26 June 2020

Neville Power
Chairman
National COVID-19 Coordination Commission

Email: NCCCEnquiries@pmc.gov.au

Cc: Mr. James Kelly, Division Head, Financial Services Reform Taskforce Division
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Dear Chairman,

CPA Australia, Chartered Accountants Australia and New Zealand (CA ANZ), SMSF Association (SMSFA), Financial Planning Association (FPA) and Institute of Public Accountants (IPA) would like to take the opportunity to make a submission to the National COVID-19 Coordination Commission (NCCC) regarding the financial advice and professional services regulatory framework.

These five professional bodies represent over 300,000 professional advisers who seek to service up to 40% of the Australian adult population consumers who use, or have used, an adviser. This represents an overwhelming majority of the professional advice services sector and consumers.

We acknowledge the work the NCCC has already conducted in helping Australia on the bridge to recovery from COVID-19.

Recently, we have been working together to untangle the regulatory complexity for advisers and consumers who seek financial advice. We seek to see more Australians benefit by having quality financial advice more affordable and less complex from a consumer's choice of trusted professional adviser.

We have consulted with the Government, Treasury and ASIC on these issues. An impact of this work can be seen in the relief provided to financial advisers and registered tax agents to provide advice to consumers in a more efficient and timely way if they have been impacted by COVID-19. The advice industry, as a whole, has welcomed these reforms but they also highlight that the current framework is not working.

With the devasting economic impacts of COVID-19, a revised and streamlined advice framework can help to fuel jobs, small businesses and the provision of quality advice.

Why do we need a change?

The current state – Overlapping regulatory requirements and regulators stifles advice

It has become increasingly difficult for many Australians to create a financial plan, set financial goals and achieve financial security in a rapidly changing environment. The cost of accessing advice has significantly risen to a point that has never been higher. In addition, many consumers believe their financial circumstances and assets may not warrant seeking advice.

When seeking advice on a particular aspect of their financial situation, consumers find that advice can only be provided in an “all or nothing” fashion. This is because the advice framework is designed upon the provision of specific product advice. For example, take a consumer seeking simple advice on whether they should take money out of their super under the COVID-19 relief measures. A licensed adviser is required to comply with a number of obligations, including considering the client’s entire financial position and objectives (including future unknowns), preparing a statement of advice, that can take weeks and cost thousands – when ultimately the client wants to know how to pay their bills and keep a roof over their head. The ability for professionals to provide specific single issue advice or ‘scaled advice’ is extremely limited. FASEA regulations have further made the provision of ‘limited’ or ‘scaled’ advice almost impossible to provide.

ASIC research (2019) shows that only 27% of Australians have received personal advice but with a 41% saying they intend to get advice. With advisers continuing to leave the industry, costs rising and the inability to receive targeted advice, the advice gap will continue to rise.

On the supply side, advisers face many barriers to providing efficient and affordable advice. They face complex regulatory frameworks, with multiple regulatory regimes and regulators. Advice software and costs of compliance are substantial, and professional indemnity insurance is not only expensive, but becoming harder and harder to obtain.

The following provides an overview of the duplicate registrations, obligations and fees for financial advisers:

	ASIC	TPB	fasea	Professional body	Disciplinary Body (tbc)
Registrations	✓	✓	✗	✓	✓
Levies	✓	✗	?	✗	?
CPD	AFSL reports non-compliance to ASIC	✓	✓ (Specific 40 hours not necessarily in harmony with other)	✓ (Multiple including CA ANZ, CPAA, IPA, FPA, SMSFA)	TBC
Codes of Ethics	✗	✓ (TPB set and monitor)	✓ (Own Code)	✓ (Multiple incl APES Codes (CA ANZ, CPAA, IPA), FPA, SMSFA)	Monitor FASEA Code

In relation to financial advice, advisers must comply with the Corporations Act, the Tax Agent Services Act, the National Consumer Credit Protection Act, the Privacy Act, the AML/CTF Act, the SIS Act plus there are obligations imposed under the ASIC Act and the Financial Adviser Standards and FASEA, amongst others. Often there is no harmonisation between these regulatory frameworks, or even within a single regulatory framework. Most recently, ASIC estimates that their industry funding levy for 2019-20 will be $1571 per adviser, a 38% increase on the previous year.

Depending on how the licensing and registration system is set up, an adviser in practice may need to hold multiple licences and/or registrations to be able to provide one piece of advice. There is also clear evidence the limited licencing regime, which was intended to help individuals receive targeted advice from advice professionals, has failed due to its regulatory design and complexity.

