



FINANCIAL PLANNING
ASSOCIATION *of* AUSTRALIA

2022 - 23 **PRE-BUDGET** SUBMISSION



Who is the FPA?

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 10,000 individual members and affiliates of whom over 9,000 are practicing financial planners and in excess of 5000 are CFP® professionals. Since 1992, the FPA has taken a leadership role in the financial planning profession in Australia and globally:

- **CONSUMER-FOCUSED**
It should support access by all Australians to affordable and professional financial advice and ensure consumers interests are advanced when accessing financial advice.
- **PROFESSIONAL**
It should enhance the professionalism of financial planning and promote the health of the financial planning profession as a whole.
- **ASPIRATIONAL**
It should reflect best practice and the aspiration of members of the Financial Planning Association of Australia to set and meet higher standards of professional competence and conduct.

These are the core issues that formed the foundation of the FPA's policy platform - Affordable Advice, Sustainable Profession¹, released in June 2020.

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.

The challenges facing financial planning in Australia

According to the most recent statistics, there are 16,344 registered financial advisers, a 16.7% decrease on the already low numbers of 1 July 2021². 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 year³ off the back of a 10% increase during 2019⁴. Given industry trends, this figure has almost certainly risen further in 2021, potentially putting professional financial advice out of reach of many Australians.

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.

¹ 'Affordable Advice, Sustainable Profession', FPA Policy Platform, 3 June 2020, <https://fpa.com.au/financial-planning-advocacy/fpa-policy-platform/>.

² Weekly Adviser Movement Statistics, Wealth Data, 2 September 2022, <https://wealthdata.com.au/adviser-movement-fast-facts>.

³ 2020 FPA Member Research, CoreData, March 2021.

⁴ '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/>.

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.

What is the purpose of this submission?

As with our pre-budget submission made earlier this year, this document outlines the FPA's priorities which we would like to see in the upcoming October Federal Budget. It has been developed in consultation with our members and the wider profession.

We acknowledge and support the ongoing review by the Australian Law Reform Commission of the Legislative Framework for Corporations and Financial Services Regulation and are engaging constructively in this process. Likewise, the FPA is working productively with the Treasury led consultations on Educations Standards and the ASIC Industry Funding Model.

Further, consistent with recommendations 2.3, 2.5 and 2.6 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Hayne Royal Commission), we welcome the commencement of the Quality of Advice Review led by Ms Michelle Levy and supported by the Treasury.

As part of these processes, we look forward to working with parties and stakeholders on policies and initiatives that contribute to affordable financial advice for all Australians and a sustainable financial planning profession for the future.

We recognise that a number of matters of great importance to our profession will be addressed through these important evaluations and do not wish to pre-empt their work or findings. Therefore, this submission is confined to matters we believe require action in the upcoming Budget.

Our Future

The FPA, is working collaboratively with other sector stakeholders as part of the Joint Associations Working Group (JAWG), to advocate for our common-held views and priorities, as well as options for future reforms. Members of this group include:

- Association of Financial Advisers (AFA)
- Boutique Financial Planning Principals Association (BFP)
- CFA Societies Australia (CFA)
- Chartered Accountants Australia and New Zealand (CAANZ)
- CPA Australia
- Financial Services Council (FSC)
- Financial Services Institute of Australia (FINSIA)
- Institute of Public Accountants (IPA)
- Self-Managed Super Fund Association (SMSFA)
- Stockbrokers and Investment Advisers Association (SIAA)
- The Advisers Association (TAA)
- The Boutique Financial Planning Principals Association (BFP)
- The Licensee Leaders Forum (LLF)

We have also recently announced that the FPA and AFA are exploring a potential merger of the two associations. We believe that by creating a unified voice we will add more clarity and power to our crucial advocacy positions, giving us a better chance of achieving the changes our profession needs to see. We are very excited about this proposal and we believe a merger could deliver substantial benefits for members.

Recommendations

1. **The Treasury led review of the Australian Securities and Investments Commission (ASIC) Industry Funding Model should report prior to the expiration of the freeze on ASIC levies charged for personal advice to retail clients. Therefore:**
 - a. **Whilst the review is underway, that the ASIC IFM Cost Recovery Levy should be frozen for a further 12 months to ensure cost certainty for the sector during FY2022/23.**
 - b. **The temporary targeted relief for financial advisers should be extended to all industry sector participants who have been adversely affected by inexplicably significant ASIC levy fee increases.**

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.

