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Hon Kenneth Hayne AC QC

Dear Commissioner Hayne

**Subject: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry Interim Report**

CPA Australia represents the diverse interests of more than 163,000 members working in 125 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

Consumers today are being faced with making more financial decisions than ever before, yet in an increasingly complex financial environment.

With an ageing population, compulsory superannuation and low levels of financial literacy, it is imperative that consumers continue to have access to quality independent financial advice that is in their best interests, to help them make decisions that improve their financial well-being.

Importantly, research<sup>1</sup> has shown that consumers who have accessed financial advice benefit financially as a direct result of the advice. The financial benefits can include increased savings, higher investment returns or even reduced interest expense from the faster repayment of debt.

It can also have further benefits, though the financial adviser working with their clients to improve their financial literacy, in turn improving the client's financial confidence and decision making.

However, poor quality advice driven by prioritising profit before the client needs can have devastating and long-lasting impacts on both their client and their families.

Sadly, it can also act as a deterrent for the broader community to seek out independent quality financial planning advice from financial advisers within the sector who are solely focused on the best interests of their clients.

However, drivers of poor behaviour such as encouraging a sales culture and the conflict between advice and product distribution, focusing on profit rather than the client's needs, are unfortunately not new issues for the sector.

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<sup>1</sup> See, for example, KPMG Econtech Value Proposition of Financial Advisory Networks, report prepared for the Investment and Financial Services Association (now known as the Financial Services Council), 29 October 2009.

In 2009 the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into financial products and services in Australia Report highlighted the same key issues, asking whether the financial planning sector was a sales or advice industry.

The report further stated:

*These comments support the view that the need for greater professionalism and a focus on clients' interests should be reflected in a regulatory regime that matches these objectives. That is, the tension between the industry's dual sales and advice functions should be clearly resolved in favour of regulations that mandate a higher level of professionalism and better protect consumers from the negative consequences of conflicted advice.<sup>2</sup>*

The result was the Future of Financial Advice (FoFA) reforms, which implemented among other things, a statutory obligation for the financial adviser to act in their client's best interests and prioritise their needs above their own or any others.

The sector has seen further regulatory reforms since FoFA through the introduction of tax (financial) advice regulated under the *Tax Agents Services Act 2009*, data breach obligations under the *Privacy Act 1988*, amendments to the Corporations Regulations 2001 at times blurring the lines between the provision of administration, compliance, taxation and financial product advice.

Australia's financial planning industry is now one of the most highly regulated in the world.

Despite this we are still faced with the same conflicts and systemic issues of poor behaviour driven by greed.

The cost of compliance is also bordering on a regulatory environment which is repressing competition, rather than fostering it. This is before the impact of the ASIC Industry Funding Model and increasing professional indemnity insurance costs because of the current environment have been considered.

On 1 January 2019, a new professional standards framework for financial advisers will commence, implementing higher education standards for new entrants and requiring existing financial advisers to undertake additional bridging units to meet the new standards.

CPA Australia believe this new framework is vital to help rebuild the confidence and trust in financial advice that has been so demonstrably eroded, with a view to replicate the trusted relationship that generally exists between a client and other professionals such as doctors, lawyers, and professional accountants.

However, the overarching driver of lifting education standards should be not to focus just on the holding of a specific qualification, but more importantly, it should ensure that an individual has the appropriate level of technical expertise and skill to provide quality financial advice.

We therefore strongly believe it is important that any additional training that an existing financial adviser must complete has a clear focus on ensuring the right learning objectives are met to build and deepen their technical knowledge and expertise, not just focus on the attainment of a specific qualification or completion of a bridging unit.

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<sup>2</sup> Parliamentary Joint Committee on Corporations and Financial Services Inquiry into financial products and services in Australia report November 2009 page 85

This is what will help drive consistent quality advice that meets the expectations of the community.

Increased education standards alone will not address other important and related issues, such as conflicts of interest that arise during the advice process. Therefore, a holistic education and professional framework is integral to not only ensuring consistency in knowledge and skills, but also conduct and behaviour. It is therefore important that the requirements for new entrants focusing on education pathways, professional year of experience and examination be considered collectively, as all of these elements should build and complement one another.

Another key consideration is the sustainability of the financial advice sector.

From our engagement with our members and more broadly in the sector, we understand that many experienced financial advisers are considering exiting the sector. We do not believe this is in the broader public interest and should it happen, will have significant flow-on effects.

For example, a core element of the new framework is new entrants must complete a professional year of supervised experience. The sector needs these experienced advisers to remain in advice to ensure new graduates benefit from their mentoring and ensure this element of the framework can deliver the policy intent. It will also impact the accessibility of advice for the broader community through less supply and likely higher costs.

With an ageing population and compulsory superannuation to help prepare for retirement, we need valued experienced financial advisers to remain in the sector. It is therefore critical that future pathways for new and existing advisers are equitable, sustainable, deliver value and reflects the expectations of the community.

Another key element of the new framework is a code of ethics, aimed at fostering ethical standards of behaviour and professionalism in the sector. Compliance with the new code for financial advisers will be monitored and enforced by ASIC approved Code Monitoring Schemes. While monitoring and enforcement is essential to the success of the code, it will represent another yet unknown cost to the sector further impacting the cost of providing financial planning advice.

While these existing and future reforms are aimed at improving the quality of advice and ensuring adequate consumer protection, there is a genuine risk that they will force small independent financial planning practices out of this sector, no longer able to absorb the cost of operating an independent AFS licence and still provide affordable advice to their clients.

These initial and ongoing costs, coupled with the complexity of the sector may also act as a deterrent for new entrants to the sector including professionals in related sectors, such as professional accountants.

This would be a great loss to the financial services sector and more importantly, the consumer.

As stated in the Interim Report, there is already a complex regulatory framework that requires AFS licensees to 'do all things necessary to ensure' that the services they are licensed to provide are provided 'efficiently, honestly and fairly'.

CPA Australia agrees that introducing an additional layer of regulation that seeks to re-enforce these existing obligations will only add further complexity to an already complex regulatory regime, as well as further add to the cost of providing financial advice.

It is time to rethink the current regulatory framework to encourage the provision of affordable, independent quality advice that seeks to engage and inform, not overwhelm, the consumer in the process.

For example, how could legislative complexity be reduced or harmonised to reduce unnecessary costs when providing financial advice and services yet ensuring real and effective consumer protections to encourage the broader community to seek advice.

How can real and perceived conflicts of interest, including those driven by remuneration models, be effectively addressed or removed.

Consideration must also be given to how regulators can be more effective and efficient in their oversight and regulation for this sector, given for example ASICs costs will be largely borne by participants and passed onto the consumers through the cost of seeking advice.

While the Royal Commission findings to date have been deeply concerning and unacceptable, it demonstrates the need for change and provides an opportunity to explore how can quality financial advice be provided in an affordable, efficient and effective manner that benefits the community and encourages the professionalism of the advice sector.

With an ageing population, compulsory superannuation and low levels of financial literacy, there is a greater need than ever before to build a sustainable financial advice sector that delivers trusted advice the community can have confidence in.

If you have any questions regarding this submission, please do not hesitate to contact Keddie Waller, Policy Adviser – Financial Planning on +613 9606 9816 or [keddie.waller@cpaustralia.com.au](mailto:keddie.waller@cpaustralia.com.au).

Yours faithfully



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