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10 June 2022

Ms Michelle Levy
Review Chair
Quality of Advice Review
Financial System Division
Treasury
Langton Cres
Parkes ACT 2600

By email: AdviceReview@treasury.gov.au

Dear Ms Levy,

Quality of Advice Review – Issues Paper

CPA Australia represents the diverse interests of more than 170,000 members, working in over 100 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

CPA Australia believes the regulatory frameworks that govern the provision of financial advice, including financial product advice, need to be reviewed to enable professionals to provide independent, quality advice that benefits their clients and supports the public interest.

Financial advisers have consistently faced increasing regulation and compliance requirements for more than a decade, increasing both the cost and time burden associated with providing quality advice to their clients. These rising costs and complex regulations are driving financial advisers out of the sector. On 25 March 2022, when the Issues Paper was published, there were approximately 17,500 financial advisers on the Financial Adviser Register (FAR). Today, eleven weeks later, there are now only 16,545 financial advisers on the FAR and reports indicate this could drop to 15,000[1] by year end.

It is without question that robust regulation is needed to overcome market inefficiencies and address information asymmetry. It is needed to protect those who are in a disadvantaged position relative to other players in a market.
However, over the past two decades financial advice has become increasingly over-regulated. This has been through a combination of new legislation and regulations, and continual amendments and additions to existing obligations.

Often these reforms appear to be implemented in isolation, sometimes duplicating existing regulation, without considering existing legislative obligations, interaction with other regulatory regimes or how multiple reforms may impact the provision of advice and services. Importantly, many of these reforms have been made without due consideration of the associated compliance burden and cost. In many instances, the changes impact how advice is then explained to clients, resulting in longer meeting times and higher costs. The principles of good regulation appear to have been forgotten, given the proportional impact on the smaller end of the financial advice market.

We acknowledge that the objective of many of these reforms has been to ensure that robust and effective consumer protections are in place. However, one of the consequences is that seeking advice and professional services has become more complex and costly, pushing it out of reach for many consumers.

Reform is needed to build a true consumer-centric advice model. The model must recognise and cater for how consumers and small business owners (SMEs) define their financial advice needs and goals and how they use their financial advice. It must

[1] Industry to shed 2,400 advisers by year's end

create a framework where consumers and SMEs can seek the advice and support they want from their chosen professional adviser to meet their financial goals and security.

Meaningful reform is urgently needed to work towards an appropriate, fit-for-purpose model, which focuses on core areas, including:

- **definition of financial product advice**, which currently implies that all advice is tied to the recommendation of a financial product, whereas, in reality, the real value is in the strategic advice being provided, noting that a financial product may not be recommended
- **key definitions**, such as general advice, which can be confusing to a client, and wholesale client, where the thresholds have not been reviewed in more than two decades. Anecdotally, the failure to review the thresholds is seeing some consumers inappropriately being treated as wholesale clients
- **education and entry pathways to the sector**, to not only attract the next generation of financial advisers but also like-minded professionals such as professional accountants, and
- **the licensing framework**, which currently restricts a financial adviser's ability to apply their own professional judgement when providing advice, and yet makes them personally accountable for their advice.

Our detailed responses are contained in the Attachment.

While outside the scope of this review, CPA Australia believes longer term reform is needed to meet the community's needs and expectations. To achieve this, a single regulatory regime should be established for the regulation of professional advice, monitored and enforced by one regulator, and where professional advice includes financial planning advice, consumer credit and taxation.

If you have any queries about this submission, please contact Keddie Waller, Head of Public Practice & SME on 0401 716 083 or keddie.waller@cpaaustralia.com.au.

Yours sincerely

Dr Gary Pflugrath FCPA GAICD
Executive General Manager, Policy and Advocacy
CPA Australia

A consumer should be able to access affordable quality advice from their choice of trusted adviser.

RECOMMENDATIONS

Short term

Reflect Client Goals, Not Product

Key terms must be redefined to reflect consumer and SME goals and needs, as well as to be meaningful to the community, not just the financial services sector. This must include:

- separating strategic advice from product recommendations
- renaming of general advice, to reflect that advice is not being provided, and
- reviewing the thresholds and definitions of wholesale client and sophisticated investor, to ensure only those who understand and can tolerate the associated risks are treated as such clients.

Revise the Education and Entry Pathways to the Sector

The current one-size-fits-all pathway to providing financial planning advice must be revised to a model that is built on sector-developed core knowledge and education skillsets that reflect the scope and advice being provided by the adviser.

The focus should be on supporting the provision of quality, compliant advice to consumers through developing the required learning outcomes to provide such advice, while providing the flexibility needed to support scoped and specialist advisers.

