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8 May 2015

Mr Jongsok Oh
Financial Services Unit
Financial System and Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email ProfessionalStandards@treasury.gov.au

Dear Mr Oh

Submission on consultation paper on Lifting the Professional, Ethical and Education Standards in the Financial Services Industry

We refer to the consultation paper issued by the Government in March 2015 regarding 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 (**PJC**).

We welcome the opportunity to provide comments to on the issues raised in the consultation paper.

Our comments on selected issues are set out below.

Section 1. Introduction – The PJC model

Feedback sought – the PJC model

The introduction of the model recommended by the PJC would represent a substantial change to the current regulatory environment for financial advisers.

Question 1.1

What impact would the introduction of the PJC model have on the structure of the financial advice industry?

The PJC model would apply equally to advisers working in different size firms and under different licensee structures.

Whilst the model would impose a standard set of requirements on the industry, creating a level playing field, we are concerned that if the costs of professionalisation of the financial advice industry are passed on to consumers, it will make affordable financial advice out of reach for most consumers, particularly those who might benefit the most from advice.

Accordingly the costs to industry should not be so onerous as to cause a considerable increase in price of financial advice.

Question 1.2

What are the practical implications of the PJC model applying to advisers from all sizes and types of firms?

Under the PJC model, ASIC, licensees, the PSC, FPEC and the professional associations will have a role in raising standards and ensuring these are met on an ongoing basis.

The PJC model will potentially impose an overall standard of qualifications and training that will have to be met by all advisers. We expect that this will assist to raise the quality of financial advice.

Question 1.3

Are the lines of responsibility clear under the PJC model?

The lines of responsibility under the PJC model could be made clearer. We suggest setting out a timeline or suggested sequence to explain how the components of the PJC model fit together.

Section 2. Key Aspects of the Current Regulatory Framework

Feedback sought – current regulatory framework

Under the current regulatory arrangements, the legal obligation to ensure advisers meet the relevant training and competency standards falls on licensees. ASIC is responsible for ensuring that licensees comply with the conditions of their AFS licence.

Under the PJC model, responsibility for meeting (and ensuring compliance with) training and competency standards is expanded to individual advisers and professional associations.

Question 2.1

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

Subject to further detail, we do not believe that there would be any direct impact on the licensing process.

Question 2.1

Should licensees maintain a legal obligation to ensure advisers meet relevant training and competency standards?

Yes, licensees should still be required to ensure that advisers meet relevant training and competency standards.

Section 3. Education and Training Standards of Financial Advisers

Feedback sought — education and training standards of financial advisers

How would the PJC model interact with existing regulatory regimes for specific types of advisers, for example stockbrokers and tax advisers?

Under the PJC model, financial advisers providing personal advice on Tier 1 products would be required to hold a relevant Bachelor Degree.

The PJC model would be in addition to the existing regulatory regimes for specific types of advisers. We do not see an issue with this as each profession is expected to have its own accreditation and ongoing training process.

Question 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?

Financial advisers hold a position of responsibility and trust and we think that holding a relevant bachelor’s degree is an appropriate minimum education requirement. However, those without a bachelor’s degree who have significant practical industry experience should be exempt from this requirement.

Question 3.3

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

Under the PJC model, financial advisers providing personal advice on Tier 1 products would be required to undertake a professional year and ongoing professional development.

This requirement could, potentially, force advisers who are not in a position to undertake further study to obtain a relevant bachelor’s degree out of the financial advice market. On the other hand, a more highly regarded profession may encourage more people to undertake a bachelor’s degree to become an adviser.

Question 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?

We think the professional associations for advisers are best placed to answer this question.

Section 4. Structure and Role of a Standard-Setting Body

Feedback sought — structure and role of a standard-setting body

The PJC model would establish an independent FPEC as the central body to set education standards, professional year requirements, registration exam content and ongoing professional development requirements.

Under the PJC’s recommendations, FPEC would be funded by approved professional associations and would comprise representatives from those associations, academics, consumer advocates and an ethicist.

Question 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 perform its role?**
- **is the recommended FPEC membership appropriate?**

Our view is that establishing an independent body such as the FPEC would greatly assist to structure the profession and provide oversight from a central body. We strongly support such an initiative.

Question 4.2

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

We are not aware of other alternative arrangements that would be more appropriate or effective.

