2nd May 2023

Advice and Investment Branch
Retirement, Advice and Investment Division
Treasury
Langton Cres
Parkes ACT 2600

We are pleased to provide our submission to Treasury on the topic "Education standards for experienced financial advisers and technical fixes for new entrants".

We trust this submission is of use in your considerations, and we would be pleased to expand on our submission if required.

Kind regards

Richard Press

Manager, Professional Services

Fiducian Financial Services Ltd

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Education standards for experienced financial advisers and technical fixes for new entrants

Fiducian Financial Services

2nd March 2023

Proposed objective

This consultation paper is seeking feedback on the following proposed objective:

The draft legislation would deem an adviser to have met the education requirements if they:

- *have 10 years (cumulative) experience providing advice between 1 January 2007 and 31 December 2021; and*
- *have not recorded any disciplinary action on the Financial Advisers Register before 31 December 2021.*

Advisers would still need to pass the exam.

The draft legislation also allows new entrants to apply to the Minister to have their degree recognised and for education providers to confirm that a person has completed the requirements of an approved degree.

Consultation ~~questions~~response

~~**1. Do you consider any further modifications are required to the TSB calculation for the purposes of estimating earnings? If so, what modifications should be applied?**~~

~~Assuming this method is to be applied, the methodology does appear to be reasonable and relatively simple to apply.~~

~~**2. What types of outflows (withdrawals) should be adjusted for and how?**~~

~~The proposed description of withdrawal that are added back would appear to broadly efficient.~~

~~*The withdrawals are added back to the current TSB. This is intended to reflect what the individual's current TSB would have otherwise been had they not made the withdrawals. This adjustment will ensure that a decrease in the TSB as a result of a withdrawal does not represent negative earnings generated inside superannuation.*~~

~~Better targeted superannuation concessions~~ ~~**3. What types of inflows (net contributions) should be adjusted for and how?**~~

~~The proposed description of net contributions would appear to allow for inflows we would expect. These are noted as follows in the proposal.~~

~~*The value of after tax (net) contributions are subtracted from the closing TSB. This adjustment is necessary to ensure an increase in the closing TSB reflects positive earnings, not amounts an individual has contributed to their superannuation account during the year.*~~

~~*Net contributions include SG contributions or voluntary contributions, including downsizer contributions, payment of insurance benefits for policies owned inside superannuation and transfers such as family law splits.*~~

~~**4. Do you have an alternative to the proposed method of calculating earnings on balances above $3 million? What are the benefits and disadvantages of any alternatives proposed including a consideration of compliance costs, complexity and sector neutrality?**~~

~~We are most concerned with the taxing of unrealised gains. This flies in the face of all other tax calculations where tax is not levied until a gain actually occurs. We feel this is unfair and against the standard taxation practices adopted in Australia. Australians will be taxed on unrealised asset growth that they may never ever see.~~

~~Whilst we accept the prima facie argument as to the simplicity of the method proposed, it does not seem fair or equitable when considered against the balance of the taxation environment of Australia.~~

~~We are also concerned that this methodology treats Capital Growth in the same was as Income which again is fundamentally different to how these two items are treated in every other tax scenario. In other cases Capital Growth on assets held for over twelve months is treated concessionally to investment Income, through the application of Capital Gains Tax concessions, either as a personally held asset or held through a superannuation trust. Similarly such a methodology does not account for Franking Credits and other legitimate methods of managing the funds/members taxation position.~~

~~As such trustees may avoid certain asset classes or enter into artificial processes to capture Capital Gains Tax growth within the fund to allow for reduced taxation. It may also lead to excessive use of Franking Credits against income generated on the assets below $3 million dollars which could adversely impact asset sector diversification which is important to members.~~

~~We suggest that as an alternative, Treasury considers retaining assets above $3 million within the existing structure, but these could be treated as non superannuation assets for tax purposes within the superannuation fund. This would obviate the need for selling down assets or transferring them to other potentially tax advantageous structures. Administration system changes could also be minimised. The proposed tax changes could lead to members considering the use of Insurance/Investment bonds as outlined in section 6 below. However, Treasury may also consider permitting the taxing of assets above 3 million in a manner similar to an Insurance/investment Bond.~~

~~**5. What changes to reporting requirements by superannuation funds would be required to support the proposed calculation or any alternative calculation methods?**~~

~~As the key point of information for TSB in the clients MyGov Tax Portal, it is unlikely that individual funds will need to change their reporting to members significantly, as only the above is an accurate source of all Superannuation Holdings from all sources.~~

~~**6. Other matters**~~

~~We would like to take this opportunity to canvass the possibility of the provision of some form of rollover relief for clients electing to transfer assets above the $3 million threshold to ownership outside of the superannuation environment.~~

~~In our view, as members have accumulated these assets legally, and in fact have been encouraged to do so, it would be reasonable to allow a grace period for assets in excess of the 3 million dollars to be released from the system with some possible tax relief for clients below age 60, and possibly below preservation age.~~

~~This would allow members who have legally accumulated assets that are to be considered excessive in the future to rearrange their position that has occurred through careful use of a legal structure, which has been encouraged by successive governments.~~

~~In our view this change in taxation of assets above 3 million dollars may lead investors to look at Insurance Bonds as an alternative to Superannuation as a vehicle to hold assets. We have already had anecdotal evidence of Insurance Bond provider's spruiking the advantages, in particular the effective tax rate of significantly less than the 30% headline tax due to the use of Franking Credits to offset the headline rate. We consider this to be an unintended consequence of the proposed tax regime that is likely to not be in the interest of clients going forward~~We have several concerns with the proposed legislative changes.

Firstly we are concerned that those meeting this new criteria are not required to complete at least the Unit regarding Ethics and Professionalism. Given this was a fundamental requirement for ALL Authorised Representatives under the previous regime, we so no good reason why this should be removed for this small cohort who have chosen not to complete the previously approved standards.

Secondly, we do not agreed with the process. We feel that this has disadvantaged the vast majority of the industry who have undergone the required training, at quite some expense both in time, stress and financial terms to now have the legislation changed at such a late stage to satisfy what at best could be described as a noisy minority.

Having made the above two points, if this legislative change is to proceed we feel the first point above needs to be addressed. We feel this is the bare minimum that should be required of ALL those seeking to remain in our industry.

Having taken this into account, we are broadly accepting of the balance of the proposed legislative changes, having noted our fundamental concerns with this approach.

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