

7 May 2015

Financial Service Unit
Financial System and Services Division
Markets Group
The Treasury
Langton Crescent
PARKS ACT 2600

by Email transmission to ProfessionalStandards@treasury.gov.au

Dear Sir,

Re: Lifting the Professional, Ethical and Education Standards in the Financial Services Industry

We enclose our Submission in response to the Government's Consultation Paper on the above subject.

Yours sincerely



Lewis Bell
Director

SUBMISSION
BY
BELL POTTER SECUTITIES LIMITED
ON
LIFTING THE PROFESSIONAL, ETHICAL AND EDUCATION
STANDARDS IN THE FINANCIAL SERVICES INDUSTRY

It appears that the Parliamentary Joint Committee has misapprehended the cause of the high profile advice failures and consequently has misapprehended the basis on which confidence and trust in the financial services industry can be rebuilt. Increased education is a very long term approach, when more effective Licensing, Management with the right technical resources and a Culture of regulatory compliance along with compulsory membership of professional associations and a development of their capacities would do much more to lift professional standards the short term.

If the professional standards in the financial services industry are no longer felt to be sufficient to ensure high quality consumer outcomes these professional standards can best be raise by forcing participants of the financial services industry into professional bodies and charge those professional bodies with the responsibility to set standards for their members.

The professional bodies are better placed to lift the professional standards of their members than a general approach covering the whole industry, which is composed of a number of very different sectors.

Both the FOFA legislation and the Register of Advisers are constructive developments and given time will impact significantly, although indirectly, on the level of professional standards of the industry as a whole, particularly as the latter is expanded in terms of the historical period of employment in the industry and if the U.S. approach to reporting on departing representatives from a Licensee is adopted.

The lifting and maintenance, monitoring and enforcement and ongoing professionalism of the financial services industry is best accomplished through and by professional associations, which it is compulsory for financial advisers in the sector to join. The implementation and management of that process would be funded by the membership fees paid to the professional association so it would essentially be a user pays process.

This is in line with one recommendation of the Parliamentary Joint Committee model, which is for professional association membership to be mandatory.

The one model to cover all the various sectors of the financial services industry no matter how flexible will inevitably cater for the lowest common denominator. In any event it will inevitably entail another layer of expensive bureaucracy and red tape.

We would question whether the Parliamentary Joint Committee is the appropriate authority to invent and impose a model to increase professional standards when that body concentrated its deliberations on particular failures within limited sectors of the financial services industry and consult at all with some sectors, such as Stockbrokers.

Stockbrokers who were not involved in the Parliamentary Joint Committee inquiry should not be subject to a model arising out of an investigation into the Financial Planning Sector.

The fact is that 2/3 of Bell Potter Securities Advisers have tertiary qualifications and 90% of Advisers appointed in the last 5 years, and 100% of Advisers appointed in the last 2 years, have such qualifications.

All inexperienced Advisers at Bell Potter Securities commence with at least 12 months as a Dealers Assistant and a further 12 months as a Trainee Adviser operating under the supervision of an experienced Adviser.

Every Adviser, Trainee Adviser, Dealers Assistant and Analyst at Bell Potter Securities maintains continuing professional development in accordance with the current requirements.

One failing of the current regime at Bell Potter Securities is that not all Advisers are members of the Stockbrokers Association of Australia (SAA) because although encouraged by the Company membership is still voluntary. Bell Potter believes that all its Advisers should be members of the SAA, which should become a professional association and assume responsibility for the professional standards of its members pursuant to a professional qualification regime which might be approved by the Professional Standards Council but which is designed and implemented by the SAA. As already stated Bell Potter Securities agrees with the Joint Parliamentary Committee's recommendation that professional association membership be mandatory.

