

[PS 146]

Licensing: Training of financial product advisers

Chapter 7 — Financial services and markets

Issued 28/11/2001

What this policy statement is about

[PS 146.1] This policy statement sets out minimum training standards for people who provide financial product advice to retail clients (training standards).

[PS 146.2] The training standards apply to a natural person who is:

- (a) an Australian financial services licensee (licensee); or
- (b) a representative of a licensee

if they provide financial product advice to a retail client. We use the terms “financial product adviser” or “adviser” to describe these people.

[PS 146.3] In general, advisers will meet the training standards by satisfactorily completing training courses listed on the ASIC Training Register relevant to their advisory activities. As an alternative, experienced advisers can demonstrate their competence through individual assessment by an authorised assessor.

[PS 146.4] This policy statement also gives guidance to training providers and professional and industry organisations about the training standards.

[PS 146.5] This policy statement covers:

A our role in the training of advisers

see [PS 146.6]– [PS 146.10]

B who must meet the training standards

see [PS 146.11]– [PS 146.29]

C when advisers must meet the training standards

see [PS 146.30]– [PS 146.41]

D training guidance

see [PS 146.42]– [PS 146.82]

E assessing the quality of training

see [PS 146.83]– [PS 146.102]

F continuing training guidance

see [PS 146.103]– [PS 146.116]

Note: For organisational expertise requirements and training standard requirements for providers of other financial services to retail clients, see Policy Statement 164 *Licensing: Organisational capacities* [PS 164].

Important note:

The contents of this policy are based on the FSR Act at the date of this publication, Wednesday 28 November 2001, and the regulations made on 8 October 2001 for the purposes of the FSR Act. We do not expect the substance of this policy to be materially affected by proposed further regulations. However, we will review these regulations and, if necessary, amend any details of this policy.

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A Our role in the training of advisers

Our policy

[PS 146.6] We have set minimum standards for the training of advisers. We expect industry standards and codes of conduct to fully reflect and build on the training standards.

Underlying principles

[PS 146.7] We are responsible for promoting the protection of consumers of financial products (which include securities, interests in managed investment schemes, derivatives, superannuation, life insurance, general insurance, deposit taking products and non-cash payment facilities).

[PS 146.8] By establishing and enforcing training standards, we can help licensees comply with their legal obligations to ensure that they and their representatives are adequately trained and competent to provide the financial services covered by their Australian financial services (AFS) licence.

Explanations

[PS 146.9] We recognise that there is a considerable amount of training and education currently being undertaken by advisers, using a range of training methodologies and a well-developed network of training courses and providers. We also recognise industry's important role in the development and promotion of best practice relating to training and competence.

[PS 146.10] However, we consider that by issuing training standards, we will provide greater certainty for:

- (a) licensees about how we will assess their compliance with their legal obligations; and
- (b) training and education providers and professional and industry associations about our regulatory requirements, so that they can develop appropriate training courses and standards.

B Who must meet the training standards?

Our policy

[PS 146.11] All natural persons who provide financial product advice to retail clients must meet the training standards. This includes a natural person representative of a licensee and a natural person licensee. It also includes natural persons who are authorised by a corporate authorised representative of a licensee.

[PS 146.12] Our policy applies to the provision of both personal advice and general advice as defined in s766B(3) and (4) of the Corporations Act 2001 (Corporations Act): see [PS 146.22].

[PS 146.13] This policy only applies to natural persons whose conduct amounts to the provision of financial product advice. For guidance on what is the provision of financial product advice, see *Licensing: The scope of the licensing regime: Financial product advice and dealing — An ASIC guide* (November 2001) [LIC 60] (Advice and Deal Guide).

[PS 146.14] Examples of conduct that we will not treat as involving the provision of financial product advice for the purposes of this policy statement include:

- (a) conduct done in the course of work of a kind ordinarily done by clerks or cashiers (s766A(3));
- (b) conduct being the mere preparation of advertisements to which s1018A applies, provided that:
 - (i) the AFS licence of the issuer or seller (as the case may be) authorises the provision of financial product advice; and
 - (ii) a responsible officer of the issuer or seller approves the advertisement before its publication or dissemination.

Customer service representatives

[PS 146.15] Representatives such as call centre or front desk staff who typically deal with initial queries from customers (customer service representatives) do not need to meet the training standards where the only financial product advice they provide is either:

- (a) derived from a script approved by a person who meets the training standards; or
- (b) made under the direct supervision of a person who meets the training standards.

Where a client seeks financial product advice that does not fall within this exemption, the customer service representative must refer the client to a person who meets the training standards.

[PS 146.16] The licensee must have compliance measures in place designed to ensure that customer service representatives who do not meet the training standards operate only within the limits set out in [PS 146.15]. These measures must include an effective means of monitoring what customer service representatives inform retail clients when following the requirements set out in paragraphs (a) and (b) of [PS 146.15]. Further, while we will not insist that these customer service representatives comply with the training standards, licensees must ensure that their customer service representatives have the necessary competencies to perform their functions.

Para-planners

[PS 146.17] Para-planners perform functions such as collecting information from retail clients about their objectives, financial situation or needs, preparing draft Statements of Advice and assisting in the explanation of financial product advice to retail clients. We will not require para-planners to meet the training standards provided a person who *does* meet the training standards plays a material role in, and remains responsible for (together with the licensee), the provision of financial product advice to retail clients. This means that a person (person A) meeting the training standards must:

- (a) review any draft Statement of Advice prepared by the para-planner with a view to assessing whether all legal obligations have been complied with, and take any necessary action to ensure such compliance (this may mean, for example, that person A needs to obtain further information from the client or needs to alter the draft Statement of Advice); and
- (b) manage and lead any verbal explanation of the financial product advice to the client.

[PS 146.18] Where para-planners are used in relation to the provision of financial product advice, we consider that the licensee must have compliance measures in place designed to ensure that a person who satisfies the training standards plays a material role in the provision of the advice, as described in [PS 146.17]. These measures must include an effective means of monitoring what para-planners inform retail clients. Further, while we will not insist that these para-planners comply with the training standards, licensees must ensure that their para-planners have the necessary competencies to perform their functions.

Underlying principles

[PS 146.19] A licensee must (among other obligations):

- (a) do all things necessary to ensure that the financial services covered by the AFS licence are provided efficiently, honestly and fairly (s912A(1)(a));
- (b) comply with the financial services laws (as defined in s761A) (s912A(1)(c));
- (c) take reasonable steps to ensure its representatives comply with the financial services laws (s912A(1)(ca));
- (d) maintain the competence to provide the financial services covered by the AFS licence (s912A(1)(e)); and
- (e) ensure that its representatives are adequately trained, and are competent to provide the financial services covered by the AFS licence (s912A(1)(f)).

In order to comply with these obligations, a licensee who provides financial product advice must ensure that all natural persons who provide financial product advice on its behalf (including the licensee, if it is a natural person) meet the training standards.

[PS 146.20] This policy statement focuses on protecting retail clients because they generally do not have the resources or expertise to assess whether their adviser has an appropriate level of competency to provide financial advice.

Explanations

[PS 146.21] Table 1 below sets out the types of advisers who must meet the training standards, and who has the legal obligation to ensure that the training standards are met.

Table 1: Who must meet the training standards

	<i>Advisers who are representatives</i>	<i>Advisers who are natural person licensees</i>
Who needs to meet the training standards?	Natural persons who are representatives of licensees, as defined in s910A, and natural persons who are authorised by corporate authorised representatives	Natural person licensees
Who has the obligation to ensure the training standards are met?	The licensee	The natural person licensee
What is the basis for imposing the training standards?	The licensee's obligation to train their representatives and have competent representatives	The licensee's obligation to maintain the competence to provide financial services
What are the circumstances in which the training standards apply?	The provision of financial product advice by the representative to retail clients	The provision of financial product advice by the natural person licensee to retail clients (but not the provision of such advice by a representative of a licensee)

Personal advice and general advice

[PS 146.22] The skills needed to give general advice will differ from those needed to give personal advice, as general advice does not require matching a client's needs to specific investments/risk cover and

strategies. However, we consider advisers providing general advice will need to have generic knowledge and specialist knowledge relevant to their activities and the products they advise on in order to provide a competent service.

What should licensees do to meet their training obligations?

