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MONEY & LIFE

The magazine for **FINANCIAL PLANNING PROFESSIONALS**

the perfect storm

ALAN TSEN ON FINTECH OPPORTUNITIES FOR THE PROFESSION

Stewart Bell:

IT'S NOT ABOUT THE TECHNOLOGY

\+ ROYAL COMMISSION UPDATE | TOP TECH TIPS | FASEA'S EDUCATION PATHWAYS
FINTECH BUYERS GUIDE AND CHECKLIST | ELDER FINANCIAL ABUSE

FPA
FINANCIAL PLANNING ASSOCIATION *of* AUSTRALIA

Contents.

MARCH 2019

FINANCIAL PLANNING ASSOCIATION *of* AUSTRALIA

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Focus

EMBRACE THE FUTURE

Last month, the Royal Commission's final report was released and both the Government and Opposition have committed to making the necessary reform.

The FPA will be there to ensure these reforms are reasonable and appropriate, and to help you adapt to the changes.

Now the roadmap has been revealed, it's important that legislation is correctly enacted and keeps the best interests of clients as the focus at all times. This is what we will be engaging with the Government and Treasury on, to ensure our profession continues to serve and improve the lives of Australians.

We are also heartened by the fact that the majority of changes recommended in the final report have been on our agenda and supported by FPA members over the past decade or more. Though many of the recommendations align with the way a large majority of FPA members have already been operating, the FPA will continue to advocate strongly to ensure the implementation of these recommendations are reasonable and practical, and help to resolve unintended consequences.

I want to acknowledge that this continues to be a challenging time for many of us. We are committed to helping you navigate this new landscape and will continue to provide you with guidance, tools and case studies on the issues under the spotlight, and to help you evolve your business and embrace the change.

FINTECH CAN HELP

To help ease the burden, we need solutions. Fintech offers one avenue for this. The right selection and application of fintech in your business presents a great opportunity to address your issues and provide effective, efficient and engaging solutions for your business and your clients.

I encourage you to head to fpa.com.au/fintech to view our latest report, the *FPA Fintech Buyers Guide and Checklist*, which will help you to assess what fintech your business needs, and guide you on finding the right provider. You can also access other related tools, including a new tool that we have launched with YTML to help you identify areas of your advice process that could be improved by the use of technology.

FPA NATIONAL ROADSHOW

This year's National Roadshow (10 April-14 June) will take place in 33 locations across Australia, and will be happening in partnership with Challenger. We've got a lot to unpack this year – the FASEA framework, a Federal election and all things Royal Commission.

The Roadshow is accredited for two CPD hours and is complimentary to attend. Registration for each location opens this month. Head to fpa.com.au/roadshow for more information.

CFP® MARK MORE GLOBAL THAN EVER

The number of CFP® professionals has grown in the last 12 months by 3.3 per cent to 181,360 in 26 countries worldwide. This trend continues to demonstrate the global position of financial planning and the role of CFP® professionals in making the profession a global one.

Dante De Gori CFP®, CEO

Follow Dante on Twitter @ddegori10

News

FASEA FINALISES EDUCATION PATHWAYS

After extensive consultation with stakeholders, including the FPA, the Financial Adviser Standards and Ethics Authority (FASEA) has released its Education Pathways Policy (FPS001).

The policy outlines the range of education pathways for new entrants and existing financial planners, including a defined Recognised Prior Learning framework for existing planners.


Stephen Glenfield

Under the policy, the maximum requirement for a new entrant will be an approved bachelor degree of 24 subjects and for an existing planner, it will be a graduate diploma of eight subjects. The minimum requirements for a new entrant will be an approved graduate diploma of eight subjects and for an existing planner, it will be one subject: FASEA's bridging course, the FASEA Code of Ethics and Code Monitoring Bodies.

According to FASEA, the amount of education a planner will be required to undertake will depend on the amount of education they already have.

Recognition of prior learning will be available for an Advanced Diploma of Financial Planning (including the eight course Diploma of Financial Planning program run by the FPA, where FASEA has awarded a minimum of two units of credit for planners who have completed the DFP1-8 program prior to 2003), completion of approved coursework to attain a designation, such as the CFP® designation, and completion of relevant degree subjects.

In relation to the recognition of approved coursework to attain a recognised designation, the FPA has applied to FASEA to have the study undertaken in both the CFP® Certification Programs – CFP 1 to 4 (2001 to 2005) and CFP 1 to 4 plus certification (2005 to present) versions – recognised for a minimum of two credits under the Recognised Prior Learning (RPL) framework.

FASEA also confirmed its intentions to update the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2018 on a regular basis to add further approved historical degrees, new programs and courses in accordance with its accreditation process.

In making the announcement, FASEA Chief Executive, Stephen Glenfield said FASEA had refined the education pathways, so that:

- Financial planning (including financial advice areas of superannuation, retirement, insurance and estate planning) and investments (including shares, derivatives, foreign exchange and options) have been added as relevant degree subjects; and
- Planners holding a non-relevant degree who have completed between four and seven of the relevant degree knowledge areas, will be awarded two credits as recognition of prior learning.

FOREIGN QUALIFICATION STANDARD

In addition, Glenfield announced that FASEA had released its policy for the Foreign Qualification Standard.

According to Glenfield, the *Corporations Act 2001* requires FASEA to approve in writing a foreign qualification. Under the standard, new entrants and relevant providers are required to undertake a two step process:

1. An assessment by a Department of Education and Training (DET) approved body; and
2. An assessment by FASEA as to the equivalence of the foreign qualification to a degree or qualification approved under FPS001 Education Pathways Policy.

Upon receipt of a certified copy of the individual's qualification and a copy of the DET assessment from the DET approved body, FASEA will then determine the requirements for the new entrant or existing planner (as defined under s1546A of the *Corporations Act 2001*) under FPS001 Education Pathways Policy.

Glenfield added that stakeholder feedback during the consultation period on foreign qualifications raised a number of suggestions that FASEA has adopted in its final policy. These included:

- Clarifications that New Entrant Foreign Qualification assessment will include a gap assessment of FASEA knowledge areas and/or Australian regulatory and legal obligations of financial planners; and
- FASEA's assessment decision can be reviewed for a fee.

The FPA congratulates the following members who have been admitted as

CERTIFIED FINANCIAL PLANNER® PRACTITIONERS

NSW

Corinne Mir CFP®
StatePlus

Jason Burnell CFP®
StatePlus

Matthieu de La Mettrie CFP®
Principal Edge Financial Services

QLD

Sean Nigh CFP®
Ellerfield Financial Planning

Alister Paskins CFP®
NAB Financial Planning

James Fulton-Kennedy CFP®
Morgans Financial

Pedro Marin Ramirez CFP®
UniSuper Management

SA

Christopher Wong CFP®
ANZ Financial Planning

VIC

Frank D'Alesio-Tremante CFP®
Unified Financial Services

Maria (Carmel) Filippone CFP®
Carrazzo Consulting

Olivia Grant CFP®
Oak Financial Planning

Anthony Denaro CFP®
Wainscott Financial

WA

Shaun Siew Ian Au CFP®
BT Financial Group

Anthony Muller CFP®
Securitas Financial Group

James Harper CFP®
Oak Advisory

CFP®

ROYAL COMMISSION WRAP-UP

After 60 days of hearings, 130 witnesses and over 10,000 public submissions, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry handed down its recommendations to the public on 4 February 2019. Part 1 looks at the recommendations to Financial Advice.

Commissioner Kenneth Hayne has handed down a series of key recommendations that may affect the provision of **financial advice**. These recommendations have been broken into six sections:

1. Financial advice
2. Superannuation
3. Insurance
4. External dispute resolution and consumer compensation
5. Codes of practice, regulators and culture
6. Additional Government measures

Part one of the FPA royal commission wrap-up concentrates on **Section 1 – Financial Advice**. The FPA's full response to all six sections of the royal commission's final report can be accessed at fpa.com.au

PART 1: FINANCIAL ADVICE

RECOMMENDATION 2.1 – ANNUAL RENEWAL AND PAYMENT

Ongoing fee arrangements (whenever made):

- *must be renewed annually by the client;*
- *must record in writing each year the services that the client will be entitled to receive and the total of the fees that are to be charged; and*
- *may neither permit nor require payment of fees from any account held for or on behalf of the client, except on the client's express written authority to the entity that conducts that account given at, or immediately after, the latest renewal of the ongoing fee arrangement.*

FPA comment: The FPA supports ongoing fee arrangements that are simple, transparent, fair and deliver on the services agreed to. Advisers should be required to periodically review and renew ongoing fee arrangements, document them and seek the consent of their clients for any fees to be charged.

This recommendation will require amendments to the *Corporations Act*. The FPA will work with the Government to ensure this is implemented over an appropriate transition period (yet to be determined) and limit application of fee authorisation to non-basic bank products (i.e. super and investment products, rather than direct payments via bank account and simple credit products).

RECOMMENDATION 2.3 – QUALITY OF ADVICE REVIEW

In three years' time, there should be a review by Government, in consultation with ASIC, of the effectiveness of measures that have been implemented by the Government, regulators and financial services entities to improve the quality of financial advice.

The review should preferably be completed by 30 June 2022, but no later than 31 December 2022.

The review should consider whether it is necessary to retain the 'safe harbour' provision in section 961B(2) of the Corporations Act. Unless there is a clear justification for retaining that provision, it should be repealed.

FPA comment: The FPA supports the Government conducting a review of the effectiveness of the multitude of reform measures that have been implemented in recent years to improve the standard of financial advice.

However, the FPA notes that the current education and professional standards reforms being implemented by the Financial Adviser Standards and Ethics Authority (FASEA) will not have been fully implemented by 2022, and any review conducted before this date will not be able to judge their final effectiveness.

Commissioner Hayne also makes a number of comments about the current 'safe harbour' provision and whether it remains appropriate. While he does not recommend changing it at this stage, he is concerned that it promotes a 'tick a box' approach to compliance, which is at odds with the broad best interests duty that advisers owe their clients.

What is clear is that Hayne considers that regulation of financial services should be principled and based on fundamental norms of behaviour. Exceptions and qualifications, such as the 'safe harbour', provision should be eliminated as far as possible.

For this reason, the FPA will look to recommend the Government consider a broader review of financial advice regulation to consider how to reduce red tape, reduce costs, consider what regulation is no longer required, and remove duplication. A system of financial advice regulation that is simple and robust will benefit both consumers and planners.

RECOMMENDATION 2.4 – GRANDFATHERED COMMISSIONS

Grandfathering provisions for conflicted remuneration should be repealed as soon as it's reasonably practicable.

FPA comment: The FPA supports phasing-out grandfathering provisions over a period of three years, with all commissions on investment and superannuation products to be subject to the Future of Financial Advice reforms. Noting the potential adverse consumer outcomes, which could occur through a phase-out of grandfathering provisions, the FPA will work to ensure Government meets the following principles:

1. The change is in the client's best interest – no client will be worse off;
2. Commission payments are actually refunded to clients and not retained by the product provider where the client has not authorised their payment to their adviser;
3. Tax relief is provided for any adverse tax consequences (including CGT);
4. Centrelink benefits are protected from any adverse Centrelink consequences; and
5. Exit fees be banned in line with the Government's 2018/19 Budget proposal on both super and investment products.

Arrangements to phase out grandfathering of commissions under the Future of Financial Advice reforms can be established by regulation in a reasonably short timeframe.

