Advice Standards and professionalism
Introductory presentation
Dr Deen Sanders OAM 2018
Adviser Standards Reform (FASEA) is often misunderstood

It is not an educational exercise restricted to financial advisers (restoring trust and confidence) with wide ranging effects on the entire business model of financial services and intention of the law.

**Standards Reform**
Themes and consequences

- Change in all compliance and regulatory facing functions
- Adviser exodus and radically reshaped advice businesses
- Professional Advice model
- Operating model transformation revenue flows, remuneration systems and wholesale product reform
- Advice quality and changed client/adviser/community expectations
- Business Models for Licensees
  - Transformation of Licensee service offering, commerciality and transparency
- Internal Education, L&D and CPD services – wholesale change
- Adviser recruitment, onboarding, career structures and expectations
- Advisory services – wholesale change

Adviser exodus and radically reshaped advice businesses

Professional Advice model

Operating model transformation revenue flows, remuneration systems and wholesale product reform

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Business Models for Licensees
  - Transformation of Licensee service offering, commerciality and transparency

Internal Education, L&D and CPD services – wholesale change

Adviser recruitment, onboarding, career structures and expectations

Advice Standards Reform (FASEA) is often misunderstood

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The community opportunity is about **Improving Trust**

<table>
<thead>
<tr>
<th>Ethical importance (net score)</th>
<th>Ethical behaviour (net score)</th>
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</thead>
<tbody>
<tr>
<td><strong>Health</strong></td>
<td><strong>Gap</strong></td>
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<td>89</td>
<td>15</td>
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<td><strong>Education</strong></td>
<td><strong>69</strong></td>
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<td>87</td>
<td>18</td>
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<td><strong>Government</strong></td>
<td><strong>92</strong></td>
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<tr>
<td>85</td>
<td>49</td>
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<td><strong>Public service</strong></td>
<td><strong>36</strong></td>
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<tr>
<td>85</td>
<td>111</td>
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<tr>
<td><strong>Banking, finance and insurance</strong></td>
<td><strong>-7</strong></td>
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<td>84</td>
<td>-27</td>
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<tr>
<td><strong>Charities and not-for-profit org.</strong></td>
<td><strong>83</strong></td>
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<tr>
<td>83</td>
<td>-15</td>
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<tr>
<td><strong>Large corporations</strong></td>
<td><strong>96</strong></td>
</tr>
<tr>
<td>81</td>
<td>48</td>
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<td><strong>Professional membership associations</strong></td>
<td><strong>33</strong></td>
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<td>81</td>
<td>48</td>
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<td><strong>Small to medium enterprises</strong></td>
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<tr>
<td>81</td>
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<td><strong>Media</strong></td>
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<td>79</td>
<td>15</td>
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<tr>
<td><strong>Trade or worker associations</strong></td>
<td><strong>78</strong></td>
</tr>
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<td>78</td>
<td>63</td>
</tr>
</tbody>
</table>

Base: Australians 18-65, Australian Ethics Index June 2018 (n=1008)
Industry professionalisation is about client trust and confidence

The Transformation opportunity
Rebuilding trust and meeting community expectations for conduct and professionalism requires outside in re-engineering.
Adviser Standards Reform

Summary
Adviser consequences

What is the consequence for Advisers?

- Undertake exam
- Join monitoring body
- CPD reporting to all parties

Qualification Degree – new
Post graduate – existing

Professional year

Continuing Professional Development

Mar-Jun(?) 2019 ~ 18 months (?)
5 essential elements of a profession

- **Education**
  The specific technical and professional requirements to practice in a discrete professional area. Often linked to entry level formal qualifications or certification. Also reflected in ongoing CPD (education) expectations.

- **Ethics**
  The prescribed professional and ethical standards that clients rightfully expect their professional to exhibit. Extends into specific areas of practice and conduct and a commitment to higher duty. Typically negotiated from within the professional community.

- **Experience**
  The personal capabilities (personal competencies) and expectations of experience required to practice as a professional (without supervision) in a discrete professional area.

- **Examination**
  The mechanism by which all of the elements are assessed and assured to the community. This is more than qualifications or certification requirements and also extends into expectations of regular assurance of practice (eg. Compliance and professional audit expectations).

- **Entity**
  In order for a profession to exist, there must be a capable entity to oversee and administer and compliance expectations on behalf of the community that rely on the professionals. This is usually a [professional] association made up of the individuals who will be regulated participants in that profession. It is this entity that is regulated under PSL.

Professional Standards Authority, 2017
Adviser Standards Reform

The Real consequences
What is the real consequence for Advisers?

25,000 individual financial advisers (relevant providers) will be impacted

- Estimates that less than 50% of Advisers over 40 have studied at University level
- Early indicators are that the education content for the qualifications will be comprehensive and cover material that most advisers should already know but have never been tested on. Leading to frustration and low completion rates.
- For instance, most Advisers have not had to study the source Corporations Act. AFSL’s have provided internal resources, summaries and compliance alternatives.
- 8 units of study (Grad Dip) at 120 hours per unit takes 1 year of full time study (away from the work force) to complete
Change is not just about COMPLIANCE anymore

Conduct systems that focus on ETHICS and changed BEHAVIOUR

A relevant provider must act, at all times and in all cases, in a manner that is demonstrably consistent with the following principles, in the discharge of their professional duties.