[PS 146.23] To satisfy their training obligations, and to meet the training standards, licensees should undertake the following steps:

- (a) identify the advisory tasks and functions they and their representatives perform;
- (b) determine the appropriate knowledge and skills requirements required to competently perform those tasks and functions: see Appendices A and B at [PS 146.117] and [PS 146.127].
- (c) ensure that any natural person who provides financial product advice to retail clients under the AFS licence has:
 - (i) completed training courses at an appropriate education level (see [PS 146.43]) that are relevant to those tasks and functions; or

Note: The courses must be approved by an authorised assessor (see [PS 146.83]) and listed on the ASIC Training Register (see [PS 146.101]).

- (ii) been individually assessed as competent (see [PS 146.52]– [PS 146.53]); and
- (d) implement procedures for continuing training.

Customer service representatives and para-planners

[PS 146.24] The licensee remains ultimately responsible for all the financial services provided under its AFS licence, regardless of how those services are provided. A licensee must take reasonable steps to ensure that its representatives (as defined in s910A) comply with the financial services law and are adequately trained and competent to provide financial services.

[PS 146.25] The obligations of a licensee described in [PS 146.24] generally mean that natural persons who provide financial product advice to retail clients must satisfy the training standards. However, we consider it is not necessary to insist that customer service representatives (such as call centre and front desk staff) and para-planners comply with the training standards because:

- (a) their activities are of a limited nature (in some cases they may not be providing financial services); and
- (b) someone who does comply with the training standards plays a material role in the provision of the advice to retail clients.

[PS 146.26] We will review the policy set out in [PS 146.15]– [PS 146.18], if it results in lesser quality financial product advice being provided to retail clients.

Training for other financial services

[PS 146.27] This policy statement sets training standards for persons giving financial product advice to retail clients. Under the law, licensees have a duty to adequately train their representatives in relation to *all* financial services provided under the licence. This policy does not diminish this overriding duty in any way.

[PS 146.28] The training standards may also serve as a guide, with appropriate adaptation, for licensees whose representatives provide financial services other than retail financial product advice (eg in relation to dealing or wholesale financial product advice). If the need arises, we will provide specific guidance on training standards for financial services other than advising retail clients.

[PS 146.29] Licensees should have adequate policies and monitoring procedures in place to ensure that staff not trained in compliance with the training standards do not provide financial product advice.

C When must advisers meet the training standards?

Our policy

[PS 146.30] Advisers must meet the training standards by the start dates set out in Table 2.

[PS 146.31] After the applicable compliance date, an adviser must not provide advice to retail clients in any area or on a product where they do not meet the training standards.

Compliance monitoring

[PS 146.32] We will monitor compliance with our policy and, if we become aware of non-compliance, we will consider all available enforcement options. This may include imposing licence conditions or suspending or cancelling licences, depending on the nature of the breach.

Adviser training before compliance date

[PS 146.33] While some advisers do not have to meet the training standards until the start dates in Table 2, we nevertheless expect licensees to have in place, in the interim period, measures to ensure their advisers are appropriately competent and trained on an ongoing basis. It is up to the licensee to determine the minimum standards during this interim period.

Table 2: Compliance dates

Type of adviser

Compliance date

Group 1

People advising on securities; interests in managed investments; derivatives entered into or acquired on a financial market; interests in public offer superannuation funds (other than life office sourced superannuation schemes); debentures, stocks or bonds issued by a government

30 June 2002

Table 2: Compliance dates (continued)

<i>Type of adviser</i>	<i>Compliance date</i>
Group 2	
People advising on life insurance products and interests in life office sourced superannuation schemes	
<i>Sub-group 2a</i>	
For insurance brokers (and their agents and representatives)	The later of: <ul style="list-style-type: none"> (a) 30 June 2002 (b) the time they or their principal applies for a full AFS licence
<i>Sub-group 2b</i>	
For insurance agents (other than qualified licensees):	
(a) if the agent enters into a new authorising agreement (either to replace an old authorising agreement or because of a new agency) after 11 March 2002	The latest of: <ul style="list-style-type: none"> (a) 30 June 2002 (b) the time they or their principal applies for a full AFS licence (c) the date the agent enters into a new authorising agreement
(b) in any other case (eg if the agent remains under any existing authorising agreement(s) for the entire 2-year transitional period)	By the end of the 2-year transitional period (11 March 2004)
<i>Sub-group 2c</i>	
For employees and directors of a life insurer	The later of: <ul style="list-style-type: none"> (a) 30 June 2002 (b) the time they or their principal applies for a full AFS licence

Table 2: Compliance dates (continued)

<i>Type of adviser</i>	<i>Compliance date</i>
<p><i>Sub-group 2d</i> For qualified licensees and their representatives</p>	<p>The earlier of:</p> <ul style="list-style-type: none"> (a) the time they or their principal applies for a full AFS licence (b) the end of the 2-year transitional period (11 March 2004)
<p><i>Sub-group 2e</i> For those people where more than one of sub-groups 2a– 2d is applicable</p>	<p>The earliest applicable compliance date</p>
<hr/>	
<p>Group 3 People advising on other financial products including interests in superannuation funds (other than public offer superannuation funds); retirement savings accounts; general insurance products; deposit-taking facilities; foreign exchange; non-cash payment facilities</p>	<p>By the end of the 2-year transitional period (11 March 2004)</p>

Explanations

Group 1

[PS 146.34] Advisers in this group will have until 30 June 2002 to demonstrate that they meet the training standards.

[PS 146.35] Securities and futures licensees have been aware since September 1999 of the requirement to comply with the training standards. The original compliance date was extended to accommodate industry concerns about the compliance date. We therefore believe that 30 June 2002 remains an appropriate date for the requirements of this policy to apply to those advisers.

Group 2

[PS 146.36] Generally, advisers on life insurance (including insurance brokers and their agents and representatives) must meet the training standards by 30 June 2002, or at the time they or their principal are granted a licence, whichever is the later. This date does not apply to:

- (a) insurance agents (as defined in s1436A(1)), subject to their existing authorising agreements (as defined in s1436A(1)); or
- (b) qualified licensees (as defined in s1434) and their representatives.

[PS 146.37] We remind principals that they are already subject to obligations under the Life Code about the training of their employees and agents who provide advice on their life products. Further, they have already been on notice that we are expecting compliance by 30 June 2002.

[PS 146.38] While we believe it is appropriate to continue our policy that they comply by this date, we recognise that, in some cases, the transitional provisions have allowed additional time for certain advisers to meet the training standards. This category includes:

- (a) insurance agents (as defined in s1436A(1)), subject to their existing authorising agreements (as defined in s1436A(1)); and
- (b) qualified licensees (as defined in s1434) and their representatives.

For these people, the relevant compliance dates for meeting the training standards are set out in the applicable sub-groups 2 of Table 2.

Group 3

[PS 146.39] Persons advising on Group 3 products must meet the training standards by the end of the 2-year transitional period. In the case of persons advising on superannuation funds (other than public offer), we will continue, during the 2-year transitional period, the relief currently provided by the no action position set out in Policy Statement 123 *Investment advisory services: superannuation advice* [PS 123]; see Policy Statement 167 *Licensing: Discretionary powers and transition* at [PS 167.41].

[PS 146.40] The 2-year transitional period will give licensees time to:

- (a) establish procedures to comply with relevant legislative obligations imposed under the FSR transition;
- (b) review their policies about educating and training their advisers;
- (c) revise, where necessary, their training courses to meet our knowledge and skill requirements; and
- (d) arrange for their training courses (or individual advisers) to be assessed by an authorised assessor.

Encouraging early compliance

[PS 146.41] We encourage advisers to meet the training standards as early as possible. Those who have not taken significant steps, such as enrolling in courses by 30 June 2002, are unlikely to meet the competency standards by the end of the 2-year transitional period. We will not give relief on the basis of lack of preparation.

D Training guidance

Our policy

Approved training or individual assessment

[PS 146.42] Advisers will meet the training standards by completing approved training courses relevant to their activities. These courses must be:

- (a) assessed by an authorised assessor as meeting the relevant requirements for knowledge and skills (see [PS 146.49]); and
- (b) listed on the ASIC Training Register (see [PS 146.48]).

As an alternative, advisers with at least 5 years relevant experience over the immediate past 8 years may demonstrate their competence by being individually assessed: see [PS 146.52]– [PS 146.53].

