACHMENT 1 – Hybrid Model

As explained in our submission, we believe that the intentions of the PJC model are appropriate but a more refined model could reduce complexity for financial advice industry participants and be more sustainable over the long-term. We have developed a hybrid model which is based on the Accounting Professional and Ethical Standards Board (APESB) governance and ethical model which could be used to advance professionalism in financial advice.

This model utilises an independent Financial Services Professional and Education Standards Board (FSPESB) made of ministerial appointments that is advised by an industry council, the Financial Services Education Advisory Council (FSEAC) to develop:

- education standards
- an industry wide "financial advice code of conduct".

As a **base** industry code will be developed, associations should be able to join the FSEAC upon approval by the FSPESB. In addition to professional associations, the FSPESB could appoint consumer advocates, ethicists, etc., to the FSEAC.

The approval of associations joining the FSEAC should be based on an **evidence based** set of criteria; akin to the eligibility the Tax Practitioners Board uses for Association approval:

1. it is a non-profit organisation;
2. it has adequate corporate governance and operational procedures in place;
3. it has professional and ethical standards for its voting members;
4. it has satisfactory complaint and disciplinary arrangements (including publication) in place;
5. it is able to pay its debts as they fall due;
6. the management is required to be accountable to its members;
7. it has at least X (e.g. 1,000) voting members, of which at least Y (e.g. 500) are financial advice practitioners;
8. each voting member holds a specific level of education award or has equivalent current full-time experience;
9. each association must have only individual members;
10. each association can demonstrate it has history and experience in developing and maintaining Education standards;
11. each association can demonstrate it has history and experience in developing and maintaining Curriculum; and
12. each association can demonstrate it has history and experience in developing and maintaining Professional Standards.

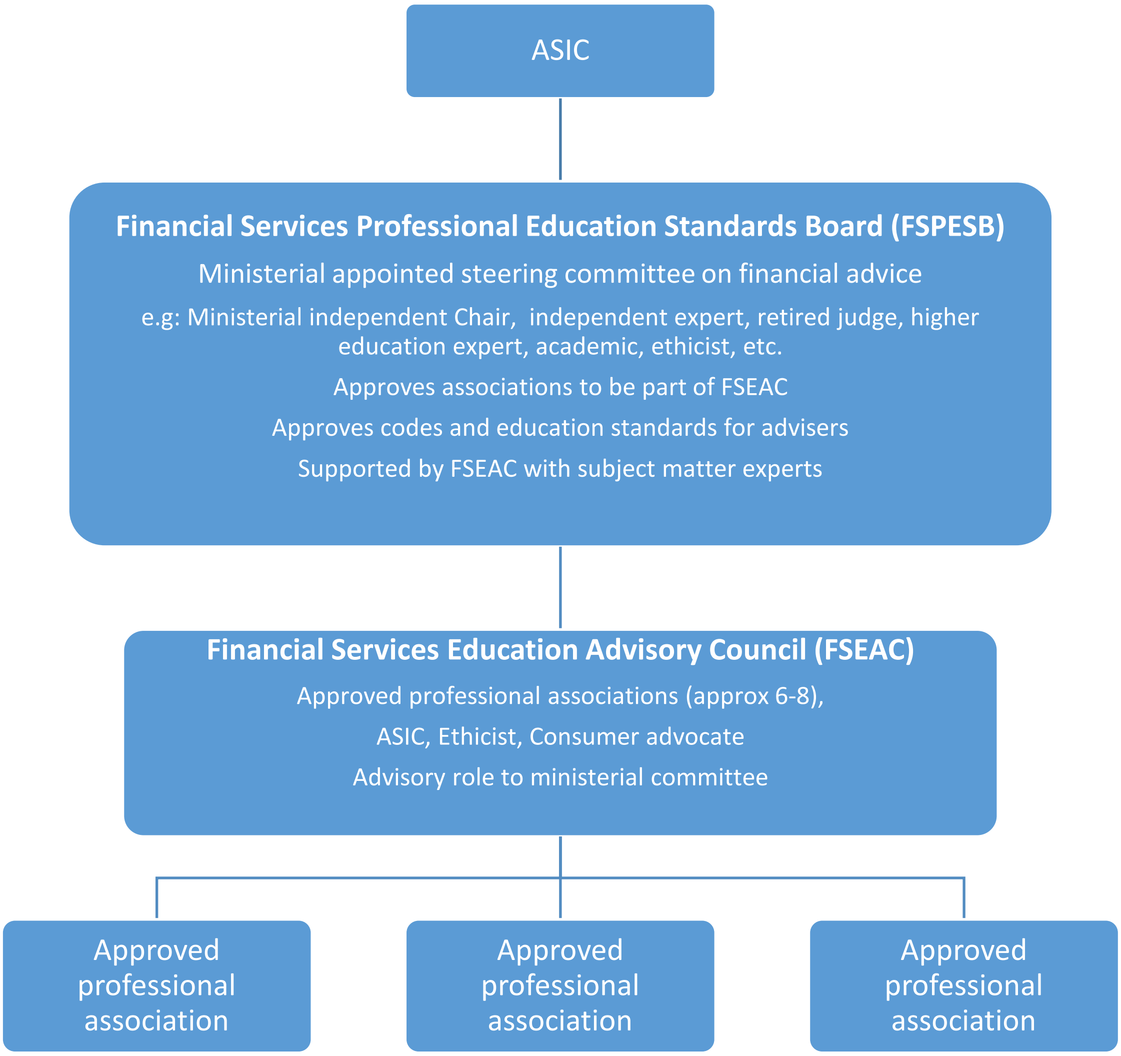
The **base** code developed by the FSPESB (with advice from the FSEAC) should then be adopted by ASIC through the Corporations Act.