**Standards of Ethical behaviour**

- **a relevant provider must:**
  - **Standard 1** Act in accordance with the law and not only the letter - of all relevant laws and regulations (including the Code).
  - **Standard 2** Must not act or delay in acting where their personal advantage is served by the relevant provider.
  - **Standard 3** Act with personal integrity and as an independently minded professional, for the benefit of each client.

**Standards of Client care**

- **a relevant provider must:**
  - **Standard 4** Act only on the basis of the free, prior and informed consent of a client.
  - **Standard 5** Ensure that all advice and products are:
    - a) in the best interest of each client,
    - b) appropriate to the individual circumstances of each client,
    - c) presented in terms easily understood by the client.
  - **Standard 6** Take into account the broad effects arising from a client acting on their advice.

**Standards of Quality process**

- **a relevant provider must:**
  - **Standard 7** Obtain informed consent to act and to receive agreed fees and payments for agreed services.
  - **Standard 8** Obtain informed consent and agree to maintain records relevant to the advice provided, in accordance with relevant privacy, regulatory and confidentiality obligations.
  - **Standard 9** Ensure that all advice and products are:
    - a) offered in good faith and with competence
    - b) based on information that is neither misleading nor deceptive.

**Standards of Professional commitment**

- **a relevant provider must:**
  - **Standard 10** Develop and maintain a high level of relevant knowledge and skills.
  - **Standard 11** Accept that potential breaches of the Code will be subject to investigation and discipline from the relevant regulatory Body, undertakings in accordance with ASIC's approval and oversight of that Body.
  - **Standard 12** Individually and in cooperation with peers uphold and promote the ethical standards of the profession, and hold each other accountable for the protection of the public interest.

**Our values**

- A relevant provider must always act to realise and promote the values of:
  - Trust
  - Competence
  - Honesty
  - Fairness
  - Diligence
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<th>Standards of Quality process</th>
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What is the **real** consequence for **Licensees**?
AFSLs (for relevant providers), will need to **respond to adviser obligations**

**In response to requirement for University qualifications (Graduate Diploma)**
- Provide pathways for Advisers to study and meet requirements
- Support Advisers in up to 400 hours of study load each year (p/t)

**In response to requirement for passing exam before 1/1/2021**
- Support Advisers with pre-exam training
- Monitor their study and readiness for exam to maximise limited re-sits
- Remove Advisers that fail.
- Consider compliance watch listing for first and second failure sittings.

**In response to requirement to understand and apply a Code of Ethical behaviour**
- Review and apply **entirely new policies, procedures and compliance protocols** (including re-tooling Xplan and all other compliance systems) to support the Code of Ethics as the first lens of consideration for adviser behaviour and advice outcomes

**In response to requirement for regulated CPD obligations**
- AFSL is responsible for record keeping (and default reporting) to ASIC for each Adviser.
- AFSL is required to be responsible for **CPD policy, quality assurance, delivery and audit**.

**In response to requirement for New Advisers to satisfy at least 1 year of professional experience before becoming authorised**
- Build new adviser pathways and on-boarding arrangements that support new Advisers to:
  - Only give **general advice** until successful passing of exam and notification to ASIC of ‘provisional relevant provider status’ (approx. 6 months after start)
  - Only give **supervised personal advice** until satisfaction of PY requirements and record keeping (at least 1 year) and notification to ASIC of full ‘relevant provider status’
What is the **real** consequence for **Licensees**?
AFSLs will need to **respond** to their own obligations

If authorised to give advice as an individual, then personally meet all of the same obligations

- Pass the qualifications hurdle and examination
- Meet ethics and CPD requirements

In response to requirement to understand and apply a Code of Ethical behaviour

- Review and apply entirely new policies, procedures and compliance protocols (including re-tooling systems) to support the Code of Ethics as the first lens of consideration for adviser behaviour and advice outcomes
- **Choose** a Code Monitoring Body to provide third party compliance with the Code of Ethics and monitor advice and adviser activity – by **15 November 2019**

In response to requirement for a new Adviser to meet work and training, as well as qualification requirements

- Licensee is responsible for confirming standard has been met and maintaining evidence
- Licensee is responsible (with supervisor) for all advice given by a provisional relevant provider
- Licensee is responsible for formally notifying ASIC of commencement of PY, date of achieving provisional provider status and date of formal approval to become a relevant provider
The professionalisation spectrum in a business context

1. Compliance with the Act
   (put in place the evidential artefacts of professionalism)

2. Compliance with the spirit
   (professional behaviours and individual accountability – reward systems, education etc)

3. Professional business model
   (remuneration systems, operating and business models etc)

4. Transformation into a professional entity in a professional sector
   (structure, culture, accountability, remuneration, people)
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