The Institute of Public Accountants

# Lifting the professional, ethical and education standards in the financial services industry

Consultation on 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

May 2015

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Partnership beyond numbers

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The Institute of Public Accountants (the Institute) welcomes the opportunity to provide input into the Treasury's review of the Parliamentary Joint Committee's (PJC) recommendations and looks forward to working with the Government as it establishes the appropriate professional, ethical and education standards for Australia financial advisers in the near future.

The Institute is one of the three professional accounting bodies in Australia, representing over 35,000 accountants, business advisers, academics and students throughout Australia and in 80 countries worldwide. Due to the recent convergence of the accounting and financial planning disciplines, a growing number of our members are financial advisers. The Institute prides itself in not only representing the interests of accountants and financial advisers but also those of retail clients. Accordingly, this submission has been prepared in the context of the Institute's ongoing advocacy on behalf of the various stakeholders within Australia's financial advice community and provides direct responses to the range of consultation questions contained within Treasury's Consultation Paper.

In general, the Institute is highly supportive of the majority of recommendations contained within the PJC model, particularly the requirements for advisers to be degree qualified and needing to undertake ongoing professional development in conjunction with becoming a member of an approved professional body, making them more accountable. The Institute believes that the combination of legal requirements, licence conditions and professional obligations can, as a whole, improve overall consumer protection. This solution could free up regulators and focus their resources on the core consumer protection role of preventing and prosecuting matters in relation to dishonest and fraudulent conduct.

We do, however, strongly oppose the recommendation that the professional bodies should fund the Finance Professionals' Education Council (FPEC). In our submission, we have proposed an alternative funding model. The Institute does not want good advisers exiting the profession and encourages appropriate transitional arrangements to be introduced to ensure that the number of departing authorised representatives is kept to a minimum.

We applaud the PJC for initiating the debate, through the release of their recommendations, on lifting the professional, ethical and education standards which we hope will transform the financial planning industry into truly becoming a profession. Although we are cognisant that these reforms would not totally eradicate misconduct, they will undoubtedly have the ability to raise these standards of the industry as a whole. We see this as a by-product which will benefit all retail clients.

We welcome the opportunity to discuss our recommendations in more detail with the Government and Treasury. Please address any enquires to [redacted], on [redacted] or [redacted].

Yours faithfully

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## 1. The PJC Model

***Question 1.1:*** *What impact would the introduction of the PJC model have on the structure of the financial advice industry?*

It is the view of the Institute that the introduction of the PJC model would have a significant impact on the structure of the financial advice industry on three levels. First, the introduction of the Finance Professionals' Education Council (FPEC), will add a new regulator that participants within the industry will need to report to. Second, the lifting of minimum education standards to a Bachelor Degree Qualification at Australian Qualification Framework (AQF) level 7 will, subject to appropriate transitional requirements, eliminate a high number of current authorised representatives. Third, the proposed requirement to be a member of a professional association approved by the Professional Standards Council (PSC) will have a direct impact to approximately three quarters of the adviser pool.

***Question 1.2:*** *What are the practical implications of the PJC model applying to advisers from all sizes and types of firms?*

It is the view of the Institute that the proposed PJC model should be applied equally to advisers working in different size firms and under different Australian Financial Services License (AFSL) structures. It is anticipated that there would be substantial teething problems for firms with authorised representatives who, on average, have low levels of education standards as there would be a substantial investment to raise them to the proposed AQF 7 level. More experienced advisers in the 'twilight' of their career will probably be unlikely to continue in the industry and will either retire or seek alternative employment. Accordingly, there may be a transitional period where the number of financial advisers who satisfy the requirements will be at its lowest, until such point that the education system is providing adequately qualified replacements. Given the nature of demand and supply, it is expected that the shortage in the employment market will force an increase in salaries which may not be affordable to smaller firms.

***Question 1.3:*** *Are the lines of responsibility clear under the PJC model?*

It is the view of the Institute that the lines of responsibility are not clear under the proposed PJC model, particularly with respect to the Australian Securities and Investments Commission (ASIC) and FPEC. Whilst the Institute supports a co-regulatory model where licensees, the PSC, FPEC and the professional associations will have a role in raising standards and ensuring these are met on an ongoing basis, there appears to be a few overlaps of responsibility, particularly with respect to registration. Ultimately ASIC will need to take ownership of the industry as a whole.