In considering the application of any financial services industry wide model account has to be taken of the differences of the various sectors making up the industry and the extent of existing, as well as the duration of previous, regulation and operational and financial controls that applied in each sector. Certainly Stockbrokers, who are Market, Settlement and Clearing Participants of Australia's Exchange Listed Securities Markets stand out from the rest of the financial services industry in terms of operational regulation currently by ASIC's ASX Market Integrity Rules and the capital requirements of the ASX Group Limited. The aforementioned regulation operated from August 2010 when the ASX relinquished regulatory responsibility for the operations of its participants prior to which the operations and capitalisation of ASX Members was overseen by The Australian Stock Exchange Ltd operating as a listed company since 1998 and a mutual since 1987 and prior to that by The Australian Associated Stock Exchanges Ltd, which was an association of the seven State Stock Exchanges from 1937. Consequently Stockbrokers have experienced a long period of regulation.

1.1. What impact would the introduction of the PJC Model have on the structure of the financial services industry?

While it is felt that components of the PJC Model would be applicable and acceptable to Stockbrokers, the imposition of the Model on the financial services industry as a whole would be a retrograde step as it would be dealing with the industry as one broadly inclusive industry when, in fact, the industry is comprised of a number of very different sectors, each of which are distinguishable financial service industries in themselves.

Significantly, the PJC Model has been formulated by a Parliamentary Joint Committee whose enquiries into the financial services industry have been concentrated on the financial planning sector. The other sectors of the financial services industry include insurance broking, securities broking, futures broking and Stockbroking have not been consulted in formulating the Model.

As far as Stockbrokers are concerned the PJC Model would add another layer of bureaucratic oversight and expense as a result of the establishment of a new standard setting body. While the Education and Training Standards, Registration of Advisers, Ongoing Professional Development, Membership of a Professional Association with a Code of Ethics is acceptable and necessary the Professional Association (which would need to maintain its approval by the Professional Standards Council) should be left to establish the education requirements of the particular profession.

As far as Stockbrokers are concerned the Finance Professional Education Council (FPFC) would be an unnecessary expense where a superior alternative approach is readily available.

Notwithstanding that many of Bell Potter Securities Advisers hold a degree qualification some of the older and experienced Adviser do not and consequently to implement the JPC Model's proposed new Education and Training Standards without the grandfathering of existing Advisers would be extremely disruptive and would inevitably detract from our Company's ability to deliver quality financial service. Older and experienced Advisers with years of experience in Stockbroking would either not be able to obtain a tertiary qualification or would not be prepared to undertake the exercise at a time in life and would leave the industry.

1.2 What are the practical implications of the PJC Model applying to Advisers from all types of firms?

The practical implications of the PJC Model applying to Advisers from all types of firms are that there will be unnecessary cost and duplication of oversight in relation to qualifications when they can be best handled by the appropriate professional association, particularly those that are currently involved in education as is the Stockbrokers Association of Australia.

The cost of the JPC Model including the participation of ASIC, Licenses, the Professional Standards Council and the Financial Professionals Education Council will be very considerable and completely unwieldy. The far better approach is to make membership of the a professional association mandatory, as the JPC recommends, and delegate the responsibility to those bodies to lift, maintain, monitor and enforce the professional standards of their members.

1.3 Are the lines of responsibility clear under the PJC Model?

No, they are not clear. Mandatory membership of the professional association to that professional body being responsible for the professional standards of its members and neither a Professional Standards Council or Financial Professionals Education Council.

Financial Planning is very different from Insurance Broking and both are very different from Stockbroking and the professional standards applicable to each vocation will be different. Why try and consolidate them just because they fall within the broader definition of the financial services industry and may all be regulated, to one degree or another by the Corporations Act.

As has been the case for Stockbrokers its professional standards have been established initially by self-regulation by State Exchanges, then by the Australian Associated Exchanges Ltd, then by the national body, the Australian Stock Exchange Ltd, then by the demutualised ASX Group Ltd and now by ASIC and the Australian Securities Exchange Ltd. Over the 78 years since the Australian Associated Exchanges was established Stockbrokers have been steadily developing their professional standards.

It was probably a fault of the Australian Stock Exchanges demutualisation process in 1998 that membership of a Stockbrokers professional association was not made a mandatory requirement for all financial advisers attached to a Participant as it was for all corporate participants in operating the Exchanges Securities Markets.

