INSTITUTE OF PUBLIC ACCOUNTANTS®

Submission to ASIC: CP 332 Promoting access to affordable advice for consumers

January 2021

18 January, 2021

Mr Andrew Choi
Lawyer, Financial Advisers Team
Australian Securities and Investments Commission
GPO Box 9827 Brisbane QLD 4001

By email: accesstoadviceconsultation@asic.gov.au

Dear Mr Choi

CP 332: Promoting access to affordable advice for consumers

The Institute of Public Accountants (IPA) welcomes the opportunity to comment on CP 332 and to further the goal of achieving access to competent and affordable advice for consumers.

The IPA is one of the three professional accounting bodies in Australia, representing over 40,000 accountants, business advisers, academics and students throughout Australia and internationally. Three-quarters of the IPA's members work in or are advisers to small business and SMEs.

In preparing this submission, we have taken the position of a stakeholder on behalf of our members who practice in the financial advice sector. We have undertaken consultation through an extensive survey based on the questions in CP 332 and have also consulted directly with numerous members who practice in this sector. Whilst we encouraged members to respond directly to ASIC through the Checkbox, many preferred to make comments through the IPA. We have also relied on data and information obtained through our quality assurance reviews and Professional Standards declaration.

Exiting financial advice sector

The IPA is extremely concerned at the rate at which our members are exiting the financial advice sector. We believe that qualified accountants are well placed as trusted advisers to provide advice to clients and to assist in meeting the growing demand for affordable advice.

According to our data (based on a 93 per cent response rate to the Professional Standards declaration), approximately one-quarter of our members who hold Professional Practice Certificates also hold full or limited AFSLs or are authorized representatives of AFSL holders. From 2018 to 2019 there was a reduction of 12 per cent in the number of IPA members who were licensed or authorised to provide advice. More specifically, there was a 16 per cent reduction in full licence holders and an 8 per cent reduction in limited licence holders. Data for the 2019 to 2020 year will be available in March 2021, however, based on anecdotal evidence from members and from the CP 332 survey, we anticipate that the trend will be for further reductions. The 2019 data supports this with evidence that the income derived from financial advice is diminishing across all license types and also for authorised representatives.

The survey results (which are statistically valid) indicate that the overwhelming response to the question of access to affordable advice for consumers is that compliance is the main driver of cost in providing advice. And that meeting these compliance costs is making it unprofitable to provide advice to a cohort of consumers who will not pay. We note that CP 332 acknowledges the cost gap between what it costs to provide the advice versus what consumers are prepared to pay. A significant rebalance is needed if the unmet advice needs of consumers is to be satisfied.

However, this is a challenge which needs a holistic solution, and which cannot be solved by ASIC alone. In this regard we acknowledge that CP 332 states that ASIC will pass on feedback and comments on suggestions for law reform to Government. IPA believes that to seriously tackle the affordability issue that compliance requirements will need to be changed in terms of legislation, regulation, interpretation and implementation. We appreciate that ASIC's role is in interpreting, implementing and enforcing the legislation and regulation, which are developed and decided by Treasury and Government. However, fees such as those imposed by the ASIC industry funding model, are within the control of ASIC and are part of the increasing cost of doing business suffered by many IPA members and other advisers.

Questions for consultation

With respect to the questions in the consultation paper, we have mostly focused on those in table 3 on page 14:

- The impediments to the advice industry in providing good-quality limited advice and financial advice more broadly.
- How should ASIC and industry address these impediments.

We have shaped our survey questions to include reference to some of the other information being sought by ASIC in other sections of CP 332, including on ASIC guidance and COVID-19 related relief.

Major themes emerged from the member survey, which are largely consistent with other member consultation. These are discussed below.

About your practice

<u>Size and type:</u>

Practices ranged from 5 to 2,500 financial advice clients, with some being specialized, while others offered a broad range of advice services and most (but not all) being within an accounting practice. Approximately half operate as authorized representatives, while the rest are a mix of full and limited licensees.

<u>Demand for services:</u>

In response to the question as to whether in the past 24 months, demand for financial advice has increased, decreased or stayed the same, nearly two-thirds stated that demand has increased. In some cases there has been a significant increase in demand from a range of consumers, with members referring to 'considerably' and 'definitely'. The other one-third referred to either a decrease in demand or it has 'stayed the same'.

