

FSU Submission:

Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry.

Report response & consultation.



FINANCE SECTOR UNION

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SUBMISSION TO THE PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS & FINANCIAL SERVICES:

Inquiry into proposals to lift professional, ethical and education standards in the financial services industry - Report (Dec 2014) Response & Consultation.

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1. FSU About:

The Finance Sector Union (FSU) of Australia welcomes the opportunity to participate in the consultation process following on from the December 2014 report for the 'Inquiry into proposals to lift the professional, ethical and education standards in the financial services Industry'.

The FSU represents and advocates for more than 400,000 workers in the finance sector - including those who are required to provide general and personal advice.

As long term advocates, the FSU holds the view that employers in the Australian financial sector have social obligations to the Australian community in addition to their legal requirements & economic and commercial roles. The FSU's Our Jobs Our Future campaign seeks to turn this view into secure jobs, secure pay and a finance sector we can all be proud of.

As with any finance products, Australians should feel confident that any financial advice, products and services that are recommended to them are done so only when there is a genuine client need and those products and services match with client best interests. Furthermore those recommendations should be only provided by those who are suitably qualified and trained to meet customer's best interests.

2. Terms of Reference items / Consultation:

This submission is in reference to the consultation process for the Inquiry into proposals to lift professional, ethical and education standards in the financial services industry report (December 2014)¹.

Included below are the original Terms of Reference points for the Inquiry

- The adequacy of current qualifications required by financial advisers
- The implications, including the implications for competition and the cost of regulation for industry participants of the financial advice sector being required to adopt:
 - Professional standards or rules or professional conduct which would govern the professional and ethical behaviour of financial advisers; and
 - Professional regulation of such standards or rules; and
- The recognition of professional bodies by ASIC

¹http://www.aph.gov.au/~media/Committees/Senate/committee/corporations_ctte/financial_services_industry/report.pdf

3. Submission statement:

The FSU's submission is based on the thoughts & experiences of FSU members as well as our well placed understanding of the finance industry and industry practices.

The FSU will also reference for the committee the "Australian Banking Principles" as well as the FSU's Industry Campaign: 'Our Jobs, Our Future'. Both of which formed part of our original Submission to this inquiry and are worth re-evaluating when considering any proposed changes to the operational construct of the Finance Sector.

Our submission to the Inquiry report does not seek to address or make recommendations on the entirety of the December 2014 report, but focuses on selected aspects relative to the Finance Sector Union.

4. "Australian Banking Principles"

Like all other stakeholders, the FSU wants our finance sector to be as profitable and successful as it can be, but not at any cost.

To this end the FSU has been discussing with a number of consumer and community sector organisations² the sort of principles we believe we need to be the hallmarks of the finance sector in Australia.

These principles we believe provide the basis for the finance system in this country (including financial planning) and should guide the Parliament when evaluating and implementing the recommendations from the Inquiry report.³

Principles

Australia's financial system should function in an accessible, affordable and fair manner reflecting its status as an essential service. The financial sector should deliver products and services which better balance the needs of consumers, employees, shareholders, the economy as a whole and the broader public interest.

² Australian Financial Integrity Network (<http://ausfin.org.au/>)

³ <http://ausfin.org.au/wp-content/uploads/2011/02/AusFIN-Charter-Final-Nov-2010.pdf>

To achieve an effective, well-functioning financial system in the best interests of the Australian community through:

1. *Promotion of competitive outcomes for consumers*
 - 1.1. Shopping around and switching provider should be easy
 - 1.2. New market entrants should be encouraged
 - 1.3. All market participants should enjoy a level playing field
 - 1.4. Financial institutions should not be allowed to have excessive market power
 - 1.5. Regulators should investigate and respond proactively when problems arise
2. *Effective regulation to support fairer outcomes, especially in essential services such as retail banking and superannuation*
 - 2.1. Financial services should be accessible and affordable for all consumers, regardless of their circumstances or location
 - 2.2. Fees and charges should reflect cost only
 - 2.3. Financial products and services should be provided transparently, responsibly and with a duty of care to all stakeholders
3. *Community access to information about key elements of our financial system*
 - 3.1. Key information about Australia's financial system, including information about the size, nature and structure of financial institutions, levels of prices and fees in the market and wholesale costs, should be transparent and published regularly by our financial regulators
4. *Removal of all conflicts of interest*
 - 4.1. Financial providers should act in the best interests of their customers and clients
 - 4.2. Practices and structures that generate conflicts between the interests of financial providers and their customers should be eliminated
5. *Balancing the operation of the financial system with the needs of the community*
 - 5.1. Policy development and implementation on financial services issues should include the voices of all groups in the community who are affected
 - 5.2. Reflecting social and economic obligations, financial providers should strive to be Australian leaders in standards of corporate governance and behaviour
 - 5.3. The financial services industry should contribute to the development of the nation's skills and knowledge and the growth of sustainable and socially responsible local jobs

5. General Advice & Personal Advice:

The Inquiry's report tables changing the definitions associated with both the General and Personal Advice categories of advice as part of the recommendations.

The ASIC website currently lists the definitions⁴ for both General Advice & Personal Advice as:

General Financial Advice;

"You can get general advice about financial products or investing from someone who holds or works for a company that has an Australian Financial Services Licence (AFSL). General advice does not take into account your particular circumstances, such as your objectives, financial situation and needs. For example, you may receive general advice when you attend a seminar about investing."

Personal Financial Advice;

"If you want a recommendation that takes your personal situation into account, you need personal advice."

While the definitions above appear to be written with a plain English text approach in mind, an element that is lacking for consumer clarity is the number of defined examples that would provide a reference point on how both of these definitions could be applied to real world situations – especially given the current level of understanding about what constitutes financial advice across Australia's diverse multicultural population.

The website does provide one case study under the General Advice heading, however it only reviews one of the many situations that people may require some form of financial advice for. Regardless of the 'title' applied to each particular scope of advice, it would be beneficial to have clear examples provided to reduce confusion and provide clarity around these two very different and distinct forms of advice.

The change of terminology recommended in the Inquiry's report from 'General Advice' to 'Product Sales Information' and 'Personal Advice' to 'Financial Advice'⁵ does provide at a surface view some movement away from the general confusion and ambiguity associated

⁴ <https://www.moneysmart.gov.au/investing/financial-advice/types-of-financial-advice>

⁵

http://www.aph.gov.au/~media/Committees/Senate/committee/corporations_ctte/financial_services_industry/report.pdf

with the term 'advice'. However, though the intent may be to add clarity to the purpose and position of both of these types of information, without a clear reference point for understanding the differences for the broader community, much of the intent may be simply lost as nothing more than a change of words. Changing the terminology does not in itself address the core issues that have resulted in the current public perception of the industry.

6. Register of Financial Planners

The FSU recognises that establishing a user searchable data base⁶ of recognised practising (and suspended) Financial Advisers is a step in the right direction for the everyday consumer.

Suitable steps must be taken to ensure that the data base is easy to find for the everyday consumer, it must also be easy to use and have the most current data available. Search tabs, response tabs and tables should be clearly identifiable to the everyday Australian as additional poor experiences may only further sully customer faith and do little to reinvigorate trust in the planning industry.

Consumers need to feel confident that the data base can add value to their circumstances when seeking out quality financial advice.

7. 'Best interests'

The FSU is encouraged that the Inquiry's report recommendations seek to address consumer concern in the Financial Advice market place. Of concern is the depth to which these recommendations will address the current gaps in the system and what review process will be in place to oversee and police the changes to ensure they meet the best possible outcome.