RECOMMENDATION 2.5 – LIFE RISK INSURANCE COMMISSIONS

When ASIC conducts its review of conflicted remuneration relating to life risk insurance products and the operation of the ASIC Corporations (Life Insurance Commissions) Instrument 2017/510, ASIC should consider further reducing the cap on commissions in respect of life risk insurance products. Unless there is a clear justification for retaining those commissions, the cap should ultimately be reduced to zero.

FPA comment: As with Recommendation 2.4, Hayne broadly considers that exemptions to laws should be eliminated in general, but specifically in relation to conflicted remuneration. However, he recognises that the current Life Insurance Framework has only been in place since 1 January 2018 and that ASIC is due to review it after three years.

The FPA agrees that ASIC should be allowed to complete its review in 2021, and that no further changes to life insurance be made until this occurs.

RECOMMENDATION 2.7 – REFERENCE CHECKING AND INFORMATION SHARING

All AFSL holders should be required, as a condition of their licence, to give effect to reference checking and information-sharing protocols for financial advisers, to the same effect as now provided by the ABA in its 'Financial Advice - Recruitment and Termination Reference Checking and Information Sharing Protocol'.

FPA comment: The FPA supports the improvement of reference checking in the financial services industry as a measure to prevent advisers with poor records from moving between licensees. This obligation will fall on AFSL holders. All licensees will need to review the 'Financial Advice – Recruitment and Termination Reference Checking and Information Sharing Protocol', available on the Australian Banking Association (ABA) website, and consider changes to their HR practices to comply with the protocol.

In addition, the FPA recommends that AFSL holders ensure the adviser being recruited has not been subject to prior disciplinary action by the relevant Code Monitoring Body, and any other disciplinary bodies the adviser may be a member of (as per Recommendation 2.10), or are the subject of an ongoing investigation.

RECOMMENDATION 2.8 – REPORTING COMPLIANCE CONCERNS

All AFSL holders should be required, as a condition of their licence, to report 'serious compliance concerns' about individual financial advisers to ASIC on a quarterly basis.

FPA comment: This recommendation seeks to formalise and improve existing breach reporting by AFSL holders to ASIC where there are

Continued overleaf

serious compliance concerns about an adviser.

Hayne has suggested the following definition: "Serious compliance concerns are where the licensee believes, and has some credible information in support of the concerns identified, that a financial adviser may have engaged in dishonest, illegal, deceptive and/or fraudulent misconduct or any misconduct that, if proven, would be likely to result in an instant dismissal or immediate termination; or deliberate non-compliance with financial services laws or gross incompetence or gross negligence."

Hayne also notes that there is value in this reporting beyond addressing issues with specific advisers, as it may allow ASIC to identify industry trends that warrant a response.

RECOMMENDATION 2.9 – MISCONDUCT BY FINANCIAL ADVISERS

All AFSL holders should be required, as a condition of their licence, to take the following steps when they detect that a financial adviser has engaged in misconduct in respect of financial advice given to a retail client (whether by giving inappropriate advice or otherwise):

- *make whatever enquiries are reasonably necessary to determine the nature and full extent of the adviser's misconduct; and*
- *where there is sufficient information to suggest that an adviser has engaged in misconduct, tell affected clients and remediate those clients promptly.*

FPA comment: This recommendation seeks to formalise the requirement for AFSL holders to investigate misconduct and where necessary, notify and remediate clients. Commissioner Hayne notes that while this does occur in many cases, it is not universal and mandating prompt investigation can ensure that misconduct is not allowed to continue.

All licensees should review ASIC RG 256 and ensure that review and remediation is taken as efficiently as possible where misconduct is identified.

RECOMMENDATION 2.10 – A NEW DISCIPLINARY SYSTEM

The law should be amended to establish a new disciplinary system for financial advisers that:

- *requires all financial advisers who provide personal financial advice to retail clients to be registered;*
- *provides for a single, central, disciplinary body;*
- *requires AFSL holders to report 'serious compliance concerns' to the disciplinary body; and*
- *allows clients and other stakeholders to report information about the conduct of financial advisers to the disciplinary body.*

FPA comment: The FPA does not have a position on individual licensing as a model, but supports a complaints and disciplinary system that is simpler and easier for clients to navigate.

It's important to note that there are significant details on this recommendation for a disciplinary body that would need to be developed before a proper assessment of the pros and cons could occur.

The FPA supports a disciplinary system that has a variety of possible sanctions to supplement ASIC's banning power and which match the severity of potential misconduct.

FASEA has recently released a Code of Ethics, which all financial advisers will need to comply with from 1 January 2020, and ASIC is in the process of approving code monitoring bodies which all financial planners will need to sign up to in late 2019.

Any new disciplinary body would need to operate consistently with the arrangements for applying and monitoring the Code of Ethics.

For this reason, and noting FASEA Code Standard 1 requires, "You must act in accordance with all applicable laws…", it would be logical and reduce potential duplication and cost, for ASIC approved code monitoring bodies to fill this function.

SUMMARY

FPA CEO Dante De Gori said the FPA will continue to work closely with Government and the regulators on the implementation of Commissioner Hayne's recommendations.

"We will keep members informed on any developments regarding the implementation of Commissioner Hayne's recommendations, as well as continue to monitor the Opposition for its formal response," De Gori said.

Please note: Due to space restrictions, this article only outlines the key recommendations from the final report that may impact licensees and planners in relation to Financial Advice. The April issue of Money & Life will look at the recommendations to Superannuation.

To read the FPA's full response to the royal commission's final report, go to fpa.com.au.

FOCUS

1 OCTOBER 2018 TO 31 DECEMBER 2018

COMPLAINTS AND DISCIPLINE

In the October to December 2018 quarter, the FPA received five new complaints, finalised six complaints and have eight ongoing complaints. Of those ongoing complaints, two are currently with the Conduct Review Commission (CRC), two are in the process of finalising the report by the investigating officer to the CRC, two are in the process of seeking submissions from members and/or complainants, while two are in the process of being assessed by the investigating officer.

AUTOMATIC TERMINATIONS

Four members were also automatically terminated under the FPA Constitution during the quarter. All four members were terminated for a breach of the law.

Over the last two quarters, the FPA has experienced a substantial increase in the number of automatic terminations as a result of licensees pro-actively notifying the FPA about the conduct of their authorised representatives.

SANCTIONS

For the quarter October to December 2018, the FPA issued two Infringement Notices to members, following a finding of a minor instance of unsatisfactory conduct.

FPA CONFIDENTIAL

No FPA Confidential complaints were received for the October to December 2018 quarter.

9	**Complaints ongoing as at 1 October 2018**
5	New Complaints
6	Closed Complaints
8	**Complaints ongoing as at 31 December 2018**
0	Members Suspended
0	Members Expelled (CRC)
4	Members Terminated (Constitution)
2	Other Sanctions (CRC)
0	Referred to Professional Designations Committee for Sanction

GUIDANCE AND REASSURANCE

The Professional Accountability team enjoy hearing from you in relation to seeking assistance and guidance. If we are unable to help you, we will likely be able to assist you to find someone who can.

You can contact the team directly by email at: *professional.standards@fpa.com.au*

OPINION CORNER

TOP TECH BUSINESS TIPS

Question: What are your top three tips when it comes to selecting new technology for your business?

Reuben Zelwer CFP®

Director, Adapt Wealth Management

Licensee: Paragem

My three tips are as follows:

1. Make sure it fits in with your existing technology: With the advent of cloud-based subscription models, it is tempting to keep accumulating new software solutions. However, you should consider if you have existing technology that can do the job and if not, how the new technology will fit into your existing processes. The chances are that if it doesn't talk to other technology, then it won't get used long-term. If you do take it on, try to eliminate an existing program, to keep your overall technology spend under control.

2. Ensure it is solving a real problem in your business: You need to ask yourself if the problem you are trying to solve with technology is just a one-off issue or a recurring need in your business. If it is one-off, outsourcing the task may be better. Take a step back before you buy and consider the bigger picture of your business.

3. Get your staff on-board: Make sure your staff understand why you are adopting the technology and how it is going to reduce bottlenecks in the business process and hopefully, make their job easier. Make sure you explain the 'why', so they buy in from the beginning.

James McFall CFP®

Managing Director, Yield Financial Planning

Licensee: Lifespan Financial Planning

At Yield, we view technology spend as the equivalent of an employment cost. Selected well, we've found that technology can achieve improved reliability in the service we deliver, reduce running costs, and free up the team to focus on the higher value advice needs of our clients.

1. It needs to create efficiency: The best technology solutions can lead to massive efficiencies and in turn, cost reduction for your business and more reliable outcomes for clients, too. Solutions we've implemented that achieve this include Managed Discretionary Accounts with HUB24 for investment management; Active Campaign for marketing and client engagement; Xero for bookkeeping; and XPLAN for database management and client review management.

2. Look for connectivity where possible: The best technology solutions we've found will connect with other related technology. Xero is a good example of this, in the way it connects to your bank accounts. The fewer the technology solutions you run, the better to avoid duplication and potential human error.

3. Think about the future: The most frustrating thing about technology can be when you select one, spend the time to set it up, and then later decide to move to a better solution. It therefore pays to shop around and really plan out the technology you choose, and always with the long-term in mind. How easily you can extract your data will be part of this thinking, as you ideally don't want to be locked into one particular technology.

Question: What are your top three tips when it comes to selecting new technology for your business?

Nathan Nash CFP® LRS®

Director – Private Wealth, Scarlett Financial
Licensee:
Lonsdale Financial Group

One of the most beneficial investments you can make to your financial planning business today is technology. It has the ability to create significant efficiencies for your practice, enhance client experience, improve communication, provide marketing opportunities, and present a professional modern organisation.

However, when considering the introduction of new technology, there are a number of considerations to achieve a successful integration. My top three tips in selecting technology would be:

1. Evaluate the return on investment: When incorporating new technology, there will no doubt be a financial cost but there will also be a significant time cost in the initial implementation, training of staff and potential migration of data. This cost in time and money needs to be weighed up against any long-term time savings and potential increase in revenue due to the new technology.

Additionally, it is worthwhile considering whether this technology is likely to continue to remain the superior option or could it be surpassed and potentially be up for replacing as well.

2. The user experience: The embracing and adoption of new technology will no doubt depend on the user experience and with staff, this can be managed by a supportive training program. If it is technology that interfaces with clients, then it is particularly important that it is user-friendly and I would suggest testing the technology on a sample group. It is better to hear the actual opinion of clients, which may provide some valuable insights.

3. Cyber security: Becoming more and more relevant is the issue of cyber security, especially as we increase the adoption of technology and its use in collating, storing and transferring client confidential information. It is therefore beneficial to seek the insights of your IT specialists when considering new technology and ensuring the new technology can be managed under your existing security protocols.

Question: What are your top three tips when it comes to selecting new technology for your business?

Brian May CFP®

Managing Director, Horizon Wealth Management
Licensee: Horizon Wealth Management

The basis for the successful integration of technological solutions lies in the firm's culture. There must be – at its core – the acceptance of change and an emphasis on continual business improvement.

Without the leadership being supportive of the introduction of new technology, it is likely that any procurement decision will fail. Introducing new technology is initially extremely disruptive, with efficiency improvements and capacity gains manifesting over time – sometimes over years.

Before even considering introducing new technology, the business must have a dedicated person assigned as the Project Manager. Ideally, this is an existing experienced resource who has significant knowledge of the business, its strategy, processes and requirements.