Professional advisers can therefore find themselves restricted by the current regulatory framework from providing certain services, and consumers are frustrated when advisers are held back from giving advice.

In essence, advisers have duplicate obligations, multiple regulators, and multiple standards which result in complexity and cost. This is forcing many professional advisers to question whether they continue to provide advisory services at a time when the consumer need for financial advice has never been greater.

The impacts of the COVID-19 pandemic have also exacerbated the regulatory compliance issues which exist in the current advice framework. Registration with two regulators and compliance with seven regulators to provide one piece of advice has led to significant regulatory duplication and burden which has priced out the very consumers the system is designed to assist. In addition, each of the regulators provided regulatory relief in isolation of each other and without a deep understanding of the entire regulatory framework which led to an outcome of more complexity, not less.

As highlighted, consumers who wish to seek affordable and scaled advice in a timely fashion, especially as they worried about their financial situation resulting from the COVID-19 economic uncertainty, were unable to. The current framework required ASIC to create a form of temporary relief just to allow advisers to do their job effectively. Although this relief was welcomed, it still did not go far enough to be effective.

The economic impacts of COVID-19 have highlighted the strains resulting from the system's costs and inefficiencies. The recovery period and policies now provide a further opportunity to rethink and design the professional advice framework. This includes the provision of 'strategic advice' which is decoupled from products and 'scaled advice' which could allow broader access to advice for consumers regarding how to structure their financial affairs.

The increasing cost of financial advice is a major factor preventing many Australians from engaging with their choice of trusted adviser. We believe it is time to consider the factors driving up these costs and how they can be reduced, while still ensuring the client is engaged, informed and protected in the process

We believe a revised and streamlined advice framework will form a platform that reduces complexity, improves efficiency and drives harmonisation to enable the provision of affordable, accessible and quality advice to business and consumers. This will not only help fuel the economic recovery through small businesses and individuals who rely on expert advice but also ensure the financial services industry which is a key area of employment is able to grow.

How?

There is a clear need to take action to address this important objective and to help restore the community's trust and accessibility of advice to improve their financial well-being.

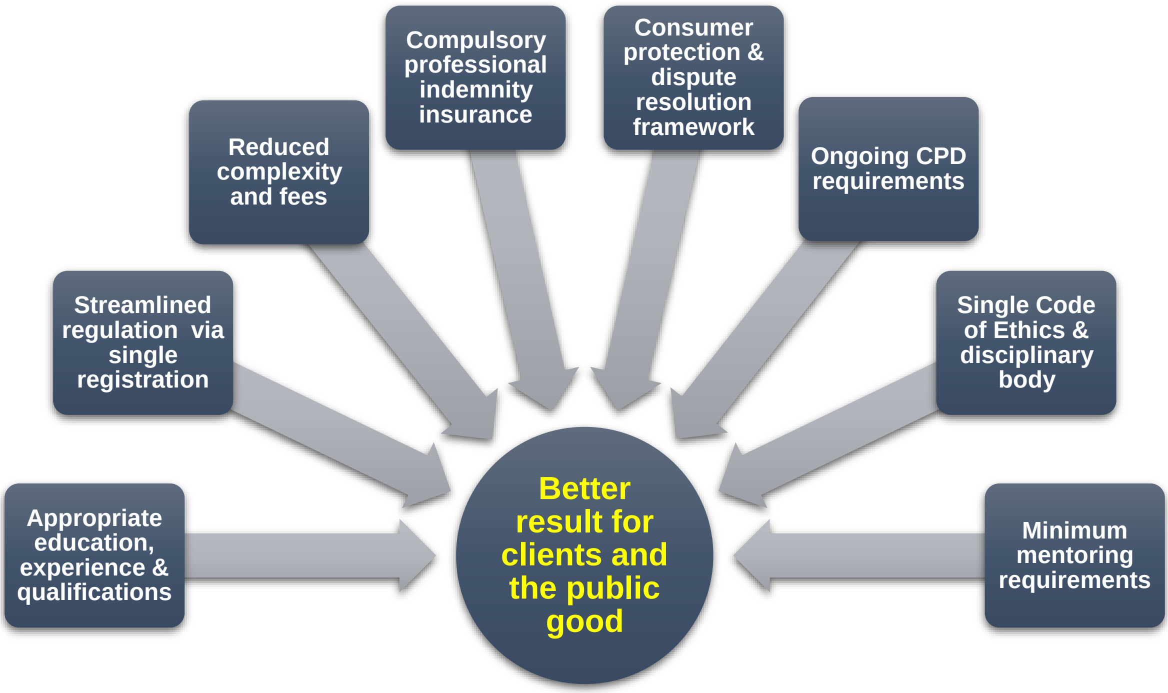
This needs to be conducted by removing the need for multiple licences, registrations, regulators and associated levies to reduce the costs of providing strategic financial advice.