ASIC effectively delegates its Licensing responsibility to Australian Financial Services Licensees by enabling them to appoint Authorised Representatives, as distinct from Employee representatives, with the former effectively running their own independent financial services business and complicating the task of the Licensee embedding any culture and ethical conduct within the Authorised Representative, i.e. in staff who are not employees of the Licensee, but employees of an entity effectively licensed by the Licensee.

2.1 What are the practical implications of the overlapping of responsibilities? Would this shift have flow-on implications for other provisions of the Corporations Act, or any other parts of the licensing regime?

Professional standards should be the responsibility of the Professional Association and the individual Adviser. Training should continue to be the responsibility of the Licensee.

All Stockbrokers should be a member of the Stockbrokers professional association, the SAA. That association needs to set the qualifications for membership and membership should be a pre-requisite to registration as a financial adviser, which is in turn a pre-requisite to the provision of financial advice.

If there is a national Register of Advisers you need to have entities authorised to enter names on that Register and the appropriate entities authorised to do this are the relevant Professional Associations and, if that is the case, the Professional Association must recognise the competence and training of the individual in order for that individual to obtain and maintain membership of the Professional Association to provide the Professional Association with a basis to place the individual's name on the Register of Advisers.

The responsibility of the Licensees is to provide advice to its clients in accordance with the regulations (i.e. the Corporations Act) via its representatives, who are on the Register of Advisers. The Licensee will supplement the training that the individual has undertaken in order to qualify for membership of the Professional Association with training to maintain that membership and provide the further quality of service that the Licensee may seek to provide.

2.2 Should Licensees maintain a legal obligation to ensure Advisers have relevant training and competency standards?

It seems superfluous for Licensees to have a legal obligation to ensure Advisers meet relevant training and competency standards if Licensees are to have a legal obligation to allow only personnel on the Register of

Advisers to provide personal advice. However, Advisers on the Register need to complete ongoing professional development in accordance with the requirements of their Professional Association to maintain their membership of their Professional Association and while this should be an individual's obligation and responsibility in practice Licensees will inevitably participate in the discharge of this responsibility by assisting in the continuing professional development process. However, it is important that the legal responsibility of the individual Financial Adviser and not the legal responsibility of the Licensee.

Subject to grandfathering existing Advisers, we have no objection to Advisers of Tier1 financial products being required to have a Bachelor's Degree. In fact approximately 2/3 of Bell Potter Securities' Advisers have a Bachelor Degree, and 100 % of new Advisers appointed in the last 5 years have a Bachelor Degree.

While the Stockbrokers Association of Australia is yet to obtain Professional Association status it currently contains categories of membership which could easily be adapted to individuals who qualify to be on the Register of Advisers and those who are still to qualify.

Again, subject to grandfathering of existing Advisers, we have no objection to an following a period of experience as a trainee Adviser providing that exam is set by the professional association the individual is going to seek membership of.

In practice Stockbroker Licensees would be keen to get their Trainee Advisers fully qualified and accredited with their professional association and therefore they would be actively encouraging and assisting them to meet this benchmark.

3.1 How would the PJC Model interact with existing regulatory regimes for specific type of advisers, for example Stockbrokers and Tax Advisers?

If you have a Profession Association, which is an Association which has been approved by the Professional Standards Council, where that professional Association is responsible for all Education Standards, Ongoing Professional Development Standards and the specification of the relevant examinations, without the involvement of the Finance Education Council the key principles of the JPC's Model would have been implemented.

Basically the JPC Model appears too prescriptive and it should be re-tailored to fit its recommendation that every financial adviser should be a member of a professional association (i.e. an association approved by the Professional Standard Council).

It should be left to the professional association to implement classes of membership with one class qualifying for entry on the Register of Advisers maintained by ASIC.

The professional Associations could be required by the Professional Standards Council to have an education regime which entailed a Bachelor degree and a year of professional experience as a Dealers Assistant, a Trainee Adviser, Assistant Analyst etc and a qualifying examination at the end to that period of experience all of which is the case of the Stockbrokers professional association to the practice of stockbroking, not financial planning nor life insurance nor taxation advice.

