



Advocacy

FPA strategic priority

FPA to be the voice of the profession

Advocating for affordability and sustainability

2020/21 was another busy year for FPA advocacy.

POLICY PLATFORM

Throughout the year, FPA continued to respond to the challenges of the COVID-19 pandemic, the changed business conditions and requests from members for support and relief measures.

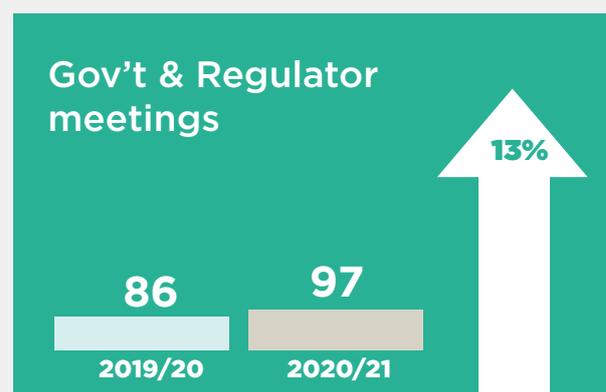
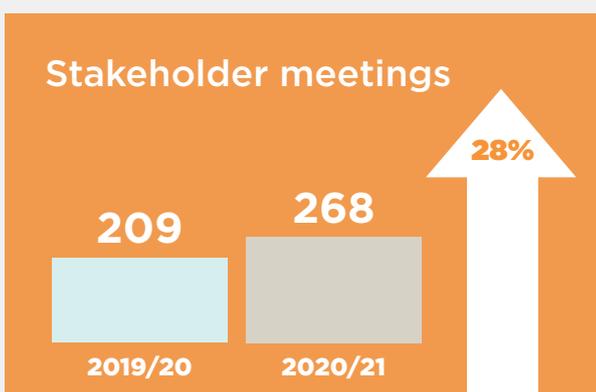
After launching FPA's new policy platform - Affordable Advice, Sustainable Profession - in June 2020, we made substantial progress on a range of key recommendations.

The Government's priority continued to be responding to the Financial Services Royal Commission and the FPA worked closely with Minister Hume and the Treasury to ensure its members' interests were represented in this process.

We also began preparing for major reviews into the regulation of financial advice being conducted by the Treasury (in response to Royal Commission recommendation 2.3) and the Australian Law Reform Commission.

During the year, the FPA policy and advocacy team spent time consolidating relationships with key Ministers and continued efforts to lead the public debate on the future of financial advice.

Also this year, FPA members were highly engaged in advocacy on an individual and local level. Many took the time to raise issues directly with local MPs supported by FPA advocacy tools. Together, our persistent advocacy efforts were effective in ensuring the impact of the policy issues are clearly understood by Government leading to improved legislation and moves by regulators to clarify a number of regulatory issues.



FPA POLICY PLATFORM: AFFORDABLE ADVICE, SUSTAINABLE PROFESSION

YEAR ONE PROGRESS



REGULATION



CONSUMER PROTECTION



LICENSING OF INDIVIDUALS



TECHNOLOGY



COST OF FINANCIAL ADVICE

1.1 Single disciplinary body



1.2 Single registration



1.3 Single set of fees



1.4 Single set of professional standards



2.1 General Advice



2.2 Restricted and like terms protected



2.3 Sophisticated Investor



2.4 PI Insurance



3.1 Professional registration



3.2 Separation of product and advice



3.3 Future of licensees



3.4 Tax and Centrelink agent status



4.1 Access to data



4.2 Electronic disclosures and transactions



5.1 Ability to buy the advice you want



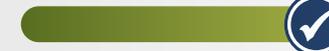
5.2 Small investment advice



5.3 tax deductibility of advice



5.4 Fees from super



5.5 Insurance advice fees



TO BE COMMENCED

IN PROGRESS

COMPLETED

BUDGET

The 2020/21 financial year was unusual in that it contained two federal budgets. The first was the 2020/21 budget which was delayed from May to October 2020. The second was the 2021/22 budget delivered in May 2021.

The FPA provided a supplement to its budget submission for 2020/21 ahead of its October release. In this submission, we heightened our focus on the cost of operating as a financial planner. We also made recommendations for the Government to focus on reducing compliance costs, ensuring the professional indemnity insurance market provides affordable insurance, and considers making financial advice tax deductible.