It appears that the introduction of FPEC would diminish the responsibility of ASIC as regulator which is disappointing as it is the view of the Institute that the regulatory agencies within the financial services industry are currently taking more of a 'reactive' rather than 'preventative' approach with respect to the provision of unethical and misleading financial advice. The current regulatory approach is, at best, 'light-handed' with relatively low thresholds with respect to licensing and a high dependency of self-assessment by licensees. The Institute notes that this approach may be the result of the regulatory agencies having responsibilities beyond the financial services sector with ASIC's main role being to oversee the *Corporations Act* 2001 to govern all corporations and auditors (both registered company and SMSF) as well as AFS licensees and their authorised representatives.

The Institute believes that the regulatory agencies should take a stronger, more proactive role to policing the financial services system to improve the prevention of the provision of unethical and misleading financial advice. However, this role should not be their sole domain but rather be shared, in a co-regulatory model capacity, between professional bodies within the industry, such as the IPA.

## 2. Key aspects of the current regulatory framework

***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?*

Under the proposed PJC model, the overlapping of the responsibility for meeting (and ensuring compliance with) training and competency standards to be expanded to individual advisers and professional associations will provide additional layers of comfort to the end users. However, the Institute is concerned that the duplication of effort is kept to a minimum so that advisers are not spending all their time on compliance matters, but rather the provision of good advice. Any recommendations must strike a balance where advisers have sufficient time to generate income for themselves.

***Question 2.2:*** *Should licensees maintain a legal obligation to ensure advisers meet relevant training and competency standards?*

Just like authorised representatives pre-FoFA had to 'know their client' and 'know their product', so too should licensees 'know their advisers'. They should know more about advisers than any other party in the proposed PJC model. Accordingly, the Institute considers it appropriate that the licensees should maintain a legal obligation to ensure advisers meet the relevant training and competency standards as per the current regulatory arrangements.

## 3. Education and training standards of financial advisers

***Question 3.1:*** *How would the PJC model interact with existing regulatory regimes for specific types of advisers, for example stockbrokers and tax advisers?*

It is the view of the Institute that financial planning, just like stockbroking, auditing, accounting and tax, is a separate discipline in its own right which requires participants to have specific skillsets. As such, advisers will need to adhere to the specific rules for the industry, regardless of involvement with any other related discipline. This is consistent with the accounting profession where members must meet additional ongoing professional development standards if they hold multiple registrations, such as tax agents and company auditors. The Institute would like to see the proposed FPEC take a similar role that the Tax Practitioners Board (TPB) plays in the registration of those who can provide tax advice.

***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?*

To help instil public confidence, it is the view of the Institute that a relevant Bachelor Degree qualification at AQF Level 7 is appropriate as the minimum education requirement for financial advisers providing personal advice on Tier 1 products. This is consistent to similar service-type professions, such as the law, accounting and medicine.

It is suggested that a 'relevant' degree be in business, finance or commerce and one that is suitably badged with a finance planning specialisation. The Institute would recommend that the degree be benchmarked against the Accounting and the Finance Learning Standards endorsed by the Australian Business Deans Council (ABDC). The 'relevant degree' should include the core body of knowledge in conjunction with the desirable financial planning knowledge areas as outlined in the National Curriculum Guidelines proposed by the FPA's Financial Planning Education Council in 2012 as well as the minimum standards prescribed in ASIC's Regulatory Guide (RG) 146. There should also be consideration of a 'capstone' subject which encapsulates all of these knowledge areas and replace the need for a proposed registration exam at the end of a professional year of development.

It is clear that this requirement would limit the ability of other degree-qualified individuals to become financial advisers. Accordingly, the Institute recommends that these individuals are required to sit further study to fulfil any identifiable gaps. We note that the Australian accounting profession has been implementing non-award conversion courses run by universities for many decades and would consider this a reasonable solution to those in this situation.

***Question 3.3:*** *What are the practical implications of requiring advisers to hold a relevant Bachelor Degree?*

The Institute believes that there are three main implications of requiring advisers to hold a relevant Bachelor Degree.

First, consideration must be given to the inclusion and treatment of existing advisers who do not hold a degree but have significant experience in the 'university of life'. This is discussed separately in section 9 in this submission.

Second, consideration must be given to the capacity of the university system to cater for the expected increase in their programs, including the development of conversion courses. The Institute believes that existing university providers of financial planning degrees would be able to meet the demand, with additional entrants likely to commence offering degrees.