3.2 Is holding a relevant Bachelor Degree the appropriate minimum education requirement? What is a relevant Bachelor degree? Would this requirement limit the ability of other degree qualified individuals to become financial advisers?

The very question indicates the very prescriptive nature of the proposed recommendations.

Given that 100% of the Advisers Bell Potter Securities has engaged in the last 2 years have a Degree or meaningful Diploma and 90% of those engaged in the last 5 years have such a qualification we believe a Bachelor degree is an appropriate minimum education requirement, subject of course to grandfathering of existing Advisers. However, the nature of that degree should be left to the Professional Associations and should not be prescribed by either Government or the Regulator, to do so will inevitably result in over regulation from limited analysis of particular problems in one sector of the financial services industry, which have arisen more as a result of poor licensing and poor management than inadequate education.

3.3 What are the practical implications of requiring Advisers to hold a relevant Bachelor Degree?

Subject to grandfathering those Advisers who haven't a Bachelor Degree (30% of our Advisers do not hold a Bachelor Degree) there are no significant practical implications for the introduction of such a requirement for Stockbrokers.

3.4 What are the practical implications of requiring new Advisers to undertake a structured professional year at the outset of their careers as financial advisers, as a way to develop on the job skills?

If the question is confined to Advisers providing advice to retail clients, there are no practical implications, providing the License has complete control of the structure and it is not specified in detail by some external body or regulator.

4.1 What are the practical implications of FPEC performing this role? For example;

- **how would FPEC interact with regulators and government agencies, such as ASIC, and education bodies?**
- **would FPEC need to be supported by legislation in order to reform its role?**
- **is the recommended FEPC membership appropriate?**

We strongly oppose the establishment of FPEC to monitor the educational framework that applies to financial advisers at least in terms proposed by the JPC.

Monitoring on its own might be alright but to have such a body set core subjects on the advice of professional associations and then set sector specific subjects to set, maintain and accredit the qualifications and continuing professional development standards that apply to financial advisers is just going too far.

The professional associations should be allowed to set their own education programmes within the authority conferred on them by the Professional Standards Council.

The financial services industry as a whole will change significantly if all its Advisers have to join a professional association, which have been accredited as such by the Professional Standards Council.

By establishing the FPEC the Government is establishing yet another layer of bureaucracy when the Professional Standards Council and the Professional Associations themselves are sufficient along with the mandatory requirement for all financial advisers to be a member of a professional association and for the professional association to have an educational qualification regime which has the approval of the Professional Standards Council.

It would be completely inappropriate for Stockbroker's standard setting authority to be comprised of what would probably be a 10 man body with one single Stockbroker representative.

The Professional Associations, particularly the Stockbrokers, should be allowed to establish their own professional standards subject to compliance with some general principles established by the Professional Standards Council.

4.2 Are there alternative arrangements that would be more appropriate or effective?

Yes, there are alternative arrangements that would better achieve the objectives of the Parliamentary Joint Committee through allowing the Professional Association to establish their own education and structured professional year requirements, registration exam content and ongoing professional development requirements.

These bodies already exist to one degree or another, although none have yet been granted professional association status by the Professional Standards Council although the Stockbrokers Association of Australia's application is believed to be well underway.

Give the Professional Standards Council the power to approve or reject education programmes of the various professional associations representing the various sectors of the financial services industry, but don't give it the authority to design and implement those programmes.

Section 5 Registrar

Bell Potter Securities agrees with the establishment of the Register of Advisers. However, the Adviser's advising history should extend beyond 5 years to 10 years and if the Adviser has been involved in either ASIC or Professional Association disciplinary action within the last 10 years it should be specifically noted on the Register.

Bell Potter Securities believes that censures and limitations placed on a financial adviser by a Licensee should be confined to a Register of Censures kept by the Licensee alongside the Register of Breaches and the Register of Complaints. If it is included in the public register the imposition of censures will inevitably reduce. By being in the Licensees' Register they are available for inspection by ASIC to inspect. The censure is the lowest form of disciplinary action that can be taken against an Adviser, it is even lower than an employment Warning.

We basically agree with the principle of Paragraphs 44 to 48 subject to those principles being applied by the professional associations.