On 30 August 2021, the former Treasurer announced temporary and targeted relief for financial planners by reducing the cost of recovery levies charged by ASIC. This occurred off the back of the ASIC 2020/21 Cost Recovery Implementation Statement being estimated at \$3,138 per adviser and ASIC fees increasing for the sector by more than 230 percent over the previous 36 months. Therefore, the freeze of ASIC levies charged during FY2020/21 and FY2021/22 for personal advice to retail clients at their 2018/19 level of \$1,142 per planner, was welcomed by financial advisers, many of whom are sole traders or small businesses.

The intent of the freeze was to allow the review to occur and be implemented during that period. The expiration of the levy freeze prior to the release of the review's findings is of great concern. As such, we are apprehensive about an unprecedented, unexpected and unwarranted escalation of the levy for FY2022/23 prior to the implementation of a new model in the following year. With the seemingly ever-increasing cost of regulatory enforcement and the significant reduction of more than 8,500 financial advisers since the 2018/19 levy, we are concerned that many remaining in the financial advice sector will be unable to readily absorb any substantial increase in fees.

Moreover, we have significant concerns about the impact of a substantial increase in fees on the cost of advice. There has recently been a tendency to apply charges to financial planners for ASIC's enforcement activities against unlicensed individuals or entities who are not a member of the profession. Whilst these individuals have engaged in conduct which has rightfully triggered a significant response from the regulator and other authorities, it seems incongruous that financial planners are then required to foot the bill for these actions, given the subjects of the enforcement are not in fact peers.

Whilst these enforcement actions are necessary and important to ensure wrongdoers are brought to justice and consumers are protected, it is not equitable for the financial planning profession to be relied on by the regulator to recoup the costs for them simply doing their job.

Similarly, the cost of the ASIC's targeted enforcement action for wrongdoing by large licensees, including oversight of significant high profile and prolonged remediation programs, is also recovered from the members of the financial planning profession rather than directly from those entities involved.

We therefore ask that the Government extend the current ASIC IFM levy freeze in order to provide certainty to the sector, a practical pathway for transition to a new model and relief to the cost of advice. Further, we request that this relief be extended to all ASIC participants, who have experienced material increases, so they too can also benefit from fee certainty while they await the review of the ASIC IFM.

The current freeze has recognised the negative impact that ongoing significant ASIC industry fee increases have had on the financial services sector. We acknowledge and appreciate the Government's role in trying to control these spiralling increases for this sector.

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 may require planning for business models to adapt, this review should be completed prior to the expiration of the ASIC levy freeze.

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 2021⁵ (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 scheme⁶.

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. 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.

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>.

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 be 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.

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.

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>.

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.

4. The Australian Taxation Office and Centrelink should improve their online access arrangements to ensure financial planners are able to act on behalf of their clients with respect to their tax obligations and benefits administered by Centrelink⁹.

Clients often turn to their financial planner to help them interact with government agencies such as Centrelink and the Australian Taxation Office ('ATO'). Under current arrangements, financial planners can provide clients with advice on their rights and obligations with these agencies, however, engaging with the agencies directly on behalf of the client can be difficult or practically impossible.

The ATO allows tax agents to access its online services portal and act on behalf of their clients, but financial planners are excluded from this arrangement despite operating under the same regulatory framework with the Tax Practitioners Board. As only one tax agent is able to be registered per person and, as many people also have an accountant, the portal is also not able to recognise a financial planner as a client's second tax agent.

Centrelink maintains a Provider Digital Access portal. However, the Centrelink portal has limited functionality and financial planners often have to conduct business with Centrelink on behalf of their clients over the phone or at Centrelink offices. This arrangement results in significant delays and additional costs to clients.

Centrelink and the ATO should develop their online services portals to ensure financial planners, and other relevant professionals, have access to a full range of functions and can act effectively on behalf of their clients.

Improving online engagement with financial planners would reduce the administrative burden on Centrelink and the ATO as consumers would require less assistance from agency staff in completing their requests and would be operating with professional advice on what they need to provide to, or request from, those agencies.

⁹ Recommendation 3.4 – Tax and Centrelink Agent Status, 'Affordable Advice, Sustainable Profession', FPA Policy Platform, 3 June 2020, <https://fpa.com.au/financial-planning-advocacy/fpa-policy-platform/>.