Review the FASEA Code of Ethics

The Code of Ethics should be reviewed to remove duplication of existing legal obligations, clarify or remove undefined terms, and to address and clarify broad statements that are difficult to interpret and apply in practice.

This must include Standard 3, which prohibits a financial adviser from acting if there is a conflict of interest, and Standard 6, which requires a financial adviser to consider the client's broader, long-term interests and likely circumstances when providing scaled or limited advice.

Review the purpose and substance of the FSG and SOA

The purpose, form and substance of the financial services guide (FSG) and the statement of advice (SOA) should be reviewed to align to the needs of the client to make an informed decision about the financial adviser and advice they are being provided.

Building Better Engagement with the sector and the regulator

ASIC should look to continue to build stronger engagement with the sector by formally setting up a consultation group framework, similar to the Australian Taxation Office consultation groups, compromising of:

- Financial advisers
- Australian Financial Services (AFS) licensees
- Financial product providers
- Professional Associations, and
- Other key stakeholders including software and insurance brokers.

Adequacy of Professional Indemnity Insurance

Treasury should undertake a government funded thematic review of Professional Indemnity Insurance for the retail personal advice sector, focusing on keys risks including:

- accessibility
- adequacy
- exclusions, and
- impact on capital adequacy of the AFS licensee.

Medium Term

Individual Registration of Advisers

Individual registration of professional advisers would lead to greater responsibility and accountability, requiring a personal commitment to integrity, competence and ethics. This would foster and strengthen the relationship between client and adviser and also reduce or remove conflicts of interest between consumers, advisers and licensees that may arise in the current regulatory context.

This model would require the individual adviser to select the areas of advice and, if applicable, products they wish to seek registration for and demonstrate that they have met the appropriate education and experience for each area of registration as set by the single regulator.

Post-implementation review of the implemented recommendations from the Financial Services and Banking Royal Commission

As part of the response to the recommendations of the Financial Services and Banking Royal Commission, a number of significant regulatory reforms were introduced for the financial services sector, many with considerable cost impacts.

These measures should be reviewed to evaluate their effectiveness, including their impact on the quality of advice being provided, the stability of the financial services sector, and whether the measures are providing regulatory confidence and certainty for all stakeholders.

Long Term

One Regulatory Regime, One Regulator

Consumers and SMEs want to be able to access advice to meet their goals from their choice of professional adviser, regardless of the type of advice. To meet these needs, a single regulatory regime should be established for the regulation of professional advice, monitored and enforced by one regulator. Professional advice includes financial planning advice, consumer credit and taxation.

Single Code of Conduct

A principles-based statutory code of conduct that clearly sets out a consistent and uniform framework of expected ethical responsibilities and behaviour should be implemented for this single regime.

The single regulator must be responsible for monitoring and enforcement of the code of conduct, as well as administering any disciplinary action as a result of non-compliance. This will ensure a consistent approach to the monitoring and enforcement of ethical behaviour for professional advisory services, with a strong focus on conduct, culture, and – most importantly – the client.

1. Framework for Review

Financial Advice Definitions

In 2020, CPA Australia published 'The Value of Advice' research report[2]. This report was based on a quantitative survey of 1,244 consumers and 815 SMEs, as well as 20 in-depth interviews with consumers and SMEs at different life stages.

The research found that consumers and SMEs see financial advice very differently to lawmakers. For them, it's heavily anchored to their goals. Budgeting and saving, making better investment decisions, retirement planning and paying off debts are all jobs which clients consider to be professional advice and something with which a qualified professional should be able to help them.

Importantly, consumers and SMEs did not distinguish between advice types. From their point of view, different types of advice are seamless and fall under the definition of professional advice. Advice types were regarded as functional jobs to be done and were not always seen as being complex. However, legislatively, these strategies straddle different types of advice, governed by different legislation and regulations.

Given this, CPA Australia is concerned that there may be confusion around the term 'general advice'. We understand that in 2021 ASIC commissioned consumer research[3] to further explore this point, in response to calls for general advice to be re-labelled to ensure consumers could clearly distinguish between personal advice and general advice. While we understand ASIC found that changing the 'general advice' label alone is unlikely to prevent confusion about the nature of advice, it did highlight that consumers felt that general advice was tailored to their circumstances, especially if the advice was provided one on one.

The use of the term 'advice' implies that the consumer is receiving more than just factual information, especially if it is in reference to a financial product. As such, we believe general advice should be renamed, to reflect the point that advice is not being provided or product recommendations inferred. While this change alone may not prevent confusion, it should help reinforce to the consumer the nature of the information being provided.