To acknowledge the specific ethical scenarios of each sector, each eligible professional association would adopt the base code and further develop their own code of ethical practice (the **professional**

code). This code aligns and fosters individual accountability. For example; for the SMSF sector, the SMSF Association code would be applicable to our members who advise on SMSFs, this would be different to the financial planning code of ethics which is governed by the FPA.

Tier 1 financial advisers that breach the **base** code would be liable to penalty by ASIC and possible deregistration. Advisers ethical obligations (the **professional code**) would be enforced by professional associations who would refer breaches to licensees and ASIC for further action.

Proposed Hybrid model



The key differences between the PJC model (or a PJC model without limited liability (the PSA model)) and our proposed hybrid model are that:

- a ministerially appointed board, the FSPESB, would set both education standards **and** professional conduct and ethical standards for the industry undergraduate program;

- the FSPESB would set criteria and associations that are able to be part of the graduate year and the professional year programs;
- the FSEAC would provide advice and expertise to the FSPESB on curriculum and education standards as well as to assist development and maintenance the code of conduct;
- the **base** code is applicable to all industry participants; advice on both Tier 1 and Tier 2 products;
- approved professional associations adopt the **base** code as part of their individual code and can add on additional elements specific to their advice areas (the **professional code**);
- the **base** code of conduct and ethics developed by the FSPESB are endorsed In the Corporations Act, requiring all Tier 1 and Tier 2 financial advisers to comply with the standards;;
- ASIC regulates advisors compliance with the **base** code. Breaches can lead to loss of registration;
- professional associations apply the ethical aspects of the code to members;
- development of education standards functions and criteria in a similar way to the PJC/FPEC proposal;
- development and administration of entrance exam shared between ASIC and FSPESB with payments aligned and refunded in part to the professional associations on FSEAC that developed content; and
- registration of advisers carried out by licensees (as described in main submission) with assistance from professional associations in verifying qualifications and CPD records.

We believe that the key benefits of this model are:

- it utilises the existing stakeholders of the financial advice community. It negates the need for a new stakeholder, the PSC, to add to the complexity and therefore cost of the approval process. Additionally, there will be no need to augment PSC legislation or functions;
- leveraging off ASIC's existing role in regulating financial services;
- mirrors a professional standards model which has worked successfully in the accounting profession;
- having an industry wide code of conduct that all advisers must meet, builds consumer confidence;
- professional associations bring subject matter expertise to developing curriculum and education standards which raises standards of competence and allows specialisation to meet consumer needs
- independent Ministerial appointments of a governing approval body utilising existing arrangements with the regulator ASIC; and
- independent council to deliver rigour and accountability to industry codes and standards.

The challenges for this model are:

- a Ministerial Council, the FSPESB, needs to be appointed and each member of the committee needs to be an expert in their field of expertise for their roles and functions appointment;
- the advisory council FSEAC needs to be appointed and each member needs to be an expert in their field of expertise;
- a Ministerial Council and the FSEAC need to receive appropriate funding;
- creating a new Ministerial Council that has the knowledge and skill to understand their role and responsibilities;

- the new Ministerial Council is created in addition to using existing bodies and associations;
- engaging ASIC to act in co-regulation with industry;
- engaging ASIC to act in co-regulation with higher education sector (the VET sector and RTOs will not be involved generally in this new regime); and
- with a broader set of criteria for gaining approval status, the number of associations with input into education standards would naturally require homogenisation to appease all parties, as is the case with a "community approach" standards development model.