The three tips to ensuring a rewarding outcome would include:

1. Planning phase

- What exactly does the new technology need to do?
- What is the new system meant to deliver that the incumbent cannot or does not deliver?
- Has the business properly investigated the incumbent's potential?
- Does the business have a properly documented plan?
- Has a proper budget been done, not just for the base technology offering but also for the customisation of it to the business's requirements?
- Is the business case proven – i.e. do the quantifiable benefits justify the investment?
- Has the business done a proper due diligence on the vendor and its capacity to customise the technology to the business's requirements.

2. Ensuring that the quality of the existing client database is in good shape: Introducing new technology without a quality client database will simply result in incomplete output. By designing various client and practice management reports beforehand, may assist in determining the required fields on the database.

3. Writing very good content for producing the required output: It is critical to have well written and compliant content to ensure that the business's various output documents, such as Statements and Records of Advice, produce quality information.

Cody Harmon AFP®

Financial Adviser and Managing Partner, HardLine Wealth
Licensee: Fitzpatricks Private Wealth

Make sure you don't feel threatened when you see new technology that may replace some of what you used to do. For example, MyProsperity can take away some of the work when setting up a budget for a client or automatically provide a client with a real time balance sheet. To ignore this automation would be foolish for your business's future profitability.

Ask if the technology is going to improve client outcomes or improve business efficiency. Some fintech available in the marketplace are solutions that look to solve problems that actually don't exist. So, try to negotiate trials to see if the technology adds value to your business or your clients.

If you are going to use new technology, invest the time and money needed to understand it, and ensure you properly implement the technology. You can't have one foot in the water and one foot out; you need to embrace change. In fact, the worst thing you can do is ignore technology.

Would you like to join our panel of FPA members willing to voice their opinion on various topical issues?

Email *editor@paperandspark.com.au* to register your interest.

Insight.

FPA FINTECH BUYERS GUIDE AND CHECKLIST

The second in a series of guides to help planners with their fintech needs, the FPA Fintech Buyers Guide and Checklist outlines the steps planning businesses should consider when assessing fintech partners.

To complement its highly successful fintech report – *Mapping Fintech to the Financial Planning Process: Why Fintech is not a Threat* – which specifically plots and matches fintech solutions available in Australia for the financial planning advice process, the FPA has released the *FPA Fintech Buyers Guide and Checklist*.

The latest guide in the FPA's suite of products to help licensees and planners navigate their way through the myriad of fintech solutions available in the marketplace, also includes a Technology Assessment Checklist to assist practices in properly assessing their fintech needs and choosing the right technology parter or software solution for their requirements.

Commenting on the *FPA Fintech Buyers Guide and Checklist*, FPA CEO, Dante De Gori CFP® says this guide is an extension on the earlier *Mapping Fintech to the Financial Planning Process* report, and specifically addresses how a financial planning business should approach the process of engaging with a technology provider in relation to the buying process.

"*Mapping Fintech to the Financial Planning Process* report identified the issues faced in the financial planning process and the solutions available. Our latest *FPA Fintech Buyers Guide and Checklist* is designed to help financial planning practices select the best fintech partner for their specific service proposition and client base," he says.

> *Mapping Fintech to the Financial Planning Process report identified the issues faced in the financial planning process and the solutions available. – Dante De Gori*

"Going through the checklist will help prevent planners wasting time and money on technology that won't meet their needs or those of their clients."

According to FPA Head of Policy and Standards, Ben Marshan CFP®, the *FPA Fintech Buyers Guide and Checklist* is the result of "countless conversations" with FPA members, consultants and fintech providers over the last 12 months.

"We know business models from the past are not working efficiently in an environment of increasing costs, rising consumer expectations and regulatory obligations. But it is equally clear that if technology investment doesn't align with the financial planning process and business outcomes, it leads to inefficiency, duplication and additional costs."

Marshan, who also assumes the lead role of the FPA's fintech projects, says the *FPA Fintech Buyers Guide and Checklist* seeks to navigate through the key considerations for a financial planning business as a technology buyer, starting with the fundamental question of: 'Should you be buying technology in the first place', through to 'Once you've decided that your business can be enhanced by means of a technology solution, what are

Continued overleaf

the key considerations and processes that maximise the possibility of your success?'.

"The guide has been written as an easy to follow case study of selecting a customer relationship management (CRM) system, which illustrates the issues and considerations a planner needs to work through in their business," Marshan says. "Importantly, the steps and considerations outlined in the guide and throughout the case study, can be replicated with any aspect of a planning business or advice processes."

AN EASY TO USE GUIDE

The *FPA Fintech Buyers Guide and Checklist* is divided into eight sections, covering:

1. What are you trying to solve?;
2. Your business strategy defines what technology you may need;
3. Determining the best solution;
4. Overview;
5. Buying considerations;
6. Appendix 1: Conducting due diligence on a technology provider;
7. Appendix 2: Technology Assessment Checklist; and
8. Appendix 3: Comprehensive financial planning process.

For example, using the CRM case study, the guide prompts planners to consider how they can determine the best technology solution for their business through some common questions that span the various categories they need to consider (refer to the seven key indicators on p17). These questions include:

- What are you hoping to achieve by introducing a CRM?;
- What is the level of technology capability in your firm?;
- How complex is your business structure?; and
- What systems are required for each role.

BUYING CONSIDERATIONS

Marshan acknowledges that the process of streamlining the delivery of financial advice and improving client engagement can be made easier by implementing the right fintech solution for a practice's needs. But he concedes that many of these offerings are not complete solutions for a financial planning business. Therefore, he believes it is crucial that planners have "concrete questions answered" before they make a fintech purchase, to ensure the software selected will benefit planners and their clients the most.

The guide suggests seven key areas that planners should first investigate as part of the software decision-making process. They are:

- **Will this software solve my problem?** – Determining whether the software will actually solve your problem is a key consideration. This requires having enough awareness of the advice and business processes, business strategy and client demographic to enable the identification of the problem and an assessment of the benefits of the solution being considered.
- **Pricing** – The choice of software shouldn't just be about price. Customisable and functional features of the software should be thoroughly researched before you commit to it.
- **Updates** – Software updates provide you with an indication of the provider's vision, their capacity to grow and their willingness to adapt with their clients.
- **Service** – Look for software that provides 24/7 system monitoring and services, daily backups and other procedures that will eliminate the risk of downtime and prevent data loss in the event of an outage or system failure.

Table 1: Some guiding questions to ask yourself and your business[1]

What is the right service model across your various client segments?	**How can digital tools change your current cost structure?**
What should you outsource?	**If you introduce technology engagement, is it in line with your demographic?**
Who will be the champion of the technology?	**How will this solution be integrated with your other systems?**
How do you prioritise this against other initiatives?	**Do you have the right people and culture to deliver this enhancement?**
Is this in line with your business vision?	

TO BETTER ANSWER THESE QUESTIONS, IT'S IMPORTANT TO CAREFULLY CONSIDER THE BUYING PROCESS.

1. *Advice goes virtual: How new digital investment services are changing the wealth management landscape. EY 2015.*

Dante De Gori CFP®

Ben Marshan CFP®

- **Reporting** – Ensure your software solution offers you flexibility in reporting, such as the ability to build custom and ad-hoc reports, as well as dashboards and visualisations, so you have the tools you need to address your specific information requirements.
- **Application programming interface (API)** – Basically, this is all about the way in which a computer program communicates with another computer program. If a potential provider is unable or won't integrate with other tools you'd like to use, then you should reconsider having them as part of your technology stack.
- **Data security** – This incorporates a number of areas you need to consider.
  Data storage location: Know exactly where your data is being stored. Check with the provider and make sure you are aware of any risks and/or obligations that might arise with your data being stored offshore.
  Data accessibility: For data to be useable, it must be both correct and available. Ask your service provider for uptime statistics and whether there are any guarantees for safety.
  Facility security: Ensure your provider is either manning or using data centres that operates 24/7 each and every day, and has appropriate levels of security.
  Disaster preparedness: The facility where the online data is being stored should be prepared for any type of disaster that may occur.
  Reputation: Who is the cloud provider? Are they reputable like Microsoft or Amazon? Or are they small local providers who may have higher risks?

DUE DILIGENCE

The *FPA Fintech Buyers Guide and Checklist* includes a section on 'Conducting due diligence on a technology provider'.

This part of the guide breaks up core due diligence categories – like security/compliance, regulation, business continuity, change control, management, and longevity – into sub elements, with a short description attached to each.

"In this technical section, we have gone beyond the base understanding and discussion covered off in the earlier parts of the guide," Marshan says. "This means some areas of explanation are decidedly technical but essential for any business wanting to conduct due diligence on a technology provider."

TECHNOLOGY ASSESSMENT

The *FPA Fintech Buyers Guide and Checklist* also includes an informative checklist that can be used to assist businesses with their software selection process. And while Marshan concedes the checklist is not intended to be an exhaustive list of questions and points to consider, it is nonetheless, "an effective tool to maximise the likelihood of selecting both a technology partner and system to meet a planning practice's needs".

The full FPA Fintech Buyers Guide and Checklist is available at: fpa.com.au/fintech

Key indicators for considering a CRM

There are key indicators that a CRM will improve business efficiency, reduce risk and provide a platform for growth.

Which of these relate to your business?

1. Information on clients, partners or providers is stored in Excel sheets.
2. Client related emails are stored in your inbox, not on the central client record.
3. Client information exists in more than one system within the firm.
4. Details of work in progress are not centrally accessible across the firm.
5. Reporting is compiled manually when needed.
6. Revenue data is held in a separate system to client data.
7. Client files are made up of data stored in several systems.

If any of these are true in your business, you should be considering a CRM.

GUEST CONTRIBUTOR

RESISTING THE RESISTANCE

Vincent Holland explains why new fintech is the key to building a scalable and highly profitable financial planning firm.

Vincent Holland

Imagine your firm a few years from now. Your firm runs efficiently, your profit is increasing and your advice documents are prepared in minutes, not days. Those painful administrative tasks, which don't add any value to your business, are now automated. Suddenly, you have more time to focus on servicing your clients and taking on more clients.

Your clients are 'wowed' by the extra attention and service they are receiving, and are now sending more referrals your way. And because your systems work so well, you can take on more clients without increasing your costs.

Sound fanciful?

Well, it's not actually. At least not if you've implemented the right software for your firm. Allow me to explain why.

EVERY FINANCIAL PLANNER'S NIGHTMARE

I regularly consult with practice principals from leading firms across the country. And the common complaint across the board is technology. Put simply, planners are frustrated with technology (or its shortcomings) to the point where they feel it is inhibiting their capacity to grow.

The practice benchmarking surveys tell a similar story. According to the *2017 Dimensional Annual Benchmarking Survey*, planners rated the following problems as some of their most challenging:

1. Increasing profit;
2. Systemising work flow; and
3. Selecting and maintaining technology for their firm.

These problems each rated ahead of the risk posed by the rise of robo advisers – often hyped up to be the great threat to our profession. However, planners felt that the issues in relation to their own technology to be a far greater problem.

So, why do planners find technology, systems and profit to be so challenging?

WHY SO CHALLENGING?

The first point to recognise is that they are all inextricably linked. In other words, to have great systems, you need great technology to run them. To increase profit, you need to be more efficient, which can only be achieved by having great systems.

Great technology is the key to having a highly systemised, scalable and profitable planning practice.

The problem is that, historically, technology has let financial planners down. And, in my view, this has been to the detriment of potential profit growth.

