

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

Consultation on recommendations of the PJC inquiry

State Super Financial Services (SSFS) submission

State Super Financial Services ('SSFS') welcomes the opportunity to comment on the consultation relating to Lifting the professional, ethical and education standards in the financial services industry.

SSFS supports the proposed reforms and has provided recommendations which we believe will be critical for the industry to become a recognised profession.

### Introduction

SSFS is a financial planning firm primarily delivering advice to current and former public sector employees, in particular New South Wales and Commonwealth public sector employees. It is a national firm and currently has 160 financial planners listed on Australian Securities and Investments Commission's (ASIC) financial advisor register.

Outside of the banks, AMP and IOOF, SSFS is one of the largest financial planning firms in Australia.

SSFS requires all of its planners to be a member of a professional body, specifically the Financial Planning Association.

We believe this is the only body in Australia which currently qualifies as a genuine professional body for financial planners.

Around 65 percent of SSFS financial planners hold the Certified Financial Planner (CFP) designation and most of our remaining planners, who are younger planners, are studying to obtain this qualification. Our objective is to maintain close to 100 percent of our financial planners having this qualification.

SSFS is also establishing a graduate recruitment program so that we attract high quality graduates with a Financial Planning Degree from various universities around Australia which enables them to immediately qualify to join the Financial Planning Association (FPA) and move efficiently through the proposed professional year program as well as continue their studies toward attainment of the Certified Financial Planner designation. We see this as particularly important for our future growth, as a means of identifying and developing high quality financial planners in an environment where we expect the overall population of financial planners to decline significantly in the short term.

SSFS supports the PJC recommendations subject to some comments about the transition path for existing planners.

We believe that the proposed model will materially assist the establishment of financial planning as a genuine profession in this country similar to other professions such as law, accounting, actuarial, medicine and so forth.

We believe that it is very important to distinguish between the financial planning profession and the financial planning/wealth management industry. One of the key objectives of the introduction of the PJC model should be to ensure that the profession is created and grows and develops independently of the industry, as is typically the case in other professions. This means that individual financial planners need to see themselves as a professional person bound by a standard of ethics and principles, rather than being forced down that path by their employer.

One comment we would make in relation to the PJC proposals, is that we think there would be significant benefit in the establishment of a profession if there were only one professional body approved for financial planners. In the current environment this would have to be the Financial Planning Association.

#### 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.*

- 1.1 SSFS believes that the introduction of the PJC model will not have any significant impact on organisations which already have a professional financial planning workforce and are evolving as a professional services organisation. We would expect that the structure of the industry will not necessarily change as a result of the PJC recommendations, based on how other professions operate, where there are typically numbers of members employed in large organisations (including large professional services firms such as the big four accounting firms) and also large numbers of small boutique operators operating as suburban professionals.

#### 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.*

- 1.2 We do not see significant issues here provided that there is a clear understanding of the requirements on the one hand, for individual financial planners (no matter what size firm they belong to), to maintain their professional standing within their professional body and on the other hand, the requirements of the licensee to ensure that it meets its obligations. This latter part will vary across firms of different sizes but the professional requirements should be common across all advisers.

### Question 1.3

Are the lines of responsibility clear under the PJC model?

1.3 There will be a need to clarify lines of responsibility under the PJC model but in general, SSFS feels that the approach proposed is workable. In every profession, there is a distinction between the requirements of the profession for its individual members and the relevant industry and the regulatory requirements for licensees in that industry in relation to their employees. Financial planning is no different in this regard from other professions and it should be possible to establish the separate requirements for individual professionals and licensees. It may be that in certain circumstances, licensees will be able to rely on the professional body standards as happens in other professions (eg. educational requirements, for example ongoing professional development).

### 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?**

2.1 SSFS' approach to this is similar to our answer to 1.3.

### Question 2.2

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

2.2 Yes definitely the licensee should definitely maintain a legal obligation to ensure advisers meet relevant training and competency standards and that they are in fact registered. It will also be important that the professional body or bodies monitor compliance with their ongoing professional development as well as compliance with their code of ethics.