We followed on with these themes in the FPA's submission to the 2021/22 budget in May 2021. We again drew attention to the rapidly increasing costs for financial planners, including the ASIC industry levy and the potential new costs from a new disciplinary system and a compensation scheme of last resort.

FASEA

In 2020/21, over 6,656 financial planners sat and passed the Financial Adviser Standards and Ethics Authority (FASEA) professional exam ahead of the adjusted deadline of 1 January 2022, bringing the total number who had passed to 13,500 at the end of July 2021.

A critical issue for the FPA was ensuring that financial planners who did not receive a pass mark in the exam were given enough support and feedback to ensure they had a fair shot at passing the exam on their next attempt. We supported FASEA's work to provide better feedback to unsuccessful candidates and further information on applications to remark an exam.

In November 2020, the Government announced that it would abolish FASEA and move its standard-setting function to the Minister for Financial Services. This decision was confirmed in the 2021/22 budget and legislation to effect the change was introduced into Parliament in June 2021. The FPA supported this decision as a method of reducing costs for financial planners. The future funding of FASEA had the potential to add around \$5 million per annum to the amount

needing to be recovered from the financial advice profession.

The FPA recognises that winding up FASEA does not change the need for financial planners to comply with the professional standards FASEA has created, nor the need for further adjustments to those standards to ensure they are effective and workable in application. We will continue to work with the Government and FASEA in the second half of 2021 to progress these changes.

ASIC

The FPA's longstanding concern about the cost to operate as a financial planner was brought to a head in early 2021 as ASIC announced the industry levy would again increase for financial planners. ASIC announced its budget for the latest levy year (2019/20) had blown out from around \$40 million to more than \$56 million and the result was an increase in the per-planner levy amount of more than 110 per cent compared to the previous year.

Since the levy result was announced in March 2021, the FPA has conducted an advocacy campaign with the aim of getting the Government to agree to review the operation of the ASIC industry levy and put in place measures to limit its growth. The campaign has benefitted from an unprecedented level of support from FPA members, with hundreds of members reporting that they had contacted their local MP to raise this issue.

Throughout the year, we also worked with ASIC to improve the guidance and support that it provides to financial planners. In particular, the FPA has been able to work with ASIC on the outputs of the Consultation paper 332: Affordable Advice Measures to provide clearer guidance to the profession on ASIC regulations including the use of FAQs and case studies, increased use of Records of Advice (ROA) versus Statements of Advice (SOA), and encouraging the creation of more engaging and efficient advice creation.

The FPA also worked closely with ASIC on COVID-19 relief measures including where ROAs could be provided instead of an SOA, as well as preparing for the new regulatory changes in relation to ongoing fee arrangements and fee disclosure statement obligations commencing

in July 2021 and the design and distribution obligations and breach reporting which will commence in October 2021.

ROYAL COMMISSION

The recommendations of the Financial Services Royal Commission continue to be the key focus for the Government for reform in financial advice.

In December 2020, the Parliament passed the first of two Bills to implement Royal Commission recommendations. In this case, the Bill largely related to insurance products and included new regulation for claims handling and settling services. In response to concern from the FPA that financial planners would be unintentionally caught up in this reform, in April 2021 the Government issued regulations that specifically exclude financial planners from the scope of these new requirements.

In February 2021, the Parliament passed a second reform Bill, which included substantial changes to the regulation of ongoing fee arrangements, disclosure of lack of independence and taking of advice fees from superannuation. While the FPA welcomed a draft of this Bill as a significant improvement over previous arrangements, changes made after the consultation draft have resulted in unworkable transition arrangements. The FPA has worked closely with the Government to find a solution to this problem, with the Government issuing regulations in June 2021 to provide financial planners with more flexibility in how they meet the transition year requirements.

With the Government's response to the Financial Services Royal Commission deferred by six months due to the COVID-19 pandemic, the final substantive recommendations were expected to be implemented by 30 June 2021, but have seen further delays into the 2021/22 financial year. These final recommendations include establishing a new disciplinary system for financial planners (recommendation 2.10) and the creation of a compensation scheme of last resort (recommendation 7.1).

Throughout 2020/21, the FPA has engaged with the Government and Treasury over the design of the single disciplinary function. This culminated in a major submission in response to draft legislation released by the Treasury in May 2021.

The Government introduced legislation into the House of Representatives on 24 June 2021 to establish the new disciplinary function and is expected to pass through Parliament before the end of 2021.

