



10 April 2017

Statutory Declarations Review Team
Courts Section
Attorney-General's Department | Australian Government
3-5 National Circuit | BARTON ACT 2600

Email: statdec.review@ag.gov.au

Dear Sir / Madam

Statutory Declarations Regulations Review

The Financial Planning Association of Australia welcomes the opportunity to provide input into the review of the Statutory Declarations Regulations 1993. Our submission relates to Schedule 2—Persons before whom a statutory declaration may be made.

Since our last submission, the financial planning profession has undergone significant reforms establishing regulatory requirements on par with other occupations and professions.

Consumer need

The benefits of using a financial planner have been recognised by many people. In 2015, 2.4 million Australians were actively using a financial planner and a further 1.1 million intended to start using one in the next two years.¹

Financial planners help people simplify their finances and set achievable financial goals, particularly in relation to complex matters such as superannuation, tax planning, debt management, insurance, investments, retirement and estate planning. This involves putting appropriate structures and arrangements in place, which often require documentation to be witnessed by an authorised witness.

Financial planners are not currently included in Schedule 2 of the Regulations. This means clients must find an authorised witness in order to finalise the documentation necessary to implement their financial plan (often at additional unnecessary expense plus significant inconvenience), and restricts the ability of financial planners to service their clients on a daily basis.

Including professional financial planners on the witnessing list will offer clients a cost effective, efficient and appropriate mechanism for witnessing documents. Precedent for permitting financial planners to witness documents has been set in the AML/CTF Rules which allows financial planners to certify documents. Consumers often question our members asking why financial planners are not included in the statutory declaration regulations when they can certify identification documents under AML/CTF laws.

Further, the AML/CTF Act provides for those that can certify copies of identification documents. This includes those listed in the Commonwealth statutory declaration regulation as well as “authorised representatives of an AFSL, having two or more years of continuous service with one or more licensees”.

Some State (and Territory) statutory declaration regulations also deem those listed in the Commonwealth statutory declaration regulations, further restricting the ability for financial planners to assist clients in matters governed by state jurisdictions. Including professional financial planners on the witnessing list will have important flow on effects for witnessing documentation regulated under state laws.

Part 1—Occupations

Introduced in 2012, the Future of Financial Advice (FoFA) Reforms banned financial advice commissions on superannuation and investment products; introduced a best interest duty for the provision of financial advice; and set a requirement to send a renewal notice every two years and an annual fee disclosure statement to clients that have signed an ongoing fee arrangement.

In March 2015, the Government established the ASIC Financial Adviser Register (FAR), requiring individuals to be authorised and registered on the Register to be able to provide financial advice to consumers.

In February 2017, the Federal Parliament passed a Bill that requires all financial planners to hold a relevant degree (or degree equivalent), pass an exam, adhere to a Code of Ethics, and maintain CPD, to be listed on the FAR and be authorised to provide financial advice. This Bill has established a national professional standards and education framework, to be set by a new Commonwealth statutory company – the Financial Adviser Standards and Ethics Authority² - in line with other occupations such as legal practitioners, medical practitioners and accountants.

¹ Investment Trends 2015 Direct Client Report

² <http://kmo.ministers.treasury.gov.au/media-release/033-2017/>



In addition, the Bill restricts the use of the terms financial planner and financial adviser to those who meet the new education and professional standards and are registered on the ASIC Financial Advice Register. A new Life Insurance Framework also received Royal Assent, restricting remuneration when recommending life insurance solutions to consumers.

Since July 2014, financial planners have also been required to register with the Tax Practitioners Board as tax (financial) advisers, and adhere to the requirements of the Tax Agent Services Act and Code, along with their tax agent peers such as accountants. The amendment to the Tax Agent Services Act defines a tax (financial) advice service as a type of tax agent service.

Recommendation

Financial planners who meet the professional and education requirements for registration on the ASIC Financial Advice Register and are also registered with the TPB as tax (financial) advisers or tax agents, should be included in the list of occupations before whom a statutory declaration may be made.

Part 2—Other persons

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, the FPA announced a remuneration policy banning all commissions and conflicted remuneration on investments and super for our members – years ahead of the FoFA reforms. We have stringent membership requirements, have long required all our practitioner members to adhere to a Code of Professional Practice and Code of Ethics and undertake continuous professional development (CPD). An independent conduct review panel, independently Chaired by Graham McDonald, deals with investigations and complaints against our members for breaches of our professional rules.

We were 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 required of professional financial planning practices. This is being exported to 26 member countries and 170,000 CFP practitioners of the global Financial Planning Standards Board (FPSB).

We are licensed by the FPSB to provide the Certified Financial Planner® certification program, the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP® standing are equal to other professional designations, such as the Certified Practising Accountant.

CFP® professionals meet initial and ongoing competency, ethics and practice standards and abide by professional conduct rules and ongoing competency and practice requirements. The global CFP® standards and certification requirements are based on empirical research of the abilities, professional skills and knowledge needed to practice financial planning.

FPA's Financial Planner AFP® members must hold an undergraduate degree or higher, have at least 1 years' supervised experience in a financial planning related role, and adhere to our professional obligations.

The FPA is also recognised as a professional body by the Tax Practitioners Board.

We currently have more than 12,000 members and affiliates of whom 10,000 are practising financial planners and 5,600 Certified Financial Planner® professionals.

The FPA would like to see our members given the same standing as members of other professional bodies such as the CPA, ICAA, IPA and NTAA, and be included as 'authorised witnesses' for Statutory Declarations.

Recommendation

Certified Financial Planner® and Financial Planner AFP® members of the Financial Planning Association of Australia be included on the list of other persons before whom a statutory declaration may be made.

We would welcome the opportunity to discuss the matters raised in our submission with you further. If you have any queries, please do not hesitate to contact me on 02 9220 4500 or heather.mcevoy@fpa.com.au.

Yours sincerely

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