## Feedback sought — 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?

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

3.1 All advisers who are giving advice to retail clients on Tier 1 products should be required to live within the PJC model and be a member of the professional body. Clearly there are overlaps with other professions such as tax advisers and the education framework and other requirements should take into account the requirements from related professional bodies.

### 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?**

3.2 A relevant Bachelor Degree is the appropriate minimum education requirement as is normal for most professions. The relevant Bachelor Degree should be determined by the professional body in conjunction with the proposed Financial Planning Education Council (FPEC) and it should be available through multiple institutions. The way these situations normally work, is that institutions seek ratification from the professional body that their courses meet the specific education requirements of the profession and this should be the modus operandi for financial planning. This means that the professional body in conjunction with the FPEC sets the standards and will then work with relevant training organisations to approve their degree programs for the purposes of entry to the profession.

It is appropriate that the ability of other degree qualified individuals to become financial planners should be limited to the extent that they do not have the qualifications required to advise on Tier 1 retail products. Clearly there will be overlap in the requirements and the normal course is for the professional body to give exemptions from certain subjects for people with other degrees and to define faster paths to qualification.

### 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.***

3.3 Clearly the key issue here is for existing advisers who do not have a relevant degree. We will comment on this in the transition program, but the simplest approach would be to require those advisers to pass the registration exam and also require them to belong to the professional body. In order for the professional body to be approved by the Professional Standards Council, it should outline clearly how it is going to deal with people in this situation.

For new advisers entering the industry, there are no specific practical implications as there is a number of universities providing a quality Financial Planning Degree today and it would be expected that the number might expand once these requirements are in place.

#### 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?**

- 3.4 We have no problems with the practical implications of a professional year for new advisers. We already provide this kind of supervision of younger planners or new advisers and the requirement for the professional year in conjunction with the profession would just formalise what we are already doing today. Again this is similar to most professions where either a year or potentially up to three years of supervision and mentoring is required before a professional can undertake activities on their own account.

#### 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?

- 4.1 FPEC's role in relation to other regulators such as ASIC and education bodies should be that it takes over their education setting standards (eg. RG146) so that there is not a competing set of standards. It would seem likely in these circumstances that it would be useful to have representatives from ASIC and other relevant bodies represented on the FPEC as well as the professional bodies, academics, consumer advocates and ethicists.

Ideally the FPEC would not be funded by the industry so that it is seen to be more independent of the industry and financial planners. However, it is unlikely that there will be funding available to establish the FPEC so for now it may have to be funded by the professional body, which in turn is likely to be funded by a levy on planners.

It is desirable that legislation be passed to establish FPEC particularly if it is to be funded by industry. Longer term, the role and functions of the FPEC should look to be taken over by the professional body.

#### Question 4.2

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

- 4.2 SSFS does not have a strong view, but it may be appropriate that FPEC is not entirely a self-regulating body and that it should have some linkage to either a Board or to a Minister. This will allow other voices to be heard from experienced professionals in the industry for example, as well as maintaining independence from the professional body.

#### Feedback sought — registration

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

#### Question 5.1

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

- 5.1 The registration of individuals should be a reasonably straight forward exercise and should be controlled by the relevant professional body. Once a person is a member of the professional body and has completed their qualifications they could be listed as a member, but not a practicing professional. Then on completion of the registration exam and the professional year, they become a fully-fledged member of the professional body who could then advise ASIC to include their details on the register. Whilst SSFS has not undertaken a fully costed assessment of the changes that will be required, initial estimations are northward of \$1 million to ensure educational compliance with the new requirements.

#### 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.*

- 5.2 Answer is covered above.

#### Question 5.3

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

- 5.3 SSFS strongly supports these criteria being listed on the Public Adviser Register and that the Register be made very easily usable by consumers, industry participants and other professionals.

#### 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.***

5.4 The only additional piece of information that SSFS would like to see listed on the Register is the reason for an adviser leaving a licensee. This could be as simple as resignation, retirement, death or company termination. This would be very helpful for licensees in recruiting and carrying out reference checking on advisers.