Wholesale client and sophisticated investor are two further terms that have not been reviewed since the implementation of the Corporations Act 2001 more than two decades ago, and yet they can expose significant risks to clients. In 2011, as part of the Future of Financial Advice reforms an options paper was released, noting that:

> *Problems with the definition of wholesale client were exposed during the recent global financial crisis (GFC) as clients who did not have the necessary experience investing in complex financial products were able to access these on the wholesale market*[4]

Since 2011, we have continued to see significant increases in property values, average total earnings for Australian full-time workers and superannuation balances. However, the product and wealth thresholds have still not been increased. Importantly, those clients who are treated as a wholesale client or sophisticated investor lose the benefit of retail consumer protections.

To ensure appropriate consumer protection, CPA Australia believes that the thresholds and definitions of wholesale client and sophisticated investor must also be reviewed to ensure only those who understand and can tolerate the associated risks are treated as such clients.

CPA Australia recommends that key terms be redefined to reflect consumer and SME goals and needs, as well as to be meaningful to the community, not just the financial services sector. This must include:

- **separating strategic advice from product recommendations**
- **renaming of general advice, to reflect that advice is not being provided**
- **reviewing the thresholds and definitions of wholesale client and sophisticated investor, to ensure only those who understand and can tolerate the associated risks are treated as such clients.**

[2] The Value of Advice research report

[3] ASIC Findings from consumer research on 'general advice' label May 2021

[4] Wholesale and Retail Clients Future of Financial Advice Options Paper, January 2011 p.4

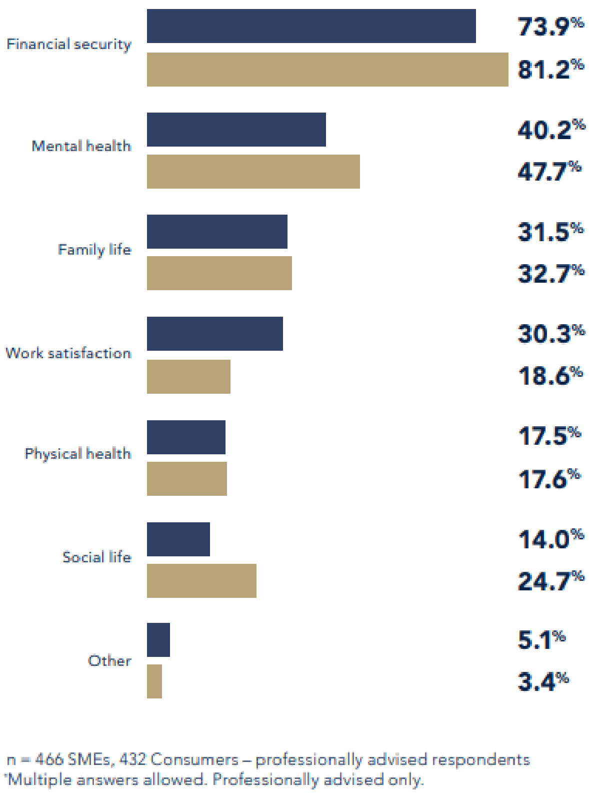
Benefits of Financial Advice

Professional advice can alleviate financial issues and in turn have a marked positive effect on social and health issues. Approximately four in five advised Australians, either consumers or business owners, say professional advice has given them greater peace of mind about their finances, greater control over their financial situation, and improved financial security.

Figure 1: Overall, has receiving professional advice…?[5]
(Note: The blue bar represents SMEs; the brown bar consumers)

Financial and mental wellbeing are intertwined. Individuals who receive professional advice report better mental health, meaning when financial issues are well managed, the benefits are not just monetary.

Figure 2: Which aspects of your life have benefited from receiving help with your finances?[6]
(Note: The blue bar represents SMEs; the brown bar consumers)



[5] The Value of Advice research report p. 18

[6] The Value of Advice research report, p.18

Quality of advice is subjective, making it hard to both define and measure. However, the Value of Advice research demonstrates that those who seek professional advice experience a positive impact through tangible improvements in financial security, as well as intangible improvements, including improved mental health and relationships.

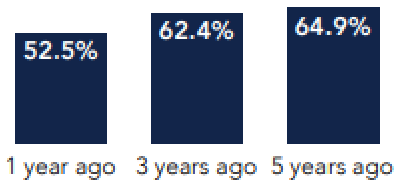
Barriers to seeking Financial Advice

Perceptions of value are a barrier for consumers and SMEs in receiving professional advice. The fees associated with professional advice play a role in the decision making of consumers and SMEs as to whether to seek advice services.

CPA Australia's Value of Advice research found that around three in 10 (28.7 per cent) consumers and two in 10 (20.3 per cent) SMEs cited that they do not feel that they can afford advice[7].

At the same time, according to CPA Australia's Regulatory Burden Report 2019[8], professional accountants, including those who provide financial planning advice, have had to increase their costs to clients in previous years in order to meet growing compliance obligations.

