FINANCIAL ADVICE ASSOCIATION AUSTRALIA

2024-25 Pre-Budget Submission

The Financial Advice Association of Australia (FAAA) represents more than 8,300 financial advisers who are dedicated to helping Australians from every town and suburb across the country achieve their goals and secure their financial futures.[1]

As the peak-body for the financial advice profession, the FAAA aims to ensure that all consumers have access to high quality, professional and competitively priced financial advice that is in their best interests.

We appreciate the opportunity to raise some items for consideration as part of the government budgeting process for the 2024/25 financial year. In this proposal we have put forward six ideas that we believe will have a positive impact on the financial futures of Australian consumers, by reducing the cost of professional financial advice.

1. Implement a fairer ASIC Funding Levy

2. Ensure fairness and manage costs of the Compensation Scheme of Last Resort

3. Enhance tax deductibility of financial advice

4. Enable financial adviser access to the ATO portal

5. Provide more support for financial adviser education, and exam price relief

6. Reverse proposed changes to Reduced Input Tax Credits for advice fees

We have provided more detail on these proposals, along with some practical steps that could be taken immediately, in the attached submission.

[1] The Financial Advice Association of Australia (FAAA) was formed in April 2023, out of a merger of the Financial Planning Association of Australia Limited (FPA) and the Association of Financial Advisers Limited (AFA), two of Australia's largest and longest-standing associations of financial planners and advisers. The FPA was a professional association formed in 1992 as a merger between The Australian Society of Investment and Financial Advisers and the International Association of Financial Planning. In 1999 the CFP Professional Education Program was launched. As Australia's largest professional association for financial planners, the FPA represented the interests of the public and (leading into the merger) over 10,000 members. Since its formation, the FPA worked towards changing the face of financial planning, from an industry to a profession that earned consumer confidence and trust, and advocated that better financial advice would positively influence the financial wellbeing of all Australians. The AFA was a professional association for financial advisers that dated back to 1946 (existing in various forms and under various names). The AFA was a national membership entity that operated in each state of Australia and across the full spectrum of advice types. The AFA had a long history of advocating for the best interests of financial advisers and their clients, through working with the government, regulators and other stakeholders. The AFA had a long legacy of operating in the life insurance sector, however substantially broadened its member base over a number of decades. The AFA had a strong focus on promoting the value of advice and recognising award winning advisers over many years. The AFA had strong foundations in believing in advocacy for members and creating events and other opportunities to enable members to grow and share best practice.

We thank you for your consideration of the proposals, and we would welcome any further enquiries to Phil Anderson, General Manager Policy, Advocacy and Standards on (02) 9220 4500 or phil.anderson@faaa.au.

Yours sincerely,

Sarah Abood
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Financial Advice Association of Australia

1. Implement A fairer ASIC Funding Levy

The FAAA remains very concerned about the fast-increasing cost of the ASIC levy. The financial advice subsector was charged in total $47.6m last financial year – more than any other sector including super funds, listed companies, and life insurers. The per-adviser amount almost tripled, to $2,818 per adviser in the last year. These rapidly increasing costs are a factor in the increasing cost of financial advice to consumers.

Another concern with the levy is the underlying “moral hazard” inherent in a model in which the vast majority of advisers, who are running strong compliant small businesses and operating in the best interests of their clients, must pay for enforcement action against a small number of non-compliant businesses. These include businesses which are no longer operating or are unlicensed, including action against major banks which are no longer operating in the financial advice space.

The problems with this are compounded by the fact that even when ASIC takes successful action against non-compliant businesses and is successful in having costs and fines paid, no reduction is made to the costs advisers must pay. ASIC takes no risk by instituting enforcement action, because advisers fund all enforcement whether successful or not, and have no say or insight into how their money is spent. It is public knowledge that government currently makes a substantial profit from ASIC – funded in no small part by the compliant small advice businesses of Australia.

Even more concerning is that actions against fraudsters and unlicensed operators are currently funded by financial advisers. The Melissa Caddick matter alone cost the advice profession $687,852 in the 2022/23 financial year, and yet her activities would more accurately be described as running a Ponzi Scheme rather than providing advice. Total costs for unlicensed operators were estimated in the Treasury report at around $6m in 2022/23. Advisers are not responsible for those who impersonate them, and the entire financial sector suffers when such people and businesses defraud the public.

Finally, very little information is provided by ASIC on how it reaches its decisions on which sub-sector is charged for its various activities, and requests for more information have been consistently rejected. This has led to a profound lack of faith in the fairness and efficiency of ASIC, amongst the regulated population.

Our suggestions are:

- Government should review and implement the changes to the ASIC Industry Funding Model (IFM) recommended by Treasury in its recent review, before the levy for next financial year is finalised.
- Government should not be profiting from risk-free enforcement actions undertaken by ASIC. At minimum, the Industry Funding Model should be

further amended to ensure proceeds of successful enforcement are used to offset costs, before compliant small advice businesses are charged.