#### 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?**

5.5 SSFS supports this proposal even though it would require additional resources for the professions, but the professional body should be the organisation which controls these details in relation to its members and must be on top of them itself all the time. It is another reason for only having one professional body. SSFS does not believe this approach in any way dilutes responsibility of licensees.

#### Question 5.6

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

5.6 SSFS believes that legislative protection of the titles ‘financial adviser’ and ‘financial planner’ is necessary to ensure consumer confidence in the title, that consumers can be certain that a financial planner is qualified and does belong to a professional body.

#### 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?**

6.1 SSFS agrees that a registration exam should be a component of a framework to improve professional standards. This is common in most professions. Further work is required to think about how this would apply to existing advisers but in principle, existing advisers who are members of a professional body already, should be required to either complete the required AQF7 education requirement or elect to sit and pass the registration exam.

#### Question 6.2

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

6.2 This is a normal approach in most professions that there is some kind of registration exam and we would see the financial planning professional bodies adopting a similar approach to the other professions.

#### Question 6.3

##### **What content should be covered in the exam?**

6.3 The content should cover reasonably detailed information in core advice areas and certain specialised subject areas. The proposed FPEC core curriculum provides a good starting point for the content.

#### 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?**

6.4 FPEC should be the body to set the exam in conjunction with the professional body to ensure that appropriate standards are being met. Invigilating and marking can be outsourced to other educational bodies.

#### 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?**

7.1 Ongoing professional development is already in place in SSFS for our financial planners and we would not see any difficulties in continuing with the proposed ongoing professional development requirements.

#### Question 7.2

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

7.2 The professional body has to be the body that administers the ongoing professional development requirement and ensures that its members maintain their professional capability and 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?**

8.1 SSFS as a licensee, would find it very difficult to have to manage multiple codes of ethics. This is another reason for simply having one professional body with one code of ethics. It is much easier for an organisation like SSFS to then align our own code of ethics to the professional body as we currently do with the FPA. In addition, having multiple codes of ethics is almost a contradiction in terms from a consumer's perspective and could lead to arbitrage on ethical issues including the way that the professional body interprets the ethical code.

#### 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?**

### *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.***

8.2 It is essential that the code of ethics of any profession body be approved by the PSC along with the other requirements such as educational standards and discipline procedures.

#### 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?**

8.3 The PSC definitely has a role in driving improvements in professional standards. In addition, the professional body or bodies will be key players in this, and one would expect over time that they would take a higher role in maintaining and improving professional standards for financial planners. Clearly the FPEC educational standards are a component in this as well.

#### Question 8.4

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

8.4 The PSC should focus on the professional standards role and ASIC can move out of its involvement with educational standards and focus on regulation of the industry as a whole, including the financial planning profession.

#### 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.***

8.5 Simply that their standards will have to be high enough to match those of other approved professional bodies – another argument for having only one approved professional body.

#### 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?**

8.6 SSFS considers that a limitation of liability regime along the lines of that prescribed by, and mandated under, Professional Standards Legislation (through which liability for members of the accounting and legal professions, for example, are limited) is consistent with, and indeed a necessary function of, a true “profession”. As is the case with the accounting and legal professions, advisers need to be able to provide financial planning services competently and confidently without the ongoing threat of claims (in particular for negligence) which could have potentially catastrophic financial consequences. The public policy rationales underpinning the imposition of the Professional Standards Legislation and the associated limited of liability for other professions should equally apply in respect of the financial planning profession. SSFS notes an excellent paper from the Law Council of Australia in 2000 which explains the importance of limited liability for professional services, the link to which is as follows (<http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z/docs/professionalstandardssubmission.pdf>). Whilst the paper discusses the policy rationales in the context of the legal profession, we consider that the principles could and should equally apply in the context of the financial planning profession.

#### 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?**

8.7 Professional Standards Legislation is generally state-based. For example, in NSW the relevant legislation is the *Professional Standards Act 1994* (NSW). The operative provisions of the NSW Act prescribe that an “occupational association” (being a body corporate which represents the interests of an occupational group and in which membership is generally limited to that occupational group) may create a “scheme” for limiting the liability of members of that occupational association. A good example is the Law Society of New South Wales Scheme for the benefit of lawyers holding NSW practising certificates. SSFS considers that very little if any legislative amendment would be required to the NSW Act to accommodate the establishment of such a scheme for the benefit of, say, members of the FPA, subject to the approval of the Professional Standards Council. Indeed, participation in such a scheme should be accepted as being an inevitable outcome of the “professionalization” of the financial planning industry. More importantly, there exists a legislative framework through which a financial planning scheme could be approved.

