

1st February 2022

Assistant Secretary
Advice and Investment Branch
The Treasury
Langton Crescent
Parkes ACT 2600

Via email: FAStandards@treasury.gov.au

RE: Submission on Financial Advisor Education Standards Policy Paper

1. Introduction

Grain Trade Australia (GTA) welcomes an opportunity to provide feedback on the Government's Policy Paper "Education Standards for Financial Advisors" published in December 2021.

GTA has recently written to Treasury portfolio Ministers and ASIC to raise concerns with the financial advisor's education requirement and other matters pertaining to concerns with:

- Parts of the AFSL¹ regulations
- The AFSL Guidelines, and
- The Financial Sector Reform Bill 2021.

This Submission is in line with GTA's letter to the Ministers and ASIC.

GTA is supportive in principle to a regulatory approach that is relevant to the context, has simplicity in its design, understanding and subsequent application. This approach will minimise the cost burden on business to avoid cost increases to consumers and minimise distortion in business efficiency and serve the desired outcomes.

We therefore are broadly supportive of the Policy Proposals, as improvements from the current FASEA approach, however our submission notes concern with certain aspects of the proposal.

We also have remaining concerns with the overall regulatory Financial Services regime, as to its application and impact on the grain industry and GTA members. We have taken the opportunity of raising some of these issues in this submission.

2. About GTA

Grain Trade Australia (GTA) is a national member association and is the focal point for the commercial grain industry within Australia.

GTA has over 270 organisations as members. Their businesses range from regional family businesses to large national and international trading/storage and handling companies who are involved in grain trading activities, grain storage, processing grain for human consumption and stock feed milling. GTA Members are substantial employers, from the farm gate through to end point consumption, and notably in rural and regional Australia. A full list of GTA Members can be found [here](#).

¹ Australian Financial Services Licence

GTA's core focus is to “**facilitate trade**” in the Australian grain industry. Its products and services, including the Australia Grain Industry Code of Practice, provides a self-regulatory framework across the grain industry to facilitate and promote the trade of grain within the Australian grain value chain.

A key segment within this industry framework is GTA members who provide commodity marketing & price risk management services (advisory services) to Australian grain producers.

3. The role of Commodity Marketing & Advisory Services

GTA members who provide advisory services provide grain producers with the information and advice needed to make informed decisions on their commodity marketing and commodity price risk management. This includes:

1. Commodity (grain) market analysis and price discovery,
2. Brokerage of physical grain,
3. Use of price risk management tools (derivatives like Swaps, Futures, Options),
4. Hedging foreign exchange (either a part of a derivative or for cash flow purposes), and
5. Grain sale and contract optimisation.

A grain marketing advisor with an AFSL provides advice specifically to help a grain producer manage their price risk in relation to the particular commodity using specific financial products. The advisor in this case is not providing holistic plans in relation to a producers' broader investment needs (superannuation, insurance etc) but scoped, focussed advice related to commodity price risk – which is usually a specific condition under their AFSL.

So, for a grain grower this is not an investment decision but more a transactional decision to manage grain price risk. This means the role, expertise and skill sets of a commodity marketing advisor is very distinctive from a financial planner and therefore from the “one size fits all” approach that has been adopted by FASEA. The FASEA model assumes all financial service providers require the skillsets, experience, and qualifications of a financial planner.

4. FASEA regulatory approach not “fit for purpose”

While we see the proposed policy as a step in the right direction, we are concerned the Policy Paper points out “*The existing standards made by FASEA will continue to apply to financial advisers unless they are amended or replaced by the Minister.*” We would strongly urge the Minister to recognise the FASEA “one size fits all” approach is not fit for purpose particularly in the context of the grain industry.

The FASEA approach to regulation, in particular educational requirements, appears completely at odds with the original intent of Financial Services Reform. FASEA's approach to applying a financial planning lens to decisions around educational requirements, including the FASEA exam contents, on-going professional education and minimum education standards is not relevant or fit for purpose in the grain industry, where in many cases financial advisors provide sector specific and bespoke advice and not financial planning advice.

The Corporations Act recognises, despite the recent approach to a common catch all regulatory architecture, there is a basis for limited scope and specialisation within the “broader financial industry”, that is not a one size fits all approach.

We believe the impact of the FASEA regulatory and policy approach would inevitably lead to a lack of knowledgeable, specialist advisors available (or willing) to advise grain growers. Such an outcome is clearly detrimental for growers and ironically, would lead to an increase in the incidence of growers receiving poor and inappropriate advice on commodity price risk management for grain.

Therefore, given the alternative GTA is supportive of the proposed amendments to the education standard as outlined in the *December 2021 Policy Paper* – with some suggested amendments.

5. Aligning Training and Educational Requirements with AFSL Restrictions

The Corporations Act (Financial Services Reform) sets out a methodology that requires authorisation to provide specific financial services in relation to designated types of financial products.

Many grains marketing advisory services are required to hold an Australian Financial Services Licence (AFSL) usually with limited scope of providing financial product advice (or dealing in a financial product) for the designated products only of derivatives and foreign exchange. In practice they will usually be narrow/specific commodity derivatives (eg wheat swaps). It is our understanding the law does not allow those AFSL holders (or those advisors that work under them) to do anything other than adhere to the conditions of their license.