Educational levels

[PS 146.43] Advisers must complete approved training courses or be individually assessed at an educational level appropriate to the complexity of their activities and clients' needs: the higher Tier 1 level, or Tier 2. The appropriate level depends on the type of product advised on.

Note: See [PS 146.54]– [PS 146.66] for a more detailed explanation of these levels.

Table 3: Summary of educational levels

	<i>Who</i>	<i>Characteristics</i>
Tier 1	People advising on all financial products except those listed under Tier 2	The characteristics of this level are broadly equivalent to the “Diploma” level under the Australian Quality Training Framework
Tier 2	People advising on the following financial products: <ul style="list-style-type: none">● general insurance products except for personal sickness and accident● basic deposit products● non-cash payment facilities	The characteristics of this level are broadly equivalent to the “Certificate III” level under the Australian Quality Training Framework

Note: We will monitor developments to determine whether Tier 2 remains the appropriate educational level (eg in relation to non-cash payment facilities).

Pre 1995 training

[PS 146.44] Advisers who have completed training that is listed on the ASIC Training Register (but before 1 January 1995) will generally need to demonstrate that their knowledge and skills are complete and current, particularly in the areas of regulation, compliance and disclosure. This can be demonstrated by producing evidence of relevant continuing training or undertaking approved supplementary or gap training.

Foreign qualifications

[PS 146.45] We will accept recognised foreign qualifications relevant to the activities undertaken. However, advisers with foreign qualifications will generally need to undertake a course on the ASIC Training Register to become familiar with Australian regulatory requirements.

Underlying principles

[PS 146.46] We have developed a set of knowledge and skill requirements to establish a benchmark against which training courses and advisers can be assessed for the purposes of meeting the training standards.

Explanations

Approved training

[PS 146.47] Generally, advisers will undertake courses that have already been assessed by an authorised assessor (see [PS 146.86]) and are listed on the ASIC Training Register. However, licensees may choose to develop their own courses in partnership with an authorised assessor or have their own courses assessed by an authorised assessor.

[PS 146.48] The ASIC Training Register is available on our website at www.asic.gov.au. It lists courses according to the name of the organisation issuing the qualification, the name of the course and the knowledge categories.

Note: For information on how we maintain the ASIC Training Register, see [PS 146.101]– [PS 146.102].

[PS 146.49] Advisers must complete subjects or units that address:

- (a) our generic knowledge requirements (see Appendix A at [PS 146.117]); and
- (b) our specialist knowledge and skill requirements relevant to all the areas and products they advise on (eg superannuation, managed investments, life insurance): see Appendices A and B at [PS 146.117] and [PS 146.127].

[PS 146.50] In most cases, an adviser will need to complete a number of individual subjects or units listed on the ASIC Training Register, depending on the products, type of activities and clients. In other cases, the adviser will meet the training standards by completing all units within a course.

Course exemptions and professional association designations

[PS 146.51] Some advisers have received exemptions from courses or subjects listed on the ASIC Training Register by passing another course or subject, or on the basis of their experience. We will recognise these exemptions providing they are only a minority of the subjects or units of the course undertaken to meet the training standards. We will also recognise professional association designations where the qualification on which the designation was granted is listed on the ASIC Training Register.

Individual assessment

[PS 146.52] Experienced advisers who do not have relevant qualifications can meet the training standards by being individually assessed by an authorised assessor. To be eligible for this option, advisers must have at least 5 years relevant experience over the immediate past 8 years in the areas in which they advise.

[PS 146.53] Individual assessment means an assessment of a person's capability to undertake their current duties, taking into consideration their previous work experience. It is also known by various other names including workplace assessment, recognition of current competency, recognition of prior learning or professional assessment. This type of assessment does not necessarily include a formal written examination. Advisers can be assessed against the training standards for their current activities in a variety of ways (eg on-the-job, portfolio assessment, oral or practical tests, challenge tests).

The ASIC Training Register contains the names of assessors that carry out individual assessment.

ASIC's knowledge and skill requirements

[PS 146.54] In light of the wide range of products offered in the financial services industry, we have identified a range of knowledge and skill requirements that should be covered in training courses or when assessing an individual adviser. We consider that our requirements are consistent with those already developed by industry and with the guidelines contained in industry codes of conduct. We recognise that the extent and scope of the knowledge and skill requirements may vary according to the activities undertaken.

Knowledge

[PS 146.55] Our knowledge requirements are set out in Appendix A. All advisers should demonstrate an understanding of:

- (a) generic knowledge relevant to the products they advise on and the markets in which they operate;
- (b) specialist knowledge about the specific products they advise on and the markets in which they operate. We have developed specialist knowledge requirements relevant to each sector in the financial services industry.

Skills

[PS 146.56] Advisers need appropriate skills to be able to apply their knowledge in practical situations.

Table 4: Examples of knowledge and skill requirements

<i>Knowledge and skills needed</i>	
Financial planner	<p>An adviser providing financial planning advice that requires a detailed client needs analysis should undertake training courses which address the elements set out under our requirements for:</p> <ul style="list-style-type: none">● generic knowledge● specialist knowledge under the financial planning (see Table A2.1 in Appendix A [PS 146.117]) and superannuation (see Table A2.5) categories; and <p><i>Note:</i> They will also need to complete courses covering insurance (see Table A2.6), managed investments (see Table A2.4) and securities markets (see Table A2.2) if they advise on these products.</p> <ul style="list-style-type: none">● appropriate skills
Insurance broker	<p>An insurance broker advising on life and general insurance products should undertake training courses which address the elements set out under ASIC's requirements for:</p> <ul style="list-style-type: none">● generic knowledge● core insurance knowledge (see Table A2.6b in Appendix A [PS 146.117])● specialist knowledge covering general insurance, life insurance and insurance broking (see Table A2.6)● appropriate skills
Tier 2 General insurance products	<p>If a person advises only on Tier 2 general insurance products (see Table 3), they will need:</p> <ul style="list-style-type: none">● generic knowledge● core insurance knowledge (see Table A2.6a in Appendix A);● specialist knowledge covering general insurance (see Table A2.6b)● appropriate skills

Educational levels

[PS 146.57] All advisers should undertake a level of training at either Tier 1 or Tier 2 level. In most cases, advisers will have to meet the higher Tier 1 level.

Tier 1

[PS 146.58] The program content of Tier 1 courses should be assessed at a level that enables advisers to:

- (a) demonstrate an understanding of the generic and specialist knowledge requirements in Appendix A that are relevant to their tasks and specific industry and product;
- (b) analyse and plan approaches to technical problems and client issues;
- (c) evaluate information for planning and research purposes;
- (d) apply their knowledge to relevant tasks;
- (e) apply judgement to the selection of products and services for clients;
- (f) apply knowledge, and evaluation and co-ordination skills, to a variety of technical situations; and
- (g) apply knowledge and skills to developing and analysing strategies for clients.

[PS 146.59] These characteristics are broadly equivalent to the “Diploma” level in the Australian Quality Training Framework. This Framework is a national government system that provides the criteria for all qualifications issued by TAFEs, universities and approved private education and training providers.

[PS 146.60] We are not prescribing that advisers should necessarily undertake a formal diploma course. The reference to this qualification in this policy statement is for comparative purposes only, as a guide for licensees and training providers on the level of the required content of the course.

Tier 2

[PS 146.61] The content of a course designed to meet the Tier 2 level should enable the adviser to:

- (a) demonstrate an understanding of the generic and specialist knowledge requirements in Appendix A that are relevant to their tasks and specific industry and product;
- (b) apply a range of well developed skills to a variety of customer services and technical situations;

- (c) apply known solutions to a variety of predictable problems;
- (d) perform processes that require a range of well developed skills when some discretion and judgement are required;
- (e) interpret available information about the client and product, using discretion and judgement.

[PS 146.62] These characteristics are broadly equivalent to “Certificate III” level in the Australian Quality Training Framework. We are not prescribing that advisers should necessarily undertake a formal Certificate III course.

General insurance products

[PS 146.63] We have applied the lower Tier 2 level of training to courses that cover the types of general insurance products set out in Table 3 because these types of products:

- (a) are relatively straightforward;
- (b) do not have any investment component;
- (c) are subject to standard terms and conditions except for previously disclosed variations; and
- (d) are of limited life, often 12 months.