Third, a consistent approach for any 'gap' analysis conducted across the industry for those that may have completed other degrees. The Institute is concerned that human nature is to do the bare minimum and that some advisers and licensees will be more aggressive rather than conservative in recognising prior learning.

***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?*

It is the view of the Institute that the introduction of a professional year is a good way of ensuring that recent financial planning graduates are provided with context, training and guidance from experienced financial planning professionals. However, the Institute believes that there are five main implications of requiring new financial advisers providing personal advice on Tier 1 products to undertake a professional year.

First, the professional year program needs to be consistent across advisers from all sizes and types of firms. This will require the drafting of an appropriate program, as well as training and monitoring of the experienced professionals who will oversee it.

Second, there will need to be a clear definition of what types of experienced financial planning professionals can act as mentors to new graduates. As the financial planning 'profession' will be in its infancy, there may not be adequate numbers of experienced finance planning professionals who will satisfy appropriate education standards nor professional memberships themselves.

Third, the introduction of a professional year, in conjunction with a three year Bachelor degree, may deter new entrants based on the time taken to earn an income. Smaller firms may be reluctant to train new graduates as it delays their return on investment and shift students to larger organisations. This would be a major concern for 'independent' and 'non-aligned' firms which often tend to be smaller. Consideration could be given to combining the relevant work experience component in conjunction with the tail end of a degree, including credit for any work integrated learning experiences that students may undertake.

Fourth, some firms will not be able to provide the necessary breadth and depth of experience as desirable under any such professional year program. Accordingly, there may be a need for supplementing the program with structured training courses.

Last, if the professional year program is to be supplemented with regular structured training courses, the Institute is concerned with who would run these courses, who will pay for them, what topics will be covered and how they would be interlinked, if at all, with a registration exam (if introduced).

## 4. Structure and role of a standard-setting body

***Question 4.1:*** *What are the practical implications of FPEC performing this role?*

The Institute believes that there are four main implications around the role of FPEC as the central body to set education standards, the professional year program, registration exam content and ongoing professional development requirements.

First, the Institute strongly opposes the recommendation that the professional bodies should fund FPEC. Aside from questions of equity of determining the appropriate share of payments from each of the relevant bodies, the imposition of an additional levy to cover the running of FPEC would be frowned upon by existing members of professional bodies. For example, the IPA (and CPA Australia and Chartered Accountants Australia and New Zealand (CAANZ)) already contribute a significant amount to the co-regulatory model, including fees to the International Federation of Accountants (IFAC), the Accounting Professional & Ethical Standards Board (APESB), the PSC and costs for the mandatory quality assurance process. Excluding internal costs, the total is over $1.3 million. This is paid from member subscriptions and other revenue generated. Instead, we propose that an annual or triennial registration fee payable by registered financial advisers themselves would be a more appropriate funding model. This is consistent with the funding model for the Tax Practitioners Board (TPB).

Second, FPEC's responsibilities must be clearly defined. The Institute would support the introduction of legislation to assist it in order to perform its role. In particular, we suggest that the interaction between FPEC and ASIC, including which organisation is responsible for what, to avoid uncertainty.

Third, in addition to a clear definition of their responsibilities, there also needs to be an appropriate terms of reference written for FPEC including the number of times that it meets each year and instances where resolution is required for differing viewpoints. While the Institute opposes a registration exam (as discussed in section 6), there would also need to be consideration for FPEC-member time and budget constraints.

Last, while the Institute supports the membership of FPEC to include approved professional associations, academics, consumer advocates and an ethicist, it should also include other representatives on the supply-side of the industry, namely licensees/dealer groups and authorised representatives/advisers. With respect to academics on the board, the Institute would like to make an early recommendation, namely Dr Adrian Raftery, course director at Deakin University, and his counterpart at Griffith University, Dr Mark Brimble.

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

The Institute suggests that Treasury consider the model adopted by the tax profession where the TPB is responsible for the licensing of registered tax agents as well as setting the benchmarks for minimum education requirements. The TPB is also responsible for the public disclosure of the register of tax agents, although the Institute would recommend more disclosure of a similar register for financial planners as suggested in section 5.