We don't believe that any and every censure or limitation that has ever been placed on the Advisor by the Licensee should be noted on the Register.

The Licensee should be able to use the Censure and the limitation of authority to enforce compliance, the inevitable result of which will be the correction of the conduct that gave rise to the Censure or limitation and therefore they are not permanent "fixtures" and should not be placed on the Register.

It would be more appropriate for Licensees to be obligated to report the circumstances of an Adviser leaving a Licensee's employment and whether there were any compliance issue involved with the Adviser's departure. This practice is followed in the U.S. where a form is routinely filed with the Regulator on an Adviser's departure from a Licensee.

All the relevant titles of Advisers in the financial service industry should be protected, such as Financial Planner, Stockbroker, Futures Broker, Life Insurance Broker and Securities Dealer and the Advisers appearing on the Register of Advisers should be obliged to use their appropriate title. The title Financial Adviser is a general term applying to all sectors of the financial services industry and could be used by Advisers who have not qualified to be entered on the Register of Advisers.

At Bell Potter Securities we allow Advisers who are Master Members of the Stockbrokers Association of Australia, that is those with at least 7 years advising experience in stockbroking to use the title "Stockbroker".

5.1 What are the practical implications of requiring individuals to be registered in order to provide financial advice?

We don't believe there are any practical limitations providing it is the professional association of the particular sector of the financial services industry, which confirms that a person qualifies for such registration.

5.2 Should it be the role of professional associations to notify ASIC that all requirements have been met for an adviser's registration, and of factors which affect their subsequent fitness for registration?

Yes, it should be the role of the professional association to notify ASIC that a person qualifies for inclusion on the Register. The Professional Association should also have the authority to determine that it is no longer appropriate for a person it has previously found to be qualified to be registered and to instruct ASIC to remove the name from the Register of Advisers.

5.3 What are the practical implications of having these criteria listed on the public adviser register?

Notation of the Advisers professional association membership, along with any higher education, and any professional association censure or ASIC disciplinary action should only appear on the Register. It is completely unnecessary to note the Adviser's completion of the relevant education requirements,

professional year and registration examination as those are necessary to hold the class of professional association membership entitling the adviser's name to appear on the Register of Advisers.

5.4 Are there alternative or additional criteria that should be listed on the Register?

Professional Association censure but not Licensee Censure should be listed on the Register as well as up to 10 years employment history.

5.5 What are the practical implications of having professional associations perform this role? For example, are professional associations sufficiently resourced and how would they interact with ASIC in relation to these requirements? Does this approach dilute the responsibility of Licensees?

For a professional association to be approved by the Professional Standards Council it would be found to have the resources to qualify and discipline its members so it would have the resources to report on these matters to ASIC in the latter's capacity as the keeper of the Register of Advisers. The obligation on all financial advisers to join their relevant professional association, which has been approved as a professional association by the Professional Standards Council, would generate the fee income to enable the professional association to be so resourced.

5.6 Is legislative protection of the titles "financial adviser" and "financial planner" necessary?

Legislative protection of the titles "financial planner" and the other titles used in the sector like "Stockbroker", "Futures Broker", "Life Insurance Broker" and say "Securities Adviser" for the others in the financial services industry is vitally important. The words "financial adviser" should also be protected from use by anyone as it is the term included in the name of the Register.

Investors should know precisely who they are dealing with by disclosure of the type of financial service provider the Adviser is and the Professional Association the Adviser is a member of. The investor should be able to reference the Adviser, and obtain further details, from the Register of Advisers and either AIC's or the Professional Association's Website of the Professional Association of which the Adviser is a member.

The Register of Adviser should be divided into sections corresponding to the various sectors of the financial services industry e.g. Financial Planners, Life Insurance Brokers, Futures Brokers, Security Dealers and Stockbrokers.

6.0 The extensive differences between the various sectors of the financial services industry make a simple qualifying exam a meaningless exercise.

Whether or not such exam is actually conducted should be left to the various professional associations and their approval by the Professional Standards Council.

If such an exam is to be conducted it should be tailored to the particular sector of the financial service industry and conducted as part of the qualification for membership of the professional association representing that sector.