#### Question 8.8

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

8.8 A true financial planning profession, over which presides an "occupational association" for the benefit of advisers, should be welcomed. SSFS strongly endorses all measures through which a true profession is ultimately derived.

#### *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?**

8.9 There are no practical implications. No-one can be called a professional if they are not a member of a relevant professional association. There are implications from increased responsibility on professional associations, but this is an essential requirement of a profession that they take responsibility for their own standards of behaviour, discipline and ethics and that each of their members also takes that responsibility both individually and collectively as a member of the profession.

#### Feedback sought — other issues for consideration

#### *Advice on tier 2 products*

#### Question 9.1

**How could the PIC model interact with the existing Tier 2 adviser training and competency requirements?**

9.1 No comment

#### *Transitional arrangements*

#### 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?**

9.2 FPEC should be the starting point operating in conjunction with the relevant professional bodies to determine the transitional arrangements for existing advisers.

#### Question 9.3

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

9.3 There will need to be a degree of flexibility around transitional arrangements for existing advisers; the key is that the standards include being a member of a professional body and meeting relevant minimum education requirements.

#### Question 9.4

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

9.4 Answer is covered above in 9.3.

#### Question 9.5

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

9.5 Answer is covered above in 9.3.

#### *Timing*

*The PJC recommended an implementation timeline that would see FPEC establish education standards by June 2016, professional associations operating under a PSC approved scheme by 1 January 2017 and all advisers (new and existing) to be fully registered by 1 January 2019.*

#### Question 9.6

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

9.6 SSFS is comfortable with the timing proposed for implementation of the PJC model.

#### 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?**

9.7 SSFS anticipates achieving the requirements by the proposed deadline.

#### Feedback sought – Regulation impact

*To help inform the RIS process, which will consider a range of policy options (one of which would likely be the introduction of the PJC model), we are seeking information on the current structure and education of the industry.*

#### Question 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?**

Question 1 – All of the SSFS financial advisers will be affected by the new professional standards framework and we will require all of them to submit to the registration exam etc. As mentioned earlier, all of the SSFS advisers are already members of the Financial Planning Association.

#### Question 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)?**

Question 2 – SSFS has been growing its adviser numbers at around 10-15% per annum over the last few years, and we expect this to continue i.e. we have a continuing demand for new advisers. Historically, we have recruited about 50% of our growth requirement from the industry and built the rest through internal promotions. In future we would expect that more than 80% will come from internal development starting with a graduate recruitment program.

#### Question 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?**

Question 3 – The majority of SSFS' financial planners hold a degree or equivalent qualifications. As mentioned earlier, 65% of our advisers today also hold the Certified Financial Planner designation and the balance are on their way to achieve that over the next few years.

#### Question 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)?**

Question 4 – 100% of SSFS advisers are members of the FPA.

*The PJC model would represent a substantial change to current requirements.*

#### Question 5:

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

- individual financial advisers;
- professional associations; and
- licensees.

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

*The RIS will canvass various options and models for raising professional standards.*

Question 5 – Estimates of the education costs have been outlined in 51. It should also be noted that there is likely to be some structural adjustments to the industry as planners, unable to meet the required minimum standards, leave the industry.

**Question 6:**

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

Question 6 – There may be alternate options, but on reading the original PJC proposals, SSFS felt that it was a very good model and one to which we could agree with relatively minor adjustments.

**In Summary**

SSFS has always been committed to establishing our place as an organisation that demonstrates the values and behaviours of a true profession. As a result, we welcome the transition of Financial Planning to a recognised profession.

SSFS welcomes the changes that the PJC recommendations will bring and strongly advocates the increased education standards, a single code of conduct and the professional scrutiny that only one established and recognised professional body can provide.

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