## 5. Registration

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

The Institute would encourage any mechanism that could ensure financial planners who have been found to have breached any law or professional standards in either their employment or in business are transparent, for both the sector and consumers. The Institute, in particular, is fully supportive of a national, centralised register of AFSL holders and their authorised representatives but considers that there are three main implications of listing individuals on ASIC's register of financial advisers in order to practice.

First, the accuracy of the information placed on the register of financial advisers is paramount. Of concern to the Institute is the ability of advisers to self-report under the new ASIC register without substantiation. A registration process should be required where a database is maintained by the regulator with appropriate cross-checks and data-sharing with the relevant professional bodies and training providers. It is expected that there would be significant time required for the establishment up-front to prepare an accurate database, but that should be alleviated with a gradual phasing in of the registration of existing financial advisers by 1 January 2018 under the proposed PJC model.

Second, the currency of information provided on the register of financial advisers needs to be kept up-to-date on a regular basis. A solution to this might be a requirement for advisers to pay an annual re-registration fee which is prompted by an annual statement of details, akin to ASIC's existing annual return process for all registered Australian companies. In addition, the Institute would encourage the imposition of set period/s that the licensees or advisers need to update certain material information.

Last, the information contained within the register of financial advisers needs to be easily accessible to clients (and potential clients). There will also be a need to educate the general public for this information. The Institute recommends that information contained on the public register should also have an equivalent entry in the Financial Services Guide provided to clients and on the practice's website.

***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 Institute suggests the database is maintained by the regulator with appropriate cross-checks and data-sharing with the relevant professional bodies and training providers. We suggest that the onus is on the individual adviser to provide the registrar with the accurate information, overseen by the licensee. The professional bodies, in the opinion of the Institute, should not have to carry the additional responsibility of having to notify the regulator, except in situations where warranted such as breaches and disciplinary actions.

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

The Institute supports the PJC recommendation 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. The main implication is that this information is easily accessible to the public, who have been educated by the regulators to actively look for it. This is a positive step towards instilling trust and confidence by the public which has been sadly lacking in the financial planning industry.

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

The Institute envisages that information disclosed on the register would be of a similar nature to that required to be presented in a Financial Services Guide (FSG) including:

a. the name of the financial adviser;
b. their registration number;
c. their contact details, including address;
d. their status;
e. their experience (including under previous licensees);
f. their qualifications, including year/s of completion/s;
g. any professional association memberships;
h. the name and contact details of their licensee, including date of commencement as authorised representative;
i. details, if any, of ownership of the AFSL;
j. any other breaches of relevant laws or professional standards;
k. any business name that they may trade under; and
l. the name of the parent and ultimate parent companies (where applicable) of their AFSL.

Other criteria might include:

m. what product areas that the financial adviser can provide advice on;
n. what product areas that the financial adviser cannot provide advice on;
o. any associations or relationships with financial product issuers;
p. information of external dispute resolution schemes to which the consumer would have access to; and
q. any bans, disqualifications or enforceable undertakings.

The Institute notes that the current 'Banned and Disqualified Adviser' register currently available on the ASIC website should be incorporated within the existing 'Professional Register' to assist with the production of this centralised register.

***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?*

The Institute rejects the recommendation by the PJC to shift the responsibility of providing information to ASIC about individual advisers to professional associations. This responsibility should remain with licensees, in conjunction with the individual advisers, with confirmation ideally on an annual basis via re-registration. We support the sharing of information with the regulator to provide appropriate cross-checks where it would be the responsibility of the regulator to identify any discrepancies.

***Question 5.6:*** *Is legislative protection of the titles 'financial adviser' and 'financial planner' necessary?*

The Institute supports the recommendation of the PJC to provide legislative protection for the 'financial adviser' and 'financial planner' titles.  Further, the Institute would also support an extension to protect the title of 'accountant', particularly in light of convergence of financial planning and accounting in recent times.

## 6. Exam

***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?*

The Institute does not consider that a registration exam should be a component of a framework to improve professional standards as it has a number of limitations as outlined below. If introduced, the Institute would recommend that the registration exam be limited to new graduates at the end of the structured year of professional development.

***Question 6.2:*** *What are the practical implications of the use of a registration exam?*

The Institute believes there are five main limitations concerning the use of a registration exam.

