2022-23 PRE-BUDGET SUBMISSION

Financial Planning Association of Australia
28 January 2022

Summary

The Financial Planning Association of Australia (FPA) is pleased to contribute to the Australian government's 2022-23 budget process.

The FPA is a professional body with more than 12,000 individual members and affiliates of whom over 9,300 are practicing financial planners and 5,207 are CFP professionals. Since 1992, the FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of the Future of Financial Advice reforms.
- The FPA was the first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices.
- We have an independent Conduct Review Commission, chaired by Dale Boucher, dealing with investigations and complaints against our members for breaches of our professional rules.
- We built a curriculum with 18 Australian Universities for degrees in financial planning through the Financial Planning Education Council (FPEC) which we established in 2011. Since 1 July 2013 all new members of the FPA have been required to hold, or be working towards, as a minimum, an approved undergraduate degree.
- When the Financial Adviser Standards and Ethics Authority (FASEA) was established, the FPEC 'gifted' this financial planning curriculum and accreditation framework to FASEA to assist the Standards Body with its work.
- We are recognised as a professional body by the Tax Practitioners Board.

Our policy focus over the past year has been the constant regulatory change and increasing cost of practicing as a financial planner as well as the impact this is having on the affordability of financial advice for consumers and the sustainability of the financial planning profession.

According to the most recent statistics, there are 17,601 registered financial advisers, a 7.2% decrease on the already low numbers of 1 July 2021[1]. That period marked the first time since 2015 that adviser numbers had fallen below 20,000. The constricting supply of financial advisers in the marketplace is making it more challenging for Australians to access financial advice and raise the financial literacy of the nation.

Coupling this with the constant regulatory changes and increased costs, recent data indicates that the average fee charged by financial planners for a statement of advice for new clients has risen over 15% over the 2020 calendar year[2] off the back of a 10% increase during 2019[3]. Given industry trends, this figure has almost certainly risen further in 2021, potentially putting professional financial advice out of reach of many Australians.

[1] Weekly Adviser Movement Statistics, Wealth Data, 27 January 2022, https://wealthdata.com.au/adviser-movement-fast-facts.
[2] 2020 FPA Member Research, CoreData, March 2021.
[3] 'The National Opportunity that is Financial Planning', Dante De Gori CFP, FPA, 3 March 2020, https://fpa.com.au/news/the-national opportunity-that-is-financial-planning/.

These are the core issues that form the foundation of the FPA's policy platform - Affordable Advice, Sustainable Profession[4], released in June 2020.

The numerous factors contributing to increased costs for financial planners include the indirect expenses of complying with a changed regulatory landscape as well as the direct costs of fees and levies imposed by the Government on financial planners. Each of these factors affects the affordability and therefore accessibility of financial advice.

The FPA supports the cost-recovery of some regulatory expenses. We believe it is important for the financial services sector to contribute to the cost of regulating the profession and the broader sector as well as provide adequate protections for consumers. Industry and consumers benefit from a strong regulatory framework that promotes public confidence in the sector and encourages Australians to seek advice and raise their financial literacy.

However, it is important that regulations and regulators are delivering their important purpose in an efficient and effective manner to ensure Government, consumers and industry are receiving value for money from this cost-recovery. The Australian Government Cost Recovery Guidelines provide that the Government should consider a number of factors in deciding how to implement cost-recovery, including the impact on competition, innovation or the financial viability of those who may need to pay the costs of regulation.

Changing standards and regulations are being applied on top of an already complex regulatory framework that has evolved over many years. While the FPA supports, in principle, the implementation of a number of these reforms, we believe the Government should consider their impact on the long-term viability of the financial planning profession.

Many in the profession work as sole traders or in a small or medium-sized practice. Their capacity to absorb additional regulatory changes and increased costs is extremely limited, particularly given the economic challenges caused by the COVID-19 pandemic. The everchanging regulatory environment and increasing costs can result in financial advice becoming more unaffordable and inaccessible for many Australians.

This pre-budget submission will focus on recommendations to address this and other pressing issues currently impacting the financial planning profession.

Finally, the FPA also notes there are a number of items that were either announced as part of the 2021/22 Budget package or discussed throughout the previous twelve months, such as clarity and certainty for re-structured market linked pensions, which have not progressed or remain unlegislated. We would welcome further action being taken on these items by Government during the upcoming Budget cycle.