<u>Areas of demand:</u>

The main areas of demand for advice included:

- Superannuation, contributions, rollovers
- Retirement planning, pensions
- Cashflow, budgeting and debt management
- Investment planning, personal portfolio investment
- Estate planning

- Insurance, risk management
- Tax planning, restructuring, salary sacrifice
- Mortgages, loans, property investment
- SMSFs
- Centrelink, aged care

Fees:

In response to questions on the basis for charging fees, the majority of respondents charge fees either on a fee-for-service, flat (or fixed) fee or hourly rate basis. This was for both ongoing fees and upfront fees. There were (unsolicited) comments added that clients prefer to pay commissions rather than have to actually pay out fees. In most of these cases, the amounts being invested did not warrant paying ongoing fees so the clients did not continue to obtain advice on an ongoing basis or did not obtain initial advice.

We also asked if fees charged to clients have increased in the past 12 months, if so, why and by how much. Almost half stated that they have not increased their fees, as clients will not pay them. Approximately a third have increased their fees in order to meet increasing compliance costs. Examples of fee increases: from \$2,200 to \$3,800; \$4,500 to \$6,000; \$1,000 to \$1,500, mostly for minimum fees charged to clients.

Cost and other impediments to providing advice

Too expensive:

The survey also asked whether the cost of advice made it too expensive for (some) clients. Almost 100 per cent of respondents replied 'yes'. Some members expressed surprise that we would even have to ask the question. There were many comments stating that compliance and documentation made the cost prohibitive; the fact find being a waste of time; most clients don't read the documents and question why they are being provided with them. In response to the high cost of advice, about a third of respondents changed their target market, mostly to high net wealth individuals or business/ professional type clients and some were focusing only on SMSF clients. Others stated that they intended to exit the financial advice space as they were no longer able to provide advice profitably; others provided financial advice as an add-on service to tax and accounting services and did not expect to do so profitably.

Regulatory framework:

The most overwhelming response was to the question on whether the current regulatory framework and compliance should be simplified, and if so, how. Almost 100 per cent of respondents answered 'yes'. Some of the comments were 'obviously', 'definitely', 'it's a disgrace', 'really???', 'absolutely', 'standard 6 FASEA is a problem', 'it's insane', 'totally over the top madness', 'we've built a \$3 trillion super pool but you can't get advice on it', 'cost structures advantage the large players', 'complete review is needed' (this was a common theme), 'dramatically shorten SOAs', 'ASIC needs to get out of the way' and other similar remarks.

The conclusion which was noted by many members (including in consultation in addition to the survey) was that the high cost of advice meant that many consumers were not getting advice. As noted in the consultation paper, clients refuse to pay enough to cover costs. As one member put it, 'the simple question of 'should I start a pension' becomes a war and peace document costing \$2,000'.

Technology and costs:

With respect to the use of technology, many respondents stated that they used software and were aware of and used various digital solutions, however, these did not alleviate the cost of providing advice due to the fact that many of the increasing costs were not reliant on technology. Costs, which are constantly increasing included PI insurance, licensee fees, ASIC levy, subscription fees (for Xplan etc) and then in addition there were CPD costs, professional body membership costs and the other costs of doing business.

Licensees and dealer groups:

Another theme was that members who are authorized representatives were often subject to the requirements of their licensees and dealer groups, who were usually risk-averse, with very little opportunity to make changes.

Industry funds:

Some members mentioned the role played by industry funds, which they believed should facilitate and support the advice community, but instead were taking advantage of the situation and were able to offer more affordable or free advice to consumers. Members stated they were unable to compete given the vastly different cost structures under which they respectively operate.

Solutions to cost and impediments

Documentation:

One of the main themes was that compliance requirements around documentation need to be simpler. Many members made comments to the effect that SOAs and other documents are really for compliance purposes and to protect licensees and are not for the clients. Some have to pay fees to their dealer groups to have their SOAs vetted and approved before being able to present them to clients. This added to the time and cost of the process; with many of these members saying that the cost was to vet for compliance rather than for the quality of the advice. Duplication in the documentation was another frequent comment, such as 'ongoing duplicated disclosures adds to the cost and adds no value'.

ASIC guidance:

Members were divided as to the usefulness of ASIC guidance, including RG 244 and RG 90, and whether more guidance was needed, though most agreed that more examples would be useful. Whilst some believed that more guidance was definitely needed as to what constituted acceptable advice, others were just as vehement that the existing guidance only served to confuse matters or make the provision of advice more complicated and detailed than was necessary. The majority of authorized representatives agreed that it would help if their licensees and dealer groups accepted or applied the ASIC guidance. Many suggested that ASIC could issue standard documents for everyone to use.