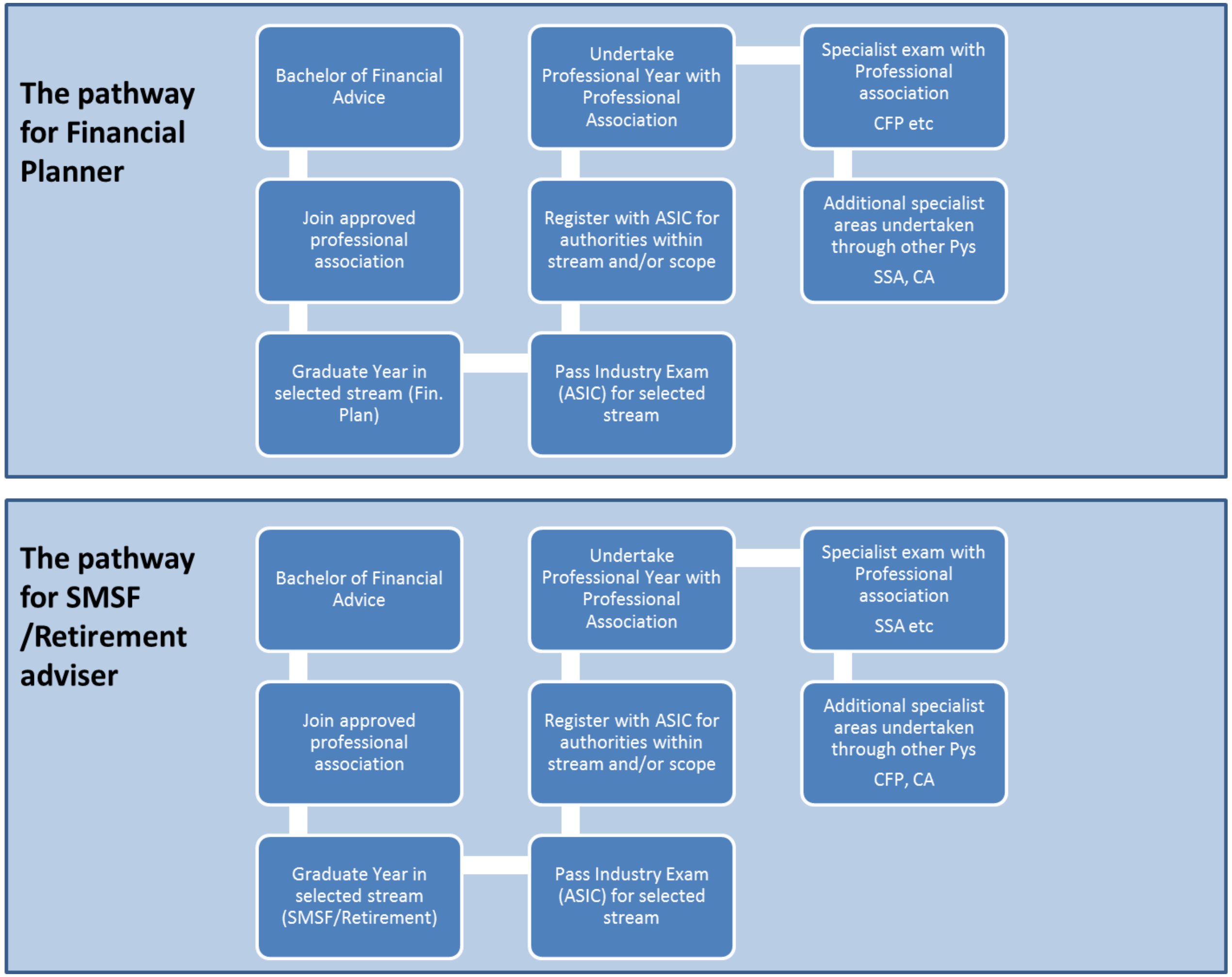
We have mapped how this hybrid model based on the APESB satisfies the key elements of the PJC report in the following table:

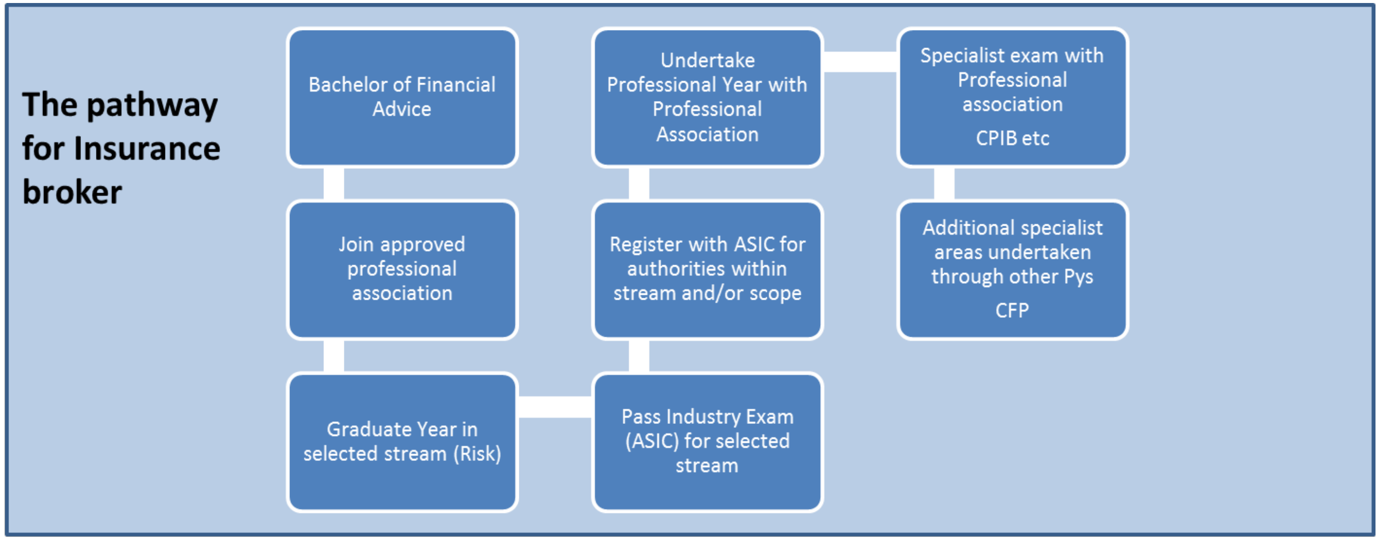
PJC Regulatory Element	**Augmented PJC-model – PSA Model**	**Hybrid Model**
Professional Association Approval	Professional Standards Authority (no limited liability scheme)	Ministerial council, Financial Advice Board Approval criteria set by FSPESB
Involvement of ASIC	Adviser Registration Exam Invigilator Conduct Regulator	Adopt industry **base** code Enforce industry **base** code Adviser Registration Exam Invigilator Participate as an advisor in FSEAC Conduct Regulator
Professional association	Sit on FPEC Assist licensees with registrations Expertise in standards and curriculum	Sit on FSEAC and advise FSPESB Assist licensees with registrations Expertise in standards and curriculum
Education council construction	Approved PSA associations Academic Ethicist Consumer advocate	Professional associations approved by FSPESB Ethicist Consumer advocate Academic
Code of conduct	Professional association PSA approved	Developed base criteria and code by FSPESB with advice from FSEAC Single industry **base** code on conduct & ethics ASIC regulated adviser conduct

