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24 July 2020

Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

By email: policy.submissions@asic.gov.au

Dear ASIC,

AFA Submission: Cost Recovery Implementation Statement: ASIC industry funding model (2019-20)

The Association of Financial Advisers Limited (**AFA**) has served the financial advice industry for over 70 years. Our objective is to achieve *Great Advice for More Australians* and we do this through:

- advocating for appropriate policy settings for financial advice
- enforcing a Code of Ethical Conduct
- investing in consumer-based research
- developing professional development pathways for financial advisers
- connecting key stakeholders within the financial advice community
- educating consumers around the importance of financial advice

The Board of the AFA is elected by the Membership and all Directors are currently practicing financial advisers. This ensures that the policy positions taken by the AFA are framed with practical, workable outcomes in mind, but are also aligned to achieving our vision of having the quality of relationships shared between advisers and their clients understood and valued throughout society. This will play a vital role in helping Australians reach their potential through building, managing and protecting wealth.

AFA's Response

The AFA supports in principle a user pays model for the regulation of financial services, however, we are particularly concerned at the scale of the increased spend on financial advice and the increased cost for financial advisers providing personal advice to retail clients on relevant financial products. The total expenditure on financial advisers, who provide personal advice to retail clients on relevant financial products, has gone from $26m in 2017/18, to $33m in 2018/19 and then $40m in 2019/20. This increase is happening at the same time that the number of financial advisers on the Financial Adviser Register (FAR) has significantly declined. The cost per adviser has gone from $934 per year in 2017/18 to $1,134 in 2018/19 and then $1,571 in 2019/20. This represents an increase of 68% in just two years and 38% in the last year, which is a very substantial increase in costs at the same time as financial advice businesses are under significant revenue and expenditure pressure, and this is before consideration of the impact of the COVID 19 crisis.

We are obviously conscious of the outcomes of the Royal Commission and the additional funding that was provided to ASIC as a result, however, the Royal Commission only looked at 10 individual financial advisers, with only one being called as a witness. The primary focus was the large institutions. The impact of the Royal Commission seemingly is hitting the individual advisers, when many of the institutions who appeared at the Royal Commission, have either largely left financial advice or are in the process of scaling back.

Retail Clients Versus Wholesale Clients

We find the contrast between financial advisers who provide personal advice to retail clients on relevant financial products and those advisers who only provide personal advice to wholesale clients to be staggering. With the cost for the former being $1,500 per licensee, plus $1,571 per adviser, wholesale licensees only pay a total of just $155 per year, no matter how many advisers they have. At a time where we see such an imbalance in the regulatory regime that applies between these two groups of advisers, this is alarming. Financial advisers who only provide personal advice to wholesale clients are not bound by the same disclosure obligations or the Best Interest Duty and Related Obligations, or the FASEA education and professional standards and they can operate at an absolute fraction of the ASIC Funding Levy. This only serves to encourage some financial advisers to transition to the Wholesale world, which appears to be extremely light touch and low cost.

The irony of this is that all these recent reforms have had such a big impact on the cost of providing financial advice to retail clients, however wholesale clients, who have much greater ability to pay for the cost of financial advice, are being left unaffected.

The Focus of the Expenditure

When looking at ASIC's expenditure on financial advisers who provide personal advice to retail clients on relevant financial products, we note the following direct expenditure items:

Expense Category	Cost - $M
Enforcement	12.332
Surveillance	7.548
Financial Capability	1.178
Guidance	0.596
Industry Engagement	0.419
Education	0.194
Policy Advice	0.115

For the vast number of financial advisers who have never had a complaint or been subject to any investigation by ASIC, the sight of $12.3M being spent on Enforcement is likely to be disturbing. Why are they paying so much more for the enforcement activity related to those licensees and advisers who have been doing the wrong thing? We expect that much of the Enforcement and Surveillance is being focussed on the large institutions, yet it is the average adviser who is being forced to pay for this. It is also inevitable that some of this Enforcement expenditure is directed at the institutions who are no longer involved in financial advice, or have significantly scaled back their operations. They are clearly not paying for the ASIC costs that they are responsible for. This brings the user pays principle very much into question.

We note that the Cost Recovery Implementation Statement that was issued in October 2017 included an estimate of $9.758M for enforcement and $2.447M for Surveillance. It seems that whilst the cost of Enforcement has increased materially, the cost of Surveillance has increased three fold. The reasons for this are unclear to us.

We note the very small amount of money that is being spent on Education and question whether an increased expenditure on Education and Guidance would actually enable a very material reduction in the expenditure on Enforcement and Surveillance. We would argue that an increase in expenditure on prevention, would be better than spending so much on Enforcement, after something has gone wrong.

In our view, it would be beneficial to have an increased level of visibility of this expenditure and greater dialogue on where the money is best spent, and how effective that expenditure is.

Relief During the COVID 19 Crisis

Whilst we note that it is not in the hands of ASIC to provide relief in terms of the payment of the ASIC Funding Levy, in the context of the huge pressures on the small business sector as a result of the COVID 19 crisis, we call on the Government to waive these fees for 2019/20, or find a mechanism whereby the adviser levy is capped.

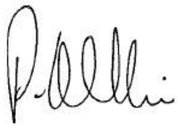
We note with great concern, that if the expenditure by ASIC is not reduced, then this fee for financial advisers who provide personal advice to retail clients will substantially increase in the 2020/21 year as a result of the continuing decline in financial adviser numbers. It is simply not acceptable for a further increase of the scale that we have seen in the last two years.

Concluding Remarks

Whilst we accept the premise of a user pays model, it is clear that this framework requires a major review in order to ensure that financial advisers are being treated fairly and that the escalation in the charge can be brought under control.

The AFA welcomes further consultation with ASIC should it require clarification of any points raised in this submission. If required, please contact us on (02) 9267 4003.

Yours faithfully,



Philip Kewin
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