Figure 3: Majority of practices increased their costs to meet compliance obligations since years ago



1 year ago n=604, 3years ago n=591, 5 years ago n=575

One member recently has shared with us that they will soon be looking to re-home around 10 per cent of their clients due to their minimum fee requirement, driven primarily by their underlying compliance costs. Many of these clients have been with the practice for more than ten years, are elderly and often rely on the member for guidance and advice. This is a tough and difficult decision the member has had to make to ensure their small business operating their own AFS licence can remain profitable.

As part of the response to the recommendations of the Financial Services and Banking Royal Commission, a number of significant regulatory reforms were introduced for the financial services sector, many with considerable cost impacts. For example, legislated requirements to ensure that fees and services are regularly disclosed to consumers has seen product issuers respond by each creating their own form and deadlines, resulting in an overly administratively burdensome process for the financial adviser and their clients. While this may be an unintended consequence of these reforms, it is having a significant impact on the costs for financial planning practices, noting that 90 per cent of financial advisers are sole traders or part of a small business[9].

The reforms implemented in response to the Financial Services and Banking royal Commission should be reviewed.

CPA Australia recommends a post-implementation review of the implemented recommendations from the Financial Services and Banking Royal Commission to review and evaluate their effectiveness, including their impact on the quality of advice, the stability of the financial services sector and whether they are providing regulatory confidence for all stakeholders.

2. Regulatory Framework

Financial advice is a broad concept and captures many different activities, sectors and professions.

When interviewees who participated in CPA Australia's Value of Advice research were asked to define financial advice, they commonly explained it as a service that provides more stability and enables a better long-term financial position through personalisation of services[10]. The definition of financial advice was also dependant on the specific goals of each individual, which is highly dependent upon their stage of life.

[7] The Value of Advice research report p. 17
[8] CPA Australia Regulatory Burden Report 2019 p.27
[9] Address to the 12th Annual Financial Services Council's Life Insurance Summit 2021, Senator Jane Hume, 21 April 2021
[10] The Value of Advice research report, p.7

For younger Australians, what they consider to be financial advice tends to be in the form of general tips with investment decisions from friends, family and even the internet. For older Australians, financial advice may be more tailored towards retirement preparation. For business owners, financial advice is likely to be seen as something more specific to their situation, rather than a general strategy.

Where there is increased risk, or evidence of systematic consumer detriment, it is the role of good regulation to protect those who are in a disadvantaged position relative other players in a market. However, the current regulatory framework is too complex and makes it near impossible for users of the Act to understand, as evidenced by the interim findings of the Australian Law Reform Commission's current Review of the Legislative Framework for Corporations and Financial Services Regulation[11].

Further, the current legislative obligations to provide financial planning advice means even the simplest of advice requests are unduly complicated and result in high costs to the client, which often means that the consumer does not seek the advice.

For example, an eighteen-year-old commences their first job as an apprentice mechanic and needs to select a superannuation fund. This could be simple advice from a financial adviser to select an industry super fund and select the growth investment option. In reality, it requires hours of work from the financial adviser to collect a range of personal information, compare different superannuation fund options, complete a risk profile for the client, wait potentially weeks for the AFS licensee's compliance approval for the final advice and then provide the same recommendation to the client via long and complex disclosure documents. The cost to provide the advice is likely to be thousands of dollars and the timeframe from requesting to receiving the advice several weeks.

There are also concerns that the FASEA Code of Ethics further complicates the provision of limited or scaled advice. For example, Standard 6 states:

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

This statutory obligation infers the financial adviser must consider broad factors and influences beyond the scope of the scaled advice being sought by the client. It is worth noting that the financial adviser must already provide advice that is in the best interests of the client. To comply with this obligation in practice, a financial adviser will consider the best interests of the client and in some instances those of their extended families, including retirement planning, estate planning, and aged care needs. This will all be file-noted and included in the final statement of advice presented to the client.

In contrast, if the client sought limited advice from a registered tax agent, legal practitioner or a medical practitioner, each would still consider the consequences and impacts of the advice they provide to their client, but other than in circumstances where they adjudge that a referral to a specialist is required, they exercise their professional judgement to provide the advice on the singular matter before them.

A single Code of Ethics is essential for a profession, as it not only informs professionals of the shared values and behavioural expectations, but it also communicates these expectations to the community. However, we believe that the current Code of Ethics adds complexity to the advice process. It duplicates existing legal obligations, and includes broad undefined terms and standards in some parts and has overly prescriptive requirements in others. Some requirements even appear to conflict with existing legal obligations, such as the safe harbour provisions for the best interests duty. The result of the deficiencies in this Code is impacting the provision of affordable advice that is in the best interests of the client.