LINEAR VERSUS EXPONENTIAL GROWTH

Conventional wisdom says that the bigger a firm becomes, the more scale, leverage and efficiency it should achieve. It should therefore be able to better utilise its resources to generate more revenue.

A truly scalable business, such as Google, can achieve exponential profit growth because the rate of its revenue growth far outpaces the rate of its expenditure growth.

But in the case of a financial planning firm, the growth rate typically follows a more linear pattern. A firm grows by gaining new clients, but ultimately, it will reach a capacity wall and will need to hire more staff to service them. In other words, the firm is growing revenue and costs at a similar rate.

Based on Dimensional' s research, firms tend to reach a capacity wall of approximately $250,000 of revenue per staff member. So, for example, a firm with seven staff, would, on average, have a total revenue generating capacity of $1.75 million. Of course, there will be exceptions to this rule, but it does provide a useful rule of thumb.

But can new technology empower planners to achieve more scale and to significantly increase that capacity wall? What if that same firm of seven staff could double its capacity wall and increase its revenue generating capacity to $3.5 million?

EMBRACE CHANGE

The good news is that technology is advancing at a rapid rate and a new wave of fintech is starting to reshape the profession.

The key for planners is whether they are willing to embrace that change.

Our profession is rapidly changing in a way few other professions are. The very nature of a planner's role has changed. Today's planner is less product driven and far more focused on strategy and goals – a trend which is only set to continue.

Older legacy software, which was developed for a different time and age, has perhaps not kept pace with that rate of change, leaving planners with outdated tools that cause much frustration.

Client expectations have also changed. We live in an increasingly digital environment where clients of all demographics – not just millennials – are accustomed to interacting online. Clients book restaurant reservations online and they can access their medical records through digital portals.

The point is, if they can interact with all other aspects of their lives digitally, why shouldn't technology help create a better experience with their financial planner?

Great technology is the key to having a highly systemised, scalable and profitable practice.

HOW NEW FINTECH HELPS

New fintech will drive efficiency and engagement in several ways. First, new software can rapidly speed up the process of preparing Statement of Advice documents. We found that our firm spent 14-16 hours on average preparing Statement of Advice documents – a common experience felt by many planners.

After implementing a new custom-built software system for our firm, we were able to cut that time down to 1-2 hours on average, which represented a huge productivity gain for our firm.

That time saved enabled us to mobilise our staff to more value adding roles focusing on business development, client experience and marketing. This opened the door to pursuing new client acquisition opportunities and higher profit growth.

What new initiatives could you implement with so much time saved?

Secondly, new technology will greatly improve client engagement. The ability to conduct real time cash flow modelling directly in front of your clients is the tool of the future.

Clients will see the short and long-term impact of making certain decisions and better understand the trade-offs. Should we fly business class or economy, send our children to private or public schools, salary sacrifice or pay off the mortgage?

After all, these are the questions that matter to clients, and technology can better facilitate these more meaningful conversations.

Finally, better systemisation will enable planners to monitor and track their compliance obligations and to ensure they are compliant in everything they do. Rightly or wrongly, more regulatory change and oversight is inevitable and the importance of having great systems to deal with this has never been greater.

SUMMING IT UP

If you are one of the many financial planners who is disgruntled with technology, then you can either sit back and do nothing or be proactive about finding a better solution. It's your choice.

It's human nature to resist change, but if you choose wisely, the long-term benefits of having a great system will far outweigh the initial change management investment.

Experience tells us that technology is just too important to ignore.

Vincent Holland is a Principal of Forty-Seven and a co-founder of Plutosoft, a comprehensive financial planning software and practice management program for financial planners. Vincent can be contacted at vincent.holland@plutosoft.com.au.


Insight

FINTECH *and the perfect storm*

Never before have financial planners had such access to, and choice of, fintech solutions as they do today. FinTech Australia's **Alan Tsen** talks to **Jayson Forrest** about the important role fintech is playing in the evolution of the financial planning profession.

Over the past few years, there's been a lot of focus placed on financial technology – or 'fintech', as it's more commonly known. Words like 'artificial intelligence', 'quantum computing' and 'blockchain' seem to make the media headlines on a daily basis.

Today, according to data from the peak advocacy group for the fintech sector, FinTech Australia, there are over 400 fintech businesses across Australia and the industry is growing rapidly. In fact, fintech accounts for one-fifth of the Australian start-up industry.

And with such growth, it's not surprising that fintech impacts the entire financial services value chain; from front-office to back-office, wealth management and superannuation, to retail banking, credit and debit.

In fact, technological innovation is all pervading – not only on businesses but in the lives of all Australians. And for businesses to thrive and survive in tomorrow's future, technology will be key. That's why it continues to surprise Alan Tsen, the Chair of FinTech Australia, that there is still some resistance to fintech within the wider financial services market.

"Not every fintech is disrupting financial services incumbents," he says. "In fact, the majority of fintech start-ups are enablers to the incumbents; creating tools and solutions that are helping companies to deliver a better experience to their clients at a reduced cost."

And when it comes to talking about fintech, Alan knows a thing or two. He brings considerable depth of experience and knowledge to his role, having worked extensively in financial services and acquiring a deep understanding of blockchain and digital currencies.

So, what is blockchain? Blockchain was originally developed as the accounting method for the virtual currency, Bitcoin. Put simply, blockchain is a public ledger where transactions are recorded and confirmed anonymously. It's a record of events that is shared between many parties, and importantly, once information is entered, it cannot be altered.

"As much as there are threats in the fintech space, there are also amazing opportunities, and financial planners are perfectly positioned to benefit from these innovations."

Today, blockchains are appearing in a variety of commercial applications. The technology is primarily used to verify transactions within digital currencies, although it's possible to digitise, code and insert practically any document into the blockchain. Doing so creates a permanent record that cannot be changed. Furthermore, the record's authenticity can be verified by the entire community using the blockchain, instead of a single centralised authority.

"As blockchains become more embedded in business as a way of verifying and sharing data, they will have a considerable impact on the financial services landscape. So, this is the type of technology that financial planners should become more aware of," Alan says.

POLICY AND ADVOCACY

As a policy advocate and official voice of the fintech sector, FinTech Australia is constantly dealing with a range of issues – with Government, regulators and industry.

One of the biggest policy issues FinTech Australia is currently working on is 'open banking', which comes into effect on 1 July 2019. Open banking will enable financial institutions to exchange data with each other. Essentially, open banking provides consumers with greater control of their own data that banks and other financial institutions hold on them.

"Open banking will be a big shift in the way the market will look, particularly in terms of what it's going to mean for start-ups, and being able to access data directly from the banks and not having to scrape data from them. So, that's one of the bigger policy pieces we are working on this year."

Not surprisingly, the Royal Commission also features prominently on FinTech Australia's policy agenda.

"We're very keen to ensure that fintechs have a voice around potential changes to law as a result of the Royal Commission's findings," Alan says.

He adds there are also a number of other policy changes, like RG 257's

Continued overleaf

> *"The FPA's fintech reports are a great starting point for licensees and planners who are new to the software space, and they are also invaluable in helping to demystify fintech."*

'regulatory sandbox provisions' that were supposed to be amended last year and enshrined into legislation, but which have yet to occur.

"ASIC released RG 257 – a world-first class waiver to allow eligible fintech businesses to test certain specified services for up to 12 months without an Australian financial services or credit licence. This waiver would make it substantially easier for fintechs to test their offerings without the considerable expense involved with being licensed."

According to Alan, the regulatory sandbox framework is comprised of three broad options for testing a new fintech product or service without a licence. Those options are:

- relying on existing statutory exemptions or flexibility in the law, such as by acting on behalf of an existing licensee;
- relying on ASIC's 'fintech licensing exemption' for the testing of certain specified products and services; and
- for other services, relying on individual relief from ASIC.

"All of these measures collectively form Australia's 'regulatory sandbox' framework," Alan says. "And while these provisions will continue to be on our advocacy radar this year, we will also continue with our general advocacy with the regulators, Treasury and policymakers about how fintech is all about improving competition within the market."

NO MAGIC BULLET

With the diverse range of fintech offerings popping up in the market, sorting the wheat from the chaff can be a daunting prospect. So, how can planners identify the right type of solutions for their businesses?

"It's a good question," Alan says. "I agree it can be confusing trying to sort through all the fintech products to find the right solution for your needs. But it all boils down to three things.

"Firstly, you need to ask yourself: What technology will add value to my clients and business? This means understanding what the needs of your clients are and then finding the software that meets those needs.

"Secondly, it's about thinking about your own workflows and streamlining your own processes by determining what manual parts of your business can be cut out and replaced with cutting edge software."

And thirdly, Alan says it's essential that planners first "try" before they "buy".

"When it comes to fintech, there isn't a magic bullet. The best way to figure out what software solution is right for your business is to simply try it. I think in many industries and professions, like financial planning, there is a reluctance to try different software. But when you find the right technology solution, you have to try it," he says.

"You need to be curious about what each provider is doing with their product and then map this against the needs of your clients and business. You need to be inquisitive because not all offerings will be right for your clients or business."

Alan applauds the FPA's initiative of releasing two fintech reports – *Mapping fintech to the financial planning process* and the *FPA Fintech Buyers Guide and Checklist* – which are aimed at assisting licensees and planners to successfully navigate the complexity of fintech offerings and help them match their technology needs with the right solution.

"These are really good tools that go to the heart of helping financial planners with their fintech needs. Thinking through, in a systematic way, the needs of your clients and business is incredibly important," he says. "These types of tools really make you think about your technology needs and the processes involved in selecting the right technology solution for your individual circumstances.

"The FPA's fintech reports are a great starting point for licensees and planners who are new to the software space, and they are also invaluable in helping to demystify fintech."

THE PERFECT STORM

In fact, when it comes to the future of Australian fintech, Alan is supremely bullish, saying the Royal Commission's findings, as well as developments in open banking and the regulatory sandbox provisions, are providing a "perfect storm with the perfect conditions" for the fintech sector.

"We're already seeing outcomes from the Royal Commission, with some financial institutions pulling away from wealth management as a result of issues raised during the proceedings.

"The Royal Commission has been a gift to fintechs," he says. "It has highlighted the failures in some of the larger organisations; failures in terms of operating systems and processes, which have created the level of distrust we are now seeing in them."

However, Alan believes this has also created a significant opportunity for fintechs in the business-to-business space, by enabling them to take their services to these organisations to help them better streamline their offerings.

"We've also got open banking coming, the implementation of the New Payments Platform (an open access infrastructure for fast, real-time payments in Australia), the regulatory sandbox provisions, and we're seeing amazing advancements in artificial intelligence. And you can add to this, all the new innovations that are popping up to service blockchain and digital currencies.

"With Australia ranked fifth in the world in terms of adopting fintech solutions, from both a consumer and business adoption perspective, now is probably one of the best times ever to be running a fintech start-up," he says.

"So, I believe we're at an interesting point in the fintech sector's life stage, where all these key developments are coming together, creating a perfect storm for the exponential growth and adoption of fintech."

BEWARE OF THREATS

And what of any threats to the burgeoning fintech sector that may derail this growth?

"As with most trends, there's an offence and defence," Alan says. "For example, many people see artificial intelligence as a potential threat, as it will result in people losing their jobs. But I think there is an offensive piece here, where there is a great amount of opportunity to innovate and to use these emerging technologies to do really interesting things with them. It's the same thing with quantum computing."

Quantum computing takes a new approach to processing information. Built on the principles of quantum mechanics, it harnesses complex laws of nature to run new types of algorithms that processes information more holistically.

