

7 May 2015

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

Via email: ProfessionalStandards@treasury.gov.au

Dear Sir/Madam,

Consultation Paper on Lifting the Professional, Ethical and Education Standards in the Financial Services Industry

The Customer Owned Banking Association (COBA) welcomes the opportunity to contribute to Treasury's consideration of the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services' inquiry into proposals to lift the professional, ethical and education standards in the financial services industry.

COBA is the industry association for Australia's customer-owned banking sector, which consists of 72 credit unions, 11 mutual banks and six mutual building societies.

Our members are Authorised Deposit-Taking Institutions (ADIs) regulated by APRA under the *Banking Act 1959*, and are Australian Financial Services and Credit Licensees, regulated by ASIC. COBA member ADIs provide the full range of retail banking services and products to more than 4 million customers.

Ten of our members have in-house financial planning businesses, 57 of our members have a referral relationship with Bridges Financial Services, and five have a similar relationship with Clearview. The remainder refer customers to smaller financial advice firms or do not offer financial planning for customers. Our members with financial planning businesses are at the small-medium end of the market, with the majority having around 10 or fewer financial advisers.

The customer-owned banking sector puts its customers first. Accordingly, the ability for customers to manage their money, the suitability of financial products, and customers' financial wellbeing are extremely important for our member ADIs. This explains why customer-owned banking institutions consistently and strongly outperform the major banks in customer satisfaction ratings.

In consultation with members, COBA has reviewed Treasury's consultation paper and has the following response:

- Raising standards for financial planners who provide personal advice on Tier 1 products is necessary and welcomed. However, we see no need to raise the training requirements for individuals who:
 - provide general advice on Tier 1 products; or
 - provide personal or general advice on Tier 2 products.

- Any increase in compliance costs resulting from the new regime must be carefully considered to avoid driving out small-mid size financial planning businesses and decreasing competition in the sector. Ironically, this would advantage the large, vertically integrated firms who were responsible for the financial advice scandals.
- Increased compliance costs are likely to be passed on to consumers, with the potential for financial advice to become out of reach for many Australians, particularly those seeking basic financial advice.
- The rights and obligations of the licensee need to be clearer with respect to the role of the professional associations and the Finance Professionals' Education Council (FPEC).
- Grandfathering and transitional arrangements need to be carefully considered to avoid forcing out competent, ethical and experienced advisers.

Detailed comments are addressed below.

Issue 1: The PJC model

COBA supports increased standards for financial advisers and welcomes the Government's efforts to restore trust in the financial advice industry. Many of the financial advice scandals appear to be caused by unethical conduct and a high-pressure selling culture in large, vertically-integrated banks. The Future of Financial Advice reforms have addressed conflicted remuneration and the duty of advisers. It is now time to address standards and ethics.

COBA members support many aspects of the PJC model, but are concerned that it focuses too much on training and educational standards rather than ethical conduct. A balanced and proportionate approach is needed to avoid arbitrary increases in compliance costs that will force smaller and mid-sized firms out of the industry. We are concerned that this could decrease competition and, ironically, advantage the large, vertically-integrated banks where the scandals occurred.

COBA members are concerned about the increased costs that will be incurred as a result of the training standards suggested in the PJC model. These costs will be harder for smaller firms to absorb, particularly firms that have a large proportion of financial advisers without degrees. A degree is no guarantee of ethical conduct. Many planners have decades of experience providing high-quality financial advice in their clients' best interests without degrees. Enforcing higher than necessary standards arbitrarily may bring forward the retirement plans of many long standing advisers and increase the cost of hiring new planners to replace them.

As one COBA member put it, *"The PJC model proposed will push up compliance costs. This will raise the barriers to entry and will force smaller, marginal players to give up their licences because they are unable to meet the increased costs of compliance. This is particularly a problem if grandfathering arrangements are not given the appropriate attention."*

COBA members want to see appropriate grandfathering and transition periods, which recognise current competency (not just prior learning) to avoid good advisers being forced out of the industry. We address this in detail in our response to issue 9.

COBA members are also concerned that additional compliance costs will ultimately be passed on to consumers. Larger financial planning businesses can absorb these costs. But some smaller players may need to pass on costs to consumers, increasing the cost of financial advice. As one COBA member stated: *"If the expectation is that the industry is going to become a profession (like lawyers & accountants) then you have to accept that they will charge like professionals."*

The likely outcome is that financial advice will become more expensive and may become out of the reach of the majority of Australians who need relatively simple financial advice. If it costs more to see a financial planner, then wealthier consumers who can afford to pay and see the value in the investment will continue to see financial planners.

However, the majority of 'mum and dad' consumers who need basic advice such as whether they should pay down their mortgage or invest more in super will have fewer options. The model has the potential to create a middle-market gap.