CPA Australia recommends that the Code of Ethics should be reviewed to remove duplication to existing legal obligations, to clarify or remove undefined terms and to address and clarify broad statements that are difficult to interpret and apply in practice.

This review must include Standard 3, which prohibits a financial adviser from acting if there is a conflict of interest and Standard 6, which requires a financial adviser to consider the client's broader, long-term Interests and likely circumstances when providing scaled or limited advice.

Importantly, the current prescriptive and complex regulatory framework has arguably borne a compliance 'tick a box' culture within the sector, in an attempt to ensure compliance with so many different and changing statutory obligations. This potentially means that any regulatory reform that seeks to move towards principles-based legislation, for example the potential

[11] Interim Report A, Review of the Legislative Framework for Corporations and Financial Services Regulation, November 2021, p. 8

removal of the safe harbour provision for the best interests duty, may not have an immediate impact on the current advice process to reduce both the time and cost of providing advice.

To support the sector to continue its path of professionalism, the legislative framework must shift from prescription to a largely principles-based framework. This will support individual financial advisers service their clients and allow them to exercise their professional judgement to ensure their advice is in their client's bests interests.

Disclosure Documents

Disclosure is important. A client should be empowered to make informed choices by being informed and educated by their professional adviser through their engagement and advice documents. However, it has its limitations, and this must be considered when reviewing the purpose and effectiveness of the currently mandated disclosure documents that a professional adviser must provide their client.

In 2019, a joint report from ASIC and the Dutch Authority for the Financial Markets[12] found that

- disclosure does not solve the complexity in financial services markets
- disclosure must compete for consumer attention, and
- one size does not fit all – the effects of disclosure are different from person to person and situation to situation.

Increasingly, we have also seen disclosure documents being used more and more as a means to try and future proof an AFS licensee from potential complaints or future ASIC reviews, with this practice being encouraged by a lack of regulatory certainty and changing expectations.

Without regulatory change, any guidance or example statements of advice by ASIC will likely have no impact on changing this behaviour.

Financial Services Guide

The purpose of a Financial Services Guide (FSG) is to provide the necessary information to a retail client for them to read and understand before deciding whether to obtain financial services from a providing entity. However, there are potential concerns over the purpose and benefit for the client/professional adviser relationship. For example, the requirement to provide your client with an FSG that details how to make a complaint and what compensation arrangements are in place, before you even provide a financial service, could be both perplexing and concerning for a client, especially if they have not before sought financial planning advice.

There are also many terms used within an FSG that are likely to be meaningless to a potential client, such as statement of advice, record of advice, authorised representative and deal in a financial product.

Statement of Advice

The purpose of the statement of advice should be to inform and educate the client to make an informed decision to accept the recommended financial planning advice, based on their financial needs, goals and financial situation. However, in reality these statements have become a tool used by AFS licensees to primarily protect themselves in case of a potential complaint or review by ASIC. This has resulted in long and complex documents, even in the event of scaled or simple advice, to ensure it is evident that all possible considerations, from alternative strategies to alternative products, have been taken when providing the advice.

The form and substance of a statement of advice should consider important factors such as:

- the literacy and financial literacy of the client
- the complexity of the advice being sought
- the value and purpose of included information versus the resulting length of the document.

Consideration must also be given to the fact that the client is engaging the professional adviser for their expertise and advice. While this means the client should be informed to make a decision, this should not result in overwhelming the client with endless considered and ignored options and potential outcomes.

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[12] Disclosure: Why it shouldn't be the default, A joint report from the Australian Securities and Investments Commission ASIC) and the Dutch Authority for the Financial Markets (AFM), October 2019, p.5

Regulatory certainty is needed to provide confidence to the sector that they can produce a statement of advice, written or in digital form, that considers these factors and meets the purpose of informing and educating the client to make an informed decision about the advice they are receiving.

CPA Australia recommends that the purpose, form and substance of the financial services guide and the statement of advice are reviewed to align to the needs of the client to make an informed decision about the financial adviser and advice they are being provided.

The role of Professional Indemnity Insurance

If financial services are being provided to retail clients, there must be arrangements in place to compensate aggrieved clients for breaches of Chapter 7 of the Corporations Act 2001 (Corporations Act). The primary way for AFS licensees to comply with this obligation is to require them to have professional indemnity insurance (PII) cover.

A contributing factor to the consideration of a Compensation Scheme of Last Resort (CSLR) for the sector is the failure of PII to respond appropriately to disputes, often leading to awarded decisions by AFCA remaining unpaid. Accessibility and affordability of PII for the retail personal financial advice sector have been challenges for many years, with the impact of the Financial Services and Banking Royal Commission resulting in some PII providers exiting the market. It is also contributing to the increasing cost of providing financial planning advice.