[PS 146.64] We have not included personal sickness and accident insurance products in Tier 2. In contrast to Tier 2 product types, this type of product may be complex and choices a client makes may have an increased potential to impact significantly on the client’s financial situation. We believe, as a result, greater reliance is placed on the adviser’s competence for advice on these products. Further, our regulatory experience has led us to conclude that a higher standard of training is required to advise on this type of product.

Note: We will monitor developments to determine whether Tier 2 remains the appropriate education level for all kinds of general insurance products (other than personal sickness and accident).

Basic deposit products and non-cash payment facilities

[PS 146.65] We have also applied the Tier 2 level to courses that cover basic deposit products and non-cash payment facilities: see s773D. These products are also relatively straightforward and well understood by the public.

Note: We will monitor developments to determine whether Tier 2 remains the appropriate education level for all kinds of non-cash payment facilities.

Licensee must assess Tier 2 products

[PS 146.66] A licensee may consider that some types of products included in Tier 2 are not, in fact, straightforward or standard products.

In these cases, they should make sure that their advisers are trained at the higher educational level.

Pre 1995 training

[PS 146.67] We consider that training listed on the ASIC Training Register but undertaken before 1 January 1995 would generally need to be supplemented, particularly in the areas of regulation, compliance and disclosure, unless documented evidence of continuing training can be produced.

[PS 146.68] We are not saying that pre 1995 training is irrelevant or that advisers who have completed older courses must do entirely new courses. However, pre 1995 training did not cover training in the ASC's Good Advice policy, all the major changes in taxation, nor the requirements of the Life Code.

[PS 146.69] We consider that advisers who commenced their training before 1 January 1995 but completed a majority of the subjects or units of the course after that date, would generally not need to supplement the pre 1995 subjects or units. Further, it may not be necessary to repeat an introductory subject or unit completed before 1995, if the adviser can show that the content was covered at a more advanced level after 1995.

[PS 146.70] There are circumstances where an adviser with pre 1995 training will not have to undertake gap training. We will accept the following as evidence of full knowledge training.

The adviser:

- (a) completed before 1 January 1995 training courses that are listed on the ASIC Training Register;
- (b) has worked continuously in the industry since 1 January 1995 in an area relevant to their current activity; and
 - (i) has been since 1 January 1995, and continues to be, a member of a recognised professional association relevant to the financial services industry that has a formal requirement for Continuing Professional Development (CPD). The adviser must have met the association's CPD requirements including training relevant to their current advisory activities and the areas of regulation, compliance and disclosure. The adviser must be able to satisfy their licensee with documentary evidence that they met this requirement. This can include receipts, the licensee's internal records, certificates of attendance, course or conference notes or agenda, diary notes; or
 - (ii) in cases where paragraph (i) does not apply, has undertaken continuing training since 1 January 1995 by attending workshops, conferences or courses relevant to their advisory

activities and the areas of regulation, compliance and disclosure. The adviser must be able to satisfy their licensee of such attendance through independent documentary evidence (eg receipts, names and dates of training, course or conference notes or agenda). We consider that the adviser should have completed at least 24 hours of training per year to meet this requirement.

[PS 146.71] Alternatively, an adviser with pre 1995 qualifications can demonstrate their current competence by undergoing individual assessment (see [PS 146.52]), or gap training.

ASX affiliates

[PS 146.72] Advisers who became ASX affiliates before 1 January 1995 and have met their continuing training obligations in accordance with ASX Business Rules will be taken to have met the training standards in relation to advising on ASX-traded products. They will need to complete additional approved training if they wish to advise on other types of financial products.

Foreign qualifications

[PS 146.73] We will accept foreign qualifications relevant to the activities the adviser undertakes. Advisers will need to obtain evidence that a course has been recognised by a relevant overseas regulatory body (eg Financial Services Authority (UK), New Zealand Securities Commission, National Association of Securities Dealers (US), Canadian Dealers Association, Securities and Futures Commission (Hong Kong), and the Monetary Authority of Singapore). Relevant foreign university qualifications can be verified by the National Office of Overseas Skills Recognition in Canberra.

[PS 146.74] Foreign qualifications will not have addressed Australian requirements (eg obligations under the Corporations Act and relevant codes of conduct, and knowledge of other relevant Australian legislation including taxation and superannuation). Advisers with foreign qualifications must undertake a relevant course listed on the ASIC Training Register to become familiar with Australian requirements.

Licensees to determine program delivery and assessment

[PS 146.75] We have not prescribed any particular duration for a training course or method of delivery or assessment. Licensees will be able to choose training and assessment procedures that meet both the training standards and their own business needs, for example:

- (a) a single training course or combination of courses delivered in-house or by an external training provider;

- (b) training methods such as course attendance, long distance education, or computer packages;
- (c) assessment methods such as formal examinations, case studies, or on-the-job assessment.

[PS 146.76] However, all training courses (or combinations of courses) will need to be assessed by an authorised assessor as meeting the training standards for the adviser's activities before being entered on the ASIC Training Register.

[PS 146.77] Once a course has been approved by an authorised assessor and recorded on the ASIC Training Register, it meets the requirements of this policy statement. We do not mandate any particular course or training provider. Licensees remain obliged to comply with the requirements of the Corporations Act in relation to their own or their representatives' competency.

Proposed new advisers

[PS 146.78] Licensees should provide proposed new advisers with appropriate induction on commencing employment. They should also ensure that, before the new entrants undertake activities under the AFS licence, they:

- (a) have undergone appropriate approved training courses; and
- (b) are properly supervised.

[PS 146.79] New advisers must not start advising retail clients until they satisfy the requirements of this policy.

Existing advisers

[PS 146.80] Existing advisers who have undergone training courses in the past can meet the training standards by having those courses accredited by an authorised assessor.

[PS 146.81] If the course has been approved by an authorised assessor (based on available evidence) and listed on the ASIC Training Register, then it satisfies the requirements of this policy. However, as stated in [PS 146.44], training undertaken before 1 January 1995 may need supplementing.

[PS 146.82] Where it is not possible to assess existing training, advisers may meet the training standards by:

- (a) undertaking a course already listed on the ASIC Training Register; or
- (b) being individually assessed (if they have 5 years relevant experience over the immediate past 8 years in the areas in which they advise).

E Assessing the quality of training

Our policy

[PS 146.83] Training courses (or individual advisers) meet the training standards if they have been assessed by an authorised assessor as meeting ASIC's knowledge and skill requirements.

The following organisations can undertake the role of authorised assessor:

- (a) a registered training organisation (RTO) with a scope of registration that allows it to deliver the Diploma of Financial Services (for training or assessment at Tier 1 level) or Certificate III in Financial Services (for Tier 2 level);
- (b) a self-accrediting organisation (SAO) (ie a university or other higher education institution approved under State or Territory legislation that delivers courses relevant to the financial services industry);
- (c) a professional or industry association relevant to the financial services industry that has been accredited by us.

Underlying principles

[PS 146.84] The requirement that all training courses must be assessed as meeting the training standards will encourage consistent standards of education and training across all sectors of the financial services industry.

[PS 146.85] The ability to select from a range of organisations that are authorised assessors will give licensees flexibility to decide the most appropriate assessor to address their business and training needs.

Explanations

Role of an authorised assessor

[PS 146.86] The role of an authorised assessor is to:

- (a) benchmark their own training courses or those of licensees or other training providers against our knowledge and skill requirements;
- (b) examine their own processes and procedures or those of licensees or other training providers to assess whether the courses can successfully meet the training standards; and/or
- (c) assess an individual adviser against the training standards.

Who can be an authorised assessor

Registered training organisation (RTO)

[PS 146.87] These organisations have already undergone a registration process conducted by a State/Territory recognition authority and are accredited training and assessment organisations.

[PS 146.88] They will need to demonstrate that they have the appropriate expertise to be an authorised assessor for the purposes of this policy statement. To do this, they must be registered, via their Scope of Registration, to deliver the Diploma of Financial Services (if offering or assessing training at Tier 1 level) or Certificate III in Financial Services (at Tier 2 level).

[PS 146.89] An RTO must lodge a copy of its Scope of Registration with us the first time it approves a course (their own course or that of a licensee).

Self-accrediting organisation (SAO)

[PS 146.90] Universities and higher education institutions have also undergone a statutory registration process. Only relevant schools or departments (eg finance, commerce, economics) of self-accrediting organisations will be qualified to carry out this function.

