

Merger summary and update – AFA and FPA proposed merger

13 December 2022

Dear AFA members,

The Association of Financial Advisers Ltd (AFA) and The Financial Planning Association of Australia Limited (FPA) are now seeking feedback from their respective members on the key provisions of a legally binding merger deed (Merger Deed) which they propose to enter into, in respect of the proposed merger of the two associations (Proposed Merger). The completion of the Proposed Merger is subject to (amongst other conditions) member vote by both AFA and FPA members.

The purpose of this merger summary and update (MS) is to assist all members of the AFA and FPA understand the key features of the Proposed Merger before they are invited to vote to decide on whether the Proposed Merger proceeds.

Your feedback on the contents of this MS is most welcome. As a result of member feedback there may be certain terms of the Proposed Merger that change from those terms set out in this MS including dates contained in Part 2 of this MS, and we ask that you please look out for any future announcements we may make in relation to the Proposed Merger to stay up-to-date with any changes.

1. BACKGROUND

The AFA and FPA are two of Australia's largest and longest standing associations of financial planners and advisers. Both the AFA and FPA boards have formed the view that substantial benefits will likely flow to their respective members from the Proposed Merger, including:

Advocacy: A stronger unified voice for financial planners and advisers, supporting our advocacy goals;

Education: Access to a wider range of resources, clarity on designations and more resources for CPD;

Community: More ways for members to engage with each other and with the association to receive the support they need;

Events: More scale, frequency and resourcing;

Professional standards: Supported with singular focus and greater resourcing;

Member support services: More scale and resources to deliver greater services to members.

The AFA and FPA commenced member consultation regarding the Proposed Merger on

1st September 2022.

2. WHAT IS THE PROPOSED MERGER?

2.1 What does the Proposed Merger involve?

Broadly speaking, the Proposed Merger will mainly involve the re-branding of the FPA as the post-merger association ("Merged Entity"), a new Constitution and governance framework for the Merged Entity, the transfer of members, staff and assets from the AFA to the Merged Entity, and the ultimate winding up of the AFA, as detailed below.

The Proposed Merger will be completed and implemented in a four-stage process as outlined below.

2.2 Stage 1 – Conditions precedent

The first stage of the Proposed Merger is the satisfaction of the agreed conditions. Completion of the Proposed Merger and the subsequent implementation steps as outlined below are all conditional on each of the following being satisfied or waived before 30 June 2023:

- (a) **(New name)** the two associations have agreed on the name of the Merged Entity following member consultation;
- (b) **(ACCC approval)** informal clearance of the Proposed Merger (or a more formal form of approval) from the Australian Competition and Consumer Commission has been obtained (this is expected before member voting occurs);
- (c) **(FPA member approval)** at least 75% of the votes cast by FPA members in support of the Proposed Merger (as further described in Part 5 (Member approval));
- (d) **(AFA member approval)** at least 75% of the votes cast by AFA members in support of the Proposed Merger (as further described in Part 5 (Member approval));
- (e) **(AFA Investment Fund)** the AFA Investment Fund Pty Limited has provided the FPA with:
 - (i) a written confirmation that they have approved amendments to the trust deed establishing the AFA Investment Fund, through a Variation Deed, to make the Merged Entity the sole beneficiary of the AFA Investment Fund, subject to approval of the AFA members and the FPA members to the Proposed Merger; and
 - (ii) a letter of comfort that in the event of AFA member approval and FPA member approval of the Proposed Merger, their intention is to wind up the AFA Investment Fund and distribute the residual funds to the Merged Entity and
- (f) **(AFA nominated directors)** the AFA has nominated 4 directors to the transitional board of the Merged Entity (see Part 4.2 (Transitional Board Structure) below).