We strongly suggest, the financial services regulations, including training and experience requirements should be aligned with the conditions imposed on an AFSL. With respect to the grains industry, this is currently not the case.

6. Regulatory Burden

Ongoing legislation and regulation since 2016 in relation to financial advice, in particular the Corporations Amendment (Professional Standards of Financial Advisors) Act 2017 are placing an increasing compliance burden and financial cost on our relevant members. The financial burden includes:

- costs related to the FASEA exam,
- the on-going cost of CPD,
- the ASIC industry funding levy,
- various ASIC lodgement fees, and
- uncertainty surrounding levies to fund the Compensation Scheme of Last Resort.

The increasing costs are either in part passed onto the consumer of these services (making the cost of obtaining advice for those more in need - more prohibitive) or being absorbed into the advisory business (usually a small business) leading to advisers increasingly questioning the sustainability of continuing to provide advice.

In our view, the regulatory burden on business, inclusive of maintaining an environment for businesses to compete, and the ultimate impact on consumers, needs to be a priority of reform. We believe Government should aspire for greater impact than what is contained in the policy proposal.

7. Financial Sector Reform (Hayne Royal Commission Response – Better advice) Bill 2021.

We see the transfer of the FASEA function provides an opportunity for the Minister for Superannuation, Financial Services and the Digital Economy to apply a broader lens and to engage with the various types of financial advisors (and industries) and break clearly from FASEA's approach, which is not fit for purpose, of treating every advisor as a financial planner, irrespective of what advice they may provide. We must stress:

- grain marketing advisors are not financial planners,
- they do not operate under an AFSL where they are authorised to provide financial planning and investment advice
- a grain producer would not expect to (and should not) receive knowledgeable, specialist grain marketing advice from a financial/investment planner.

8. FASEA approach to Education and Professional Development

8.1 Advisors Exam

Whilst we are not clear on the future of the FASEA' advisors' exam, we take this opportunity to point out it is tailored to financial planners and had little relevance to the grain industry, our members activities and their client's commodity advisory needs.

The Government has an opportunity to better align or contextualise the categories of financial advisors, other than the "one size fits all approach" of assuming all businesses captured by the financial services regulations are financial planners and implement a more relevant approach.

8.2 Continuing Education

The Policy Paper does not broach the FASEA continuing education requirements. GTA have concerns with the FASEA requirement for an advisor to complete 40 hours of CPD per year which includes a mandated breakdown of minimum hours to be spent in various areas. For example, the minimum 9 hours requirement on professionalism and ethics (every year) is disproportionate against other metrics such as 5 hours of technical competence. GTA supports CPD however believes there should be flexibility to customise to the specific needs, and circumstances of the industry the advisors and any AFSL restrictions.

9. Dual Pathway Policy Approach

Without change, the existing system will have a detrimental impact on the availability of quality, specialist advice on commodity price risks to grain growers, and the likely increase in the risk and incidence of growers receiving poor, ill-informed advice on commodity prices.

In our view the proposed Qualification and Experience pathways, while supported in principle, can be made more pragmatic and relevant with the following considerations.

9.1 Qualification Pathway

- We note FASEA's approach to minimum education requirements (for new and existing advisors) has been fixated on financial planning. Tertiary degrees in disciplines such as Commerce, Business, Economics, Agricultural economics, Agribusiness, Agricultural Science, Rural Science, Agricultural-marketing, and Finance are in fact more relevant to provision of advice in relation to commodity derivatives and foreign exchange.
- We strongly suggest including units in degrees in the additional disciplines noted above being included on the list of "related fields of study" in the Qualification Pathway.
- Without broadening the "related fields of study", we see significant risk of a large exodus leading into 2026 of experienced commodity market advisors with degrees in these areas from industry, and significant challenges in attracting new talent to the commodity advising industry. People with interests in agriculture tend to undertake their tertiary studies in the disciplines we have noted above.
- We support the "self-assessment" approach for licence holders in evaluating the applicability of training, however, suggest some regulatory guidelines be developed in conjunction with industry.
- We do not support the notion of mandating a professional year standard, as it presents another cost barrier for business and/or new entrants (who will have already passed a recognised degree) into industry. As noted earlier in our submission, we suggest specialisation and training requirements should be aligned with AFSL conditions and can be addressed through practical experience and tailored contextualised professional development.

9.2 Experience Pathway

- We are supportive in principle of the Experience Pathway as such an approach will have the benefit of retaining the more mature, more knowledgeable, and more skilled specialist professionals in industry. Government is no doubt well aware of the loss of advisors from various industries that the approach to recent Financial Reforms has created.