Existing experienced Advisers should be exempted from the exam requirement to qualify as a registered Adviser. That grand fathering process should be extended to all Advisers with more than one years experience.

Such an examination in itself would do relatively little to lift the professional standards of the Industry. The correction of the flawed licensing system along with the enforcement of the Best Interests obligation to retail Clients, the development of the Register of Advisers as we have suggested and the mandatory obligation to join a Professional Association, which is approved by the Professional Standards Council will all combine in the short term to lift professional standards in the financial services sector.

The content of any Exam to be meaningful has to be oriented to the sector in which the examinee is engaged whether it be financial planning, insurance broking, futures broking, stockbroking or whatever.. Accordingly, a body like the FPEC is not the appropriate body to set the exam, which should be set by the examinee's professional body, which should also be responsible for instigating and marking the exam. The professional body approved by the Professional Standards Council needs to be given total responsibility.

7.1 What are the principal implications of the proposed ongoing professional development requirements?

There should be mandatory ongoing professional development for financial advisers and it should be set by the professional associations in accordance with Professional Standards Council standards. There is no point in having any level of cross industry standardisation let alone something of that sort recommended by FPEC. The whole point of ongoing professional development is to keep Advisers apace with developments in the sector of the financial services industry in which the Adviser is engaged.

7.2 Are professional associations well placed to administer ongoing professional development requirements?

A professional association which has been approved by the Professional Standards Council is well, if not ideally, placed to administer ongoing professional development requirements. In fact, they are the only appropriate body to administer ongoing professional development.

8.0 Professional and Ethical Standards:

Bell Potter Securities agrees that professional associations should be required to establish Codes of Ethical Conduct. The Stockbrokers Association of Australia has had a Code of Ethical Conduct for many years and Bell Potter Securities has recently introduced its own Code of Ethical Conduct, based on the SAA's Code.

As Bell Potter Securities believes the core to lifting professional standards in the financial services industry is mandatory membership of a profession association approved by the Professional Standards Council, with power to place and remove names from the Register of Advisers, Bell Potter Securities agrees that the Professional Standards Council occupies a pivotal role in the lifting of professional standards in the financial services industry.

Bell Potter Securities is pleased that the Stockbrokers Association of Australia has already got underway the process of obtaining Professional Standards Council recognition.

8.1 What are the practical implications of having each professional association create its own code of ethics? For example, what are the implications of having multiple codes as opposed to a single code?

The Stockbrokers Association of Australia (SAA) already has a Code of Ethical Conduct and Bell Potter Securities has recently adopted its own Code of Ethical Conduct based on the SAA Code. All the various sectors of the financial services industry are sufficiently different to have their own Codes of Ethical Conduct. Stockbrokers for one would have no wish to align themselves with Financial Planners, or any other sector of the industry, in operating under an identical Code of Ethical Conduct. However, one of the conditions of accreditation of the professional body by the Professional Ethics Council could be its approval of the terms of the Code of Ethical Conduct.

8.2 What are the practical implications of requiring that a code of ethics be approved by the PSC? Are there alternative approaches that would be more appropriate or effective?

The PSC is the ideal body to approve a professional association's Code of Ethical Conduct. It may even be that the PSC's current process to approve associations as professional associations already includes the approval of a Code of Ethical Conduct.

8.3 Is the PSC the appropriate body to drive improvement in professional standards in this industry? Are there alternative arrangements that would be more appropriate or effective?

Bell Potter Securities believes that the PSC is the appropriate body to facilitate and encourage, but not drive, the improvement in professional standards in the financial services industry. The improvement must be **driven** by the professional associations themselves.

Mandatory membership of a professional association by all financial advisers with mandatory accreditation of all those professional associations by the PSC will provide the right initial structure to drive the improvement in professional standards. However, this is not an overnight process and the improvement will occur as a result of a combination of a number of initiatives, including more effective licensing, more effective management, more appropriate business culture and more effective technological resources to identify compliance failures as well as the enforcement of the best interests obligation and the further development of the Adviser registration process which has been discussed in this submission.