The shrinking nature of available cover and associated risk premiums have resulted in many AFS licensees increasing their excess payable or accepting exclusions in cover to secure PII on an ongoing basis. It is also not uncommon for the approval process for PII to take three to six months. To ensure adequate consumer protection, AFS licensees must be able to access affordable cover that is adequate for the nature of the AFS licensee’s business and can adequately meet the potential liability for compensation claims.

CPA Australia recommends that Treasury undertake a government-funded thematic review of PII for the retail personal advice sector, focusing on keys risks including:

- **accessibility**
- **adequacy**
- **exclusions, and**
- **impact on capital adequacy of the AFS licensee.**

Accountants Providing Financial Advice

Professional accountants providing advisory services have faced increasing regulation and compliance over the past decade, resulting in increased costs and time burden to provide these services to their clients. However, care must be taken to not implement limited reforms that may not meet the needs of the community. For example, the previous accountants' exemption only permitted a qualified accountant to recommend a client to establish or wind up an interest in a self-managed superannuation fund (SMSF). It was so limited that it did not permit the qualified accountant to recommend that a client not set up an SMSF where it was not in the client's interests.

There were also flow on impacts. For example, the client would still need to seek the advice of an appropriately licensed financial adviser if they required advice on whether to retain or rollover an existing superannuation fund, where this advice would consider factors such as financial goals, health, risk profile and costs.

The limited AFS licence was implemented as a solution to the removal of the accountants' exemption. However, it has been unsuccessful for many reasons including:

- it compelled professional accountants to change how they traditionally provide professional advice to their clients in order to comply with the prescriptive regulatory requirements within the financial planning advice process
- the implementation of the professional standards by FASEA, noting that this also impacts the broader financial adviser community
- the rising costs of the ASIC Industry Funding Model, noting again this also impacts the broader financial adviser community, and

- the significant ongoing regulatory changes, including those implemented as part of the Financial Services and Banking Royal Commission recommendations, noting that much of the poor conduct was found within larger AFS licensees who have since left the sector.

As a result, we know that many professional accountants who were licensed under their own limited AFS licence or under a limited authorisation of another entity's AFS licence, and who were not providing financial planning advice on a full-time basis, have chosen to leave the sector. Importantly, some professional accountants who are full time financial advisers are also making this same decision because of the same challenges.

At the same time, the current one-size fits all education pathway and experience requirements are a significant barrier to future professional accountants looking to enter the sector, given that they are largely tailored towards new graduates. Those who consider the pathway are often quickly deterred by the challenges of the regulatory framework detailed above.

To meet community expectations and advice needs, we need to rethink the regulatory framework by creating one that enables and encourages the provision of affordable, independent quality advice by professionals and which seeks to engage and inform, not overwhelm, the consumer in the process.

To achieve this, the current one-size-fits all pathway to provide financial planning advice must be removed and replaced with a model that is built on core knowledge and education skillsets that reflect the scope and advice being provided by the adviser. The focus should be on supporting the provision of quality, compliant advice to consumers through developing the required learning outcomes to provide such advice, while providing the flexibility needed to support scoped and specialist advisers, as well as holistic advisers.

The requirement to be licensed under an AFS licence must be replaced with an individual registration model. Individual registration of professional advisers would lead to greater responsibility and accountability, requiring a personal commitment to integrity, competence and ethics. This would foster and strengthen the relationship between client and adviser and also reduce or remove conflicts of interest between consumers, advisers and licensees that may arise in the current regulatory context.

To meet these needs, a single regulatory regime should be established for the regulation of professional advice, monitored and enforced by one regulator. Professional advice includes financial planning advice, consumer credit and taxation.

This model would require the individual adviser to select the areas of advice and, if applicable, products they wish to seek registration for and demonstrate that they have met the appropriate education and experience for each area of registration as set by the single regulator. A single regulator must be responsible for monitoring and enforcement of the code of conduct, as well as administering any disciplinary action as a result of non-compliance. This will ensure a consistent approach to the monitoring and enforcement of ethical behaviour for professional advisory services, with a strong focus on conduct, culture, and – most importantly – the client.

A principles-based statutory code of conduct that clearly sets out a consistent and uniform framework of expected ethical responsibilities and behaviour should be implemented for this single regime.