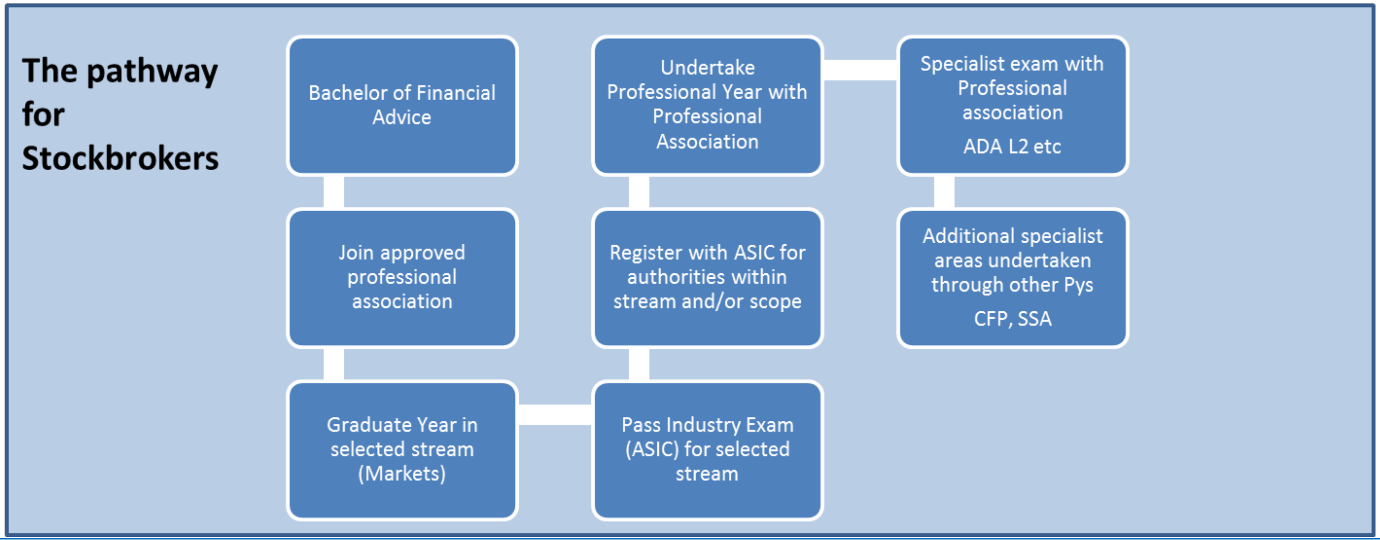
PJC Regulatory Element	Augmented PJC-model – PSA Model	Hybrid Model
		Professional associations' individual codes pick up **base** code and include any additional elements desired to make **professional code.** Professional associations enforce and **professional code** on its members
Independent Board/Committee	None in PJC proposal (Ministerial appointment to FPEC suggested at Government Roundtable meeting)	FSPESB with oversight of FSEAC Expertise in roles and responsibilities
Education – Same for both models		
Curriculum/Standards	FPEC Subject matter expert sub-committees	FSPESB with FSEAC advice Subject matter expert sub-committees
Course Approval	FPEC	FSEAC
Undergraduate	AQF 7 Bachelor of Financial Advice	AQF 7 Bachelor of Financial Advice
Graduate Year	Run by professional associations 5 streams of expertise	Run by professional associations 5 streams of expertise
Entrance Exam	Set by FPEC for 5 streams Invigilated by ASIC Transition RPL/RCC exclusions	FSPESB with FSEAC advice for 5 streams Invigilated by ASIC Transition RPL/RCC exclusions
Professional Year/Specialisation	Approved professional associations design and run own specialist accreditation	Approved professional associations design and run own specialist accreditation
CPD	Professional associations	Professional associations
RPL/RCC	FPEC set criteria Professional associations assess and tell licensees	FSPESB set with FSEAC advice Professional associations assess and tell licensees
FA Register	Licensees register advisers with ASIC	Licensees register advisers with ASIC

PJC Regulatory Element	Augmented PJC-model – PSA Model	Hybrid Model
	Professional associations assist licensees with CPD, qualification, etc. information and/or direct ASIC for breaches of conduct	Professional associations assist licensees with CPD, qualification, etc. information and/or direct ASIC for breaches of conduct
Individual accountability	Yes	Yes
Licensees involvement	Registration and Graduate Year	Registration and Graduate Year
Mandatory professional association membership	Yes, but not the single association requirement Need to adopt SMSF as a specialty SME	Yes, but not the single association requirement Need to adopt SMSF as a specialty SME
Adviser discipline	Professional associations can advise licensee and ASIC of member not meeting requirements – trigger for adviser to be recognised and on notice Licensee or ASIC can deregister ASIC can take further action Need to make sure advisers cant shop around for cheap or new options in this system if under disciplinary measures from an association Probationary designation for ASIC register until individual has passed Graduate Year and eligible to be registered	ASIC regulate industry wide conduct rules Professional associations enforce ethical standards and accreditations Professional associations can advise licensee and ASIC of member not meeting requirements – trigger for adviser to be recognised and on notice Licensee or ASIC can deregister ASIC can take further action Need to make sure advisers cant shop around for cheap or new options in this system if under disciplinary measures from an association Probationary designation for ASIC register until individual has passed Graduate Year and eligible to be registered

ATTACHMENT 2 – Career Pathway for New Entrants




The pathway for Insurance broker
Bachelor of Financial Advice
Join approved professional association
Graduate Year in selected stream (Risk)
Pass Industry Exam (ASIC) for selected stream
Register with ASIC for authorities within stream and/or scope
Undertake Professional Year with Professional Association
Specialist exam with Professional association
CPIB etc
Additional specialist areas undertaken through other Pys
CFP


The pathway for Stockbrokers
Bachelor of Financial Advice
Join approved professional association
Graduate Year in selected stream (Markets)
Pass Industry Exam (ASIC) for selected stream
Register with ASIC for authorities within stream and/or scope
Undertake Professional Year with Professional Association
Specialist exam with Professional association
ADA L2 etc
Additional specialist areas undertaken through other Pys
CFP, SSA