

10 June 2022

Quality of Advice Review Secretariat
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir / Madam

Thank you for the opportunity to provide a submission in response to the Quality of Advice Review Issues Paper (the Review).

FINSIA – the Financial Services Institute of Australasia – is the leading professional body in the financial services industry in Australia and New Zealand with a membership base of more than 10,000 members across the two markets. Our members operate in a range of sectors across the financial services industry including banking, institutional markets, funds management, securities, and professional financial advice. Our purpose, since 1886, has consistently been to support the financial services industry by driving the highest levels of professionalism for the betterment of our community through consistent standards of competency and conduct.

At FINSIA's core is a deep and unrivalled history of excellence in the area of professionalism within financial services. We believe this expertise creates a unique opportunity for us to contribute to the work being undertaken as part of the Review.

Background and context

As noted in FINSIA's 4 February 2022 submission as part of the development of the Terms of Reference for this Review, we believe that this process represents an important opportunity to identify and acknowledge the benefits of professionalism, alongside the equally important roles of professional education and standards, in addition to the role of professional bodies.

The powerful role that professionalism plays in ensuring that consumers receive the highest quality, and most affordable and accessible financial advice both now and into the future is crucially important. This point, in our view, is especially relevant given the clear evidence of a significant contraction in the availability of professional advisers owing to regulatory burden and cost of doing business, along with a marked decrease in the pipeline of new advisers entering the market.

In this submission, FINSIA has elected to limit our input to one key point, which is, the important role that professional bodies, such as FINSIA, can play in meeting the Review's objectives of "improving the quality, affordability and accessibility of advice" in Australia.

Separate to this submission, FINSIA is working alongside a broad range of other financial advice associations in providing a more comprehensive joint submission in response to a number of the themes and issues raised in the Review's Issues Paper.

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Our recommendation

In our view, there is considerable merit in exploring how the regulatory model of oversight for financial advisers can be evolved in a way that seeks to mirror other existing regulatory oversight models which currently exist in respect of other professionals within our market. Perhaps the most relevant, and most prominent, model worth considering is that which currently exists within the accounting profession in Australia.

Any measure of objective assessment would conclude that a very robust and well defined co-regulatory framework currently exists in respect of the oversight and monitoring of professional accountants in Australia. Professional accountants are widely regarded by both the community, and regulatory agencies, as upholding the highest standards of professional conduct with a high degree of consistency and uniformity when it comes to adherence with standards of conduct and behavior. These features also play an important role in maintaining relative affordability and accessibility for consumers seeking access to advice. Additional benefits also accrue from the existing co-regulatory framework insofar as supporting the profession's capacity to continue to attract and retain talent to support the long-term provision of professional advice to consumers.

We recommend that work be undertaken by the QOAR Team to explore the features of the co-regulatory model that currently exists within the accounting profession, and other similarly structured professions such as lawyers and engineering, to determine if the government believes such a model may serve as a valuable guide for the evolution of the regulatory framework in respect of financial advisers in Australia.

For FINSIA's part, we certainly would be willing to play an active role in the oversight of our members in the financial advice sector, and we expect that our peer group of professional bodies would also be prepared to play a larger and more expansive role with their members.

As a professional body that embodies knowledge and education at its core, FINSIA already has in-place existing frameworks (supported by powers granted under the organisation's Constitution and other governance principles) to:

- require the fulfilment of periodic continuing professional development obligations
- deliver ongoing technical knowledge to our community of members
- provide tools and other support materials to assist members with the execution of their day-to-day functions as an adviser
- put in place standards of conduct and ethical principles with which members are required to comply
- monitor the conduct of members in maintaining the highest standards of professionalism and ethical behaviour
- receive complaints against our members
- undertake investigations into complaints made against our members, and
- take disciplinary action against our members, where appropriate.

It is also open to FINSIA to put in place additional requirements on our members in respect of adherence with any specific or general obligations under regulation or law. This potentially means that there is considerable scope for a co-regulatory model of oversight to be developed with the government to meet the policy objectives of delivering high quality, affordable and accessible financial advice to Australian consumers.

In considering how a co-regulatory model of oversight might work in the area of professional financial advice, a number of key issues would need to be addressed in the formation of an appropriately designed framework. At this point, some of the initial key issues that we consider to be relevant are identified below.

- Maintain a publicly accessible register of members subject to co-regulatory oversight

Alongside ASIC, it would be appropriate to consider how professional bodies can readily make available to the public a current register of members who hold a valid professional practice certificate of some form. Such a register would be complementary to information held by ASIC and shared from the professional body to ASIC on a periodic basis.

- Uphold periodic audit processes to review and confirm adherence to specific and general obligations

The professional body would need to establish and uphold a structured and comprehensive periodic audit and review process that seeks to confirm that members maintain the appropriate competencies, processes and procedures, and documentary evidence to support their role as a financial adviser. Such processes would also encompass a review of evidence to support the member's requirement to meet certain minimum annual continuing professional development obligations.

- Ensure that a mechanism exists to record sanctions and disciplinary action

The professional body would need to put in place and maintain a mechanism that would allow for the recording of sanctions or disciplinary actions against individual members and would need to be aligned with the proposed industry-wide monitoring process overseen by ASIC.

International experience

FINSIA is aware that comparable co-regulatory oversight models in respect of the professional financial advice sector exist in other jurisdictions around the world.

One of the most relevant international case studies, in our view, can be found in considering the United Kingdom's approach.

In the UK, the Financial Conduct Authority (FCA) provides headline oversight for more than 50,000 financial services firms. The FCA's strategic objectives would be considered very closely aligned with the objectives set for ASIC in Australia, which is, 'to ensure that the relevant markets function well' and to:

- protect consumers
- protect financial markets, and
- promote competition.

The FCA requires that all retail investment advisers hold a Statement of Professional Standing [a form of public practicing certification] which can be awarded by one of seven different professional membership bodies in the UK market. The Statement of Professional Standing requires three core criteria to be satisfied, being:

1. completion of an FCA-recognised qualification in respect of providing financial advice
2. completion of periodic continuing professional development obligations, and
3. adherence to a code of conduct and the ability to demonstrate 'fit and proper' standing to provide financial advice.

The model employed by the FCA encompasses a periodic review cycle of the seven awarding membership bodies, to ensure that the frameworks are being administered in a manner that is consistent with the regulator's standards and expectations.

Closing

We trust that you find the points and recommendations made above helpful in your deliberations as part of this Review. We look forward to continuing to provide input to you over coming weeks and months. If you have any specific questions in respect of the views set out in this submission, please contact me or Ms Karen Worsfold on 02 9275 7900.

Yours sincerely



Yasser El-Ansary
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FINSIA