In the FSU's initial submission to this Inquiry we cited the following excerpt from the FSI report:

'Conflicts of interest have been a longstanding issue in financial advice. There has been a tension between providing financial advice for the benefit of consumers and the product distribution role played by advisers. Shadow shopping studies carried out by ASIC found a strong relationship between advisers giving non-compliant advice and conflicts of interest in business models. ASIC's submission

⁶ <https://www.moneysmart.gov.au/investing/financial-advice/financial-advisers-register>

argues that, in recent cases of substantial consumer loss, conflicts of interest held by financial advisers have often been a driver.⁷

With Australian financial organisations being some of the most profitable in the world – many of which have been recognised globally for their success – not taking substantive measures to delink profit from product will always leave consumers with unanswered questions as to whether the products & services recommended are in fact delivered in ‘best interests’.

As more and more Australians look for investment opportunities, including superannuation, the stock market and other investment vehicles, the quality and transparency of the advice generated for securing a strong investment is becoming paramount. Having a product (or a line of products) where there is considerable financial benefit for a ‘sale’ to the licensee/provider fosters an environment of interpretation as to what client ‘best needs’ looks like.

For many organisations, financial planning services have become a vital and thriving income stream. As many businesses adjust their goals and expectations to factor in this source of revenue, additional sales pressures have been brought to bear on the shoulders of many finance sector workers in the pursuit to secure potential consumers for financial product profiling. Exercises which are far more target and income driven than based on client best interests.

It is common practice throughout the financial sector for significant numbers of employees to have their wages and conditions outcomes (and in some cases – their employment) predicated on employer imposed sales targets associated with the sale of products. This fact alone exposes the planner (regardless of their qualifications) to potential pressure to meet objectives against the need for client ‘best interests’.

It’s not difficult to draw the link that any target driven practices linked to the sales of financial services products only encourages a culture of product pushing onto consumers, with little regard for whether it is in the client’s ‘best interests’.

The summary feedback from members to the FSU is that customer needs are not always the key driver or consideration in all circumstances for financial products.

The FSU contends that in order to provide complete transparency and to renew customer faith within the industry steps must be taken to remove as far as practicable the influence of conflicted remuneration.

⁷ 3-63 Financial Services Inquiry Interim Report
http://fsi.gov.au/files/2014/07/FSI_Report_Final_Reduced20140715.pdf

While the Ripoll Inquiry into Financial Products and Services is now a few years old, the following statement Q Invest made reference to in their submission is equally as applicable today as it was then:

“It is indeed a truism that —No man can serve two masters – and this is more so in the financial planning industry. As an industry, financial advisers are at a crossroad and each of us needs to honestly decide: Who is our master – the client or the product issuer? Experience has shown us that attempting to serve both places the financial planner in an untenable position.”⁸

8. Education Standards

There is little doubt that anyone who is entrusted with the (paid) task of providing consumer advice on matters of finance should be educated to the highest of possible, nationally applicable standards available. Educational requirements should also be ongoing and updated based on the industry needs of the day.

For the everyday Australian, having a financial planning assessment done is not unlike undergoing a full medical examination – in both instances the consumer is fully exposed for review and it’s a trust that should not be sullied by conflicted interest or lack of an educated mind.

The FSU would encourage the continued involvement of all relevant players within the industry to work towards the highest possible educational benchmark for all who offer financial (personal) advice. To further add transparency & instil consumer confidence, all aspects of self regulation with regard to the education and policing process must be removed, thereby reducing substantive elements of conflicted interest.

Consumer sentiment on the matters of ‘trust’ and ‘transparency’ in relation to financial advice can be further examined through an August 2014 media article on the FSI in which the following statement was made:

Mr Murray's comments on Thursday coincided with a poll released by the Customer Owned Banking Association which showed 62 per cent of people have little or no trust in the big four banks to give independent financial advice, while 86 per cent think there needs a little or a lot more transparency and clarity regarding rates and fees. The findings show people are

⁸ Q Invest, Submission 374, p. iii. To the Ripoll Inquiry

"confused and uncertain about the banking products they are investing in and the advice they are getting", said COBA acting CEO Mark Degotardi. ⁹

9. Our Jobs Our Future

The FSU industry based campaign - 'Our Jobs Our Future' - represents a clear vision for what the Finance Sector should be, based on worker's input across the industry.