Section 5. Registration

Feedback sought — registration

Under the PJC model, individuals must be listed on the Register in order to practice.

We support a system of registration and central register of financial advisers, as long as the registration fee and process are not onerous. Industry should not have to pay an additional fee to add advisers to the register if a fee for notification of the appointment of the adviser to ASIC has already been paid.

Question 5.1

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

A central register of financial advisers will allow consumers to search for an adviser on the register prior to seeing them for advice.

Question 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?

The PJC recommends that, in addition to the information currently required to be listed on the Register, an adviser's completion of the relevant education requirements, professional year and registration exam, and their professional association membership, higher qualifications and any censure or ASIC action, also be listed.

We think that the professional associations would be best placed to answer this question.

Question 5.3

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

Having these criteria listed on a central register would allow for greater transparency of the qualifications of advisers and of any prior interaction with ASIC. There could be, however, potential privacy concerns about making such information public.

Question 5.4

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

The current Register requires licensees to provide information to ASIC about individual advisers. Under the PJC model this responsibility would be shifted to professional associations.

We think that the professional associations would be best placed to answer this question.

Question 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?

We think that the professional associations would be best placed to answer this question.

Question 5.6

Is legislative protection of the titles ‘financial adviser’ and ‘financial planner’ necessary?

We think that the professional associations would be best placed to answer this question.

Section 6. Exam

Feedback sought — exam

The PJC model introduces a registration exam at the end of the structured year of professional development.

Question 6.1

Do you consider a registration exam should be a component of a framework to improve professional standards? Should the exam apply to both existing and new advisers?

We support the introduction of a standard exam for existing and new advisers. We believe it is important that the costs of a standard exam should be kept at a reasonable level.

Question 6.2

What are the practical implications of the use of a registration exam?

We think that the professional associations would be best placed to answer this question.

Question 6.3

What content should be covered in the exam?

We think that the professional associations would be best placed to answer this question.

Question 6.4

Is FPEC the appropriate body to set the exam? Who should be responsible for invigilating the exam? Who should be responsible for marking the exams?

We think that the professional associations would be best placed to answer this question.

Section 7. Ongoing Professional Development

Feedback sought — ongoing professional development

The PJC model requires mandatory ongoing professional development for financial advisers.

Question 7.1

What are the practical implications of the proposed ongoing professional development requirements?

We are concerned that ongoing professional development requirements will increase the costs of financial advisers which may be passed on to consumers, impacting on the ability of consumers to obtain affordable financial advice.

Question 7.2

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

We think that the professional associations would be best placed to answer this question.

Section 8. Professional and Ethical Standards

Feedback sought — professional and ethical standards

Code of ethics

The PJC recommended that professional associations be required to establish codes of ethics that are approved by the PSC.

Question 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?

We believe that one code of ethics to cover the entire profession would be more professional and easier to administer than having multiple codes. It will also prevent 'forum shopping' by individuals to find the association with the most lenient rules. In a competition for members there is a risk that the codes could become more lenient than is desirable.

Question 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?

We think that the professional associations would be best placed to answer this question.

Role of the PSC

The PJC model uses the PSC as a key mechanism to drive continuing improvements in the professional standards of the financial advice industry. Under the PJC model, a professional association will need to have schemes approved by the PSC in order for its members to be registered as financial advisers, and for the association to be a member of FPEC.

Question 8.3

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

Yes we believe that the PSC would be the appropriate body to drive improvements in professional standards in the industry.

Question 8.4

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

We suggest that the PSC enter into a Memorandum of Understanding with ASIC and report to ASIC on membership, training requirements etc as it saw fit. We believe that the detail of this interaction should be left to the PSC and ASIC.

Question 8.5

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

Approval of a scheme under the PSC has previously meant capped liability for participants.

We think that the professional associations, ASIC and Government would be best placed to answer this question.

Question 8.6

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

We think that the professional associations, ASIC and Government would be best placed to answer this question.

Question 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?

We think that the professional associations, ASIC and Government would be best placed to answer this question.

Question 8.8

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

We think that the professional associations, ASIC and Government would be best placed to answer this question.

Role of professional associations

Question 8.9

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

We think that the professional associations, ASIC and Government would be best placed to answer this question.

For further information or clarification about any matter in this submission, please do not hesitate to contact us.

Yours sincerely


for **Gadens**