- The costs of action against fraudsters and unlicensed operators ought to be borne across the entirety of the financial sector rather than the single financial advice sub-sector, as the entirety of the sector benefits from consumers having confidence that fraudsters will be actively pursued and
- As a matter of basic fairness, ASIC ought to disclose more detail regarding how their funding is spent. Financial advisers have a right to know what activities they are paying for, and this will also lead to greater confidence in the system by ensuring that any errors or misallocations can be resolved.
- The Government has accepted in principle a recommendation to enable financial product issuers (including banks, life insurers and superannuation funds) to provide financial advice on their products outside the current regulations, using staff who will not be professional financial advisers. This has the potential to further confuse the allocation of ASIC enforcement costs in the financial advice space, and no information has yet been provided on how this will be done. We suggest that as these individuals will be employees, ASIC costs must be clearly allocated to the sector of the employing entity.

2. Ensure fairness and manage costs of the Compensation Scheme of Last Resort

The FAAA supports the establishment of the Compensation Scheme of Last Resort (CSLR). This body will help further increase the confidence of consumers in financial advice, by ensuring that compensation awarded by AFCA will still be available even if the firm responsible has become insolvent.

We remain concerned that over time the costs of the scheme may become prohibitive for financial advisers to sustain. In fact, the scheme is launching at a time when a major failure has already occurred. This is the matter of Dixon Advisory, which has been put into liquidation by its (still-operating) parent company. The CSLR has already set a levy of over $240m that will apply to the ten largest financial institutions in Australia at the time of the failure, to cover complaints lodged before 8 September 2022.

We are also very conscious that over 200 Dixon Advisory complaints were received after the first 7 September 2022 deadline, and these complaints, in the context of over 2,000 Dixon Advisory complaints being assessed, are unlikely to be finalised by the 30 June 2024 deadline for historical complaints, where the cost will be picked up by the Government.

We note from recent Treasury statements, that in the event that the overall cap of $250m is breached, that there is a prospect that any additional amount required will need to be paid by the financial advice profession.

Coming at a time when we are all working hard to reduce the costs of financial advice, such additional costs being charged to compliant small business financial advisers is extremely disheartening. Many advice businesses will be forced to pass these additional costs, which may be substantial, on to their clients.

We have also long argued that the scope of the scheme should be much broader, and at a minimum include compensation for failed Management Investment Schemes (MISs). This area is the cause of a large number of unpaid determinations and thus a substantial source of consumer harm in the sector for which there is no recourse currently available. This was also the position of the current Government, while in opposition.

The issue of “moral hazard” mentioned above is also highly relevant in the context of the CSLR. As in the case of the ASIC levy, the compliant good financial advice businesses will be paying for the misbehaviour and risk-taking of the bad. Now such a scheme exists, we are concerned that the incentives to pursue failed businesses and their owners is less; as consumers will be compensated in any case. This factor could lead over time to costs escalating much more than they should. It will be important to ensure that the parties actually responsible for the consumer harm, and their professional indemnity insurers, continue to be actively pursued.

Our suggestions are:

- Government should ensure current compliant financial advisers are not paying for historical failures, covering any shortfall that could emerge for costs above the $250m cap for matters received by AFCA before 8 September 2022, and any Dixon Advisory complaints received after 7 September 2022, that are not yet finalised by the current 30 June 2024 deadline.
- Government should effectively manage the ongoing costs of the scheme by ensuring responsible firms and their insurers are pursued to the full extent of their resources, before the broader profession is charged for compensation.
- Government should enhance the effectiveness of the scheme, and increase the confidence of the public in the financial system, by including MISs in the scope of failures covered.

3. Enhance tax deductibility of financial advice

The FAAA has long argued that financial advice ought to be fully tax deductible to consumers. This would be one of the simplest and most effective ways to reduce the cost of financial advice, a matter that is a priority for the current Government. It would also make it more affordable for consumers to pay for advice relating to retirement outside superannuation.

Recently the FAAA has worked closely with the ATO on an update to Tax Determination 95/60, which until recently was the core guidance provided on the tax deductibility status of financial advice fees. Being almost 30 years old, the guidance was well out of date. The current draft Tax Determination (2023/D4) is a great improvement which better recognises the role that financial advisers play in assisting clients with their tax affairs, and we hope it will be finalised soon.

Whilst the direction of this is positive, the changes are constrained by current laws and thus will still fall a long way short from the desired position of full deductibility of the cost of financial advice. It will also add complexity, in that clients, their accountants and financial advisers will need to further apportion financial advice between deductible and non-deductible.

High quality financial advice substantially improves the financial wellbeing of Australians, and the government has recognised this and is rightly working towards the goal of making high quality financial advice more accessible and affordable to consumers.

Our suggestion:

- Government should act to make the cost of financial advice provided by a professional financial adviser fully tax deductible to consumers. Such a concession could be effectively targeted to those with the most need, and budget costs managed, in a number of ways - such as by introducing the deduction with a capped amount (such as $3,000) that could be claimed in a single year.