2.3 Stage 2 – Legal completion

At “legal completion” (currently expected to be in April 2023), the following will occur:

- (a) **(new name)** the FPA will adopt and start operating under a new name, at which point the FPA becomes the Merged Entity;
- (b) **(new constitution and member regulation)** the Merged Entity will adopt the following with immediate effect:
 - (i) a new constitution substantially in the form set out in Annexure A (which may be amended following further member consultation) (New Constitution); and
 - (ii) a set of new regulations regarding membership of the Merged Entity (New Membership);
- (c) **(transitional board structure)** the transitional board structure as described in Part 4 (Governance) below (Transitional Board Structure) will commence at the Merged Entity;
- (d) **(transfer of AFA IP)** substantially all intellectual property of the AFA will be transferred to the Merged Entity;

- (e) **(transfer of AFA employees)** a number of AFA employees will transfer to the Merged Entity; and
- (f) **(cessation of AFA member services)** the AFA will cease providing member services to the AFA members (and the Merged Entity will provide equivalent services to AFA members until the end of the implementation period as described below).

2.4 Stage 3 – Implementation period

The third stage is referred to as the “implementation period” which commences on the legal completion date and scheduled to end on 30 June 2023. During the implementation period, the following will occur:

- (a) **(transfer of AFA membership)** AFA members will be invited to apply for membership with the Merged Entity and resign as members of the AFA (effective 1 July 2023 – see further details in Part 5 (New Membership) below);
- (b) **(transfer of AFA data and records)** the AFA’s data and records will be transferred to the Merged Entity for the purpose of facilitating a smooth transition of membership and the continuance of the AFA’s member services, heritage and legacy;
- (c) **(ancillary steps of AFA IP transfer)** steps will be taken for the transfer of AFA intellectual property to the Merged Entity, and the same intellectual property will be licenced back to the AFA on a non-exclusive basis for the purpose of the AFA performing its obligations under the Merger Deed;
- (d) **(winding up of the AFA Foundation)** the AFA Foundation is proposed to be wound up; and
- (e) **(change of beneficiary of the AFA Investment Fund and winding up of AFA Investment Fund)** subject to the decision of the AFA Investment Fund Pty Limited (which is the trustee of the AFA Investment Fund):
 - (i) the Merged Entity will become the sole beneficiary of the AFA Investment Fund; and
 - (ii) the AFA Investment Fund will be subsequently wound up with any surplus funds to be transferred to the Merged Entity.

2.5 Stage 4 – AFA winding up

The last stage will involve the AFA being wound up or de-registered (as may be determined at the time), with any surplus funds to be transferred to the Merged Entity.

To ensure certainty of the Proposed Merger, and a more efficient winding-up process, the timing of the AFA’s winding up will likely follow the conclusion of the implementation period.

3. Membership in Merged Entity

3.1 New Membership

The categories/classes of New Membership as well as the associated eligibility criteria, fees, key rights/benefits and obligations are outlined in Schedule 1 of this MS (New Membership Matrix).

For FPA members, the New Membership will apply upon renewal for the 2023/2024 financial year.

For AFA members, they can apply for New Membership in accordance with the process outlined below.

3.2 Application for New Membership

After the last of the conditions precedent to the Proposed Merger (described in Part 2.2) is satisfied or waived (expected to be the requisite member approval at both associations), the AFA will send an invitation for application for New Membership to all existing AFA members on behalf of the Merged Entity.

For those AFA members who submit a valid application for New Membership (including meeting the relevant eligibility criteria) in time, they will become members of the Merged Entity commencing on 1 July 2023.

3.3 Cessation of AFA membership

The application for New Membership will include a statement which constitutes a notice of resignation of the applicant's AFA membership effective on 30 June 2023.

For those AFA members who will become members of the Merged Entity under the above process:

- (a) if renewal of their AFA membership falls due before 30 June 2023, their AFA membership will be renewed to 30 June 2023 for a pro-rata fee; and
- (b) if renewal of their AFA membership falls due after 30 June 2023:
 - (i) their AFA membership will expire on 30 June 2023 due to the above resignation taking effect; and
 - (ii) they will be granted a membership fee credit at the Merged Entity for the amount of any paid AFA membership fee that relates to the period beyond 30 June 2023.

