



FINANCIAL PLANNING
ASSOCIATION *of* AUSTRALIA

4 February 2022

Ms Melissa Bray
Assistant Secretary
Advice and Investment Branch
Retirement, Advice and Investment Division
Treasury
Langton Crescent,
PARKES ACT 2600

via email: advicereview@treasury.gov.au

Dear Ms Bray,

Quality of Advice Review – Draft Terms of Reference

The Financial Planning Association of Australia (FPA) is a professional body with more than 12,000 individual members and affiliates of whom approximately 8,500 are practicing financial planners and over 5,200 are CFP professionals. Since 1992, the FPA has taken a leadership role in the financial planning profession in Australia and globally with the principal policy pillar of acting in the public interest at all times.

On behalf of our members and in the interests of the profession and Australian consumers, we write to provide the following response to the Treasury's Quality of Advice Review – Draft Terms of Reference released on 16 December 2021.

The FPA firmly supports the Government's intention to conduct an 'Advice Review' (the review) consistent with recommendation 2.3 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Royal Commission). The review which has been announced will provide an opportunity to examine the effectiveness of the wide array of measures more implemented by the Government and regulatory agencies and financial services entities to improve the quality of financial advice. However, the FPA considers that it would have been more appropriate for this review to have commenced at a time which would have allowed for a report closer to the earlier deadline outlined in recommendation 2.3. Nevertheless, we believe that it is imperative that this review is conducted in a methodical and fulsome manner, and not considered nor conducted as a 'tick-a-box' exercise that is rushed to meet an artificial deadline.

We believe the draft terms of reference outlined in the consultation paper produced by the Treasury establish a broad framework for the assessment of financial advice.

Within this framework, it is important that the review evaluates the effectiveness or otherwise of the vast regulatory, legislative and other changes that have been implemented prior to and

since the Hayne Royal Commission. This consideration should have regard to whether these reforms have achieved their intended outcome, rather than introduced unnecessary complexity and increased costs which have created further barriers to Australians accessing financial advice.

Further, we support the review having consideration of the interim findings of the Australian Law Reform Commission's Review of the Legislative Framework for Corporations and Financial Services Regulation. It is imperative that this holistic review produce consumer focussed recommendations which aim to support the affordability of financial advice for all Australians. These should include proposals for changes that can be affected in the short-term via alteration to regulations, as well as suggest longer-term legislative amendments that will be necessary to achieve this aim.

With these aim in mind, and to ensure that the review corresponds with intent of the recommendations of the Royal Commission, the FPA believes the following should also be considered as part of its Terms-of-Reference:

- The role played by alternative sources of financial advice such as money coaches and social media influencers and whether adequate consumer protections exist.
- The role of government tools and information such as the Australian Taxation Office (ATO) superannuation fund comparison tool, the Australian Prudential Regulation Authority (APRA) superannuation fund performance comparison test and Australian Securities and Investments Commission (ASIC) Money Smart website.
- The education standards, qualification and experience requirements as well as pathways for financial planners – regardless of the recent Treasury consultation on proposed changes to these standards.
- The delineation between retail and wholesale clients and what protections are available to those investors designated as a wholesale client.
- The role, adequacy and effectiveness of the current Professional Indemnity insurance requirements and whether adequate coverage is available in the market for the profession.
- Whether proposed or existing consumer protections, such as the model for a Compensation Scheme of Last Resort (CSLR), provide adequate coverage and meaningful access to compensation, and if the risk and funding requirements is equitably apportioned across the financial services industry.
- The appropriateness of the dual Australian Financial Services Licensee (AFSL) licensing and authorisation model and individual registration requirements and whether this balances the benefits of the consumer against potential tensions between an adviser's obligations to their client and their obligations set by their licensee.
- The adequacy of the *Financial Planners and Advisers Code of Ethics 2019* and whether alterations should be made to address contemporary settings.
- The effectiveness of the recently introduced Design and Distribution Obligations (DDO) as well as Target Market Determinations (TMD) in relation to advised clients, whether they have met their stated intent and what unintended consequences have emanated from their design and reporting obligations.
- The taxation treatment of financial advice and the implications this has on affordability and access for consumers.

Finally, the FPA supports the concept of such a review being conduct by a panel sourced from across government, industry and consumers, rather than a single reviewer. Such an approach would ensure the full spectrum of perspectives were incorporated into any recommendations the review may produce. In lieu of such an approach being adopted, the FPA would recommend that the reviewer have the ability to appoint such a panel to assist them with the conduct of the review.

Thank you for the opportunity to provide our feedback on the framework for this important review. If you have any questions regarding this submission, I can be contacted on (02) 9220 4500.

Yours sincerely,



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Head of Policy, Strategy and Innovation
Financial Planning Association of Australia