CPA Australia recommends the following:

- **Revise the education and entry pathways to the sector**
  - **The current one-size-fits-all pathway to providing financial planning advice must be removed and replaced with a model that is built on core knowledge and education skillsets that reflect the scope and advice being provided by the adviser.**
  - **The focus should be on supporting the provision of quality, compliant advice to consumers through developing the required learning outcomes to provide such advice, while providing the flexibility needed to support scoped and specialist advisers.**
- **Individual Registration of Advisers**
  - **Individual registration of professional advisers would lead to greater responsibility and accountability, requiring a personal commitment to integrity, competence and ethics. This would foster and strengthen the relationship between client and adviser and also reduce or remove conflicts of interest between consumers, advisers and licensees that may arise in the current regulatory context.**

- **This model would require the individual adviser to select the areas of advice and, if applicable, products they wish to seek registration for and demonstrate that they have met the appropriate education and experience for each area of registration as set by the single regulator.**

- **One Regulatory Regime, One Regulator**
  - **Consumers and SMEs want to be able to access advice to meet their goals from their choice of professional adviser, regardless of the type of advice. To meet these needs, a single regulatory regime should be established for the regulation of professional advice, monitored and enforced by one regulator. Professional advice includes financial planning advice, consumer credit and taxation.**
- **Single Code of Conduct**
  - **A principles-based statutory code of conduct that clearly sets out a consistent and uniform framework of expected ethical responsibilities and behaviour should be implemented for this single regime.**
  - **The single regulator must be responsible for monitoring and enforcement of the code of conduct, as well as administering any disciplinary action as a result of non-compliance. This will ensure a consistent approach to the monitoring and enforcement of ethical behaviour for professional advisory services, with a strong focus on conduct, culture, and – most importantly – the client.**

Advice Licensees

A client chooses to engage a professional adviser as they are seeking the expertise and advice they do not possess, to assist with their financial needs and goals. While the Corporations Act 2001 and associated regulations provide the regulatory framework for the provision of this advice, where the financial adviser is authorised by another entity's AFS licence, it is in reality the AFS licensee who dictates the advice process.

Anecdotally, we are hearing from licensed financial advisers that the time taken from seeing their client to then being able to present their advice can currently range from a two to eight weeks depending on the AFS licensee and their internal compliance procedures. This can be a disengaging process for the client and a concerning delay for the adviser.

Of importance is that even though the professional adviser cannot provide the advice without this approval, they are still legally responsible for their advice under the best interests duty. Further, they are also the one building and maintaining the professional relationship with the client, and having to manage how these delays may negatively impact the trust and confidence in the advice being provided.

While there is a trend towards smaller practices applying for their own AFS licence, noting that the majority of larger AFS licensees including the institutional banks have left the sector, holding an AFS licence requires considerable commitment and resources. Individual registration of professional advisers would remove a regulatory framework that has largely been designed to regulate large AFS licensees and networks, which for the most part no longer exist in the sector. Individual registration would also recognise and support the bulk of remaining financial advisers who themselves are small business owners.

The AFS licensing regime should still play an important role in the sector for general and wholesale advice providers, as well as financial product providers. There is also the opportunity for AFS licensees to transition into a service model providing advisory support services to individual advisers on a fee for service basis. While this would be a policy shift in the current settings, we believe it would positively impact the ability of affordable quality advice, helping to meet the advice needs of the community.

3. Other measures to improve the quality, affordability and accessibility of advice

ASIC

As the regulator of the financial services sector, ASIC has an important and critical role to play. We acknowledge the breadth and complexity of this responsibility. However, we believe that ASIC should be looking to improve its performance and capability, while remaining flexible and responsive to changing circumstances.

Key to improving capability is having a closer understanding of the challenges faced by participants in navigating and complying with their legislative obligations, while also understanding the challenges of running a business. We feel that seeking to embed this understanding and experience in the staff within ASIC would also help ASIC to consider these challenges when setting regulatory guidance, leading to a more practical and pragmatic approach.

We also believe this could be achieved by building a stronger engagement model with the sector. This would provide ASIC with the benefit of timely and relevant insights to emerging issues and trends in the sector, supporting its ability to be responsive to changing circumstances. For example, stakeholder relationship groups would foster ASIC's relationships with business and industry representatives and key intermediaries whose specialist knowledge and experience would help to build a clearer and mutual understanding of the financial services sector.

CPA Australia recommends that ASIC build a stronger engagement model with the sector by formally setting up a consultation group framework, similar to the Australian Taxation Office consultation groups, comprising:

- **Financial advisers**
- **AFS licensees**
- **Financial product providers**
- **Professional Associations, and**
- **Other key stakeholders including software and insurance brokers.**

Care should be taken though to ensure that in undertaking such an approach that ASIC costs do not increase, particularly for those under a cost recovery model. For example, the levies charged by ASIC have significantly increased since the first year of operation of the industry funding model. We acknowledge that this model is also under review.

Another key role for ASIC to play should be providing regulatory certainty for the sector. That is, for example, that advice and services provided under current regulations and which follow ASIC guidance will be considered, in retrospect, to be compliant when reviewed at a future date.