"By breaking all the encryption that exists, quantum computing will provide a whole lot of new opportunities for companies. Quantum computing is going to be a game-changer. But we really still don't know just how significant quantum computing will be, particularly as we've only recently moved from analogue to digital to automation.

"So, as much as there are threats in the fintech space, there are also amazing opportunities, and planners are perfectly positioned to benefit from these innovations. Remember, where there's a threat, there's an opportunity, so allow fintech to enable that opportunity within your own business."

Alan Tsen is the Chair of FinTech Australia.

AUSTRALIAN EQUITIES

VOLATILITY AND OPPORTUNITY

Having come off a 10-year bull run, Aussie Equities are heading into a period of greater volatility, but where there are challenges, there are opportunities. ***Money & Life*** asks four sector specialists for their thoughts on how Aussie Equities will hold up over the next 12 months.

Q. HOW DO YOU THINK AUSTRALIAN EQUITIES WILL TRACK IN 2019?

Reece Birtles (RB): The key issue we see going forward for markets is the sustainability of world profit growth.

A year ago, global growth had been accelerating but had probably peaked in December 2017, while the U.S. remained strong. During 2018, the Purchasing Managers' Index (PMI) numbers around the world weakened.

The U.S. has continued to show remarkable growth, and while this remains strong, the country is nearing full employment with limited spare capacity, and is seeing a lessening effect from the fiscal stimulus. However, if the inflation numbers keep on rising and the economy holds together, it'll be hard for the Fed not to raise rates again.

Global profit growth has almost halved. With PMI numbers around the world weakening, there are question marks about whether, globally, we are in a profit recession, or whether it's just a slow-down.

Despite this, the Australian economy is in a relatively good position. It is at an earlier stage of its economic cycle than the U.S., both in terms of the Philips curve (the relationship between the unemployment rate and inflation) and the size of government stimulus, and thus we see the Australian equity market with more room for improved earnings per share (EPS) growth.

Australia is just now starting to move into its stimulus

Dougal Maple-Brown

Reece Birtles

cycle (via personal income tax cuts). We believe this will be positive for consumption and particularly the cyclical sector of the market.

Australia's economic growth also benefits from the growing population, and strong growth in employment and wages. We expect to see signs of this emerging this year in the form of higher household incomes and a bigger capex spend by companies. We also see that the lower Australian dollar, relative to the U.S. dollar, as beneficial and stimulatory for Australia, particularly for the tourism sector and for exporters.

Mason Willoughby-Thomas (MWT): We're cautiously optimistic about the outlook for small and micro-cap equities in 2019. Micro-cap equities are typically less mature, and in a faster growing stage of their development. Consequently, many will be quite dependent on external sources of capital to fund their growth. Micro-caps, therefore, tend to perform best during strong markets when investor risk appetites are healthy, access to capital is reasonably cheap and readily available, and market liquidity is supportive.

Towards the end of 2018, conditions for micro-cap investing deteriorated sharply. Growing fears of a slowdown in global growth, combined with the U.S. Federal Reserve appearing intent on continuing to drain liquidity from the global monetary system, resulted in a spike in risk aversion, contraction in the availability of cheap capital, and the evaporation of market liquidity.

However, entering 2019, the U.S. Fed performed an about-face, recanting its previously hawkish policy approach in favour of a far more market-supportive stance. In the face of increasingly volatile asset markets, and the risk that losses could weigh on consumer confidence, the Chair of the U.S. Fed revealed an intention to adopt a far more flexible and patient approach to monetary policy tightening, with a slower pace of interest rate increases and a more measured unwind of the Fed's balance sheet.

As a result, markets rallied hard in January, with micro-cap companies delivering strong gains as risk aversion fell, market liquidity improved and confidence lifted.

Whilst we would argue that the economic outlook remains challenging, we also take comfort that the major developed economies continue to grow (although at a decelerating rate), with healthy levels of employment. Inflation remains contained and central banks maintain an accommodative stance with respect to monetary policy.

Whilst we expect volatility to continue to feature in 2019, barring a significant negative event, such as a messy Brexit or an escalation in trade tensions, we see current conditions as supportive of positive returns for micro-caps over the next 12 months.

Dougal Maple-Brown (DMB): We would see a flat Australian equity market as a good outcome for 2019, given the 10-year bull run we have just enjoyed and reasonably full valuations, particularly at the high P/E end of the market.

Whilst that doesn't sound very exciting, the market is yielding around 6.5 per cent gross (i.e. including franking), so that's not a bad return in the context of a cash rate at 1.5 per cent and Aussie long bonds yielding about 2.5 per cent.

Continued overleaf

Participants

Reece Birtles,
Chief Investment Officer, Martin Currie Australia

Mason Willoughby-Thomas,
Portfolio Manager for the Ausbil MicroCap Fund

Arden Jennings,
Co-Portfolio Manager for the Ausbil MicroCap Fund

Dougal Maple-Brown,
Head of Australian Equities, Maple-Brown Abbott

Q. WHAT ARE THE KEY THEMES LIKELY TO SHAPE AUSSIE EQUITIES IN 2019?

RB: As a result of global economic uncertainty, revisions to Australia company consensus EPS forecasts by broker analysts have been particularly weak over the past few months.

However, we see that these revisions reflect a lower confidence in global economic growth, rather than any real issues with the underlying fundamentals driving company profits in Australia. In fact, actual good business conditions and consumer confidence data doesn't appear to reflect the weak EPS revisions.

However, significant tail risks for 2019 are high. This includes household debt and restrictive household lending from cautious banks, driven by APRA and the Royal Commission. It remains to be seen whether these risks create a contagion that may result in house prices starting to move into a more downward spiral.

Our base case is that less than 15 per cent of house price falls would be quite manageable, especially considering Australia's population growth, where there is plenty of demand for new housing. If it goes beyond that level, there's much bigger risks in terms of spending patterns on households, and with household confidence, which may cause people to delay further purchase decisions.

We believe it's likely the Government will bring tax cuts forward – no matter which party is in power after the next Federal election. We also see a greater spend on infrastructure to support the growing population, which will also be stimulatory. Australia's trade surplus and fiscal surplus position is going to be strong for the next government, and a positive for the economy.

Local growth risks, however, are heightened by the U.S.-China trade tensions, leading to slowing China growth. Tightening U.S. and emerging market monetary conditions, and divergent growth and central bank policies globally, may also impact Australia.

Current economic growth data remains far more bullish than global financial market indicators suggest, such as the U.S. 2-year/10-year spread, alluding to a rising risk of a U.S. recession. The U.S. Fed is likely to continue raising rates in 2019, to a point where its monetary policy is no longer stimulative.

"However, the housing issue, the political issue and the Royal Commission's final recommendations are all likely to weigh on the banks in 2019."

– Dougal Maple-Brown

DMB: Ignoring all the global macro issues (Trump, trade wars and Brexit), I think there are two key domestic themes.

Firstly, house prices. It's no longer a question of will they fall, but now how far will they fall. While Sydney prices are now down about 10 per cent over the last year, they were up 70 per cent in the prior five years. Beyond the potential impact on the banks' mortgage books, admittedly, this will take a while to work through. So, the next issue will be to what extent does this start to impact consumer spending?

The second domestic challenge is politics. If the Federal Government changes, then you have to think how Labor's stated policies (on CGT, negative gearing and imputation) might impact equity markets.

Arden Jennings (AJ):
The macroeconomic environment will be a key theme and driver of returns in 2019. The extent to which the larger global risks develop favourably, will have a significant influence on the performance of markets, and micro-caps in particular, in 2019.

We think there will be a greater focus on quality in 2019, as investors reposition themselves after a volatile 2018, and with unresolved risks carried into the current year. Early-stage companies with unproven business models, heavy dependence on markets to fund operations, questionable balance sheets and weak management teams, will probably struggle for investor attention in the current environment.

Over the course of 2018, we noted a distinct deterioration in the quality of IPOs coming to market, as well as overly-inflated pricing expectations by vendors. So, 2019 will likely be a more challenging year for IPOs, with only the highest quality names likely to attract investor attention, with those that make it to market being more realistic in their price expectations.

Q. WHAT ARE THE KEY CONSIDERATIONS INVESTORS SHOULD BE MAKING WHEN ALLOCATING TO AUSSIE EQUITIES?

RB: Household consumption makes up over 60 per cent of Australian GDP, so consumer confidence is critical to the economy. However, we think this area is being underestimated by many investors, who are too focused on recent falls in Australian house prices. In fact, we don't see this drop as being as big a risk as others do. Because of employment and wages growth starting to come through, consumer confidence is actually holding up.

A lot of market participants have also been too focused on the saving rate in Australia, but we see that the savings rate is very backward looking and focuses too much on historical income growth. In fact, we have found that the 'wealth effect' from

Continued overleaf

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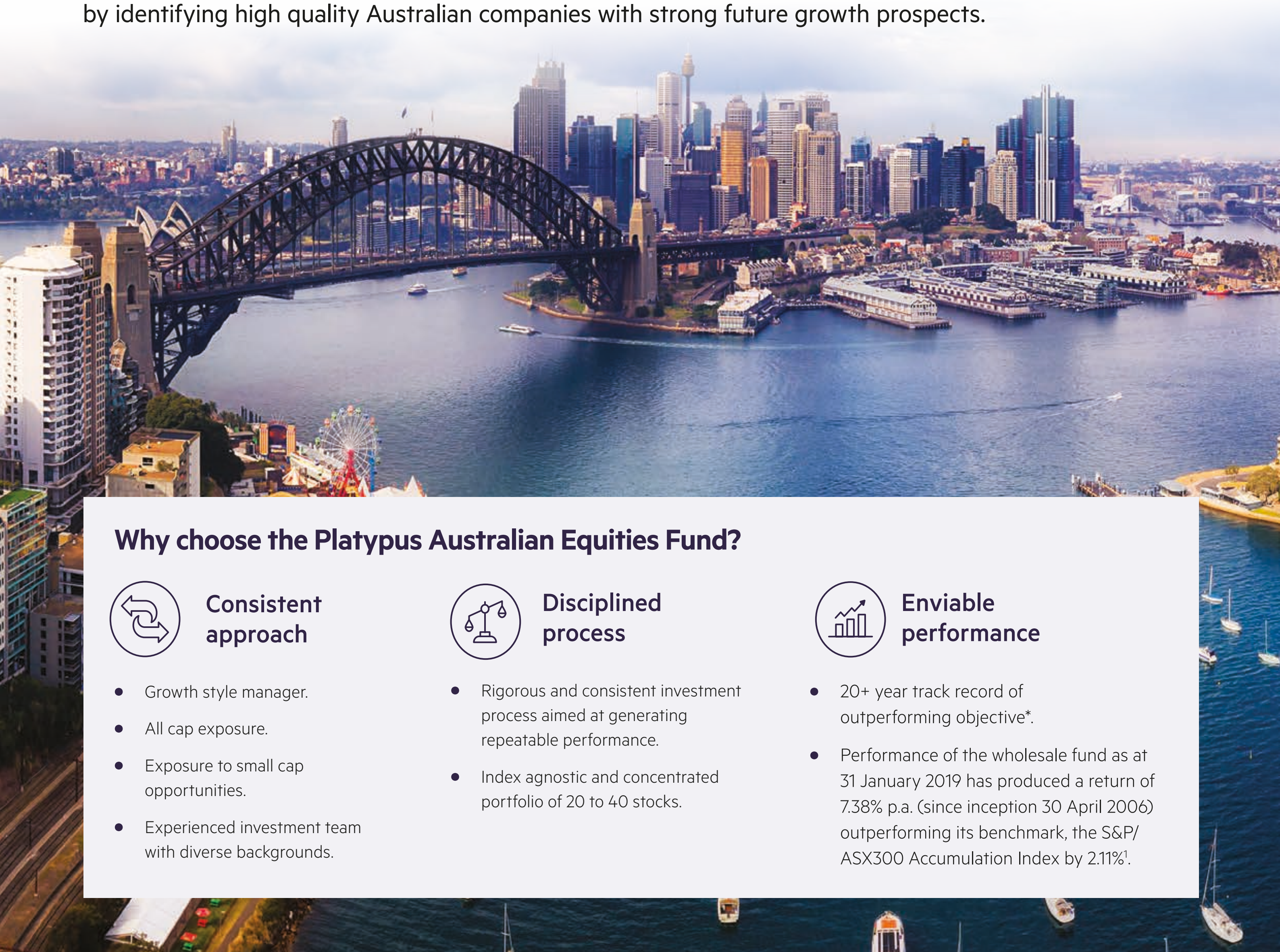

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For more information on how we can help you and your clients thrive please contact us today.