The creation of a compensation scheme of last resort remains an outstanding part of the Government's response to the Financial Services Royal Commission. After some intensive consultation with the Treasury in early 2020, the FPA has continued to push to ensure any scheme is designed to minimise additional costs to financial planners and fairly apportion risk across the financial services sector.

REVIEWS

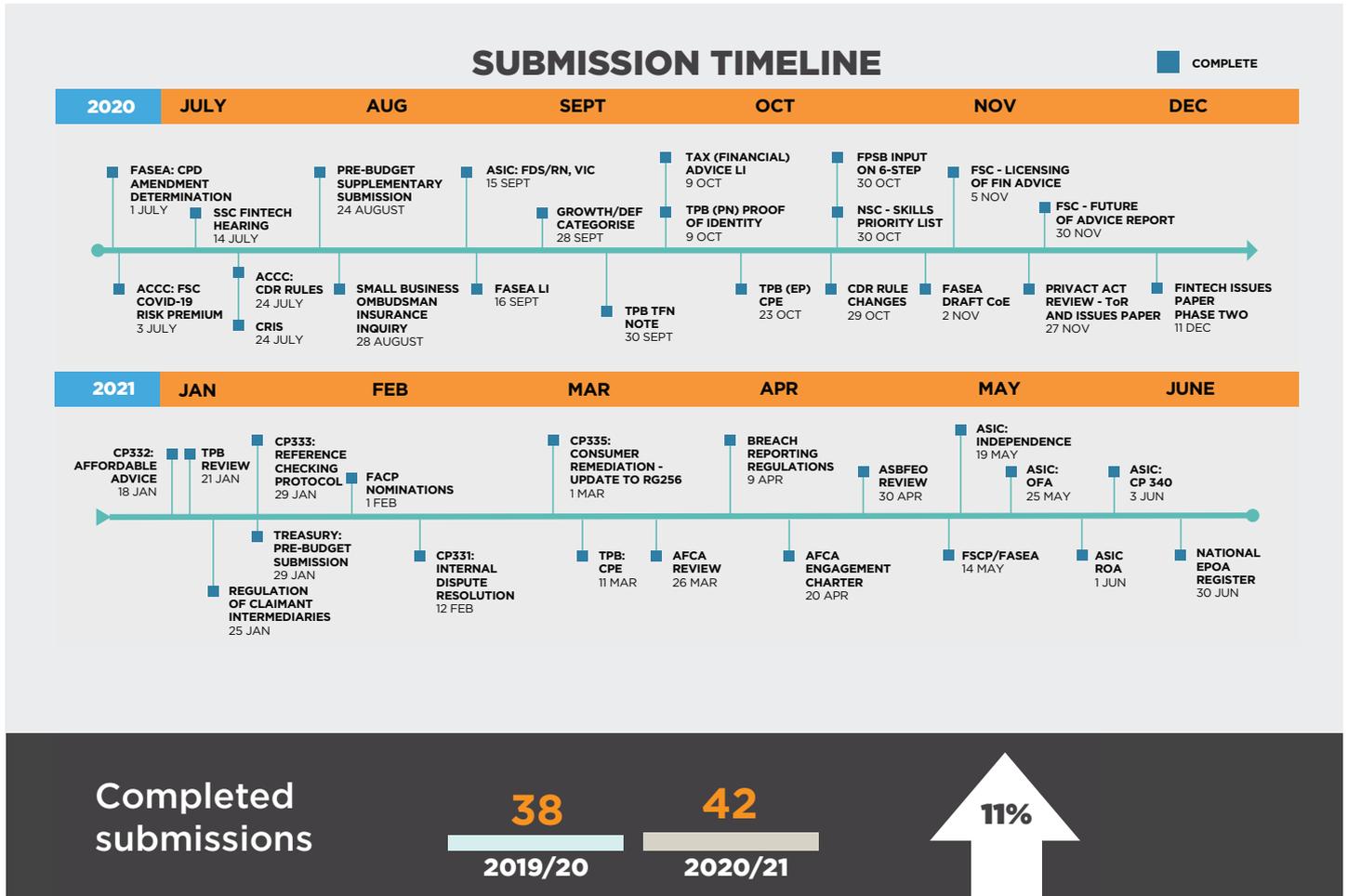
As part of its response to recommendation 2.3 of the Financial Services Royal Commission, the Government has committed to reviewing measures to improve the quality of financial advice. While the review is not due to be completed until 2022, the FPA has already commenced engaging with the Treasury about the scope and methodology of the review.