With the many ongoing reviews following the Financial Services and Banking Royal Commission, there is concern that such reviews are being assessed under the obligations and expectations of today's requirements, rather than those that applied at the time the advice was provided.

Professional Associations

Professional associations have an important role to play in the financial services sector, noting that professional associations traditionally align to the Five Es of professionalism[13]:

- **Education**: The specific technical and professional requirements to practice in a discrete professional area. Reflected in entry-level formal qualifications or certification, and ongoing education or continuing professional development expectations.
- **Ethics:** The prescribed professional and ethical standards clients can expect their professional to exhibit. This extends into specific expectations of practice and conduct, and a commitment to a higher duty.
- **Experience**: The personal capabilities and experience required to practice as a professional in a discrete professional area.
- **Examination:** The mechanism by which all of the elements above are assessed and assured to the community. This extends beyond qualification or certification requirements into expectations of regular assurance of practice, such as compliance programs and professional audits.
- **Entity:** For a profession to exist there must be a capable entity to oversee and administer professional entry, professional standards and compliance expectations on behalf of the public. This is often an association made up of individuals who are regulated participants in that profession.

More specifically, for professional accountants APES 110 *Code of Ethics for Professional Accountants* sets out fundamental principles of ethics for members of professional accounting organisations, reflecting the profession's recognition of its public interest responsibility.

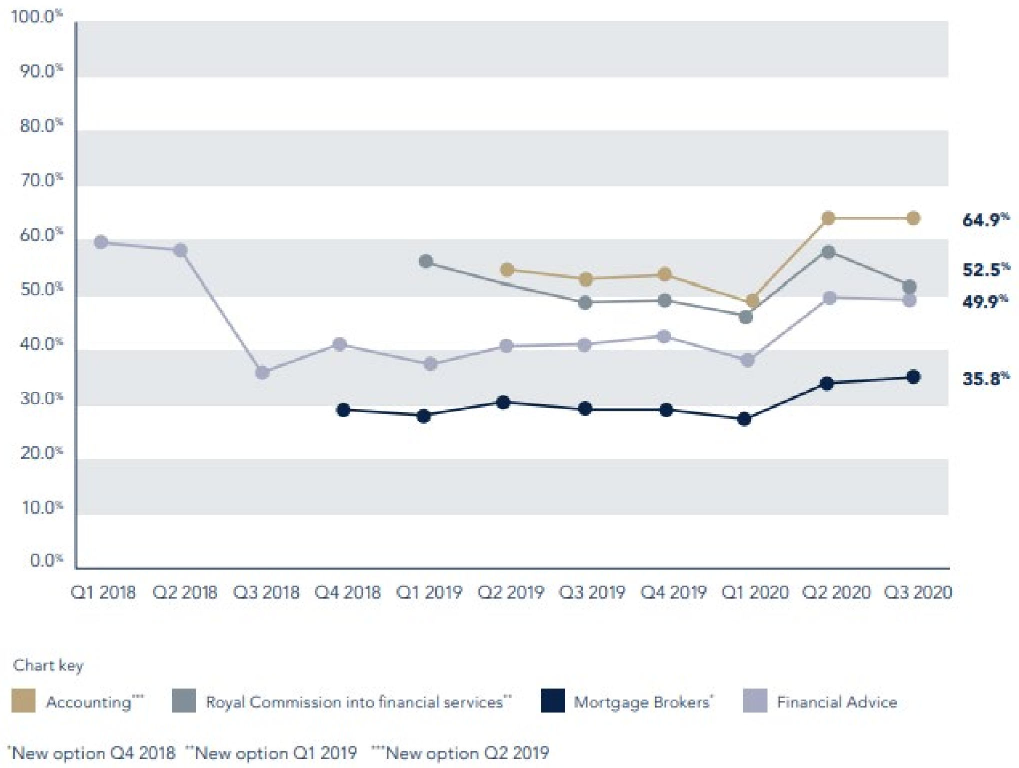
To provide public accounting services, a professional accountant must, in addition to attaining their professional designation, hold a Public Practice Certificate and adhere to a number of professional obligations in addition to those outlined in APES 110. Professional accounting organisations, such as CPA Australia, then have a role to oversee compliance with these obligations, as

[13] What is a profession? The Professional Standards Council

well as educate, support and provide resources to help members understand and comply with their statutory and professional obligations.

This commitment to the public interest has resulted in a level of confidence and trust by the community in the accounting profession, as evidenced by CoreData's Trust in Financial Services Benchmark in Figure 4 below[14].

Figure 4: Core Data's Trust in Financial Services Benchmark



Professional associations have a role to not only advocate for reform that is in the public interest but to be an efficient and effective conduit between professional advisers and regulators.

[14] The Value of Advice Report p. 16