Professional and industry association

[PS 146.91] If a professional or industry association — that has not previously undergone a registration process as outlined above (eg to become an RTO) — wishes to become an authorised assessor, it must demonstrate to us that it:

- (a) represents members (individuals or organisations) who participate in the financial services industry;
- (b) has the expertise and facilities to assess training courses and/or individual advisers;
- (c) meets our criteria (see Appendix C [PS 146.128]);

Note: To ensure consistency between authorised assessor organisations, these criteria have been developed to be consistent with the criteria that an RTO or SAO must meet.

- (d) agrees to conditions imposed by ASIC (see Appendix D [PS 146.129]); and
- (e) agrees to assess training courses against the criteria outlined in [PS 146.94].

[PS 146.92] In considering whether to accredit a professional or industry association, we will consult with the Training Advisory Committee: see [PS 146.100].

[PS 146.93] Professional or industry association can apply to become an ASIC authorised assessor by obtaining an application from the ASIC website at www.asic.gov.au.

Criteria for assessing a training course

[PS 146.94] To assure itself that a training course successfully addresses the training standards, an authorised assessor should evaluate a course against the following criteria. The course should:

- (a) address our knowledge and skill requirements (see Appendices A and B);
- (b) be developed in a way that takes into account existing industry specific standards, the Financial Services Training Package (see [PS 146.98]) and approved codes of conduct where applicable;
- (c) have clearly identified objectives, outcomes and evaluation/assessment processes;
- (d) be delivered by appropriately qualified and experienced staff;
- (e) be delivered using appropriate methods and program materials;
- (f) be of an appropriate duration; and
- (g) be at an appropriate educational level.

[PS 146.95] The authorised assessor should also be satisfied that the licensee or training provider has:

- (a) adequate methods and materials for individual assessment (unless the licensee or training provider intends to outsource this function. In such a case, the outsourced entity must meet the relevant requirements);
- (b) adequate systems for recording assessment outcomes, exam results and archiving of records; and
- (c) adequate systems for recording and resolving grievances.

Re-assessment of training courses

[PS 146.96] Training courses must be assessed at least once every 5 years. A course would need to be assessed more often if there have been substantial changes to the functions performed by the advisers for whom the course was written, to the fundamentals of the financial services industry, or to the legislation relating to financial services.

Training courses delivered by authorised assessors

[PS 146.97] Training courses delivered by an authorised assessor that is an ASIC-accredited professional or industry association must be assessed by another authorised assessor. However, RTOs and SAOs will not be

required to have their own programs externally assessed. This is because a quality assessment process is already an integral component of their registration under applicable laws.

Financial Services Training Package

[PS 146.98] The Australian National Training Authority (ANTA) has endorsed the Financial Services Training Package, which contains competency standards for the insurance and stockbroking sectors. Financial planning competency standards will be issued early in 2002. When lodging courses on the ASIC Training Register, RTOs must produce evidence that they have aligned the course to the Financial Services Training Package, using the relevant competency standards, assessment guidelines and qualifications in accordance with ANTA guidelines. They must nominate the units of competency relevant to the underlying product, activity or financial sector.

[PS 146.99] RTOs that already have courses listed on the Training Register must align those courses to the Financial Services Training Package by 31 December 2002.

Training Advisory Committee

[PS 146.100] We have appointed a Training Advisory Committee to advise on:

- (a) training issues generally associated with the regulation of licensees and their representatives; and
- (b) the accreditation of professional and industry associations that apply to become authorised assessors, in accordance with this policy statement.

ASIC Training Register

[PS 146.101] We maintain a register of recognised training courses and assessment services. All authorised assessors must notify us within 30 days of approving a course (their own course or that of a licensee or another training provider). This ensures that the ASIC Training Register is kept up to date. If a course has been updated, we do not have to be notified again, unless there have been significant changes. When a series of courses collectively meets our requirements, only the name of the overall series needs to be notified.

[PS 146.102] The ASIC Training Register lists courses that meet the criteria set out in [PS 146.94]. It does not list short courses, in-house induction, product training, or continuing training. We will examine courses only to ensure that they are properly classified on the ASIC Training Register.

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How authorised assessors will notify us that they have approved a training course, or offer an assessment service

- The application form for lodging courses or assessment services with ASIC can be downloaded from our website at www.asic.gov.au.
- The authorised assessor should lodge the form within 30 days of approving a training course or offering an assessment service.

You can find names of approved courses and assessment services on the ASIC Training Register on our website or from ASIC Infoline 1300 300 630.

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F Continuing training guidance

Our policy

[PS 146.103] Licensees should implement policies and procedures to ensure that they and their advisers undertake continuing training to maintain and update the knowledge and skills needed for their activities.

[PS 146.104] We do not require continuing training courses to be assessed by an authorised assessor.

Underlying principles

[PS 146.105] Advisers should undertake continuing training to maintain their competence. This is particularly necessary because of rapidly changing markets and regulatory requirements.

Explanations

[PS 146.106] Licensees have an obligation to maintain their competence to provide the financial services authorised under their AFS licence: see s912A(1)(e). They must also ensure that their representatives are adequately trained and competent to provide those financial services: see s912A(1)(f). As part of meeting their obligations, licensees need to establish policies and procedures on continuing training that will address how they and their advisers will:

- (a) maintain knowledge and skills that are appropriate for their activities and responsibilities, and are consistent with the training standards;
- (b) update their knowledge and skills, especially in areas where there is continual change (eg legislation, regulatory policies and standards, economic and financial developments, new products and new market practices); and
- (c) develop new knowledge and skills to assist with their current role or roles contemplated in the near future.

[PS 146.107] These policies and procedures should include:

- (a) nominating a person who is responsible for continuing training (see [PS 146.108]);
- (b) establishing an annual training plans for each adviser (see [PS 146.109]);
- (c) keeping records of advisers' training programs (see [PS 146.110]); and
- (d) deciding how much training each adviser needs each year (see [PS 146.114]).

Nominating a training officer

[PS 146.108] Licensees should nominate one or more persons who are directly responsible for the training (initial and continuing) of advisers.

Developing annual training plans

[PS 146.109] Licensees should develop an annual training plan for each adviser. Annual training plans should address the following steps:

- (a) assess the adviser's training needs in relation to the training standards, particularly should the adviser's functions change;
- (b) identify the adviser's gaps or weaknesses in the preceding year and the areas where training will be focused;
- (c) set objectives to be met (ie the desired changes in the adviser's knowledge, skills and/or performance at the end of the training year);
- (d) decide the structure of the continuing training program (including nominating the training methods);
- (e) assess whether the adviser has met the objectives of the training program; and
- (f) provide feedback sessions with the adviser about their performance.

Keeping records

[PS 146.110] It is a licence condition that a licensee must maintain a record of the training (relevant to the provision of financial services) that each of its representatives has undertaken after that person became a representative, and any training undertaken before that person became a representative to the extent that the licensee can obtain that information after reasonable inquiry: see reg 7.6.04(d). To demonstrate compliance with their continuing training obligations, licensees should:

- (a) keep written records of each adviser's training plan. The records should be updated at least annually and address the elements contained in [PS 146.109]; and
- (b) keep evidence of their advisers' continuing training (eg receipts, enrolment records, attendance lists, detailed diary notes).

[PS 146.111] A licensee can use a variety of ways to maintain evidence of continuing training. Examples include:

- (a) a photocopy of the document indicating the qualification awarded or training undertaken;
- (b) a computer or system entry, following sighting of the training evidence; or

- (c) an arrangement with the adviser to hold the qualification certificate.

Group training

[PS 146.112] We recognise that many organisations plan and structure continuing training for a whole group or department based on the type of function or task being performed. We will accept annual continuing training plans that address continuing training on a group basis. However, licensees must ensure that each individual within the group carries out only the functions and tasks for which their training has equipped them. Licensees must continue to assess their advisers' functions and make changes to their continuing training plans if those functions change.

[PS 146.113] Continuing training plans developed on a group basis must address the steps in [PS 146.109] and be monitored on an ongoing basis.

Minimum number of hours

[PS 146.114] We have not prescribed a minimum number of hours per year that an adviser should spend on continuing training. This is because the time required will vary according to the adviser's activities and level of experience. Licensees should nominate an appropriate figure, based on the adviser's activities and experience. As a guide, some professional bodies have already set a minimum number of hours to be satisfied by their members. We will monitor whether licensees nominate appropriate minimum hours of continuing training. We will consider setting minimum hours, if we become aware that licensees are not nominating appropriate figures.

