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To whom it may concern,

Draft Terms of Reference – Review of the quality of financial advice

The Profession of Independent Financial Advisers is pleased to provide a submission on the Draft Terms of Reference into the review of the quality of financial advice.

Background

The Profession of Independent Financial Advisers (PIFA) is a public, not-for-profit association formed in 2010 for the purposes of promoting, encouraging, sponsoring and assisting in the development of independent financial advisers and independent financial advice to consumers.

PIFA has been an active and vocal advocate of genuine independence in financial advice; in 2014 it established the *Gold Standard of Independence*TM, a recognisable symbol for consumers and the financial advisory community, and in 2019 PIFA lodged an application with the Professional Standards Authority to operate a Professional Standards Scheme.

The members of PIFA set the standard on conflict-free advice that the rest of industry is encouraged to aspire.

Terms of reference considerations

Consumer protections

The over-arching consideration of this block of work should be consumer protections.

It was decades of grossly unsatisfactory consumer experiences that gave rise to the Hayne Royal Commission, in spite of numerous reforms during that time. If any reforms are considered from the stand point of industry or regulator efficacy this will inevitably lead to consumer harms.

The Terms of Reference therefore needs to contain an overt statement about the consumer experience and consumer protections.

Independence of advisers

Independence in the provision of financial advice is critically important, a clear finding of the Hayne Royal Commission. It could be argued that independence of advice is a centre pin of the whole of Chapter 7 of Corporations Act.

The regulator has long documented the connection between quality of advice and independence of advice. The section of the Act that deals with independence was inserted over 20 years ago and yet the subject is not promoted by the regulator on its website nor in its consumer education materials. In our view this lack of transparency has contributed directly to consumer harms that were well documented by Hayne, who devoted significant attention to addressing this in a transparent and emphatic way.

To that end the Terms of Reference needs to examine why the definition within the Act has not been implemented efficiently and why it has not been enforced in a more robust manner in order to protect consumers.

Professional Standards Legislation

The professionalisation of financial advice under professional standards legislation is long overdue. There have been three applications from the financial services sector to the Professional Standards Councils in the last twenty years. None of these applications has progressed to public consultation.

In 2014 the PSC called on the financial services industry to seek professionalisation publishing a whitepaper that identified the obstacles that prevent the industry from professionalising and provided a roadmap to bridge the performance gap. The 'PSC Strategy 2021' recognised objectives to target improvements in financial services.

In 2016 PIFA commenced the process of applying to operate a professional standards scheme and the barriers to entry on this are proving a financial strain on the association, whereas we should be spending membership fees on improving the association and consumer experience. The pathway to professionalism needs to be streamlined so that financial advice consumers can have the benefits that a recognised profession would bring.

Policy considerations

PIFA advocates high quality advice needs to be available. What does high quality advice look like? In our view financial advice should be ...

- Unconflicted. Practitioners should be genuinely impartial.
- Objective. Advice should be supported by rational argument.
- Technically sound. Recommendations should be developed using peer-recognised standards.
- Fit-for-purpose. Advice delivery should be tailored to the purposes and circumstances of the recipient.

Whereas the first three of these elements are 'tickets to the dance', the last principle is the key to enhancing affordability and accessibility. Note that failing to observe all four of these principles puts quality at risk.

Over the last 4 years the government and industry has spent an enormous amount of energy putting mechanisms in place to improve the quality of financial advice.

These measures have precipitated a significant contraction in the number of industry practitioners. Whereas some sectors of industry complain, we – the profession – submit instead that this is evidence the measures were necessary, overdue, and are achieving the intended outcome of ensuring the quality of financial advice.

Time is needed for career practitioners to bed down these measures so that consumers may more widely benefit. Care needs to be taken not to unwind measures intended to enhance quality in the name of 'affordability' and 'accessibility'. The risk we see is that these two mantras will make low quality advice more prevalent, a return to the bad old days.

To that end we recommend Terms of Reference that support and enable the four principles, above. For instance, whereas suggest that affordability and accessibility can be enhanced by creating tax concessions

for financial advice, our view is that if this platform is not built on all of 'the four pillars', it would be counter-productive. By way of another example, providing regulatory concessions that permit lengthy Statements of Advice to be reduced to a much abridged 'Letters of Advice' will likewise be counter-productive unless all four pillars are essential ingredients in the delivery of that advice.

It is essential that any mechanisms the government employs to satisfy calls for accessibility and affordability of financial advice build on what has been recently put in place, rather than undermine it.

Please feel free to contact me should our association be able to assist Treasury further in this consultation.

Yours sincerely

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