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Important Information

* Source – Lonsec iRate. Generated 19/9/2018. Total Returns are calculated after fees and expenses and assume the reinvestment of distributions. Inception date for performance calculations is 30 April 2006.

1 Total returns are calculated after fees and expenses and assumes the reinvestment of distributions.

STRENGTHENED BY

Australian Unity

higher house prices was not evident in the early stages of this cycle and therefore, not a risk to consumption. People didn't spend more when house prices went up, so it's unlikely they will spend less when they fall.

With stronger wages and employment growth, a growing household income will reduce stress on the consumer. Add to that the strong fiscal position of the Government, and we should see tax cuts or rebates that will help household income more. This points to a supportive position for the consumer in Australia.

In the current environment, we believe investors should avoid paying too much for growth/quality style stocks that have outperformed and appear overvalued on our metrics, but retain some flexibility to take advantage of opportunities and exposures further into the cycle.

DMB: We would always say that valuations are the single most important factor, as they will have a big bearing on the subsequent return you earn. In relation to valuations, we would point out that the dispersion between the highest rated stocks and the lowest rated stocks is very wide. Therefore, we are generally avoiding those very highly rated stocks.

Q. WHERE ARE YOU SEEING INVESTOR OPPORTUNITIES?

DMB: I'll give you one opportunity and one to avoid!

The first is what not to own: highly rated industrials (CSL, COH, REA and so forth). Whilst they have come back a tad, the highest rated industrials are still very expensive by historical standards (at least one standard deviation expensive).

In terms of what to own, I think there is a good chance that the banks will get very cheap during 2019. To be clear, as at January 2019, we are currently modestly underweight the banks. However, the housing issue, the political issue and the Royal Commission's final recommendations are all likely to weigh on the banks in 2019. With valuations starting to look attractive, I think there is a reasonable chance we could be overweight the banks by the end of 2019.

RB: The cheap stocks in the market are a lot cheaper than they were 12 months ago, and the spread of how much cheaper our portfolio is relative to the market is at very high levels compared to what we've seen in the past. Similarly, the forward income yields of our income portfolio are very attractive compared to the market.

The opportunity set for quality stocks with attractive valuations and growing earnings is better than ever. We currently see opportunities in sectors that are leveraged to the consumer, such as consumer staples and strongly positioned consumer discretionary and energy stocks, which now have attractive valuations.

Q. WHAT ARE YOUR BEST HIGH CONVICTION POSITIONS AND WHY?

DMB: Our highest conviction positions remain amongst the resource stocks. Our single biggest position is BHP. Today, BHP has divested non-core assets, trimmed capex, taken costs out and is returning surplus capital to shareholders. Whilst clearly not as cheap as it was, BHP remains our highest conviction position.

MWT: One micro-cap stock that remains a high-conviction choice in our portfolios for 2019 is Nearmap. Nearmap is an aerial imaging company that produces high-resolution digital images using sophisticated cameras mounted in light aircraft. Nearmap offers a vast and updated content database on a relatively low-cost subscription basis.

> *"We think there will be a greater focus on quality in 2019, as investors reposition themselves after a volatile 2018, and with unresolved risks carried into the current year." – Arden Jennings*

Cyclical sectors have attractive valuations compared to a year ago. Cyclical sectors have had a big PE de-rate, while the PEs for growth stocks are still way above normal. It's too late to buy the super expensive names, but we also suggest to not be fully allocated just yet to cyclicals and retain some dry powder in safer real asset, defensive exposures to deploy later into the cycle.

Another area of interest to us is in energy sectors. Oil is currently undervalued and also underinvested in Australia. For example, there are a number of new projects in the works in Australia at a time when the oil price is well below its long-run average. Coupled with a lack of capex in the past, the Australian energy sector will benefit as oil appreciates again and production growth increases.

Its technology has significant global potential, and it has established a successful business in the United States. Beyond geographic expansion, the vast amount of data that Nearmap is capturing in its digital images supports the development of sophisticated analytical tools based on machine learning and artificial intelligence applications, which underpin another longer term source of earnings growth.

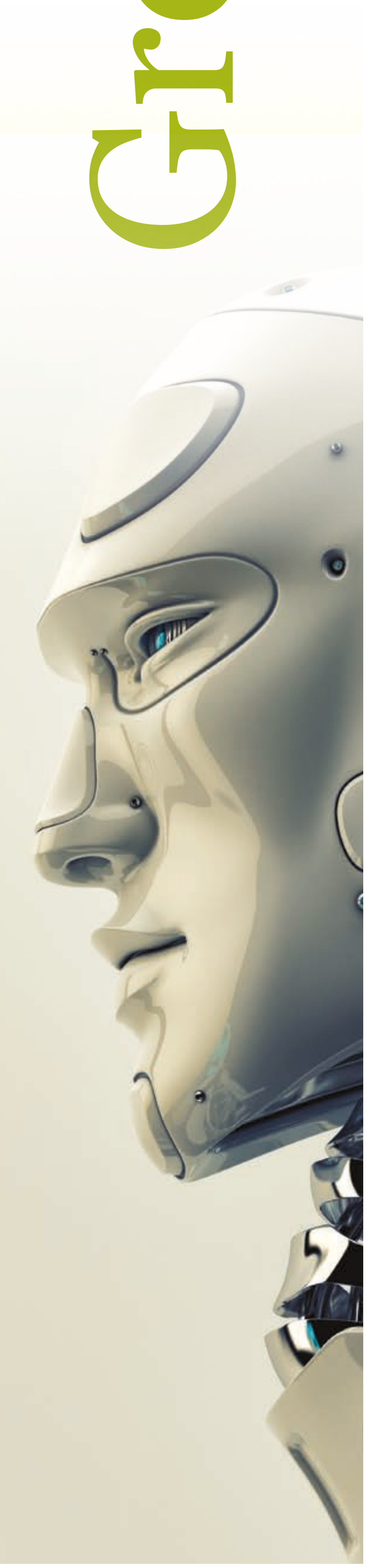
AJ: Another micro-cap stock we like is Service Stream (SSM), which is a provider of development and maintenance services to the teleco and utilities infrastructure market. The acquisition of critical utility infrastructure firm, Comdain Infrastructure, further diversifies SSM's capabilities into the growing Australian east coast utility market.

Grow.

PRACTICE MANAGEMENT

IT'S NOT ABOUT THE TECHNOLOGY

When it comes to fintech, it's a brave new world out there and the future is looking good. But as **Stewart Bell** writes, you first need to know what to look for.



One of my favourite short films is called *It's Not About The Nail* by Jason Headley. It's available on YouTube if you're interested and, in an amusing 1 minute 42 seconds, makes observations about the difference between problem solving and listening.

But it could be about a number of things. 'It's Not About The Money', is a ready-made slogan for financial planning done right. 'It's Not About The Revenue', the key idea that separates advice businesses from traditional practices.

Or perhaps the reason for raising it here, 'It's Not About The Technology'.

Stewart Bell

If you've come along to a session where I was the speaker, you may have heard me talk about technology in the context of practice management. You may have downloaded one of our tools outlining some of the best apps to use, or various other tech-related musings.

Yes, I spend time using, testing and assessing technology for advice firms, but in truth, it's a small part of a bigger picture.

I've had advisers start a conversation with, "I don't know much about tech, so what you do probably isn't right for me", only to end it realising that you don't have to be a tech nerd to get the benefit of tech-thinking.

Personally, I'm very careful about the tech I use. Everything I create within the program starts with a pen and paper. The starting point for me is always analogue, digital comes much later. I am mindful about the apps I put on my phone – no LinkedIn or Facebook – as for each benefit tech can provide, there is another that will simply deliver distraction, inefficiency and frustration.

Which is the point of what I'd like to share.

Bill Gates famously said: "Adding people to an already inefficient process only makes the problem worse." Substitute the word people with technology and it's the same situation. Technology, software and all manner of shiny new objects waiting to have you spend money on them will never solve a problem that you haven't solved first.

TECHNOLOGY IS AN ENABLER

Technology is not a solution. It's an enabler. Let me explain.

Technology of any kind is purely about making it faster, easier or cheaper to undertake certain tasks. That is what computers do. They follow a pre-defined set of instructions, a process, at a speed humans cannot match.

But they need to know the process first.

When you're selecting technology for your practice, there are one of two situations about to occur:

1. You have no processes, fluid ways of doing things and you're about to discover a world of pain in trying to undertake two massive projects (which you think is one) at the same time. Ouch.
2. You already have ways of doing things, and in selecting the right tech you need to ensure the software you select will

support your current practices. If you're aware of this, then it's simply about making sure you're assessing things well. If you're not aware of this, well, now you've been warned.

With regard to the first issue, I've seen the following scenario too many times. Practice X buys the latest software, only to discover that rather than being the tech version of an automatic car, they've bought a six gearbox road train and they don't have a truck licence.

In addition, they're suddenly required to produce a bunch of email templates, workflow processes and more, so the consultant they've hired to make it work can make the whole system flow.

The project stagnates. Eventually they stop paying the consultant's fees, claiming they got nothing from it, and the Ferrari they bought to solve their problems ends up being used for file notes only (i.e. it becomes the shopping run car). Sound familiar?

The way to avoid this is to follow Bill's advice. Work out how your business is supposed to operate, before you engage technology to make it work better. Go analogue, then digital. Paper and textas first.

GET READY TO STEP BACK

How about the second issue? Well, that's where I invite you to take a step back.

You see, the biggest issue that cloud technology selection is, is what I call 'the beauty parade'.

Make no mistake, software sales is big business, especially at the top end. Having sat down with software developers to calculate the size of the Aussie market for financial planning software, I can tell you it's huge.

When selling software, it's done on two levels:

1. The benefit to your business; and
2. Features.

For the most part, the first is pretty much the same between providers in all but a few exceptions. It's like bank advertising. Most are offering the same thing.

+

It's like tending to the backyard. You need to know what plants to put in there to begin with, otherwise the garden will never grow.

Features though is where differentiation occurs, and confusion starts, unless you start by knowing what you need.

So, this is the key part. The step before. Before you even think about looking for software, start by asking what you need.