In addition, improving an individual adviser's accountability for their own conduct and behaviour, while removing some of the barriers and current challenges around licensing under an AFS licensee.

Regulation therefore should be simplified so that its intent is clear, and the regulatory framework should be streamlined to improve the effectiveness of regulators and ensure consumers have confidence that their rights are being protected and their individual needs are the first priority for all advice matters.

We believe a revised regulatory framework should comprise:

- Individual registration of advisers with a single body
- Single education framework for individual advisers – replacing the current separate education standards for financial advisers set by FASEA and tax (financial) advisers set by the TPB
- A harmonised Code of Ethics to provide a single statutory code for professional advisers
- Appropriate consumer protection, including access to dispute resolution
- Appropriate compliance obligations and costs



The regulation of financial advice should also decouple its ties to the recommendation of a financial product, reflecting a history in which a product recommendation was the core component of most financial advice. In a professional advice sector, this is no longer the case.

A strategic model allowing suitably qualified professionals to practice under a 'no product recommendation' environment will see advisers given the ability to provide strategic advice with significantly reduced conflicts of interest. It will also address the false perception that financial advice is simply 'selling product' and in time address the issues of trust in the sector.

Appropriately qualified advisers would be able to choose specific areas of advice and specialisations which are either are strategic only, product only, or both.

This would create an efficient regulatory system for the provision of strategic advice, while helping to restore community trust and confidence by separating the provision of advice from the sale of a financial product.

The delay of royal commission recommendations, particularly the establishment of a single disciplinary body, provides further time to encourage a new model.

What are the benefits and for whom?

A reimagined advice framework has the opportunity to be beneficial for all Australians. It will include more advisers in the profession, less regulatory impost, greater strategic advice and more accessible advice at a cheaper cost to consumers.

These key benefits include:

- Increased consumer protection through individual accountability for compliance with legislative and ethical obligations
- Separation of the advice and product sectors to address inherent conflicts of interest, improving trust and confidence in advice
- Sustainability and stability of the financial advice sector, while lifting standards to move towards a true profession
- Increased access to advice through better and efficient regulation, by removing current complexity and costs of the AFS licensing system for individual advisers
- Cost neutral to the Government, with potential to attract more professionals to the sector which will increase revenue (and hence access to advice)

To follow is a comprehensive list of individuals and entities who will all benefit from a new advice framework, with the need having been exacerbated by the current pandemic:

Individual Australians suffering from the economic impacts of COVID-19 – With the devasting financial and economic impact resulting from COVID-19 many individuals will benefit from seeking financial advice. A new framework will make it easier for Australians to get assistance from their professional adviser in making decisions about their financial position in the recovery from the COVID-19 pandemic.

Small businesses – A key component to Australia's recovery from COVID-19 will rely on small businesses and they will rely on expert financial advice for success. In addition, many existing advisers are small business owners themselves and increasing their productivity will have a positive impact on the economy.

Ageing population and the 'economic timebomb' – A successful advice framework will address the 'economic timebomb' that an ageing population creates. The demands on health, aged care and sustainability funding the age pension will benefit from more individuals seeking efficient advice.

Financial advice industry – The current regulatory framework is also stifling growth and productivity in the financial advice industry. Financial services are a key sector of employment and the current costs to operate are forcing these individuals to leave the profession.

Individuals with low levels of financial literacy – Many consumers, including those who run small businesses, lack the knowledge and skills to effectively plan and manage their financial well-being. A more successful framework will ensure that more Australians are able to seek advice and improve their financial security.

Compulsory superannuation for working Australians – As Australian's superannuation continues to grow as a result of the ageing population and compulsory superannuation, the demand for financial advice will continue to grow. This will include the desire for many consumers to self-fund their retirement including through SMSFs.

Next steps

The five professional bodies would welcome the opportunity to discuss and work with the NCCC, Government, Treasury and regulators to highlight the current pain points in the advice framework and provide the opportunity to showcase the benefits a new framework would create.

If you have any questions about our submission, please do not hesitate in contacting us.

Yours sincerely,

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