This review will also now cover the Government's proposal to review the Life Insurance Framework (LIF), which has been underway in ASIC since 2019. The FPA, along with the Association of Financial Advisers, created a LIF Taskforce to ensure industry views are being considered in this review.

In addition to these internal Government reviews, the Treasurer has asked the Australian Law Reform Commission (ALRC) to conduct a review of the legislative framework for regulating financial services contained in the Corporations Act 2001. The ALRC review will include a specific look at chapter seven of the Corporations Act and consider whether it needs to be reframed or restructured. While the ALRC review is not due to be completed until 2023, the FPA has already held a number of meetings with the ALRC to explore these issues. The ALRC review is a unique opportunity to make fundamental changes to the way financial advice is regulated in Australia. The FPA will continue to commit significant resources to ensure this opportunity is realised.

SUBMISSIONS

A total of 42 submissions were completed during this year. The below timeline outlines the public submissions made.



SUBMISSIONS MADE DURING 2020/21 FINANCIAL YEAR

1 July 2020

FASEA: CPD Amendment Determination

To assist advisers in meeting their CPD requirements in the current COVID-19 impacted CPD year, FASEA consulted on its proposal to grant advisers an additional three months to meet the 40-hour CPD requirement. This three month extension is a one-off recognition of the difficulties faced by advisers this year. Advisers will be required to complete 40 hours of CPD in 12 months in future CPD years and may not double count hours across the years.

The FPA supported the 3 months extension to meet CPD.

3 July 2020

ACCC: Financial Services Council's application for authorisation AA1000494 - draft determination

FSC applied to the ACCC to allow “participating life insurers” to not apply a risk premium to health care workers exposed to COVID-19 for a 12 month period within a minimum set of cover and premium levels.

The FPA supported the FSC application on the basis that concerns by other parties have been addressed and the proposals are in the interest of health care workers.

14 July 2020

Senate Select Committee - Fintech and Regtech - Questions on Notice

The FPA recommended that a national API (application programming interface) framework and security standard for fintech and regtech be developed, along with the provision of grants and tax incentives for development of integration in technology solutions.

24 July 2020

ASIC: Cost Recovery Implementation Statement (CRIS)

ASIC published its draft Cost Recovery Implementation Statement (CRIS) 2019-20. The CRIS detailed ASIC's actual regulatory costs for 2018-19 and provided an estimate of costs for 2019-20. The estimated costs were published to give industry an indication of what levy costs to expect.

The FPA highlighted that a 68 per cent increase over two years is unacceptable. We also highlighted the lack of transparency in ASIC reporting - costs to be recovered and reports on regulatory activity are too high level to determine appropriate allocation of cost recovery. We recommended that ESA / Wealth Management Portfolio activity should be collected through the large institutions levy, not as a personal advice levy. We also recommended that providers of personal financial advice should be excluded from the insurance distributors levy, or the LIF activity should be collected via the insurance distributors levy. We noted the low level of expenditure on preventive activity such as policy advice and guidance and recommended that levies must be adjusted to account for ASIC work delayed due to COVID-19.

24 July 2020

ACCC: Consumer Data Rights Rules

ACCC released draft rules for the CDR framework which includes financial planners as being designated receivers of CDR information.

The FPA recommended the implementation of the CDR should use existing registrations and processes to reduce duplicate administration/registration.

We also called for clarity on the costs associated with registering, how often a principal or provider is required to renew their registration and at what cost, whether information on the register can be updated and at what cost, and what sort of costs there may be to terminate the registration.

Consumers are able to authorise their financial planner as a 'principal' as part of the existing process for authorising planners as a client's representative.

24 August 2020

Treasury: Pre-Budget supplementary submission

The Minister for Housing and Assistant Treasurer called for further submissions from individuals, businesses and community groups on their views regarding priorities for the 2020-21 Budget.

The FPA reiterated aspects of our Pre-Budget submission from February, and requested additional regulatory support from ASIC due to COVID-19, regulatory cost assistance, implementation of the single disciplinary body to be appropriately funded, and to support a national approach to fintech integrations.

28 August 2020

Australian Small Business and Family Enterprise Ombudsman: Insurance Inquiry

The FPA highlighted issues with professional indemnity (PI) and other forms of insurance for small financial planning businesses, and recommended the Government undertake a review of the availability and affordability of PI insurance for financial advice providers in Australia.

15 September 2020

ASIC: No Action Letter - Victoria, COVID-19, FDS/Renewal Notices

Confidential consultation on the continuation of the COVID-19 advice relief for Victorian financial planners following FPA advocacy.