THE TECH MAP

In my world, it's called the Tech Map. It's a process of identifying the tech you have across four clear categories, then breaking it down into internal and external, to understand three things:

1. What software are you currently using to fill certain gaps?
2. Where are you under-utilising and can remove tech?
3. Where do you need to fill gaps and should start looking at tech?

Then and only then are you ready for the final ingredient.

To decide what functionality **you** need, weight it so you can assess tech based on the value it will add to **you** and have a clear, objective way of assessing the 'appley-oranges' from the 'orangey-apples'.

If you're interested in the specifics of how, head over to our website (audere.com.au) and download the white paper on the topic. However, let me give you an example.

Last time we did our tech map, we discovered that the tool we were using for our internal communications – Slack – could actually be replaced by our project management/workflow tool, Teamwork Projects. We also identified that some of the internal communications piece was actually being split inconsistently between our shared inbox – Missive – and Slack.

Upon analysis, we realised that by removing Slack from our tech stack and getting clear on when internal communication should happen in the inbox vs workflow, we'd not only save a bunch of money, we'd also make it easier to find the right information and improve our internal 'business memory'.

The end result of that exercise was a reduction in our monthly tech bill of $300 (it may not seem a lot, but we are committed to keeping ours under $1,000), and removing a total of seven tech tools from our business.

It's like tending to the backyard. You need to know what plants to put in there to begin with, otherwise the garden will never grow. Once it's growing, you still need to cut it back every now and again, otherwise you end up with a garden in the vines, instead of vines in the garden.

A STREAMLINED RESULT

The end result is less confusion, less complication and less chasing your tail either:

- waiting for the messianic single-source-of-truth solution (which is honestly at least 12-24 months away) that will solve all your problems; or
- plugging and unplugging tech into your business like a demented two-year-old with a Duplo problem, all the time wondering how to make it talk to each other.

It's a brave new world out there and the future is looking good, but first you need to know what to look for.

Stewart Bell is Business Coach and Founder of Audere Coaching and Consulting.

BARKING UP THE RIGHT TREE

Sara Stephens CFP® and the team at **McPherson & Associates** are happily involved as canine foster carers, as part of the Smart Pups Assistance Dogs program for children with special needs.

As a business, Brisbane-based McPherson & Associates first got involved with Smart Pups Assistance Dogs in early 2018.

Located at Noosa on Australia's Sunshine Coast, Smart Pups is a non-government funded not-for profit organisation that trains assistance, service and support dogs for children with special needs. The organisation raises and trains 'autism assist', 'seizure response', 'mobility assist' and 'medical alert' dogs to help children with special needs under the age of 18, lead a life of greater independence and safety.

Since launching in 2011, Smart Pups has placed more than 100 assistance dogs Australia wide. These dogs typically serve as early intervention support, assisting young people with disabilities with the emotional and physical support to safeguard their safety and wellbeing – in the home, at school and with their social life.

According to Sara Stephens CFP® – a financial planner at McPherson Investment Consulting – the special needs of the children involved in the program include autism and epilepsy, with the 'Smart Pup' often being a child's connection to the outside world.

"Smart Pups is the only Australian organisation that specialises in the provision of support dogs for children under the age of 18," Sara says.

"Our business' association with Smart Pups involves fostering dogs, which are typically 10 months of age or so, for about four months each time. We were fortunate to have Forrest, Nina and Tarzan as part of our team in 2018."

GRANT RECIPIENT:
Smart Pups Assistance Dogs

GRANT AMOUNT:
$10,000

ENDORSED BY:
Sara Stephens CFP®

FPA CHAPTER:
Brisbane

future2 GRANT RECIPIENT

MORE WAS NEEDED

Over the relatively short time McPherson & Associates has been involved with the not-for-profit, Sara says the staff has gotten to know some of the Smart Pups' representatives quite well, especially Dayle – the senior trainer that the team works with.

"As we increasingly recognised the importance of the work being conducted by Smart Pups in the community, we were keen to broaden our support and assist this not-for-profit further, both from a community awareness and fundraising perspective," Sara says.

After raising much needed funds for Smart Pups through a number of client events, the staff at McPherson & Associates recognised that more was needed. On reading some of the Future2 articles in *Money & Life* magazine, the business recognised there was an opportunity to apply

for a Future2 grant.

"On reviewing the criteria, we determined that Smart Pups was eligible. We just needed to wait until applications opened," Sara says.

It was a decision well made, with the judges awarding a $10,000 Future2 grant to this worthy organisation.

And with the time required to train a special needs dog taking approximately 12-18 months at a cost of about $25,000 each, the Future2 grant was timely. Funds from the grant will go towards purchasing five new puppies for the training program, along with an additional five puppies from Smart Pups' own funding. Effectively, this will add an additional 10 puppies to the program.

The puppies earmarked to become Smart Pups Assistance Dogs are carefully selected Golden Retriever and Labrador puppies, and generally enter the training and socialisation program at eight weeks of age.

"Our involvement with Smart Pups has provided us with firsthand experience of the immense positive benefits that these dogs provide children with special needs, as well as their families – it's been life changing for them. So, naturally, it was a no brainer to provide Smart Pups with our endorsement," says Sara.

"And being a non-government funded organisation, we knew any assistance Smart Pups received would be greatly appreciated, too."

MOTIVATION AND INSPIRATION

To better understand why McPherson & Associates first decided to become involved with Smart Pups Assistance Dogs for special needs children, you first have to go back to September 2017, when two of the business' partners attended an annual charity dinner, where money raised on the night goes to supporting a different non-government funded not-for-profit organisation.

Sure enough, Smart Pups Assistance Dogs delivered the keynote address on the night, with a Smart Pups brochure duly accompanying the partners back to the office the following morning.

"I'm sure they were listening attentively to the Smart Pups' address at the dinner, because with a smile and a slight nudge from both partners, I was handed the brochure and asked to investigate how our business might get involved with this organisation in some way. And we haven't looked back," Sara says.

Today, a typical Smart Pups weekly arrangement involves the business' foster dog being dropped off at the office by a Smart Pups representative on either a Thursday or Friday. The dog then spends time in the office during working hours, before going home with a team member for the weekend. The foster dog is then collected by Smart Pups on Monday.

"Our foster dog goes everywhere with us, as Smart Pups is regulated under the *Guide, Hearing and Assistance Dogs Act*, enabling their dogs to hold public access rights.

"As a foster carer, you are not only encouraged but are also responsible for providing your foster dog with exposure to the community, including shopping centres, public transport, public and private events, as well as normal everyday office and family life."

According to Sara, the Smart Pups organisation is extremely supportive, providing relatively flexible fostering arrangements, which were consistent with McPherson & Associates' business culture and family-orientated philosophy.

PROFOUNDLY LIFE CHANGING

Sara speaks with pride when she points you to the Smart Pups website, blog and Instagram feed, which are full of heartfelt accounts from children and their families when a Smart Pups' dog is incorporated into the life of a child with special needs. "It's profoundly life changing," she says.

Although the team at McPherson & Associates have fostered three dogs in 2018 – Forrest, Nina and Tarzan – which proved to be an enormously satisfying experience for all involved, Sara concedes it's always difficult to say "goodbye" to each dog.

But as one door closes, another door opens, with the team at McPherson & Associates welcoming their fourth foster dog, Honey, in early February 2019.

So, it's time to unpack those squeaky toys and get out the grooming brushes, as the staff meets its new team member!

Learn.

Claudine Siou

IOOF

This article is worth
0.5 CPD hours

FPA Dimension
Capability

ASIC Knowledge Area
Aged Care

FASEA CPD Areas
Client Care and Practice

INCLUDES:

- What is elder abuse
- Enduring power of attorney
- Binding nominations
- Granny flat interests

ELDER ABUSE: WHAT CAN ADVISERS DO TO PREVENT IT?

Financial advisers dealing with older clients and their family members are in a position to understand and identify situations in which financial elder abuse could occur by family members. Financial advisers who are aware of the issue of elder abuse can take steps to prevent financial abuse of older clients by encouraging the proper appointment and use of an enduring power of attorney and formalising any granny flat arrangements.

WHAT IS ELDER ABUSE?

Elder abuse is defined by the World Health Organization as 'a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person'[1].

There are several definitions that all have a common thread, that is, action or inaction by a person in a position of trust, causing harm to an older person.

Elder abuse is recognised by the international community and governments across the world as a human rights issue that requires attention in order to prevent and respond to the problem. Older people have the right to be treated with dignity, be given autonomy[2] and to be free from exploitation, violence and abuse[3].

FORMS OF ABUSE

Elder abuse occurs in various forms: psychological/emotional, financial, physical, sexual, abandonment and neglect. Psychological and financial abuse are the most common types of abuse reported in Australia[4].

These forms of abuse often co-occur, with psychological abuse used to groom the older person to enable financial abuse.

Psychological or emotional abuse can be threats, intimidation, harassment, bullying, pressuring, name calling, treating the person like a child, threatening to withdraw affection, threatening to put an older person into an aged care facility or stopping an older person from seeing family and friends[5].

Financial abuse is the illegal or improper use or management of an older person's money, property or other financial resources[6]. Financial abuse can be:

- incurring bills for which the older person is responsible;
- stealing the money or assets of the older person;
- forcing the older person to sign a document (e.g. a Will, guarantor arrangement or power of attorney) or to sign over possession of an asset;
- abusing power of attorney arrangements;
- failing to repay a loan;
- living with the older person without helping to pay for expenses; and
- agreeing to provide care or accommodation in exchange for money or property and then failing to do so[7].

RISK FACTORS

Strong evidence supports the following risk factors for the abused and abuser[8]:

Abused

- Dependence caused by a significant disability;
- Poor physical health;
- Mental disorders, such as depression;
- Low income or socioeconomic status;
- Cognitive impairment; and
- Social isolation.

Females aged 74 and older are more likely to be victims of elder abuse.

Abuser

- Mental disorders, such as depression;
- Alcohol and drug abuse;
- Dependence on the abused in terms of needing their financial and emotional support.

According to the World Health Organization's *World Report on Ageing and Health* (2015), living alone with the perpetrator is also a risk factor.

Note: Elder abuse tends to be intergenerational, that is, involving abuse of parents by adult children[9]. This should be at the forefront of financial advisers' minds when dealing with older clients, and particular vigilance may be required if the client is living with an adult child who holds an enduring power of attorney.

PREVENTION IS BETTER THAN CURE

Awareness of elder abuse is vital to help prevent it. By recognising the risk factors, financial advisers can identify situations for potential elder abuse and implement safeguards to protect the older person's financial wellbeing. Prevention avoids the negative impacts on the older person, their family relationships and the need for legal redress.

Where elder abuse occurs in a family or care giver relationship, the older person may be reluctant to report abuse as the consequences can be the loss of that relationship or living arrangement[9].

WHOSE RESPONSIBILITY IS IT TO PREVENT ELDER ABUSE?

'Preventing elder abuse in an ageing world is everybody's business[10].' Community awareness of elder abuse can help to address attitudes such as ageism and 'inheritance impatience'. Prevention of elder abuse requires a multi-sector approach – for example, the involvement of the health care, aged care, legal, financial and social security sectors.

A national response to elder abuse in Australia involves a co-ordinated approach by the Commonwealth and state or territory governments. The Commonwealth can legislate in respect to aged care, social security, superannuation and financial institutions. The 2019 Royal Commission into the aged care sector following reports of abuse and neglect of aged care residents, reflects how seriously the Commonwealth Government considers the issue.