First, there is considerable time, effort and cost involved in the preparing and updating of exam content and supporting training materials. With advisers commencing employment at different times of the year, there would be a need to offer the exam at least two or three times per year which will add considerable cost to the production and marking of it. The Institute proposes that the curriculum for relevant degrees should be sufficiently tailored by FPEC so that the responsibility rests with the university providers. Ideally, the relevant degree should include a 'capstone' unit which encapsulates all of the desirable financial planning knowledge areas that an adviser should acquire.

Second, learning outcomes considered desirable from a professional year program are softer rather than technical, and as such may not be easily examinable in a formal examination process (which usually places an emphasis on technical).  There would need to be a strong link with the professional year program with a greater emphasis placed on more authentic assessment where graduates need to develop and communicate strategies contained with a fully-compliant Statement of Advice (SOA).

Third, financial advisers have plenty of opportunities in the market place to differentiate themselves with additional qualifications.  Within the education environment, they may choose to undertake study at AQF Level 8 (graduate certificate or diploma) or Level 9 (Masters). Furthermore, most approved professional bodies already have their own exams.

Fourth, it would not be cost-effective to supervise students across the nation for sitting the one-off exam at various locations and times throughout the year.  While the bulk of graduates will be in the major capital cities, consideration needs to be made for those working and living in regional areas.

Last, the Institute does not feel that a two or three hour exam could adequately incorporate all of the potential exam topics that a 'capstone-like' exam this should cover.

***Question 6.3:*** *What content should be covered in the exam?*

Although opposed to the idea of one, the Institute feels that the content of a registration exam should incorporate all of the financial planning knowledge areas prescribed in the Financial Planning Education Council's national curriculum guidelines as well as RG146. Greater emphasis, however, should be placed on more authentic assessment such as the preparation and presentation of strategies contained with a fully-compliant SOA which would go beyond any two or three hour time interval. An exam, in this instance, would probably not be an appropriate setting to conduct such assessment.

***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?*

If introduced, the Institute considers that FPEC would be the appropriate body for all steps in the registration exam process, from creation through to invigilating and marking.

## 7. Ongoing professional development

***Question 7.1:*** *What are the practical implications of the proposed ongoing professional development requirements?*

The Institute believes there are three main implications with respect to the proposed mandatory ongoing professional development financial advisers.

First, there needs to be a guideline for the minimum amount of continuing professional development (CPD) expected as this would eliminate part of the concerns of achieving a level of cross-industry standardisation. The Institute proposes that a minimum level be set both annually (say 30 hours) and either biennially (80 hours) or triennially (110 hours). This will require advisers to do some professional development yearly but allow them flexibility in obtaining the sufficient hours across a few years.

Second, after determining the minimum amount of CPD hours, there also needs to be a guideline (including definition and examples) of the split between structured and unstructured training. The Institute suggests a split of 60% structured and 40% unstructured.

Last, the Institute suggests that accurate assessment of the 'value' of an hour of CPD is standardised across the different assessors within the industry.

***Question 7.2:*** *Are professional associations well-placed to administer ongoing professional development requirements?*

The Institute considers that PSC-approved professional associations are well-placed to administer ongoing professional development requirements with all having extensive experience in setting, monitoring, delivering and assessing appropriate CPD.

## 8. Professional and ethical standards

***Question 8.1:*** *What are the practical implications of having each professional association create its own code of ethics?*

The Institute supports the PJC's recommendation requiring advisers to become members of an approved professional body. In addition to the relevant regulations, these advisers will be subject and accountable to that particular body's professional and ethical standards with appropriate disciplinary action to be taken as required for breaches of the standards. The Institute believes that the combination of legal requirements, licence conditions, professional and ethical obligations can, as a whole, improve overall consumer protection. This solution could free up regulators and focus their resources on the core consumer protection role of preventing and prosecuting matters in relation to dishonest and fraudulent conduct.

The main implication for having professional associations each establishing their own code of ethics that are approved by the PSC, is that they may not be consistent across the multiple codes and provide scope for some bodies to be more lenient than others.

The Institute understands that most of the approved professional bodies already have developed their own code of ethics, which may save time for each organisation to partake in the production of a single one. The IPA, with CPA Australia and CAANZ, are members of the APESB; and accordingly are responsible for imposing and enforcing the Code of Ethics (APES 110) on their respective members. The Code of Ethics is based on the international code of ethics for accountants which is promulgated by IFAC.

