

Michael Rawstron  
FSR Refinements Project  
Corporations and Financial Services Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600  
[FSRcomments@treasury.gov.au](mailto:FSRcomments@treasury.gov.au)

Dear Mr Rawstron

### **Refinements to Financial Services Regulation - Proposals Paper**

The Finance Sector Union of Australia (FSU) welcomes the opportunity to contribute to the consultation process for the proposed refinements to Financial Services Regulation.

The FSU represents 60,000 members employed in the finance sector across Australia. Our members deal with the day to day operation of the Financial Services Reform Act (FSRA) and have an active interest in promoting a professional, efficient and fair marketplace for financial services.

The FSU supports the general principles of improved disclosure and consumer protection that underpin the FSRA. We welcome refinements to improve the practical operation of the FSRA and are broadly supportive of the measures contained in the proposals paper.

***The FSU's main concern is ensuring that finance sector staff receive quality training to comply with FSRA requirements and that finance sector staff are not unfairly burdened by FSRA compliance requirements.***

The FSU welcomes the current refinements process and believes that a comprehensive review of the implementation and compliance with the FSRA needs to be undertaken. Such a review should consider the impact on all stakeholders – employees, consumers and employers.

Issues around staff training and skills recognition should be central to such a review, and include ways to attain full accreditation for FSRA training within the Australian Qualifications Framework (AQF) with a view to maximising the portability of skills across the industry.

The FSU believes it is important there are consistent minimum standards for staff training across the industry. Consistent with the intent of FSRA, consumers should only receive financial product advice from people who have been properly trained and are qualified to give that advice. Staff should receive quality training that enables them to provide appropriate advice to consumers. It's important that these principles are not undermined.

A broader review should also examine whether the intent of the legislation is potentially compromised by increased workloads due to FSRA requirements and the industry's failure to address these issues through appropriate staffing levels.

Unfortunately, in many companies we have witnessed a further intensification of work for staff without corresponding adjustments to staffing levels or sales targets.

Some companies have gone so far as to use the FSRA introduction as an excuse to increase sales pressures on staff, a process that would seem to run counter to the intent of the legislation to minimise inappropriate sales. We recognise that the Australian Government and the relevant regulators have no direct control over staffing levels and sales targets, however, we believe they can play a valuable role in helping to encourage a culture of compliance with the letter and spirit of the law.

## **FSU FSRA survey**

The need for a broader review is highlighted by the results from an extensive FSU survey regarding the impact of the FSRA on training and workloads. The survey was distributed to all FSU Members and results from 1,125 finance sector workers were collated in early 2004.

### **➤ FSRA Training**

Results indicate that 90.4% of respondents were required to undertake training as a result of the introduction of the FSRA. Tier 1 training was undertaken by 18.5% of those who received training, 60.3% did Tier 2 training, while 21.2% didn't know which level of training they were required to do. Most training was delivered in house, using internal training staff.

### **➤ Recognition of Training**

52.2% of respondents who undertook training reported the training they received was nationally recognised training, 4.8% said it wasn't recognised training, 2.8% said that some training was recognised while some wasn't and 40.2% were unsure as to whether training was nationally recognised.

74.5% of respondents stated they were not required to do a pre-training assessment to see if they already had the knowledge, education and skills to work under the new legislation. 20.5% undertook pre-training assessment while 5% were unsure.

### **➤ Has FSRA made jobs more complicated?**

The majority of respondents (65.2%) said that FSRA had made their jobs harder or more complicated, and 63.6% of respondents claim that some tasks now take longer to complete than they did prior to the FSRA.

### **➤ Have targets been adjusted?**

88.2% of respondents who work to targets stated that targets had not been adjusted to reflect workload changes. Of those who stated their targets had been adjusted, only 31.6% believe they have been adjusted appropriately. Of that 31.6%, approximately half (51.5%) of respondents in retail branches believed their targets weren't adjusted appropriately.

In addition many comments received from respondents expressed fear of doing or saying the wrong thing despite having completed FSRA compliant training. Many mentioned the inadequacy of the training at giving them the level of confidence they need to be sure they are satisfying the requirements.

## **Quality and Compliance**

The non-prescriptive implementation of the FSRA legislation by the Australian Securities and Investments Commission (ASIC) has given rise to enormous diversity

in its application. The FSU believes that ASIC needs to play a stronger role in ensuring that PS146 compliant training actually ensures that staff are appropriately trained to provide financial advice. The ASIC Training Register (ATR) needs to provide more information regarding the content and quality of PS146 compliant courses – thereby providing more transparency and assistance to industry.

The ATR encourages compliance over capability and doesn't currently ensure the quality of advice that PS 146 was meant to encourage. An unfortunate example of training was given by an FSU member working in a banking environment, who said she was assessed online. She did her training, completed the assessment and failed. However, the training program did not tell her why she failed, so she just kept putting in different combinations of answers until she was passed. Thousands of finance employees would have undertaken this method of assessment. This situation highlights the divergence between achieving compliance and being capable of providing advice for consumers in the manner envisaged by the recommendations of the Financial System Inquiry (FSI).

There needs to be a stronger alignment between the AQF and PS146 to provide the best possible linkage between PS146 compliance and the development of industry recognised portable qualifications. For example, if someone does compliance training within the AQF, they can subsequently build on this training to achieve an industry recognised qualification that leads to other industry acknowledged learning pathways. However, if an individual undertakes compliance training outside the AQF then it is unlikely they can use this as a step towards gaining an industry recognised qualification. Their training is isolated from the broader training framework and although it may be PS146 compliant, it often holds no other significant value within the industry.

Our comments in relation to specific proposals are attached. If you have any questions in relation to this submission please contact our National Communication and Policy Manager, Rod Masson, on (03) 9261 5330.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Paul Schroder', written in a cursive style.

Paul Schroder  
National Secretary  
3 June 2005

## **Finance Sector Union of Australia – Comments on Refinements to Financial Services Regulation proposals paper**

### ***2. Statement of Advice***

The FSU does not support the proposal in 2.2 to “clarify that advisers are not obliged to include in a Statement of Advice (SOA) information on alternative products or strategies that are considered but that do not form part of the final recommendation given by the adviser.”

The SOA should clearly state the advice *and the basis for it*. This should include an explanation about the recommended products to show why the advice meets the client's needs. An important part of this explanation is stating the alternative products or strategies that were considered in reaching the recommendation and why the recommendation is appropriate in light of the alternatives considered.

Advisers are expected to keep a record of alternative products considered so there is no extra compliance burden to include this information in the SOA.

### ***4. Oral Disclosure***

The FSU supports the proposal to reduce the amount of oral disclosure required where a cooling off period applies.

Many FSU members are employed in call centres which obviously play an important role in the delivery of financial services. Anecdotal evidence from these members suggests that consumers often become annoyed and frustrated when lengthy scripts are read out to them over the phone, in some cases they even hang up abruptly.