- However, we have some concerns with areas of Experience Pathway, specifically we suggest:
 - The requirement of “10 out of the last 12 years” is too onerous and suggest a level of around 8 of the last 12 years (or 6 out of 10 years) to be more practical, while still achieving the desired outcome.
 - the pathway should be open to individuals who have experience or been authorised to provide personal advice to either/or Retail or Wholesale clients in relation to relevant financial products. Prior to 2026 the definition of a Wholesale/Retail client may change, and this could create unintended consequences for the approach in the Policy Paper. As a general comment, we also suggest better clarity can be provided on the definition or distinction between wholesale and retail clients.
 - Other relevant industry experiences, and not just retail advising per se, should also be considered relevant experience. In fact, this will allow for advisors to gather a broader practical experience (such as logistics, grain quality, marketing, market risks) and understanding upon which to draw from in developing their advice, and quite likely resulting in more robust and rounded advice.

10. Impact on Industry and GTA members

Getting the policy settings balanced or “right” will be important for industry being able to maintain experienced advisors and attract new entrants to ensure grain growers have access to highly specialised advisors.

Without change the FASEA defined requirement of advisors in the grain industry having to meet minimum education requirements (effectively complete financial planning degrees, diplomas, or other related subjects which are unrelated to what a reasonable person would expect the education of a grain advisor to entail) prior to 1 January 2026 will see experience leave the industry.

Furthermore, these requirements as they currently stand, and the limited scope of relevant fields of study provided in the proposed Qualification pathway will likely limit new entrants. The industry needs to attract new entrants, and these people are more likely to come from (and have interest in the industry) a background of degrees in commerce, economics, finance, agriculture, and business (in essence commodity and currency markets) and not financial planning.

It is also important to understand grain advisory firms are small rural businesses (1-7 advisors) and do not have the financial ability to fund sizable salaries while potential new and existing advisors’ re-train.

11. Conclusion

GTA supports licensing of financial advisors and supports the ability of consumers (in this case grain producers) being able to access professional, ethical and high-quality advice.

We support change to the legislative instruments that were established by FASEA and promote educational relevance as a key tenet of the Education Standards for financial advisors. This should not be a ‘one size fits all’ noting GTA members that hold an AFSL usually have them for the limited scope of providing financial product advice (or dealing in a financial product) for the designated products only of derivatives and foreign exchange. The training requirements should be aligned to the Licence scope.

In summary this means GTA is supportive of proposals that:

- a) Recognise that financial advice is broader or more specific than financial planning.
- b) Changes to the FASEA defined educational requirements to meet the specific needs of sectors, are aligned with licence conditions, rather than assuming all financial advisors provide financial planning.

- c) Tertiary (degree) level study for financial advisors include commerce, business, finance, economics, science, agribusiness, agricultural marketing, agricultural economics, agricultural science, rural science be formally recognised as suitable “related fields of study” for the proposed Qualification pathway.
- d) Existing advisors’ qualifications in these disciplines be grand fathered in.
- e) Industry experience, not only in retail financial advisory experience, be recognised as relevant in the Experience pathway.
- f) Ability and flexibility to tailor CPD requirements to the specific needs and circumstances of industry sectors, AFSL conditions and the advisors themselves.

While we have taken the opportunity to detail and elaborate on the issues raised, we have Annexed to this letter is a short table, summarising views on the specific stakeholder questions.

GTA would welcome the opportunity to engage directly with Government to increase the understanding of the type of financial advice our members provide and to provide input into, or be part of, any process that aims to make a more appropriate fit for purpose regulatory model.

I look forward to the progress of this important issue.

Please do not hesitate to contact GTA on this or any other relevant matters.

Yours faithfully,



Pat O'Shannassy
CEO, Grain Trade Australia

12. Annexure 1 – Specific Stakeholder Question

Item	Question	GTA Comment
a)	<ul style="list-style-type: none"> the impact of the proposal on industry and stakeholders, including the cost to business; 	Proposals are a clear improvement from FASEA approach and potential costs for business. However more can be done
b)	<ul style="list-style-type: none"> whether the proposal meets the policy objective of streamlining the education standard and whether the proposed approach appropriately recognises on-the-job experience while ensuring there is a base level of knowledge across the financial advice industry; 	In principle support for the proposals as a step in the right direction, however, note further improvements by broadening disciplines for “related fields of study”; and broadening recognition experience to include other relevant industry experience and broadening time requirement to 8 out of last 12 years.
c)	<ul style="list-style-type: none"> what would enable other education providers such as registered training organisations and professional associations to offer courses that meet the proposed education requirements at an AQF 7, 8 or 9 level; and 	Broadening the disciplines for “related fields of study”. Reviewing the balance between a self-assessed approach and guidance by the regulator.
d)	<ul style="list-style-type: none"> whether the professional year standard (set out in the <i>Corporations (Work and Training Professional Year Standard) Determination 2018</i>) should be amended to require additional study at a Graduate Certificate or Diploma (AQF 8) level to complement the broadening of the relevant fields of study. These could be done in a specialised area of the licensee and new entrant’s choosing, allowing the professional year candidate to develop a deeper knowledge alongside their practical training. 	GTA do <u>not</u> support this, as it presents another cost barrier for business and new entrants (who will have already passed a recognised degree) into industry. Our submissions suggest specialisation and training requirements should be aligned with AFSL restrictions and can be addressed through practical experience and tailored contextualised professional development.