As this process got underway last year, the Acting Assistant Treasurer warned about the need to make progress efficiently and without new layers of bureaucracy: "We are working with the industry to do that [raise standards] in the best possible way because the objective ought to be to make progress in this space in a way that is as efficient as possible so that we don't keep pushing up the cost of advice".¹ COBA endorses these objectives and we urge all stakeholders to remain focused on minimising new compliance costs for small to mid-sized financial planning businesses so that financial advice can remain affordable to consumers.

Issue 2: Current regulatory framework

COBA members are concerned with the lack of clarity when it comes to the responsibilities of the professional associations vis-à-vis licensees in the PJC model. We expect that licensees will continue to have a legal obligation to ensure that advisers meet relevant training and competency standards. There must be clarity and certainty about the capacity of the professional associations to play an enhanced role in the "co-regulatory" framework. COBA members feel that it is important to understand that professional associations represent the interests of the individual rather than the licensee. The rights and responsibilities of the licensee should be clear in the model.

Issue 3: Education and training standards of financial advisers

COBA members are keen to see a balance between raising standards and recognising the prior learning, skills and experience of long-standing advisers who have contributed much to the industry.

There is a range of views amongst COBA members in relation to the proposed education standards. Some members consider that a bachelor's degree is unnecessary and no guarantee of an adviser behaving ethically. Others argue that a degree is appropriate as a minimum standard for new entrants. COBA members want to see an exemption to the degree requirement for all existing advisers. We address this in more detail in our response to issue 9 below.

Almost all COBA members have a type of 'professional year' for new advisers and many are supportive of this requirement. However, COBA members are concerned about what this means in practice. There is a significant difference between a professional year in which junior advisers are limited to advising on simple products, compared with a professional year that requires constant supervision of a junior staff member.

The professional year requirement might inadvertently make new graduates less attractive to smaller firms. Already, it takes a new adviser two to three years of experience before they generate revenue for the financial planning business. This is a significant investment by a business. As one COBA member put it:

"The cost to get a new financial planner up to speed is now significant. If you recruit them out of university you will need to invest 12 months (the professional year) to get them on the register, before they can sit in front of clients and provide Tier 1 advice. It is going to take at least another 18-24 months before they start to cover their costs. This is a significant investment by a business, so in future employment contracts you will need to have lock-in clauses (clause to claim back costs invested) to ensure they stay with you for 3 - 5 years so you get some value back."

The professional year requirement is also likely drive up the cost of hiring more experienced qualified financial planners. Some smaller businesses will simply not be able to absorb these costs.

An option to deal with the professional year requirement is to allow new planners to take the proposed national exam at the beginning of the professional year and, if the planner passes, to be able to provide provisional advice.

¹ <http://www.financeminister.gov.au/transcripts/2014/0925-joint-press-conference.html>

COBA members are concerned with the PJC recommendation to apply a professional year to *existing* advisers. The PJC Inquiry proposed that all existing advisers would be required to complete a 'modified' professional year and pass the proposed registration exam in order to be registered by ASIC.

*"To ensure the integrity of the profession, all advisers would still be required to complete the agreed RPL professional year requirements and pass the registration exam in order to be registered by ASIC. The committee suggests that the FPEC should be able to implement a modified professional year for existing financial advisers, that takes account of the experience of the financial adviser where competence in the assessed areas can be demonstrated."*²

COBA members would not like to see highly experienced planners have to go through a 'modified professional year' unnecessarily. We address this further in our response to issue 9 below.

Issue 4: Structure and role of a standard-setting body

COBA members would like to see a licensee representative included in the FPEC membership to ensure that the interests of licensees are considered and represented.

COBA sees the FPEC ultimately playing a role in setting standards for Tier 1 general advice and Tier 2 personal and general advice. This is discussed in further detail below under Issue 9.

Issue 5: Registration

The responsibilities of professional associations and licensees need to be clearer in the PJC model. For example, while licensees will continue to have a legal obligation to ensure advisers meet training and competency standards, it is suggested that professional associations would be responsible for notifying ASIC if the financial adviser has met the requirements for the purposes of the adviser register. This has the potential to create overlap and confusion about regulatory obligations.

It would be simpler if registering an adviser through ASIC was the responsibility of the licensee. Professional associations are not sufficiently resourced to do this, and would pass on the cost of performing this service to licensees.

Issue 6: Exam

There is support amongst COBA members for an exam. However, we are keen to ensure that the content is focused on ethics and compliance, which goes to the heart of recent financial adviser scandals. COBA members feel that the exam should be the opportunity to address the issue of ethics.

The exam content should focus on the planner's understanding of compliance and ethical standards: e.g. focusing on the 'best interest' duty; when advisers are required to hand out an FSG; what an FSG contains; and, hypothetical scenarios designed to test ethics.

