

4 February 2022

Director
Advice and Investment Branch
Retirement, Advice and Investment Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: advicereview@treasury.gov.au

Dear Director,

Review of the quality of financial advice - Draft Terms of Reference

CPA Australia represents the diverse interests of more than 168,000 members, working in over 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

CPA Australia strongly supports the Government's intention to conduct a review of the effectiveness of measures that have been implemented by the Government, regulators and financial services entities to improve the quality of financial advice, as recommended by Recommendation 2.3 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

The review is a welcome opportunity to take stock of the impact and effectiveness of the many reforms and measures, such as the Future of Advice reforms, that have been implemented since the commencement of the Financial Services Reform Act 2001.

We strongly believe that this review should have been conducted before many of the reforms recommended by the Royal Commission, such as the introduction of a single disciplinary body, were introduced. However, the timing of the review will now provide the opportunity for a post-implementation review of several of these reforms to assess whether they have achieved their policy intent and whether there have been any unintended costs, complications or consequences.

Importantly, the outcomes of the review must be consumer centric. The majority of reforms and numerous reviews over the past two decades have introduced additional rules and regulations governing the participants of the financial services industry, which has demonstrably impacted the affordability and accessibility of financial advice for consumers. There is a perception by some industry participants that in making many of these reforms, little or no consideration has been given to consumers' needs and preferences or to maximising good financial outcomes for consumers.

We believe the draft terms of reference contained in the consultation paper broadly provide the framework which will allow a thorough examination of the many issues faced by the financial advice industry. We also welcome the review having regard to the interim findings of the Australian Law Reform Commission's Review of the Legislative Framework for Corporations and Financial Services Regulation.

However, to ensure that a more consumer-centric approach is taken and that the review aligns with Commissioner Hayne's intent in the Royal Commission recommendations, we suggest the following issues should also be considered as part of the review:

- The examination of the role and bounds of advice that does not involve a financial product recommendation, that may be considered strategic, structural or wholistic advice

- A post-implementation review of recent legislative and administrative reforms implemented in response to the Royal Commission recommendations
- The delineation between retail and wholesale clients and what safeguards should be provided to wholesale clients
- The role of emerging, alternative sources of 'general' advice and information, such as seminars, money coaches and social media influencers
- The role of Government tools and sources of information, such as the ATO superannuation fund comparison tool, ASIC Money Smart website and calculators, and the APRA superannuation fund performance test
- The role of Australian Financial Services (AFS) licensees. For example, whether the dual AFS licensing/authorisation and individual financial adviser registration and responsibility requirements effectively balance the benefits for consumers with potential tensions between a financial adviser's obligations to their clients and their obligations to and set by the AFS licensee
- Whether established consumer protections adequately address risks to consumers and provide accessible avenues for restitution. In particular, whether the requirements for AFS licensees to hold adequate professional indemnity insurance (PII) cover are satisfactorily adhered to, whether product offerings are fit for purpose and whether PII coverage of the industry is adequately monitored by Government regulators.
- The education, qualification and experience requirements and pathways for professional financial advisers.

We support the proposal that the review be led by an independent reviewer. However, we recommend that the reviewer has the scope and authority to appoint a panel of experts to assist with the conduct of the review.

To assist Treasury, our recommended amendments are marked up in the attached version of the draft Terms of Reference.

If you have any queries about this submission, please contact Michael Davison, Senior Manager, Advocacy and Retirement Policy on 02 6267 8552 or michael.davison@cpaaustralia.com.au.

Yours sincerely

Dr. Gary Pflugrath
Executive General Manager, Policy and Advocacy