4. Enable financial adviser access to the ATO portal

The important role that financial advisers play in ensuring clients' financial strategies are tax effective and tax compliant has been increasingly recognised in recent years. Financial advisers are now Qualified Tax (Relevant) Providers (QTRPs) and have education and ongoing CPD requirements specific to taxation.

Financial advisers require accurate and up-to-date information regarding their clients' tax affairs in order to advise them in their best interests. Important information such as taxable income, superannuation balance, contributions and components and so on are absolutely critical, and financial plans cannot be written, implemented or effectively updated without this information.

At present substantial inefficiencies exist in accessing this information. Clients themselves are often unaware of these details and in most cases advisers must request this information from their accountant and\or superannuation fund, leading to additional costs and often substantial unnecessary delays for the client.

In light of recent changes to the profession, including a publicly available register that highlights the tax and licensing status of every financial planner in the country, now is the appropriate time to enable a client's appointed financial adviser to access information held in the ATO portal.

Our suggestion:

- Government should enable the ATO to create a new, read-only class of access to the ATO portal, for licensed financial advisers. Access would be granted in a similar way to the current process for tax agents, in that the portal would have a link to the ASIC Financial Adviser Register, and clients could select their adviser from this list and authorise their access. No additional functionality is required within the system – advisers only require access to the information and do not make any changes (which is the domain of Tax Agents).

5. Provide more support for financial adviser education, and exam price relief

A significant factor in the recent steep rise in the cost of financial advice, has been a recent and dramatic fall in the number of licensed financial advisers. From a peak of 28,914 at the start of 2019, numbers have fallen to 15,646 as at 18 January 2024 – a 46% drop.

Increasing the supply of financial advice by increasing the number of professional financial advisers, is one of the critically important factors in sustainably reducing the cost of high quality financial advice to consumers. At present, there are simply not enough financial advisers to meet demand and the profession has been recognised by Jobs and Skills Australia (JSA) as being in national shortage.

Yet during the 2023 calendar year, only 381 new advisers joined the profession. Clearly something must change if we are to regrow this important profession to the levels required.

Making a degree in financial advice a more attractive choice for university students is one critical improvement that the Government can substantially assist with. Both federal and state governments have long subsidised key professions in order to swell numbers in those areas where serious shortages existed.

Another impediment to new entrants to the profession, is the high cost of the national financial adviser exam that all Professional Year advisers must undertake. When first launched by the Financial Adviser Standards and Ethics Authority (FASEA) in June 2019, the initial cost was relatively affordable at $540 plus GST, which would have been a deductible business expense to most candidates. However, in the most recent year the cost of the exam has ballooned to $1,500 – a very high cost for a PY student not yet earning an income in their chosen profession.

The exam format has in 2024 changed to multiple choice only, a welcome change by Government which should enable a substantial reduction in the cost of administering the exam, despite the lower numbers now attempting it.

Our suggestions:

- Government should make HECS-Help relief for those students undertaking an approved financial planning degree in the form of a fee-waiver for those students in their final year.
- The cost to students of the ASIC-administered financial adviser exam should be substantially lowered, in line with the much lower cost of administering the exam since the move to multiple choice only.
- Additional migration points should be available to overseas students who complete an approved financial planning degree. This would not only increase the numbers attempting the qualification, but also improve the cultural and linguistic diversity of the financial advice profession.

6. Reverse proposed changes to Reduced Input Tax Credits for advice fees

On 13 December 2023, the ATO issued a guidance document on "Eligibility of super funds and investor-directed portfolio services investment platforms to claim reduced input tax credits [*RITCs]* on adviser fees". In this document, the ATO has announced that RITCs will no longer be available after 1 April 2024. This announcement overturns a long practice of funds claiming an RITC credit on financial advice fees, the benefit of which is reimbursed to the client. In some cases, funds have previously obtained a Binding Tax Ruling to ensure the validity of claiming this credit.

There are broad implications from this announcement. Firstly, it will again increase the cost of financial advice for the client, in some cases by a meaningful amount.

> *For example, if there were a $3,000 annual fee for financial advice, the adviser would charge the client $3,000 plus $300 for GST - $3,300. If the client is paying this fee via a fund, then currently they will typically receive a 7.5% RITC credit ($225), bringing the actual cost to them down to $3,075. After this announcement they will pay the full $3,300, an increase of 7.3%.*

Secondly, this change will require substantial administrative and systems work to change disclosures to clients: by funds, AFS licensees and financial advisers, including within Financial Services Guides, Product Disclosure Statements, websites, Statement of Advice templates, engagement letter templates, Fee Disclosure Statements, Renewal Notices, Invoice templates and Fee Consent forms. Previous disclosures to and fee agreements with existing clients may become invalid, and will need to be updated. In addition, changes will be required to product, fund and platform systems and financial planning modelling software.

Our suggestion:

- Government should take the necessary action to preserve the existing industry practice and treatment with regards to RITCs on advice fees. This will avoid yet more increases to the cost of financial advice to consumers.