Of course, the PSC's accreditation of a professional body could be the subject to periodic review, say on a 5 yearly basis with the PSC having power to make directions to be fulfilled in order to maintain the PSC's accreditation of the professional body.

8.4 What are the practical implications of having the PSC perform this role? For example, would the PSC interact with ASIC?

It is important that ASIC role is not extended beyond administering and enforcing the Corporations Act? ASICs administrative findings and enforcement action relating to licensees should be accessible by both the professional associations and the PSC. While there may be some informal interaction in relation to those administrative findings and enforcement actions by way of ensuring a full understanding of them that is the full extent of the interaction that should take place.

8.5 What are the practical implications of requiring professional associations to hold a PSC approved scheme?

Associations within the financial services industry will have to forsake having a cap on the liability of its members in order to obtain PSC approval of a scheme for a particular financial services association. Perhaps the conduct of particular professional bodies and its members may justify liability being capped in the future.

8.6 Is it appropriate that liability in relation to financial advice/services be limited at this time? Is the limitation of liability a necessary element for the operation of a PJC model?

It is not appropriate that liability in relation to financial advice be limited at this time and it should not be made a necessary element for the operation of the PJC model initially.

8.7 What are the practical implications of capping liability? For example, what changes to Commonwealth and or State and territory legislation would be required?

Until the provision of advice by a particular sector of the financial services industry can be provided in accordance with the law, and therefore not provide a basis for compensation claims, capping liability cannot be considered but it may be that it becomes a thing to consider further when professional standards have been lifted, the law is being applied and there is no longer basis for compensation claims.

Bell Potter Securities has not had time to determine what changes to Commonwealth, State or Territory legislation would be required.

8.8 Would an alternative arrangement under which a scheme's approval would not limit liability be practical?

Bell Potter Securities believes an alternative arrangement under which a scheme's approval would not limit liability would be practical.

8.9 What are the practical implications of mandating membership of a professional associations? Are there implications arising from the increased responsibility on professional associations rather than on the Licensee?

Mandatory membership of professional associations is absolutely essential. The development of the professional association is the key to lifting of the professional standards of each of the sectors of the financial services industry. It is assumed the compulsory requirement can be legislated either directly or indirectly by reason of the requirement to be a current member of a professional association in good standing in order to be able to get on to, and stay on, the Register of Advisers. The individual Adviser has to assume a personal responsibility to maintain his or her membership of the professional association to stay on the Register of Advisers and the professional association has to have disciplinary powers which should include removal from the Register of Advisers.

There is not abatement of Licensee responsibility under the Corporations Act. Certainly individual Adviser responsibility may be increased to participate in the funding of the professional association but this how it should be. In any case, individual advice providers are now individually responsible for the advice they provide and there is no reason why they shouldn't share some responsibility for the structure of their sector of the financial services industry.

9.0 Other issues for Consideration

Advice on Tier 2 products

ASIC doesn't set any standards it merely administers and enforces what is prescribed by the Corporations Act in relation to both Tier 1 and Tier 2 products, which it should continue to do.

Professional standards will be the direct responsibility of the Licensees, the Advisers and the Professional Associations

Transitional Arrangements

Existing Advisers must be grandfathered from any new educational requirements.

The Finance Professional Education Council should not be constituted let alone involved in determining recognised prior learning criteria and in developing transitional pathways. This should be left to the professional associations to do within guidance from the Professional Standards Council.

Timing and Interim Arrangements

While swift and decisive action may be felt to be required to raise professional, ethical and education standards that will not be achieved by the regime proposed by the Parliamentary Joint Committee (PJC). Education as proposed by the PJC is essentially a very long term game changer.

Swift and decisive action will be obtained by empowering professional associations and forcing mandatory membership of those associations along with an expansion of the Register of Advisers, enforcement of the

Best Interests obligation, a re-vamp of the Licensing regime and enforcing Licensees to establish a culture of client centric conduct.

9.1 How would the PJC model interact with the existing Tier 2 adviser training and competency requirements?

Tier 2 products can continue to be provided without being a Financial Adviser on the Financial Advisers Register and being a member of a professional association so the training and competency requirements of Tier 2 products can continue to be administered and enforced by ASIC in accordance with the provisions of the Corporations Act.