Although we are cognisant that these reforms would not totally eradicate misconduct, they will undoubtedly have the ability to raise the professional, educational and ethical standards of the financial services industry as a whole. We see this as a by-product which will benefit all retail clients.

***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?*

The Institute is supportive of the proposal by the PJC that requires each code of ethics to be approved by the PSC. We do not propose an alternative approach that would be more appropriate or effective.

***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?*

The Institute supports the PJC recommendation to use the PSC as the appropriate body to drive continuing improvements in the professional standards of the financial advice industry. We do not propose an alternative approach that would be more appropriate or effective.

***Question 8.4:*** *What are the practical implications of having the PSC perform this role?*

The Institute believes the main practical implication with having the PSC perform this role is the interaction that the Council would have with ASIC to ensure that the codes of ethics it approves are consistent with the ongoing requirements of the financial advice industry.

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

The Institute believes that the main implication of requiring professional associations to hold a PSC-approved scheme is that there needs to be an opportunity/avenue/mechanism for professional bodies to be able to dispute any unfavourable decision by the Council in relation to their code of ethics.

***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?*

The Institute believes that it is appropriate that liability in relation to financial advice/services is limited, consistent with PSC approvals of schemes in the past. While limitation of liability is not a necessary element for the operation of the PJC model, it does provide more certainty for participants.

***Question 8.7:*** *What are the practical implications of capping liability?*

The Institute believes there the main implication of capping liability is that there might be a need to change the professional standards legislation in all Australian jurisdictions (that is, Commonwealth and state/or territory legislation). These changes would enable the PSC to approve the schemes for professional bodies in each mainland state and territory which limit the civil liability of members in exchange for a commitment that they will hold professional indemnity cover of a certain standard and the relevant professional body will work to improve the professional standards of members.

***Question 8.8:*** *Would an alternative arrangement, under which a scheme's approval would not limit liability, be practicable?*

The Institute does not believe it would be practicable for an alternative arrangement under which a scheme's approval would not limit liability.

***Question 8.9:*** *What are the practical implications of mandating membership of a professional association?*

The Institute is supportive of mandatory membership of a professional association for advisers. We believe there are three main implications relating to mandatory membership.

First, with approximately three quarters of the 50,000+ population of authorised representatives not currently a member of a professional association, there will be a surge to affiliate with one of these approved bodies. This will come with its own set of disappointments as a number of applicants will not satisfy existing criteria for a number of these bodies. In order to prevent the exiting of a large number of advisers, the Institute believes that appropriate transitional provisions should be developed for advisers of good standing. One option may be a type of provisional or conditional membership of a professional association. Further, it may be that given convergence between the accounting and financial advisory sectors, that mandatory membership be extended to anyone who provides financial advice at any level. This will ensure consistent regulation and preclude opportunities for arbitrage.

Second, there would be an expected additional cost to advisers, both in terms of annual membership but also adherence to the professional, ethical and ongoing CPD requirements for the relevant body. This additional annual cost would be borne by either the adviser or passed onto the retail client.

Last, there will be increased responsibility on professional associations, although the Institute proposes that the ultimate responsibility remains with the AFSL holder and its advisers.

## 9. Other issues for consideration

***Question 9.1:*** *How could the PJC model interact with the existing Tier 2 adviser training and competency requirements?*

The Institute suggests that FPEC, in conjunction with its role for Tier 1, could set the minimum standards required for advice related to Tier 2 products, but it would remain the responsibility of ASIC to enforce them.

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

The Institute considers FPEC, due to the different representations in the membership, to be the best entity to determine transitional arrangements for existing advisers and advisers wishing to move within the industry.

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

The Institute considers Recognised Prior Learning, in conjunction with relevant work/industry experience, to be a suitable transitional arrangement for existing advisers. The Institute proposes that those who have held a Public Practice Certificate for more than five years or advanced standing with an approved professional body should be registered automatically under the proposed system. We strongly believe that it would be contrary to the public interest if accountants who provide financial advice were forced to exit the sector, especially given their 'trusted adviser' status.

***Question 9.4:*** *What is an appropriate timeframe over which existing advisers should transition to the new system?*

The Institute considers the proposed timeframe by the PJC of 1 January 2018 to be appropriate for existing advisers to transition to the new system.

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

As discussed briefly in section 3.2, the Institute recommends that non-award conversion courses could be run by universities for advisers who have identified a gap between their prior learning & the education requirements proposed under the PJC model.