[4] 'Affordable Advice, Sustainable Profession', FPA Policy Platform, 3 June 2020, https://fpa.com.au/financial-planning-advocacy/fpa-policy-platform/.

Recommendations

1. The Treasury led review of the ASIC Industry Funding Model should commence as soon as possible and concluded prior to the expiration of the freeze on ASIC levies charged for personal advice to retail clients.

The FPA and Financial Planners across Australia have welcomed the announcement by the Government to freeze ASIC levies charged for personal advice to retail clients at their 2018/19 level of $1,142 per advice for the next two years.

At the time of making the announcement, the Treasurer and Minister for Superannuation, Financial Services and the Digital Economy stated that the Treasury would lead a review, in consultation with the Department of Finance and ASIC, on the ASIC Industry Funding Model to ensure it remains fit for purpose in the longer term.

To date no further public statements or confirmations have been provided to indicate this review has commenced. To ensure such a review has sufficient time to undertake a fulsome analysis of this model and report prior to the expiration of the ASIC levy freeze, we believe the Government must commence this review immediately.

Everchanging regulatory regimes and escalating regulatory costs can result in financial advice becoming more unaffordable and unavailable for many Australians.

As many practitioners are sole traders or work in small and medium-sized practices, their ability to absorb any additional regulatory costs or burdens is extremely limited. To provide certainty to the profession and provide adequate notice of any change, which in turn will help to ensure business models and planning can adapt, consultation with stakeholders should begin in earnest.

2. The design and implementation of the proposed Compensation Scheme of Last Resort (CSLR) must ensure:

a. The costs of establishment and any legacy claims relating to the proposed Compensation Scheme of Last Resort should be borne by Government.

b. The costs associated with the administration of such a scheme are closely monitored and scrutinised to ensure the cost recovery from industry primarily funds consumer redress rather than unnecessary red-tape, bureaucracy and administration within the scheme.

c. That industry cost recovery levies reflect the risk of a practitioner's sub-sector to the broader scheme and its design should reflect a broad funding base that includes all participants in the financial services industry, to ensure sustainability and equity.

The FPA broadly support recommendation 7.1 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Hayne Royal Commission) to establish a CSLR. However, the Government's proposed model, which appears to be based on recommendations and data included in Final Report of the Review of the Financial System External Dispute Resolution and Complaints Framework (Ramsay Review) from 2017, is based on recommendations from an ageing report, based on out-of-date data which reviewed a regulatory system far different from that of the industry today.

Rather than a broad-based scheme that extends across all participants in the financial services industry, the proposed CSLR will only apply to:

- personal advice on relevant financial products to retail clients,
- credit intermediation,
- securities dealing,
- credit provision, and
- insurance product distribution.

As such, we believe that the current legislation introduced to establish such a scheme is:

- too narrow in scope,
- provides inadequate coverage to consumers, and
- does not seek to address some of the underlying causes of unpaid determinations, such as strict enforcement and appropriate professional indemnity insurance.

In short, the proposed model leaves consumers unprotected and financial planners footing the bill.

To remedy this, we believe the Government should amend the proposed legislation to establish the scheme so that its' design reflects a broader base that includes all participants in the financial services industry. This could be achieved by broadening the scope of the scheme to include the entirety of the jurisdiction of the Australian Financial Complaints Authority (AFCA). Such amendments would ensure equity for industry and consumers as well as long-term sustainability for the scheme.

However, there has been little concrete information available to indicate the costs of the establishment and operation of the scheme for financial advisers. Based on information included in the Treasury Compensation Scheme of Last Resort Proposal Paper of July 2021[5] (Treasury Proposal Paper), financial advisers would be responsible for more than 75% of the cost of the scheme which would include the establishment, administration and capital reserve costs. The administration costs alone are proposed to amount to $3.7 million per annum, which would account for some 46% of the total annual operating costs of the scheme[6].

Whilst we welcome the commitment from the Government of the 28 October 2021 to 'fund its (CSLR) establishment and contribute to scheme costs in the first year'[7], and the indicative figures included in the Mid-Year Economic and Fiscal Outlook for Budget 2021/22 (MYEFO), we still hold concerns for the unknown ongoing cost of the scheme to financial advisers, a majority of whom operate as small to medium enterprises.