The FPA supported the extension of relief and fee disclosure statement (FDS) no action position for Victoria state.

16 September 2020

FASEA: Draft Education Legislative Instrument (LI)

Updated list of education approved for recognition of prior learning.

The FPA continued pushing for recognition of different CFP® Certification pathways for members and additional recognition of FPA Life Risk Specialist LRS and FPA Accredited Estate Planning Strategist AEPS.

28 September 2020

Conexus Institute: Consultation on growth/defensive asset categorisation

The Conexus Institute proposed a categorisation protocol for growth/defensive product classification. While this was a private think tank, the aim was to take a finalised protocol to ASIC and APRA for implementation across the financial product market.

The FPA supported the development of a categorisation protocol. We noted the complexity of the proposed model and recommended that tools and guidance be provided if it is implemented. Further the protocol will only be successful if it is monitored and policed by ratings agencies and regulators.

30 September 2020

TPB: TFN draft practice note

The Tax Practitioners Board (TPB) released this draft practice note to provide practical guidance and assistance to registered tax practitioners in relation to using and disclosing a client's tax file number (TFN) and TFN information in email communications.

The FPA supported the drafting of the guidance note.

9 October 2020

TPB: Tax (financial) advice service legislative instrument and explanatory statement

The TPB re-released a confidential consultation draft of a legislative instrument to allow tax (financial) advisers to represent clients with the ATO Commissioner in relation to:

- Applying for a TFN
- Applying for an ABN to establish a SMSF
- Assisting clients with excess contribution tax notifications
- Assisting clients with Division 293 and 294 notifications
- Assisting clients with transfer balance cap breaches.

The FPA was supportive of all elements of the legislative instrument. We worked with CPA, CAANZ, IPA and SMSFA to address concerns the three former associations had in relation to the LI. Consensus was obtained on progressing the LI in relation to everything other than TFN and ABN application. This would include an ability for tax (financial) advisers to access the ATO portals on a read only basis.

9 October 2020

TPB: Exposure Draft TPB practice note TPB (PN) D43/2020 Proof of identity requirements

The TPB prepared this draft practice note setting out the TPB's proposed proof of identity requirements.

The FPA supported the TPB drafting but encouraged the TPB to consider remote ID verification as highlighted as an issue during COVID-19 lockdowns.

23 October 2020

TPB: (EP) 04/2012 CPE

The TPB concluded its public consultation on its continuing professional education (CPE) requirements in early 2020. The feedback received was considered by the TPB, and significant changes have been made to the requirements:

- Increase the CPE hours requirement to 120 hours over a three-year period for all tax practitioners, with a minimum annual requirement of 20 hours.
- Decrease the record keeping requirement from six years to five years.
- All other requirements with regards to the TPB's CPE policy remain materially unchanged.

The FPA recommended the TPB apply the FASEA CPD standard for tax (financial) advisers on the basis that:

- The TPB has not identified any areas of tax (financial) advice services which are not financial advice services
- The FASEA standards are a significant increase on the TPB's previous standard and therefore achieve the TPBs intent.
- A separate standard could lead to additional CPE burden on tax (financial) advisers.

29 October 2020

ACCC: CDR Rule Changes

The ACCC was seeking views on changes to the Competition and Consumer (Consumer Data Right) Rules 2020. These changes are intended to expand the Rules and allow for the entry of a greater number and type of businesses in Consumer Data Right. The key proposals included:

- Changes to the accreditation process to include new restricted tiers of accreditation
- Rules to allow consumers to consent to the disclosure of Consumer Data Right data to third parties
- Increased functionality to improve consumer experience.

The FPA recommended the ACCC use protected terms to describe financial planners in their rules rather than the term "financial adviser" and that the rules are expanded to cover AFSLs on the basis of monitoring and supervision requirements of authorised financial planners will require the AFSL to be classed as an authorised data recipient.

30 October 2020

FPSB: Input on Explanation of Six-Step Financial Planning Process

The FPSB Professional Standards Committee consulted on the explanatory language used in the six-step financial planning process.

The FPA was supportive of the language, however recommended a preamble or introduction be included to highlight to consumers that the six-step financial planning process is used by financial planners to meet their regulatory obligations.

30 October 2020

National Skills Commission: Skills Priority List Survey

The National Skills Commission has developed a survey to identify a national Skills Priority List. The survey seeks to capture information on recruitment difficulties and skills needs across as many different occupations and industries as possible. Data gathered from the survey will inform the development of the Skills Priority List (SPL).