The key points from this campaign (as outlined below) are aimed at making the Finance sector as a whole, a better sector for the longer term – including financial planning:

- The development of a long-term financial services industry plan
- Tax incentives and disincentives to encourage companies to keep jobs in Australia
- The Government only procuring goods and services from companies that invest in local jobs and have ethical employment practices
- Customers deciding where their personal data is stored and accessed
- The extension of FOFA principles to all aspects of financial services and in particular, credit

While financial planning services may be a relatively new player in the finance sector when compared to the traditional products of banking and insurance, it has the potential to cause devastating levels of disruption to the economic playing field of all Australians. This potential risk element expands immeasurably if regulatory steps are not applied with good measure and in good stead with the best interests of the consumer at heart.

The FSU would encourage the continued active consultation with all relevant players in seeking to address the matters discussed and the sensible implementation of any change strategies based on this Inquiry.

10. Recommendations

The FSU supports industry standards and qualifications - we want the industry to be as professional as it can be and this can further be underpinned by the restoration of an industry wide consumer best interest standard that puts the consumer's interest forefront.

In conjunction with operating free from conflicted interest, all consumers would benefit from access to a transparent, well-educated financial planning system where advice comes

⁹ <http://www.smh.com.au/business/banking-and-finance/david-murray-signals-push-to-protect-clients-of-financial-advisers-20140821-106m25.html>

from those who receive regular training, regular review and are monitored through higher rates of policing than current standards.

Summary of recommendations:

- Matters of conflicted interest & conflicted remuneration should be factored in with any changes implemented under the Inquiry's recommendations. Conflicted remuneration in particular is well documented matter of concern within the financial services arena. This crucial topic has been recently highlighted again by the FPA in the Sydney Morning Herald on April 8 – 2015 – calling for efforts to ban conflicted remuneration.¹⁰ In a simple statement of truth, complete consumer transparency cannot be assured while the possibility of conflicted interests is allowed to flourish – it will only serve to leave question marks for each consumer when evaluating the advice and product recommendations they are given.
- An independent review process should be established to ensure that any changes implemented under the Inquiry's recommendations meet the intent of the recommendations and, in practice, meet the best interests of 'client needs'. This review process should also include monitoring the timelines for implementation.
- While clarifying the type & scope of advice available through implementing both name & definition changes may provide some members of the public with clarity, a change in definition will not correct the business behaviours or systematic issues that have impacted on the credibility of the industry.
- Independent review structures need be established to avoid self-regulation.
- ASIC and/or empowered bodies must act swiftly and decisively when responding to consumer concerns and suspected breaches.
- The register of Advisers must be user friendly, maintained regularly and updated immediately with any changes.
- As cases of questionable advice, practices & matters of compensation continue to be part of the financial advice landscape – such as the recent ANZ \$30m compensation announcement¹¹ - the avenues for consumer compensation must be affordable, independent, transparent and not limited by any unfair capping arrangements that may leave the client financial poorer for the experience.
- Continued active consultation should continue to occur with all relevant players.
- The establishment of National Standards and a National Code of Conduct

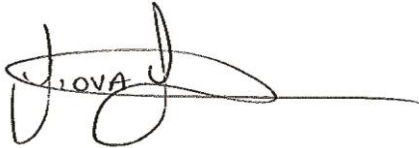
¹⁰ <http://www.smh.com.au/business/fpa-calls-for-end-to-conflicted-financial-service-remuneration-20150408-1mgmel.html>

¹¹ <http://www.smh.com.au/business/banking-and-finance/anz-30m-financial-advice-compensation-payment-prompts-calls-for-inquiry-20150416-1mm52m.html>

Financial planners should be required by legislation to act in the best interests of their clients - we need the checks and balances that ensure the industry recognises that the conflicted remuneration models of our finance institutions are not in customers' best interests.

For further information, please contact FSU National Infrastructure & Political Relations Manager Mark Gepp, mark.gepp@fsunion.org.au or 0466 774 221.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Fiona Jordan', with a long horizontal line extending to the right.

Fiona Jordan
National Secretary
Finance Sector Union of Australia

