Responsible Investment Association Australasia

BRIEFING NOTE
FASEA CODE OF ETHICS AND RESPONSIBLE INVESTING

FASEA CODE OF ETHICS AND RESPONSIBLE INVESTING

March 2021

Australia's FASEA Code of Ethics is designed to shape and reinforce ethical conduct of financial advisers and to encourage a deeper engagement by the adviser with their duties to their client as well as wider society. This briefing note explores how the Code relates to and embeds responsible investing's relevance to the provision of financial advice.

Overview

In January 2020, Australia's Financial Adviser Standards and Ethics Authority's (FASEA) Code of Ethics came into effect. The framework was designed to help professionalise the advice industry in the wake of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, and to provide assurance to the public that advisers are acting in their best interests. In late 2020 it was announced that Treasury will oversee the Code of Ethics (the Code) and compliance going forward.

There are 12 standards which should be read in their entirety to guide advisers in the provision of recommendations to clients. This guide highlights those relating to and embedding responsible investment.

Standard 6

> *'You must take into account the broad effects arising from your client acting on your advice and actively consider the client's broader, long term interests and likely circumstances.'*

Standard 6 of the Code of Ethics is the most impactful in terms of providing responsible and ethical advice to clients. Prima facie, this standard deals with the provision of scoped advice and the need to consider that your advice, in a limited sense, may not be in the client's best interest in the long term. Whilst this a deliberately broad statement, explanatory note 49 accompanying this standard indicates that an adviser may need to limit their recommendations to "responsible or ethical products". This sends a clear signal to financial advisers that they should be interpreting "the client's broader, long term interests and likely circumstances" to include those environmental, social and governance issues which may be of a concern to a client or may have a longer term impact on a client's circumstances.

Standard 5

> *'All advice and financial product recommendations that you give the client must be in the best interests of the client and appropriate to the client's individual circumstances.*
>
> *You must be satisfied that the client understands your advice and the benefits, costs and risk of the financial products that you recommend, and you must have reasonable grounds to be satisfied.'*

The second significant standard for responsible investment is Standard 5. Acting in the best interest of client may be particularly obvious, however the additional draft guidance published in October 2020 by FASEA provides further clarity on this Standard:

- *'In applying the standard, asking appropriate questions of clients to better understand their individual circumstances is paramount to ensure that they are meeting their best interest duties.'*

Building trust again with the Australian public will involve ensuring that quality tailored advice is provided rather than a one size fits all approach. This can only occur if the adviser asks the right questions to determine the client's circumstances, needs and goals; something RIAA has long been advocating for.

- *'As an advice professional, it would be reasonable to expect that you have a good understanding of not only the products on the APL but a general understanding of other well rated products… that may be suitable to the client circumstance. It would be expected that if you are aware of a product that is not on your Licensee's APL and is a demonstrably more appropriate product to meet the client's best interests, that you seek Licensee approval to recommend that product.'*

This ultimately removes an obstacle which advisers may have had in the past in being able to access responsible and ethical investment products. It also puts the onus on the advisers to have sufficient knowledge of the product market to know what is available.

The requirement for the adviser to ensure that the client has adequate understanding of the costs, benefits and risks of any recommendations is broad, but should also be taken to understanding the costs, benefits and risks of recommending any mainstream products over responsible investment products, and vice versa. This may include the non-financial risks that may have a financial impact on the investments.

FASEA in short:

To consider the broader long-term interests of the client **(Standard 6)** and, act in the best interests of the client **(Standard 5),** the adviser should be asking appropriate questions of the client **(Standard 5 Draft Guidance)** to determine those broader long-term interests **(Standard 6)**.

The adviser should then consider limiting their recommendations to responsible and ethical products **(Standard 6 Explanatory Note 49)**, even if those products fall outside of their licensees' approved product list if it is in the best interest of the client **(Standard 5)**.

They should also be able to explain the product recommendations in sufficient detail **(Standard 5)** as to why the products are being recommended and how they will be able to meet the client's needs, what risks are involved or being avoided **(Standard 5 Draft Guidance)**.

ABOUT RIAA

The Responsible Investment Association Australasia (RIAA) champions responsible investing and a sustainable financial system in Australia and New Zealand. RIAA is dedicated to ensuring capital is aligned with achieving a healthy society, environment and economy.

With over 350 members managing more than $9 trillion in assets globally, RIAA is the largest and most active network of people and organisations engaged in responsible, ethical and impact investing across Australia and New Zealand.