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7 November 2016

Attn: Financial Crime Section  
Attorney-General's Department  
3-5 National Circuit  
Barton, ACT 2600

Email: [antimoneylaundering@ag.gov.au](mailto:antimoneylaundering@ag.gov.au)

Dear Sir / Madam

### **Re. Project Plan – Implementing AML/CTF Act Review recommendations**

The FPA welcomes the opportunity to provide feedback on the proposed Project Plan for the implementation of the recommendations from the statutory review of the anti-money laundering and counter-terrorism financing (AML/CTF) regime.

We commend the Attorney-General's Department for the transparency of its process. It is extremely helpful to industry to know in advance proposed timelines of potential Government consultations.

#### Stakeholder consultation arrangements

The financial planning profession operates under the Australian Financial Services Licensing (AFSL) regime of the Corporations Act, with financial planners providing direct services to clients under the auspices of a license holder. While financial planners make 'arrangements' for clients, they do not make transactions. This makes financial planning services unique in relation to the AML/CFT regime. As such financial planners are categorised as Item 54 reporting entities, some of whom may also provide occasional Item 33 designated services.

The FPA supports the Department's identified "factors that will influence the implementation of the Review recommendations". These influencing factors may impact different types of reporting entities in different ways, including the financial planning profession. Therefore, the FPA would welcome the opportunity to participate in the proposed AML/CFT Industry Consultation Council, and relevant industry working groups, to assist in the implementation process.

The FPA will provide comments in relation to the Review recommendations to the relevant project specific consultations.

#### Consultation timeframe

The FPA notes that it is intended that the AML/CTF Industry Consultation Council will provide information and advice during the life of the project, and act as a primary conduit for engaging with industry about the progress of the project. We also acknowledge that the role of the Council and working groups may extend beyond the formal consultation timeframes set in the proposed timeline.

The FPA is however concerned about the adequacy of the consultation timeframe. Many of the recommendations pose significant implications across the breadth of the AML/CTF regime, as well as those currently not captured by the existing requirements. The proposed changes will affect numerous industries and professions that each have unique complexities. These often competing complexities create a risk that any changes to, or expansion of the existing AML/CTF regime will

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create unintended consequences and great uncertainty for businesses, particularly small businesses who may not have access to AML/CTF specialists.

Careful consideration and clarification may be required to ensure overly onerous AML/CTF requirements are not inappropriately applied to low ML/TF risk services. For example, the introduction of the AML/CTF Act created significant confusion about its application to financial planners resulting in great uncertainty for the profession. This issue was only resolved during the transition period with the publication of AUSTRAC's Public Legal Interpretation No. 2 in May 2008.

To ensure the Department's stated risk-based approach and regulatory efficiency are achieved, we ask consideration be given as to the timeframe of the consultation process to ensure unintended consequences can be thoroughly identified and avoided, particularly for low ML/TF risk services. Greater flexibility in the Phase 1 consultation timeframe would benefit all stakeholders and Government and deliver a more effective outcome in the development of the AML/CTF regime.

The FPA would welcome the opportunity to participate in the Government's AML/CTF consultation process and to discuss these matters with you in more detail.

If you have any questions, please contact me on 02 9220 4500 or [heather.mcevoy@fpa.com.au](mailto:heather.mcevoy@fpa.com.au).

Yours sincerely

**Heather McEvoy**  
*Policy Manager*  
Financial Planning Association of Australia<sup>1</sup>

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<sup>1</sup> The Financial Planning Association (FPA) has more than 11,000 members and affiliates of whom 9,000 are practising financial planners and 5,500 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of FOFA.
- We have an independent conduct review panel, Chaired by Mark Vincent, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 24 member countries and the 150,000 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 17 Australian Universities for degrees in financial planning. As at the 1st July 2013 all new members of the FPA will be required to hold, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board