Compliance

[PS 146.115] To meet their compliance obligations, licensees should prepare a statement that sets out their training policy and procedures, which includes their approach to continuing training. They should also ensure that tasks and functions carried out by individual advisers are documented, and any identified gaps or weaknesses in the adviser's activities are addressed.

[PS 146.116] Training procedures should address how a licensee will monitor that their continuing training polices are being carried out. This would include monitoring the continuing training of advisers who are geographically separated from the licensee and those advisers with multiple authorisations.

Appendix A: Knowledge requirements

[PS 146.117] The following list of ASIC's knowledge requirements applies to a range of products and activities relevant to the financial services sectors regulated by ASIC.

The requirements are grouped under:

A1 Generic knowledge

A2 Specialist knowledge, covering

A2.1 Financial planning

A2.2 Securities

A2.3 Derivatives

A2.4 Managed investments

A2.5 Superannuation

A2.6 Insurance — general, life and broking

A2.7 Deposit products and non cash payment facilities

All advisers should demonstrate that they have met the generic knowledge requirements and specialist knowledge requirements relevant to their activities. We recognise that, depending on the nature of the activities undertaken, the extent and scope of the knowledge requirements to be met may vary.

Licensees must first identify their advisers' tasks and functions. They must then determine which of ASIC's knowledge requirements should be covered in their training courses or individual assessments of advisers in relation to those tasks and functions.

Note: Advisers need only meet elements relevant to their activities. There may be other elements that a licensee or training provider may wish to include in a course.

A1 Generic knowledge

[PS 146.118] Advisers should have a generic knowledge of the environment in which they operate to understand the context in which the advice is given. Generic knowledge may be covered separately or within specialist knowledge training. Its content will depend on the adviser's activity and products advised on and may include the following concepts.

Table A1: Generic knowledge

The economic environment	<ul style="list-style-type: none">● characteristics and impact of economic and business cycles● interest rates, exchange rates● inflation● government monetary and fiscal policies
Operation of financial markets	<ul style="list-style-type: none">● roles played by intermediaries and issuers● structure and inter-relationships within the financial markets● inter-relationship between industry sectors
Financial products	<ul style="list-style-type: none">● concept of a financial product — general definition, specific inclusions, exclusions● types of financial investment products● types of financial risk products (eg derivatives, risk insurance products)

A2 Specialist knowledge

[PS 146.119] An adviser should be able to apply the following specialist knowledge, where relevant.

A2.1 Financial planning

[PS 146.120] An adviser providing financial planning advice to retail clients should be able to apply the following knowledge.

Note: The financial planning process may require knowledge of specialist categories (eg managed investments, superannuation and insurance): see Tables A2.4–A2.6.

Table A2.1: Financial planning (specialist knowledge)

Theories of investment, portfolio management and management of investment and risk	<ul style="list-style-type: none">● range of financial products● types of investment products (eg cash, fixed interest, property, equities, managed investments)● types of financial risk products (eg risk insurance, derivatives)● investment concepts● investment strategies● identification of types of risk● client risk profile
Advisory functions	<ul style="list-style-type: none">● the role of financial planner● participants in the advisory services market● range of services provided● the financial planning process

Table A2.1 (continued)

Legal environment — disclosure and compliance	<ul style="list-style-type: none">● the role of the representative/adviser● relevant legal principles (eg Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act)● the relationship between ethics and regulatory requirements (eg good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest which may influence the adviser's recommendation)● relevant industry standards and codes of conduct● regulators' guidelines including ASIC's requirements in this policy● complaints resolution procedures (external and, if relevant, internal)
Taxation	<ul style="list-style-type: none">● the Australian taxation and social security systems● relevant taxation laws and regulations● effects of taxation on particular financial products● effects of taxation on financial strategies of individuals and entities
Estate planning	<ul style="list-style-type: none">● theory of estate planning (ie allowable investments, enduring and non-enduring powers of attorney, share purchase agreements)● management and investment strategies● relevant taxation laws and regulations

A2.2 Securities

[PS 146.121] An adviser providing advice on securities should be able to apply the following knowledge (where applicable).

Table A2.2: Securities markets (specialist knowledge)

Operation of securities markets	<ul style="list-style-type: none">● market participants● roles played by intermediaries
Types of products	<ul style="list-style-type: none">● range of securities● associated risks● investment options using securities product● alternative products (eg derivatives) (where relevant)
Theories of investment, portfolio management and management of investment and risk	<ul style="list-style-type: none">● investment concepts● investment strategies● identification of types of risk● client risk profile
Taxation	<ul style="list-style-type: none">● awareness of taxation issues relating to securities

Table A2.2 (continued)

Legal environment — disclosure and compliance	<ul style="list-style-type: none">● the role of the representative/adviser● relevant legal principles (eg Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act)● the relationship between ethics and regulatory requirements (eg good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest which may influence the adviser's recommendation)● relevant industry standards and codes of conduct● regulators' guidelines including our requirements in this policy● complaints resolution procedures (external and, if relevant, internal)● stockbroking competency standards (where relevant)● ASX Operating Rules (where relevant)
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A2.3 Derivatives

[PS 146.122] An adviser providing advice on derivatives should be able to apply the following knowledge (where applicable).

Table A2.3: Derivatives markets (specialist knowledge)

Operation of derivatives markets	<ul style="list-style-type: none">● market participants● roles played by intermediaries● structure and inter-relationships within and between the securities/derivatives sectors
Types of products	<ul style="list-style-type: none">● range of derivatives● associated risks● investment options using derivatives products
Theories of investment, portfolio management and management of investment and risk	<ul style="list-style-type: none">● investment concepts● investment strategies● identification of types of risk● client risk profile
Taxation	<ul style="list-style-type: none">● awareness of taxation issues relating to derivatives

Table A2.3 (continued)

Legal environment — disclosure and compliance	<ul style="list-style-type: none">● the role of the representative/adviser● relevant legal principles (eg Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act)● the relationship between ethics and regulatory requirements (eg good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest which may influence the adviser's recommendation)● relevant industry standards and codes of conduct● regulators' guidelines including our requirements in this policy● complaints resolution procedures (external and, if relevant, internal)● elements of the Registered Representatives Examination (where relevant)● SFE or ASXF Operating Rules (where relevant)
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A2.4 *Managed investments*

[PS 146.123] An adviser providing advice on interests in managed investment schemes should be able to apply the following knowledge (where applicable).

Table A2.4: Managed investments (specialist knowledge)

Types of products	<ul style="list-style-type: none">● concept of managed investments● specialist knowledge of the range of products offered under managed investment schemes, or a specific product offered under a scheme (eg<ul style="list-style-type: none">– property trusts, real estate investment strategies, valuation techniques, property management– equity trusts, fixed interest trusts– serviced strata schemes– primary production schemes– film schemes– time-sharing schemes)● identification of types of risks
Taxation	<ul style="list-style-type: none">● awareness of relevant taxation issues
Legal environment — disclosure and compliance	<ul style="list-style-type: none">● the role of the representative/adviser● relevant legal principles (eg Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act)● the relationship between ethics and regulatory requirements (eg good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest which may influence the adviser's recommendation)● relevant industry standards and codes of conduct● regulators' guidelines including our requirements in this policy● complaints resolution procedures (external and, if relevant, internal)

A2.5 Superannuation

[PS 146.124] An adviser providing advice on superannuation products should be able to apply the following knowledge (where applicable).

Table A2.5: Superannuation (specialist knowledge)

Operation and management of the superannuation industry	<ul style="list-style-type: none">● characteristics and structure of a superannuation product● roles played by intermediaries and issuers● types of superannuation products● fee structures/administration and management costs● types of contribution● annuities/pensions, allocated pensions and income stream products● associated risks● structure of superannuation plans management and administration of superannuation products● preservation rules● investment strategies within superannuation funds (ie investment concepts and strategies)● restrictions on investment strategies
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Table A2.5 (continued)

Taxation	<ul style="list-style-type: none">● impact on investment earnings● employer and employee contributions● benefit payments and expenses● tax deductions● capital gains tax treatment● roll-overs● reasonable benefit limits● superannuation surcharge● social security pension eligibility● retirement planning● death benefits● franking credits
Legal environment — disclosure and compliance	<ul style="list-style-type: none">● the role of the representative/adviser● relevant legal principles (eg Corporations Act, ASIC Act, Superannuation Industry (Supervision) Act, Privacy Amendment (Private Sector) Act)● the relationship between ethics and regulatory requirements (eg good faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest which may influence the adviser's recommendation)● relevant industry standards and codes of conduct● regulators' guidelines including our requirements in this policy● complaints resolution procedures (external and, if relevant, internal)● trustee rules

A2.6 Insurance

[PS 146.125] Given the nature of the insurance sector, the following specialist knowledge category for advisers on insurance products has been divided into core insurance knowledge and type of insurance product. This has been done to recognise industry feedback that there is a body of core insurance specific knowledge (separate to generic knowledge) that should also be understood by those operating within this sector.