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

The Institute is concerned that due to delay in Government response to the original PJC report, it may be unlikely that the FPEC will establish education standards by June 2016 and all professional associations operating under a PSC-approved scheme by 1 January 2017. Given the requirement to complete an approved three year Bachelor degree, together with a further professional year, an extension may also be required for all advisers (new and existing) to be fully registered from the scheduled date of 1 January 2019.

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

The Institute considers the implementation timeline proposed by the PJC effectively balances the recognised need to raise standards and competency in the short-term against practicalities of implementing a new model to raise standards of new and existing advisers over the longer term. The only concern that the Institutes identifies, as noted in response to the previous question, is the delay in the Government in endorsing the PJC's recommendations will have a direct impact in the timing of the implementation of the proposals.

## 10. Regulation impact

***Question 10.1:*** *How many/what proportion of financial advisers are likely to be affected by the introduction of a new professional standards framework (such as that proposed by the PJC)? If you are a licensee, how many/what proportion of your advisers would likely be affected?*

Anecdotal evidence suggests that three quarters of financial advisers are likely to be affected by the introduction of the new professional standards framework proposed by the PJC. We envisage that approximately ten to twenty percent of the Institute's members who are authorised representatives would likely be affected. This number will grow in the next 12 months leading up to the removal of the accountants' exemption under the Future of Financial Advice reforms on 30 June 2016.

***Question 10.2:*** *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)?*

Anecdotal evidence suggests that one quarter of financial advisers working in the industry are typically new entrants (that is, those who have been in the industry for less than five years). We envisage that approximately up to half of the Institute's members who are authorised representatives would be new entrants.

***Question 10.3:*** *What is the typical education level of financial advisers? If you are a licensee, what proportion of your advisers hold a relevant tertiary degree?*

Anecdotal evidence suggests that approximately only one third of financial advisers would hold a relevant tertiary degree. The majority of advisers would have only satisfied the minimum RG146 requirements which are the equivalent of AQF Level 5 (Diploma). We estimate that up to approximately 80 per cent of the Institute's members who are authorised representatives would have a relevant degree or qualification.

***Question 10.4:*** *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(s)?*

Anecdotal evidence suggests that three quarters of financial advisers are not members of an approved professional body, such as the IPA. We note that the accounting and tax professions do not require membership with a professional association.

***Question 10.5:*** *What are the likely costs (labour and non-labour costs) associated with the various elements of the PJC model? Are costs likely to vary between different size advice firms, different professional associations, etc? If so, how?*

Anecdotal evidence that the bulk of the costs associated with the proposed PJC model will likely be borne directly by individual financial advisers and ultimately passed onto the retail client. These costs will include the completion of a Bachelor degree (approximately $30,000 over three years for Commonwealth supported places which can be deferred under the HELP scheme), the annual membership to a professional association (in the vicinity of $500 to $1,000 per annum depending on the body), annual structured CPD (in the vicinity of $1,500 to $3,000 based on 30 hours per annum) and the potential registration fee as a financial adviser via ASIC/FPEC (estimated to be $400 per annum). This excludes any registration exam fees as the Institute does not recommend its introduction.

Any increases in costs by professional associations are likely to be subsidised by an increased fee in the annual subscription paid by the individual adviser. The Institute, as discussed in section 4, strongly opposes the cost of running FPEC to be shared by the approved professional bodies. We have proposed an alternative funding model, where the individual adviser pays an annual registration fee directly to FPEC (estimated above to be $400 per annum).

AFSL holders have indicated that they will most likely deflect most costs directly back to their advisers citing the cost of compliance and/or licensing to ultimately be the individual's responsibility. However, with the proposed introduction of the professional year program, there will be an opportunity cost for both experienced financial advisers in mentoring (estimated to be $20,000) as well as the first year's salary for each graduate (the median starting salary for a Bachelor graduate is estimated to be $45,000).

Larger firms may specifically hire a new staff member to oversee the professional year programs at their organisation (estimated to be $80,000 per annum for manager level), an impost which is too great for smaller firms who would not be able to generate economies of scale.

***Question 10.6:*** *Are there alternative options (other than the PJC model) which would provide an enhanced cost-benefit outcome?*

As discussed throughout this submission, the Institute is highly supportive of the majority of recommendations contained within the PJC model. Accordingly, we do not recommend an alternative model for raising professional standards.

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