The FPA highlighted the skills shortage in the financial planning profession based on the professional year and the need to encourage and support students and graduates seeking to move into a financial planning career.

2 November 2020

FASEA: Draft guidance on Code of Ethics

Following consultation with stakeholders in 2019 and early 2020, FASEA released the draft Financial Planners & Advisers Code of Ethics 2019 Guide for consultation.

The draft guide provided an explanation of the intent and application of the Code's values and standards. It used fundamental questions to help illustrate the Code and highlighted the requirement for advisers to exercise their professional judgement in the best interests of their client guided by the values and standards of the Code.

Generally, this draft of the FASEA Code of Ethics Guidance was an improvement on earlier versions. However, the FPA recommended that FASEA has more work to do to provide clarity and certainty for the profession. In particular, FASEA should consolidate its guidance together, and provide more case studies.

The FPA provided specific recommendations on the guidance in relation to Standards 1 – 9 to improve the guidance and ensure there is clarity on where subordinate legislation fits in the regulatory framework.

5 November 2020

FSC - Licensing of financial advice

The FSC'S Advice Licensing and Compliance Working Group had been working on designs for a dual licensing framework for financial advice. It would split responsibilities between licensees and advisers.

The FPA does not support a dual licensing framework which would require financial planners to register directly with a regulator and still be authorised by a licensee.

27 November 2020

AGD: Privacy Act review - terms of reference and issues paper (FED)

Attorney-General's Department released the terms of reference and issues paper for a wide-ranging review of the Privacy Act 1988 (the Privacy Act). The Government committed to a review following the Australian Competition and Consumer Commission's Digital Platforms Inquiry in 2019.

The FPA used the review to highlight the challenges posed on a financial planner in the multiple regulatory environments we operate under, noting that several proposed measures would oppose legal obligations required to be complied with by financial planners such as mandatory deletion obligations.

30 November 2020

FSC - Future of Advice Report

The FSC released its Future of Advice report which included substantial proposals for financial advice.

While the report identified many of the challenges faced by financial planners, the FPA highlighted that the proposals recommended in the report would not achieve the desired outcome of making advice more accessible and affordable to consumers. This includes the dual registration of financial planners with a regulator and licensees, as well as a low cap on tax deductibility of advice. Further, the proposed "simplification of advice delivery" appears to increase the complexity of advice provision through adding more rules rather than simplifying. The FPA recommended that the FSC consider supporting the FPA's Policy Platform to better align the objectives the FSC are looking to achieve.

11 December 2020

Senate Select Committee on Financial and Regulatory Technology: FinTech Issues Paper phase two

The Senate Select Committee on Financial Technology and Regulatory Technology called for further submissions in its investigation of longer-term issues.

The FPA supported the introduction of the Consumer Data Right to superannuation.

18 January 2021

Consultation Paper 332: Promoting access to affordable advice for consumers (CP 332)

CP 332 sought input from industry participants and relevant stakeholders to help ASIC understand:

- The issues and impediments relating to the supply of good quality affordable personal advice
- The practical steps that can be taken by ASIC and industry to improve consumer access to good quality affordable advice.

The FPA primarily encouraged members to provide direct feedback to ASIC. Noting the reticence of some members, the FPA submitted anonymised submissions on behalf of some members and provided an FPA consolidated submission. The FPA used the consultation paper to again share the FPA's policy platform recommendations with ASIC and reinforced our positions with feedback provided by members.

21 January 2021

TPB: TPB Review Response

The TPB asked for Association feedback on the Government's response to the TPB Review Report.

The FPA in principle supported the development of a single disciplinary and registration framework for financial planners, however, noted the benefits of TPB registration for tax (financial) advisers for the purpose of ATO Portal access. Outside of this, the FPA supported enhancing the independence and budgetary certainty of the TPB, and enhanced flexibility in amending the TASA Code.

25 January 2021

Regulation of Claimant Intermediaries

The exposure draft regulations prescribed circumstances in which a person is not a claimant intermediary.

The FPA supported the exemption of financial planners as claimant intermediaries but requested clarification from Treasury on the operation of the exemption.

29 January 2021

Consultation Paper 333: ASIC Reference Checking Protocol

This consultation paper sought feedback on the proposed approach to implementing aspects of the law reform arising from Royal Commission Recommendations 1.6 and 2.7. These recommendations relate to the reference checking and information sharing protocol for financial advisers and mortgage brokers.