Individual licensing:

A number of members suggested that having an individual license structure, like tax agents, lawyers, doctors, SMSF auditors, registered company auditors, would reduce costs. This would reduce the licensee/ dealer group costs and reduce complexity and the compliance burden. Some suggested that dealer groups could still provide services like APLs, research and products. Building competence in a specific area and then advising solely in that area was also suggested by some members. This also goes to the issue discussed below of whether scoped advice should be encouraged.

Matching complexity:

An overall and common theme was that regulation should match the complexity of the advice being given and the risk involved. Smaller licensees were considered to be of lower risk but they were still constrained by the same legislation as larger licensees.

AFCA:

In terms of reducing risk-aversion, one member commented that access to AFCA should be made more difficult for consumers, as some made baseless complaints which then had to be paid for by the licensee and this just kept adding to the cost-base, while the consumer bore no cost. It may be possible for AFCA to have a more rigorous pre-vetting process, though we appreciate that this may be unlikely given the outcomes of the Hayne Royal Commission. However, we have received anecdotal evidence about licensees basing their compliance programs on the outcomes of AFCA investigations.

Role of consumers:

Another common theme was around consumers taking more responsibility; and greater encouragement of consumer participation. This included, consumers having more awareness of the role of financial advisers and of the legal and regulatory requirements placed on them. Many commented that even though they describe and explain this to clients, that it simply does not make much difference in terms of how they view the relationship and how much they are prepared to pay for the services.

Scoped advice:

Members were asked whether being able to offer ‘scoped’ or ‘single issue’ advice would make it more profitable for them and less expensive for consumers. Whilst many commented that scoped advice was already possible and they already offered scoped advice, approximately half answered that ‘yes’ being able to offer ‘scoped’ or ‘single issue’ advice would make it easier and less expensive for consumers.

COVID-19 relief:

Members were divided in their responses to the question of whether they found the COVID-19 relief helpful and whether relief should be provided to make ROAs more readily available for financial advisers to use as an alternative to an SOA. Whilst approximately a third found it useful, the others did not take up the relief offered on the basis that they did not think it was commercially viable or considered that it would be ‘too risky’.

Strategic advice

The majority of respondents do not offer product recommendations and believe that most consumers would benefit from strategic advice only. There was a mix of responses from members who provide strategic advice, with and without product recommendations (if licensed to do so) while others refer clients to financial planners or other specialized providers who can assist with product recommendations. There was a general consensus among those who do not provide product recommendations that they do not wish to do so on the basis of the compliance burden.

The majority of respondents stated that ‘all clients’ would benefit from receiving strategic advice and similarly the majority of respondents stated that ‘all consumers’ would benefit from receiving financial advice. In addition, there was a variety of responses, including ‘young clients’, ‘salary and wage earners’, business clients’ and ‘professional clients’ as to those who would benefit from strategic advice only.

We also asked whether it would be helpful to have more guidance and examples from ASIC on compliant strategic advice. There was a mix of responses as to ASIC guidance generally. While some found it useful, others did not, based on its focus on compliance rather than on what might constitute acceptable advice and that it did not appear to be client focused.

IPA position

In addition to the above comments from members, the IPA has long held the view that the regulatory regime for financial advice should be simplified and that, as stated by many members, there should be a licensing or registration system for individuals, as with many other professions. This has been raised on numerous occasions with Treasury and with the government of the day, including the current Government. We will continue to advocate our position and appreciate ASIC’s comment that suggestions for law reform will be passed on to Government.

Part of our long-held position, which has been advocated to Treasury and to Government on numerous occasions, is that the Future of Financial Advice reforms have not achieved their policy objective of providing consumers with competent and affordable advice. The introduction to CP 332 clearly refers to the diminishing pool of financial advisers and to the unmet financial advice needs of consumers. By allowing appropriately qualified people to register to provide advice on specific topics without the need for a suite of long, legalistic documentation, would make a good start to ‘promoting access to affordable advice to consumers’.

If you have any queries or require further information, please don’t hesitate to contact Vicki Stylianou, Group Executive, Advocacy & Policy, either at vicki.stylianou@publicaccountants.org.au or mob. 0419 942 733.

Yours sincerely

V. Styl

Vicki Stylianou
Group Executive, Advocacy & Policy
Institute of Public Accountants