Whilst we do not object to contributing to consumer redress, it seems unjustifiable to see up to half of the value of the industry cost recovery levies expended on administration and red tape on an annual basis. Therefore, the efficiency of the operation of the scheme must be closely scrutinised to ensure it represents value for money and is fair for contributors and effective for consumers.

Further, contributions by participants in the scheme should reflect their sub-sectors current risk.

[5] Compensation Scheme of Last Resort (CSLR) Proposal Paper, The Treasury, July 2021, https://treasury.gov.au/sites/default/files/2021-07/186669_compensationschemeoflastresort-proposalpaper.pdf.
[6] Based on a projected $4.36 million in unpaid determinations per annum.
[7] Media Release, 28 October 2021, the Hon. Josh Frydenberg MP (Treasurer) and Senator the Hon. Jayne Hume (Minister for Superannuation, Financial Services and the Digital Economy), 'Government meets legislative commitments in response to Hayne Royal Commission', https://ministers.treasury.gov.au/ministers/jane-hume-2020/media-releases/government-meets-legislative-commitments-response-hayne.

This will ensure more equity across the financial services industry by ensuring the size of contributions is tied to the requisite behaviour and risk profile. This in turn will encourage every participant to play a role in lifting standards across the industry.

We also welcome the Government's commitment to 'consult on proposals to enhance the effectiveness of professional indemnity (PI) insurance in responding to compensation claims'[8]. We believe that it would be prudent for this consultation and review to completed prior to the implementation of any CSLR.

Additional details of these recommendations can be found in the FPA's most recent submissions on the proposed CSLR at the following links:

- **FPA Submission** to the Senate Economics Legislation Committee Inquiry into the *Financial Accountability Regime Bill 2021* [Provisions] and *Financial Services Compensation Scheme of Last Resort Levy Bill 2021* [Provisions] and related bills: https://www.aph.gov.au/DocumentStore.ashx?id=829aee3b-8bcd-4cb1-81fc-38b5a6753551&subId=717893

- **FPA Submission** to the Senate Economics References Committee Inquiry into the Stirling Income Trust: https://www.aph.gov.au/DocumentStore.ashx?id=15b8bd7a-895d-463b-ad14-26da6219e488&subId=717077

3. All financial advice should have tax deductible status. This should be regardless of whatever stage in the financial advice process it is provided, and whether it directly relates to the creation of investment income.

To help address the important issue of making financial advice accessible and affordable for all Australians, the FPA has continued to advocate for all financial advice to be tax deductible. We recommend that the Government provide tax deductible status to all financial advice regardless of whatever stage in the financial advice process.

Tax treatments of financial advice occur in numerous ways, dependent on the nature of the advice sought and when it is provided. As an example, the Australian Taxation Office (ATO) has determined that a fee for service arrangement in the preparation of an initial financial plan, is not tax deductible. However, ongoing advice fees are treated as tax deductible as they are deemed to have been incurred in the course of gaining or producing assessable income.

The treating of the creation of an initial financial plan in a different fashion from that of ongoing advice provides a disincentive for Australians to seek financial advice which will assist them to actively plan, save and secure their financial future. It also acts as a further barrier for Australians who have not previously sought or received financial advice.

[8] Media Release, 28 October 2021, the Hon. Josh Frydenberg MP (Treasurer) and Senator the Hon. Jayne Hume (Minister for Superannuation, Financial Services and the Digital Economy), 'Government meets legislative commitments in response to Hayne Royal Commission', https://ministers.treasury.gov.au/ministers/jane-hume-2020/media-releases/government-meets-legislative-commitments-response-hayne.

This current tax treatment results in the benefits of available deductions for ongoing financial advice being skewed towards those of higher net wealth and incomes, and who can already afford financial advice for their established investment portfolios.

Increasing the accessibility and affordability of financial advice for all Australians, particularly for those on lower incomes, will provide for a more financially competent community, with Australians becoming more financially literate and better able to support themselves, especially during retirement.

Whilst the provision of tax deductibility for fees associated with the preparation of an initial financial plan result in some costs to the budget, such costs must be compared to the long-term advantages of the development of a more financially literate community. To offset impacts on the budget, the inclusion of caps on the amount of any tax deductions or a cap on income for those able to receive a deduction, could be adopted.