The FPA supported the reference checking framework but again recommended that a register of reference checking contacts be established and maintained by ASIC.

29 January 2021

Treasury: Pre-Budget Submission

The Minister for Housing and Assistant Treasurer called for submissions from individuals, businesses and community groups on their views regarding priorities for the 2021-22 Budget.

The FPA made the following recommendations:

- Consolidate a schedule of fees and charges payable by financial planners as per policy platform recommendation 1.3
- Review the ASIC industry levy with a view to constraining the rate of increase and making it more predictable for financial planners
- TPB - ATO portal access
- SDB design needs to be cost effective
- CSLR - base must be broader than just financial planners as that won't be enough to cover costs - must minimise call on CSLR by ensuring compensation is paid by responsible parties.
- Tax deductibility of financial advice.

8 February 2021

FACP Nominations

ASIC requested two nominations for the Financial Advice Consultative Panel (FACP) from the FPA. The FPA made two nominations and Delma Newton CFP® was successfully included on the Panel.

12 February 2021

ASIC CP 331: Addendum to Internal Dispute Resolution

ASIC sought further feedback on proposed requirements for internal dispute resolution data reporting.

The FPA called for further clarity on the 'consumer/business vulnerability' data element especially its implementation, how it's captured and whether it plays a role in disciplinary action. The FPA also recommended some benchmark for IDR/EDR performance. We supported the reduction of data elements to align the IDR and EDR reporting requirements and quarterly reporting periods.

1 March 2021

ASIC CP 335: Consumer Remediation: Update to RG256

CP 335 gives industry and stakeholders the opportunity to provide feedback about the challenges they face in designing and executing remediations. It includes real-life case studies based on remediations in which ASIC has been directly involved.

The FPA recommended that updated RG256 should be consistent with and clarify new requirements in the Act for all licensees; payment options for small licensees in appropriate circumstances; clear application of product failures to product providers; apply to Tier 1 breaches only - 'reportable situations' and errors, not Tier 2 (industry codes, consumer expectations and business values) as proposed; remove the seven year cap for gross misconduct and serious fraud; put in place guidelines for the use of 'beneficial assumptions'; review the use of the RBA cash rate for calculating compensation; and that unclaimed moneys from advice remediation programs and investigations be lodge in a pool of funds for the CSLR which the government has committed to establishing.

11 March 2021

TPB: CPE Consultation

The TPB proposed the amendment of their CPE (CPD) standards to require all registered tax agents to complete 120 hours of CPE over a three year period.

In line with our previous submissions to the TPB on CPE for TFAs, the FPA recommended the TPB unconditionally accept CPE completed for FASEA CPD standard as meeting its CPE requirements.

26 March 2021

Treasury: AFCA Review

The review provided an opportunity for feedback on the operation of the Australian Financial Complaints Authority (AFCA) since its establishment and to consider whether further enhancements should be made to ensure the external dispute resolution (EDR) scheme is appropriately calibrated and operating effectively.

The FPA recommended that:

- Treasury, ASIC and AFCA consider, rationalise and provide details of the interaction of the licensee remediation obligations in the FSRC Act 2020, the enforcement of the FASEA Code by the FSCP, the rights of the consumer to recover damages for a contravention of s921E under s1324 of the Corporations Act, and ASIC's updated RG256: Consumer remediation, IDR and EDR
- AFCA Rule A.17: Systemic issues should be amended to restrict AFCA to the identification and notification of systemic issues only. IDR and EDR complaints that fall under the new investigations and compensation obligations in s912EA and s912EB of the FSRC 2020 Act should be transferred to the appropriate licensee remediation process or program
- AFCA's operational guidelines ensure only external experts of significant and broad industry expertise, and professional level qualifications are obtained to provide expert reports as part of the complaints hearing process
- Frivolous complaints should not be permitted to proceed through the EDR process if AFCA resolution points find no wrongdoing and in favour of the planner and no compensation is awarded to the consumer
- AFCA considers the introduction of a dispute lodgement fee where a consumer disagrees with the initial AFCA assessment and requests escalation of the complaint.
- AFCA incorporates into its fee model an appropriate methodology for the sharing of fees for frivolous, vexatious and malicious complaints across the relevant industry sector
- AFCA collects data in relation to frivolous, vexatious and malicious complaints, including the costs of such complaints on Firms and AFCA resources
- Complainant third party representatives' practices should be investigated and reviewed by AFCA
- The three year review of the AFCA funding model be conducted under the lens of the EDR principles.