A2.6a Core insurance knowledge, all categories (ie general, life and broking)

An adviser providing advice on insurance products should be able to apply the following knowledge (where applicable).

Table A2.6a: Insurance (core knowledge)

Operation of insurance markets	<ul style="list-style-type: none">● definition of insurance product● characteristics and participants of the Australian insurance market● roles played by intermediaries
Insurance products	<ul style="list-style-type: none">● types of insurance products (eg risk insurance products, investment life insurance products and general insurance products)● conditions, exclusions, levels of coverage of risk transfer products● pricing
Taxation	<ul style="list-style-type: none">● awareness of taxation issues relating to insurance products
Advisory functions	<ul style="list-style-type: none">● the role of insurance adviser/broker/agent● participants in the insurance advisory services market● range of services provided● profile and financial information of the client● appropriateness of a risk assessment

Table A2.6a (continued)

Legal environment — disclosure and compliance	<ul style="list-style-type: none">● the role of the representative/adviser● relevant legal principles (eg Corporations Act, ASIC Act, Insurance Contracts Act 1984, Life Insurance Act 1995, Privacy Amendment (Private Sector) Act)● the relationship between ethics and regulatory requirements (eg good faith, faith, utmost good faith, full disclosure of remuneration/fees and any other conflicts of interest which may influence the adviser's recommendation)● relevant industry standards and codes of conduct● regulators' guidelines including our requirements in this policy● complaints resolution procedures (external and, if relevant, internal)
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A2.6b Specialist insurance knowledge

Table A2.6b: Insurance (specialist knowledge)

General insurance	<ul style="list-style-type: none">● types of general insurance products/policies● standard cover (and deviations)● policy wordings● taxes and charges● insurance claims● premium rating/risk selection● reporting● product development● underwriting
Life insurance	<ul style="list-style-type: none">● types/classes of life insurance products/policies● standard cover (and deviations)● product development● policy wordings● underwriting● insurance claims● premium rating/risk assessment● investment strategy (investment component of life insurance products)
Insurance broking	<ul style="list-style-type: none">● types/classes of insurance products● standard cover and deviations● product development● policy wordings● underwriting● insurance claims● premium rating/risk assessment● types of broking services

A2.7 Deposit products and non-cash payment facilities

[PS 146.126] An adviser providing advice on deposit products and facilities for making non-cash payments (§763D) should be able to apply the following knowledge (where applicable).

Table A2.7: Deposit products and non-cash payment facilities (specialist knowledge)

Types of products/facilities	<ul style="list-style-type: none">● types of products/facilities● product/facility characteristics
Legal environment — disclosure and compliance	<ul style="list-style-type: none">● the role of the representative/adviser● relevant legal principles (eg Corporations Act, ASIC Act, Privacy Amendment (Private Sector) Act)● the relationship between ethics and regulatory requirements (eg good faith, utmost good faith, full disclosure of remuneration/fees, and any other conflicts of interest which may influence the adviser's recommendation)● relevant industry standards and codes of conduct● regulators' guidelines including our requirements in this policy● complaints resolution procedures (external and, if relevant, internal)

Appendix B: Skill requirements

[PS 146.127] Advisers providing financial advices to retail clients should be able to apply appropriate skills in relation to their activities and the products and markets in which they operate. These skills will vary according to the activities undertaken.

Note: There may be other elements that a licensee or training provider may wish to cover. All elements need not be met if demonstrably irrelevant to the adviser's activities.

Table B: Skill requirements

1 Establish relationship with client	<p>This may include:</p> <ul style="list-style-type: none">● explaining the adviser's role● establishing knowledge level of the client● explaining the services offered● identifying the licensee responsible for the representative's conduct● explaining fee and charging methodology● explaining the procedures for complaints handling
2 Identify client objectives, needs, and financial situation	<p>This may include collection of the following types of information from the client:</p> <ul style="list-style-type: none">● relevant personal, financial and business details● client objectives and goals● risk profile of the client● cash flows (required and projected)● relevant taxation obligations
3 Analyse client objectives, needs, financial situation and risk profile	<p>This may include:</p> <ul style="list-style-type: none">● analysing all relevant information● assessing if specialist advice is required● assessing the client's risk profile

Table B (continued)

4 Develop appropriate strategies and solutions	This may include: <ul style="list-style-type: none"><li data-bbox="325 179 970 230">● identifying and assessing available options via the above analysis<li data-bbox="325 248 970 271">● conducting relevant research/analysis/modelling<li data-bbox="325 289 970 340">● drafting plan/policy/transaction for presentation to the client<li data-bbox="325 358 970 381">● ability to underwrite and accept the transfer of risk
5 Present appropriate strategies and solutions to the client	This may include: <ul style="list-style-type: none"><li data-bbox="325 471 970 522">● explaining in plain language the proposed transaction/s<li data-bbox="325 540 970 591">● explaining the nature of the underlying financial products<li data-bbox="325 609 970 632">● explaining the possible risks<li data-bbox="325 650 970 669">● providing written supporting documentation
6 Negotiate financial plan/policy/transaction with the client	This may include: <ul style="list-style-type: none"><li data-bbox="325 760 970 810">● discussing any concerns/issues of the client regarding the proposed plan/policy/transaction<li data-bbox="325 828 970 882">● confirming with the client the preferred plan/policy/transaction
7 Co-ordinate implementation of agreed plan/policy/transaction	This may include: <ul style="list-style-type: none"><li data-bbox="325 972 970 1023">● gaining agreement regarding the proposed plan/policy/transaction<li data-bbox="325 1041 970 1060">● explaining associated fee and cost structures<li data-bbox="325 1078 970 1101">● explaining time frame for execution

Table B (continued)

8 Complete and maintain necessary documentation

This may include:

- signing a formal agreement
 - exchanging a signed agreement
-

9 Provide ongoing service (optional at discretion of client)

This may include:

- explaining ongoing fees and costs for ongoing and specifically defined services
 - providing ongoing service to client as required and agreed
 - providing client with reports regarding performance of the plan/policy/transaction
 - conducting a review of the plan/policy/transaction with client if parameters change
-

Appendix C: What criteria must a professional or industry association meet to become an authorised assessor?

[PS 146.128] A professional or industry association must fulfil the following criteria to be accredited as an authorised assessor. It must:

- (a) comprise members who possess specialised knowledge and skills relevant to the financial services industry;
- (b) operate nationally;
- (c) represent a significant number of participants in the financial services industry (either through individual or corporate membership);
- (d) use personnel who are professionally qualified in the knowledge areas they intend to assess and have expertise in the education and training sector, including assessment procedures. It is not necessary for these attributes to be held by the same person;
- (e) have assessment methodologies and materials appropriate for the needs of licensees or training providers;
- (f) have procedures for dealing with appeals from licensees or training providers if course approval is withheld; and
- (g) have procedures in place for carrying out individual assessment of current competence. This process may be outsourced to another authorised assessor.

Appendix D: What conditions are placed on a professional or industry association that is an authorised assessor?

[PS 146.129] ASIC will require a professional or industry association accredited to be an authorised assessor to comply with the following conditions.