9.2 Do you consider FPEC to be the best entity to determine transitional arrangements for existing advisers and advisers wishing to move into the industry?

PFEC is not the appropriate entity to determine transitional arrangements for existing advisers and advisers wishing to move into the industry.

If the Government wants to introduce new educational arrangements it should announce them and the fact that they apply to new entrants after the new requirements come into place. The professional associations should alone determine the transitional arrangements for Advisers wishing to move within the industry say from stockbroking to financial planning or vice versa.

9.3 Do you consider Recognised Prior Learning a suitable transitional arrangement for existing advisers?

Although Bell Potter Securities believes that all exiting Stockbroking advisers should be grandfathered, Recognised Prior Learning is a suitable transitional arrangement for existing advisers.

9.4 What is the appropriate time frame over which existing Advisers should transition to the new system?

They should be grandfathered into the new system.

9.5 Are there any alternative transitional arrangements that would be more appropriate or effective, for either new or existing advisers?

Any new educational regime will only have a long term impact on professional standards and is not felt to be a solution in itself so any new regime should be introduced with the absolute minimum of dislocation to the provision of advisory services particularly by experienced Advisers, who do not have a Bachelor Degree.

The programme should be rearranged to require all Advisers wishing to remain on the Register of Advisers to join the existing association within their particular sector of the financial services industry that have expressed an intention of becoming a professional association and that that association immediately

- establishes a Code of Ethical Conduct, if it hasn't already done so,
- takes on the responsibility for its members on going professional development,
- develops its own programme for developing and maintaining professional standards,
- established a disciplinary process, including the expulsion from membership, and therefore removal from the Register of Advisers
- proceed to obtain a PSC approved scheme without a cap on liability.

9.6 Are there any particular elements of the PJC model that present timing challenges?

If a Bachelor Degree is a component of the new educational regime and the term of the usual Bachelor Degree that a financial adviser would take is 3 years then the new regime cannot commence until the expiration of 3 academic years from the time of its announcement.

9.7 What timing or phasing would most effectively balance the recognised need to raise standards and competency in the short term against the practicalities of implementing a new model to raise standards of new and existing advisers over the longer term.

As detailed above.

Information about the current structure and education of the industry, confined to the sector of the industry in which Bell Potter Securities participates.

- 1. How many/what proportion of financial advisers are likely to be affected by the introduction of a new professional standard framework (such as that proposed by the PJC)? If you are a Licensee how may/what proportion of your advisers would likely to be affected?**

On the basis that the new framework requires a Bachelor Degree approximately 1/3 of our 300 Advisers at Bell Potter Securities do not hold a Bachelor Degree.

- 2. What proportion of financial advisers working in the industry are typically new entrants (for example graduates and those coming from other professions) versus existing advisers who have been in the industry for a number of years? If you are a Licensee, what proportion of your advisers are new entrants (versus existing advisers)?**

3.

New Advisers at Bell Potter Securities in the last 2 years are 5% of total Advisers.

- 4. What is the typical education level of financial advisers? If you are a Licensee what proportion of your advisers hold a relevant tertiary degree?**

Approx. 2/3 of Bell Potter Securities' Advisers hold a tertiary degree.

- 5. What proportion of advisers are currently members of a professional association(s)? If you are a licensee what proportion of your Advisers are members of a professional association?**

Approx. 1/3 of Bell Potter Securities' Advisers are members of the Stockbrokers Association of Australia.

6. What are the likely costs (labour and non-labour) associated with the various elements of the PJC model These costs could include, for example , the direct costs to;

- Individual financial advisers
- Professional associations; and
- Licensees

Are costs likely to vary between different size firms, different professional associations etc? If so how?

Individual Advisers: Current annual membership fee of the SAA - \$412.50

Licensee cost still to be calculated, and will depend upon how many advisers without tertiary degrees are forced to resign.

7. Are there alternative options (other than the PJC model) which would provide an enhanced cost-benefit outcome?

See the alternatives discussed above