It would be very difficult to construct an exam that tests the breadth and depths of technical knowledge required by financial planners.

Issue 7: Ongoing professional development

The majority of COBA members are supportive of ongoing professional development because their planners already undertake this. However, we caution about being overly prescriptive as this will add additional compliance costs.

Under the current regime, licensees have a legal obligation to ensure their financial planners undergo ongoing professional development, and there are already mandatory requirements for professional designations such as Certified Financial Planner (CFP) or Fellow Chartered Financial Practitioner (FChFP). In addition, there is specialised

² p.56 of the PJC Inquiry report

training for planners who advise on self-managed super funds and aged care. There is no need to add an additional layer to ongoing professional development requirements.

Issue 8: Professional and ethical standards

COBA members are concerned with multiple professional associations having different codes of ethics. Unethical conduct has been at the heart of recent financial planning scandals. The idea that a Code of Ethics would be a point of differentiation for professional organisations simply encourages a 'race to the bottom'. As one COBA member put it: *"It doesn't make sense for this to be a point of difference between professional associations."*

Issue 9: Other Issues for Consideration

9.1 - Tier 2

COBA would like to see a sensible and proportionate regulatory approach to individuals who provide general advice on Tier 1 products and individuals who provide personal and general advice on Tier 2 products. The current Tier standards are adequate and should be left unchanged in the migration to the new "co-regulatory" regime. ASIC Regulatory Guide 146 sets out current training standards for Tier 1 and Tier 2 products. Adoption of the PJC "co-regulatory" model renders RG 146 redundant. COBA gives qualified support to FPEC taking over responsibility for setting standards for individuals who provide general advice on Tier 1 products and individuals who provide personal and general advice on Tier 2 products.

However, it will be important that the FPEC closely considers regulatory compliance costs and weighs these against actual consumer risk in any future review of Tier 2 standards. Membership of FPEC should include representatives of Tier 2 product issuers and there should be a process whereby FPEC consults with industry about any changes to Tier 2 standards.

COBA members generally would like to keep the specialist knowledge and skills requirements for Tier 2 product advice as they currently stand, i.e. maintain the same qualification level, specialist knowledge and skills requirements as outlined in RG 146.

The current guidelines are well established and are not onerous or an unreasonable burden on the industry. In addition, the current system in relation to Tier 2 advice is not 'broken'. There is no evidence of market failure or consumer loss arising from advice about simple, low-risk Tier 2 products.

9.3 – 9.5 Grandfathering and transitional arrangements

COBA members are supportive of the bachelor degree qualification applying to new entrants only. While some COBA members have 100% of advisers with degrees, others have 90% without degrees. Mandating this requirement could see more mature planners exiting the industry, taking with them substantial skills and experience. As one COBA member said: *"I can see significant churn in grandfathered advisers at the expense of bringing on new people. This will see salary increases as the fight for financial planners who already meet guidelines intensifies."*

COBA members are also keen to see an exemption to the professional year for financial advisers who hold CFP or FChFP designations. This reflects the fact that advisers need to have significant experience and undergo ongoing professional development to obtain these designations. We would be supportive of a longer term transition to see existing advisers without these designations move towards obtaining them.

In relation to the proposed exam, the majority of COBA members would prefer for the exam to test ethics and compliance. However, some members have suggested that an alternative proposal would be to use the exam to test knowledge and current competencies, and then address any gaps through additional training.

COBA members want to see recognised current competency as well as recognised prior learning in any new regime. This will more accurately capture the experience of long-standing financial planners who do not have formal qualifications.

Issue 10: Regulation Impact

The table below provides a summary of the regulatory impact, based on the PJC proposed model, from selected COBA members with in-house financial planning businesses.

	ORG A	ORG B	ORG C	ORG D	ORG E	ORG F
10.1 –Financial advisers likely to be affected	100%	80-90%	70%	50%	0	20%
10.2 - New entrants (versus existing advisers)	0% new entrants	1/14	-	0% all 10+ years	0%, typically 9 year tenure	0% new advisers
10.3 – Hold a relevant tertiary degree	50%	15%	70%	50%	100%	40%
10.4- members of a professional association	100% FPA	15% CFP	100% FPA	100% FPA	100%	100%

In summary, COBA is supportive of the Government’s efforts to restore trust in the financial advice industry. We support increasing standards but are keen to avoid unintended consequences that force good planners or firms out of the industry and put financial advice out of reach of consumers.

Please contact me on 02 8035 8448 or llawler@coba.asn.au or Sally MacKenzie, Senior Policy Adviser, on 02 8035 8450 or smackenzie@coba.asn.au should we be able to provide further information or assistance.

Yours sincerely,



LUKE LAWLER
Acting Head of Public Affairs