The association must:

- (a) notify ASIC in writing within 30 days of courses it has assessed;
- (b) resubmit to ASIC evidence of its ability to act as an authorised assessor every five years or as requested;
- (c) not assess courses which it or its directors, agents or employees have developed and/or will conduct;
- (d) not assess courses of a party in which it has a financial or other interest, other than a party where the interest arises solely because employees or representatives of the party are members of the association or use training or other services provided to members by the association;

Note: Examples of parties in which the association has a financial or other interest are:

- (a) a related party (ie subsidiary, parent or sibling company); and
 - (b) a party who has significant influence over it (eg through common senior management, or through arrangements to assess each other's courses).
- (e) notify ASIC in writing if there are significant changes to the information on the basis of which ASIC has granted its approval;
 - (f) notify ASIC if key personnel named in the application cease to play the roles described in the application, or if there are any other major changes in staffing arrangements within the education and training team;
 - (g) continue to satisfy the criteria outlined in Appendix C of this policy statement;
 - (h) recognise training courses that have been accredited by other authorised assessors for the purposes of meeting ASIC's knowledge and skill requirements;
 - (i) allow ASIC to require an external audit of its procedures and processes from time to time.

Key terms

[PS 146.130] In this policy statement:

“Advice and Deal Guide” means *Licensing: The scope of the licensing regime: Financial product advice and dealing - An ASIC guide* (November 2001) [LIC 60]

“AFS licence” means an Australian financial services licence under s913B that authorises a person who carries out a financial services business to provide financial services

Note: This is a definition contained in s761A.

“ASIC” means the Australian Securities and Investments Commission

“authorised assessor” means an organisation that is recognised by ASIC to assess a training course against ASIC’s knowledge and skill requirements for the purposes of meeting the training standards, or to carry out an assessment of an individual’s competence

“Corporations Act” means the Corporations Act 2001 (as amended by the FSR Act) and includes regulations made for the purposes of the Act

“financial product” means generally a facility through which, or through the acquisition of which, a person does one or more of the following:

- (a) makes a financial investment (see s763B);
- (b) manages financial risk (see s763C);
- (c) makes non-cash payments (see s763D)

Note: See Div 3 of Part 7.1 for the exact definition.

“financial product advice” means a recommendation or a statement of opinion, or a report of either of those things, that:

- (a) is intended to influence a person or persons in making a decision in relation to a particular financial product or class of financial products, or an interest in a particular financial product or class of financial products; or
- (b) could reasonably be regarded as being intended to have such an influence.

However, the provision or giving of an exempt document or statement is not to be taken to be a provision of financial product advice

Note: This is a definition contained in s766B(1).

“FSR Act” means the Financial Services Reform Act 2001 or the Corporations Act (as amended by the FSR Act)

Note: The provisions contained in Schedule 1 will form part of the Corporations Act from 11 March 2002. Schedule 1 contains the financial services licensing provisions under Parts 7.6 to 7.8 and the financial product disclosure provisions under Part 7.9.

“FSR commencement” means 11 March 2002, the date fixed by proclamation under s2(2) of the FSR Act on which Schedule 1 of the FSR Act is to commence

Note: Schedule 1 contains the financial services licensing provisions under Parts 7.6 to 7.8 and the financial product disclosure provisions under Part 7.9.

“general advice” means financial product advice that is not personal advice

Note: This is a definition contained in s766B(4).

“licensee” means a person who holds an AFS licence

“Life Code” means the *Code of Practice for Advising, Selling and Complaints Handling in the Life Insurance Industry* (ISC Circular G.II.1, August 1995)

“life office sourced superannuation schemes” means superannuation schemes as described for the purposes of reg 7.3.10A as it applied under the old Corporations Act

Note: A superannuation scheme for the purposes of reg 7.3.10A under the old Corporations Act means a superannuation scheme that is wholly underwritten by one, or more than one, life policy within the meaning of the Life Insurance Act 1995.

“non-cash payment financial facility” means a facility through which, or through the acquisition of which, a person makes non-cash payments as defined in s763D

“old Corporations Act” means the Corporations Act 2001 as in force immediately before FSR commencement

“Part 7.9” (for example) means a Part of the Corporations Act after FSR commencement (in this example numbered 7.9), unless a contrary intention appears

“personal advice” means financial product advice that is given or directed to a person (including by electronic means) in circumstances where:

- (a) the provider of the advice has considered one or more of the person’s objectives, financial situation and needs; or
- (b) a reasonable person might expect the provider to have considered one or more of those matters

Note: This is a definition contained in s766B(3).

“[PS 136]” (for example) means an ASIC policy statement (in this example numbered 136)

“reg 7.6.04” (for example) means a regulation of the Corporations Regulations 2001 (in this example numbered 7.6.04)

“regulations” means the Corporations Regulations 2001

“representative” of a licensee means:

- (a) an authorised representative of the licensee; or
- (b) an employee or director of the licensee; or
- (c) an employee or director of a related body corporate of the licensee;
or
- (d) any other person acting on behalf of the licensee

Note: This is a definition contained in s910A.

“retail client” means a client defined as such under s761G and Chapter 7 Part 7.1 Div 2 of the regulations

“s912A” (for example) means a provision of the Corporations Act after FSR commencement (in this example numbered 912A), unless a contrary intention appears

“Statement of Advice” means a document that must be given to a retail client in relation to the provision of personal advice in accordance with Subdivisions C and D of Div 3 of Part 7.7

Note: See s761A for the exact definition.

“Training Advisory Committee” means a committee appointed by ASIC to:

- (a) advise on training issues generally associated with the regulation of licensees and their representatives; and
- (b) advise ASIC about the accreditation of professional and industry associations that apply to become authorised assessors, in accordance with this policy statement

“training course” means:

- (a) any education or training course, program, subject, unit or module of varying duration;
- (b) a combination of education or training subjects, units or modules on a similar topic; and
- (c) an education or training course or program delivered by various methods

“training standards” means the minimum standards for the training of advisers (within the meaning of [PS 146.2]) set out in this policy statement

“transitional provisions” means Part 10.2 of the Corporations Act (as amended by the Financial Services Reform (Consequential Provisions) Act 2001) and includes regulations made for the purposes of that Part

“2-year transitional period” means a period of 2 years starting from FSR commencement (ie from 11 March 2002 to 10 March 2004).

Related information

[PS 146.131]

Headnotes

training and education standards for advisers, Australian financial services licence, persons providing financial product advice, life insurance companies, general insurance companies, insurance brokers, ASIC's knowledge and skill requirements, continuing training of advisers

Policy statements and practice notes

Policy Statement 123 *Investment advisory services: superannuation advice* [PS 123]

Interim Policy Statement 146 *Training of authorised representatives* [IPS 146]

Policy Statement 164 *Licensing: Organisational capacities* [PS 164]

Policy Statement 167 *Licensing: Discretionary powers and transition* [PS 167]

Legislation

Corporations Act Chapter 7 Part 7.1 Div 2, Parts 7.8– 7.8, 7.9, 10.2, s761A, 761G, 763A(1), 763B– D, 766A(3), 766B(1), 766B(3)– (4), 766B(6)– (7), 1018A, 1434, 1436A(1), regulations 7.3.10A, 7.6.04(d), FSR Act s2(2), Schedule 1

Policy proposal papers

FSRB Policy Proposal Paper No 1 *Licensing: The scope of the licensing regime: Financial product advice and dealing* (April 2001) [LIC 60]

FSRB Policy Proposal Paper No 2 *Licensing: Organisational capacities* (April 2001)

FSRB Policy Proposal Paper No 3 *Licensing: Adapting IPS 146 to the Financial Services Reform regime* (April 2001)

Related FSR papers

Licensing: the scope of the licensing regime: Financial product advice and dealing — An ASIC guide (November 2001) [LIC 60]

Building the FSRB Administrative Framework — Policy to implement the Financial Services Reform Bill 2001 (April 2001) and *Supplement* (September 2001) [INFO 1620]

Discussion papers and reports

ASC Licensing Review Report Investment Advisory Services “Good Advice”, November 1995

ASC/ISC Exposure Draft 5: Consistent regulation of investment advice, June 1996

ASC consultative paper: Personal competencies for principals and advisers providing financial advisory services, February 1998

ASIC discussion paper: Draft guidelines for licensees on minimum standards for the education and training of their advisers, February 1999

George Pooley Formal review of the ICA Ltd’s General Insurance Code of Practice, October 1998

Media and information releases

[MR 98/262] ASIC extends competency consultation timetable, 2 September 1998

[MR 01/135] Policy proposal and process papers for the FSR Bill, 26 April 2001

[MR 01/319] Revised timetable for FSR publications, 11 September 2001

[IR 00/27] ASIC extends compliance date for training of advisers, 16 August 2000

[IR 00/35] ASIC guidance on the training of authorised representatives, 21 November 2000