State and territory laws govern powers of attorney, guardianship, Wills and estates. Recommendations made by the Australian Law Reform Commission (ALRC) in its report *Elder Abuse – A National Legal Response*, point out the need for nationally consistent safeguards against the misuse of enduring power of attorney documents[11]. However, the laws are inconsistent in different states and territories.

Note: Financial advisers need to be aware of the enduring power of attorney laws in their state or territory when dealing with substitute decision-makers to ensure they are not facilitating elder abuse.

ENDURING POWER OF ATTORNEY

An enduring power of attorney (EPoA) is a form of substitute decision-making where a person (referred to as the principal) can appoint another person to make financial decisions for them when they lose their decision-making capacity. Misuse of an EPoA is a form of financial abuse. Use of an EPoA before the principal loses decision-making capacity or for transactions outside the scope of the EPoA or for the benefit of the appointed person, can be a misuse of an EPoA.

REFORMS TO EPOA LAWS

Reforms to laws relating to EPoAs aimed at preventing elder abuse have occurred in Queensland and Victoria, and are currently underway in NSW. The impetus for this change is a 'paradigm shift' from substituted decision-making to supported decision-making, which takes into account the older person's will, preferences or rights[12].

This shift away from acting in the best interests of the principal, reflects the right of an older person to their autonomy by preserving their right to participate in making decisions. The appointed person's role is to represent the principal and to give effect to the principal's will and preferences wherever possible. Substitute decision-making may still be appropriate where the older person's will or preference cannot be ascertained, however, it should be a last resort.

Building on the EPoA legislation in Queensland and Victoria, the ALRC has recommended that

Continued overleaf

state or territory legislation should restrict conflict transactions, that is, transactions where there is, or may be a conflict between the interests of the principal and the interests of an attorney. An EPoA would not be permitted to enter into a conflict transaction unless expressly authorised in the EPoA document or a tribunal authorises the transaction.

Statutory restrictions on conflict transactions build on and are consistent with the attorney's fiduciary duty[13]. The duty not to enter into a transaction where there may be a conflict of interest applies whether there is a statutory restriction or not. Examples of conflict transactions may be the EPoA leasing or buying an asset owned by the principal (e.g. buying the principal's car) or using the principal's holiday home or receiving a gift from the principal.

Recommendations by the ALRC to develop a nationally consistent legal framework and establish a National Register for EPoAs was announced as part of the Australian Government's agenda in the 2018/19 Federal Budget.

NATIONAL REGISTER

Currently, EPoAs only need to be registered in each state or territory for land transactions. Only Tasmania has compulsory registration of EPoAs. A national register of EPoAs seeks to reduce elder abuse by:

- ensuring only one EPoA is registered at any one time (e.g. to prevent an attorney from using an EPoA that has been revoked or attempting to make another EPoA where the principal has lost decision-making capacity);
- identifying an EPoA which is active; and
- clarifying the role and powers of the attorney.

EPOA AND BINDING NOMINATIONS

A principal cannot delegate acts to an EPoA which the principal must do personally, for example, making or revoking a Will. However, making a binding death benefit nomination is not a testamentary act[14]. Whether an EPoA can make, vary, revoke or confirm a binding nomination has not been judicially considered until the Queensland case of *Re Narumon Pty Ltd [2018] QSC 185*. On the facts, it was held that the joint EPoAs were able to confirm a binding nomination made by the member of an SMSF. The nomination was confirmed before it was due to expire three years after the member made it, but after the member lost the capacity to make decisions.

Relevant to the decision was whether any restrictions to an EPoA making or confirming a nomination existed in the SMSF trust deed, *Superannuation Industry (Supervision) (SIS) Act* or *Regulations* or EPoA legislation in Queensland. No restrictions were found in the SMSF trust deed or *SIS Act* or *Regulations*. In the context of the Queensland EPoA legislation, the making or confirming of a binding nomination was considered to be a 'financial matter', within the authority which could be delegated to an EPoA.

Particular reference was made to the conflict transaction provisions of the EPoA legislation, noting that the principal had not expressly authorised the joint attorneys to enter into any conflict transaction. Confirmation of the member's binding nomination, by the joint attorneys, was not a conflict transaction in the circumstances, even though one attorney would benefit from the nomination.

Confirming the member's binding nomination was consistent with the EPoAs' duty to enable the principal to exercise autonomy and carry out his/her wishes in respect of the distribution of the benefits, rather than have his/her wishes defeated.

A distinction was drawn between an EPoA confirming and making a new or varying an existing binding nomination, however, the question of making or varying a nomination was left undecided. The ALRC has recommended a review of the *SIS Act* and *Regulations* relating to making death benefit nominations. Part of the review will look at whether an EPoA can make, vary or revoke a nomination.

Note: Financial advisers play an important role in providing advice to older clients on superannuation and death benefit nominations. Non-lapsing nominations cater for the loss of decision-making capacity. However, non-lapsing nominations may only be made if permitted by the trust deed and with the active consent of the trustee. Advisers should be aware that the ability of an EPoA to make, vary, revoke or confirm a binding nomination may depend on the trust deed, relevant EPoA legislation and any express authority given in the

QUESTIONS

To answer the following questions, go to the Learn tab at moneyandlife.com.au/professionals

1 Why is prevention of elder abuse a better outcome than remedying elder abuse that has occurred?

a. The abuser is more likely to be a family member.

b. Elder abuse may not be reported because of the complex nature of the relationship between the abused and abuser.

c. Legal remedies are not sufficient to redress occurrences of financial abuse.

d. The abuser is unlikely to repay the money stolen from the elderly person.

2 What changes have occurred and are occurring to the enduring power of attorney laws in some states?

a. Additional witnessing requirements for enduring power of attorney documents.

b. A single power of attorney for medical and financial decisions.

c. Safeguards are being built into the enduring power of attorney document to limit the amount of power given to an attorney.

d. Wishes of the principal are considered and substituted decision-making is considered a last resort.

3 How may a national register of enduring power of attorney documents prevent elder abuse?

a. Enduring power of attorneys will have authority to enter into land transactions.

b. Financial advisers and institutions will be able to check they are dealing with a valid attorney and the transaction is within the scope of their authority.

c. Nationally consistent enduring power of attorney laws will make it easier for appointed persons to understand their role and responsibilities.

d. Older clients will have easy access to enduring power of attorney documents.

4 What negative implications for an older client might arise if a granny flat arrangement is not in writing?

a. The amount paid may be considered a gift.

b. Family relationships will inevitably breakdown because there are no written rights and responsibilities.

c. Negative social security implications, as granny flat arrangements not evidenced in writing are not recognised by Centrelink.

d. The older client will have no legal remedies available.

5 Can an enduring power of attorney confirm a binding nomination?

a. Yes.

b. No.

c. Yes, this is permitted by the *Superannuation Industry Supervision (Act)* and *Regulations*.

d. Yes, subject to the provisions in the trust deed, enduring power of attorney document and enduring power of attorney legislation.

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EPoA document. The *SIS Act* or *Regulations* currently do not restrict the ability of an EPoA to make, vary, revoke or confirm a binding nomination.

APPOINTMENT OF AN EPOA

Appointing multiple attorneys jointly, so the attorneys must act together, provides added protection from misuse of an EPoA.

When an older client has an SMSF, they should consider whether the person appointed as an EPoA has the skill and knowledge of complex SMSF rules, especially if the EPoA is appointed as trustee or director.

Superannuation law permits the appointment of an EPoA, but the trust deed or corporate constitution will generally determine whether the EPoA will be appointed the trustee or director.

Older clients should clearly understand what succession arrangements are in place if they lose the capacity to make decisions. This involves interpreting the trust deed (or relevant state or territory trustee legislation, if the provisions of the trust deed are silent or cannot be invoked) or corporate constitution.

Note: Financial advisers can recommend older clients seek legal advice on the succession arrangements for their SMSF, when appointing an EPoA.

SCOPE OF AN EPOA

An EPoA document can give wide powers to the appointed person to make financial decisions on behalf of the principal. Older clients should

Continued overleaf

recognise that they have the flexibility to determine the scope of the powers given under an EPoA document. Measures to prevent elder abuse may be to exclude certain matters or powers, such as restricting the ability to sell the principal home.

The circumstances when an EPoA takes effect should be specified to ensure it only takes effect when the principal has genuinely lost decision-making capacity in relation to a specific situation or area, such as the ability to manage their finances[15].

GRANNY FLAT INTERESTS

Granny flat interests are family arrangements that provide support for older people. The older person pays for a life interest or for the right to accommodation for life in a private residence and is precluded under social security rules from having legal title to the property. Currently, there is no requirement for these arrangements to be in writing.

The breakdown of family arrangements is a common form of financial abuse. If family arrangements are not in writing, the older person is at risk of financial abuse when things go wrong. Failure to document a granny flat interest can result in the older person finding themselves homeless and having lost the proceeds of their home, which they invested under a family agreement[16].

Financial advisers should strongly recommend an older client seek independent legal advice and to document a granny flat agreement. Exit clauses should be built into the agreement to protect the older person's interest if things go wrong. For example, the agreement may include details about what happens if:

- the older person needs to enter into residential aged care;
- the carer predeceases the older person;
- the carer sells the property and moves to a new property; and
- the relationship between the carer and older person breaks down.

A written agreement provides evidence that the transfer of assets or title to a property was not a gift and may assist the older person access legal remedies if necessary.

Granny flat interests often result in the older person giving up their legal title to their property and leaves them vulnerable to financial abuse by family members.

Financial advisers can explore other co-living arrangements which allow the older person to stay on the title without losing the Age Pension. For example, it is possible for a person receiving the Age Pension to undertake the following transaction without affecting their entitlement to the pension:

- The Age Pension recipient could sell their house for $500,000 and contribute those funds towards the purchase of a $1,000,000 home with another person, provided they have a 50 per cent interest as tenants in common registered on the legal title to the property[17].

CONCLUSION

Prevention of elder abuse should be everyone's responsibility and this includes financial advisers. Awareness of this human rights issue is the first step towards the prevention of elder abuse.

Financial abuse of elders can occur through the misuse of an EPoA or family arrangements, such as granny flat interests, when things go wrong.

Financial advisers should be familiar with the EPoA legislation in their state or territory and keep up-to-date with any developments in these laws.

Where these laws recognise supported decision-making and the right of the older person to participate in making their own decisions, financial advisers should assist EPoAs to carry out their duty by considering the Will and preferences of the older person.

Failure to understand the EPoA laws can result in financial advisers facilitating misuse of an EPoA.

Claudine Siou, Technical Services Manager, IOOF TechConnect.

FOOTNOTES

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4. *Australian Institute of Family Studies, Elder abuse – Understanding issues, frameworks and responses, Research Report No 35 (2016).*
5. *Australian Law Reform Commission, Elder Abuse – A National Legal Response, Report No 131 (2017) [2.47]-[2.49].*
6. *NSW Government, Preventing and responding to abuse of older people (Elder Abuse) NSW Interagency Policy (2018).*
7. *Australian Law Reform Commission, Elder Abuse – A National Legal Response, Report No 131 (2017) [2.51]-[2.53].*
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12. *Australian Law Reform Commission, Elder Abuse – A National Legal Response, Report No 131 (2017) [2.89].*
13. *Ibid [5.55].*
14. *Re Narumon Pty Ltd [2018] QSC 185 (24 August 2018) [71].*
15. *Australian Law Reform Commission, Elder Abuse – A National Legal Response, Report No 131 (2017) [5.18].*
16. *Ibid [6.14].*
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