9 April 2021

Treasury: Breach Reporting Regulations

These regulations proposed to:

- Prescribe civil penalty provisions that are not taken to be significant (and therefore may not be reportable) under the relevant breach reporting regime if those provisions are contravened
- Ensure certain breach reporting offences and civil penalty provisions are subject to an infringement notice
- Make minor and technical amendments, including updating references to the Corporations Act.

Treasury has amended the regulations taking into account significant FPA feedback on the penalty provisions. The FPA proposed further minor amendments in three areas.

20 April 2021

AFCA: Engagement Charter

The purpose of this consultation paper was to seek comment about AFCA's draft Engagement Charter from key stakeholders. The draft Charter outlined the service standards parties can expect of the dispute resolution services that AFCA provides. AFCA also had expectations of how participants will conduct themselves in its complaint handling and systemic issues processes.

The FPA supported the draft regulations as proposed.

30 April 2021

ASBFEO: ASBFEO Review

Independent Review of the functions of the Australian Small Business and Family Enterprise Ombudsman.

FPA supported the assistance and advocacy role of the ASBFEO and suggested the Ombudsman should have stronger powers to improve dispute outcomes for small businesses.

14 May 2021

Treasury: Single Disciplinary Body for Financial Advisers

The draft Bill expands the role of the Financial Services and Credit Panel within ASIC to operate as the single disciplinary body for financial advisers including an obligation to register with the FSCP. The draft Bill also creates new penalties and sanctions which apply to financial advisers found to have breached their obligations and introduces a new annual registration system for financial advisers.

The draft Bill also provides for the wind-up of the Financial Adviser Standards and Ethics Authority and the transfer of the functions of that Authority to the Minister responsible for the Corporations Act 2001 and ASIC.

The draft Bill also implements the Government's response to recommendation 7.1 of the Independent Review of the Tax Practitioners Board by introducing a single registration and disciplinary system for financial advisers who provide tax (financial) advice services.

The FPA broadly supported the drafting of the legislated changes with the following recommendations:

- Registration should be an individual obligation
- The FSCP should have the ability to set administrative warnings and sanctions without the need to convene a panel
- The Minister and ASIC should use advisory panels to support the setting of standards
- Amendments to the sanctions framework and reporting
- Minor amendments to the standards setting functions
- Removal of tax (financial) advice from TASA and TPB.

19 May 2021

ASIC: Lack of Independence Disclosure

ASIC consulted on an information sheet to assist AFSLs in disclosing non-independence.

The FPA supported the draft information sheet with some minor amendments.

25 May 2021

ASIC: Information Sheet Ongoing Fee Arrangements

ASIC consulted on a series of information sheets for the upcoming FDS and ongoing fee arrangement disclosure requirements.

The FPA supported the drafted information sheets with some minor amendments. We recommended an FAQ be created to answer common member questions.

1 June 2021

ASIC: Sample ROA

ASIC created a new sample ROA following reviews of ROAs used during the COVID-19 Relief provisions.

The FPA recommended some minor amendments to the ROA designed by ASIC.

3 June 2021

ASIC: CP 340: Breach Reporting Regime

ASIC's draft regulatory guide reflected reforms made to the breach reporting regime under the Financial Sector Reform (Hayne Royal Commission Response) Act 2020. These reforms clarify and strengthen the existing obligation on AFS licensees to self-report certain breaches of the law to ASIC and extend the obligation to credit licensees.

The FPA supported the update of RG78 to take into account the new breach reporting changes effective 1 October 2021 and also a new info sheet on the new obligations to notify, investigate and remediate. Recommendations/suggestions included clarity on some aspects on the obligations as well as further examples.

30 June 2021

AGD: National EPOA Register

Consultation on a mandatory national registration scheme for enduring powers of attorney relating to financial matters has been proposed as one way to reduce the financial abuse of older Australians.

The FPA recommended that:

- Financial planners and advisers registered on the FAR be given ongoing real time access to search and read full details of EPOAs on the National Register
- There should be no fee to search the register
- Verification of the EPOA should require a signature from a legal practitioner
- Verified attorney ID should be stored on the register
- Only active historic EPOAs should be required to be registered, however historic EPOAs that are not yet active may be registered
- Loss of capacity should be indicated in the relevant EPOA
- Land titles register and EPOA registers should be linked.