For those AFA members who do not intend to apply for New Membership, or otherwise will not become a member of the Merged Entity, in each case under the above process:

- (a) they may resign their AFA membership in return for a refund of the amount of any paid AFA membership fee that relates to the period beyond the 30th June 2023; or
- (b) otherwise their AFA membership will end on 30 June 2023 and the AFA board will not accept any renewal application.

If the effective date of the New Membership is deferred for any reason, the date of 30 June 2023 as referred to above on each occasion will be deferred accordingly.

4. GOVERNANCE

4.1 New Constitution

As mentioned above, the Merged Entity will adopt a New Constitution which will be substantially in the form set out in Annexure A (which may be amended following further member consultation).

4.2 Transitional Board Structure

As described in the transitional provisions at the end of the New Constitution, the Merged Entity will have a transitional board for 3 years (Transitional Period) after legal completion, which will be structured as follows:

- (a) the maximum number of directors on the transitional board will be 12;

- (b) 4 directors on the transitional board will be former AFA directors nominated by the AFA board (and any replacement of such directors during the Transitional Period will be former AFA directors nominated by other AFA nominated directors who are not being replaced);
- (c) 6 directors on the transitional board will be any member of the Merged Entity (including both former AFA members and former FPA members) who is elected under the non-transitional provisions of the New Constitution and the applicable elections regulations (initially the current member-elected FPA directors);
- (d) the remaining directors (up to 2) on the transitional board need not be members of the Merged Entity and will be appointed under the non-transitional provisions of the New Constitution by the transitional board (initially the current additional FPA directors); and

Upon expiry of the Transitional Period and having effect going forward:

- (a) the maximum number of directors on the board of the Merged Entity will be reduced to 9;
- (b) 6 directors will be any member of the Merged Entity (including both former AFA members and former FPA members) who are elected under the non-transitional provisions of the New Constitution and the applicable elections regulations; and
- (c) the remaining directors (up to 3) need not be members of the Merged Entity and will be appointed under the non-transitional provisions of the New Constitution by the board.

4.3 Community and culture

- (a) The parties agree that the boards of the FPA and the AFA consider it to be of critical importance to ensure the Merged Entity respects and continues the best elements of the culture and community support currently offered by each association.
- (b) The parties will procure that a committee in the Merged Entity "Culture and Community committee" will be established and such committee will:
 - (i) have equal representation from existing AFA and FPA Directors and Members (supported by the Merged Entity management team);
 - (ii) review the existing chapters, communities, awards, member events and initiatives offered by FPA and AFA, and make recommendations regarding how these initiatives should be carried forward in the Merged Entity; and
 - (iii) until the recommendations in (ii) are implemented, use its best endeavours to ensure that the existing initiatives, communities and committees of each current association continue.

5. MEMBER APPROVAL

5.1 What does member approval involve?

Member approval of the Proposed Merger requires:

- (a) for the FPA, each of the resolutions to be voted on by FPA members as described in Schedule 2 of this MS (Resolutions to be voted on) has been passed by way of a special resolution – meaning at least 75% of the votes cast must be in favour; and

- (b) for the AFA, each of the resolutions to be voted on by AFA members as described in Schedule 2 of this MS (Resolutions to be voted on) has been passed by way of a special resolution – meaning at least 75% of the votes cast must be in favour.

The Proposed Merger is not approved and will not proceed as currently contemplated if any such resolution is not passed.

5.2 Timing of member approval

We are targeting 28 February 2023 as the date for an extraordinary general meeting (EGM) to approve the Proposed Merger at both associations.

Accordingly, we expect to circulate the relevant notice of meeting for the EGM no later than 6 February 2023.

6. NEXT STEPS AND MILESTONES

The milestones of the Proposed Merger and their expected timing are:

Step	Estimated timing
Continuing consultation	Up to 31 January 2023
Determining the name of the Merged Entity	31 January 2023
Notice of meeting	6 February 2023
ACCC approval	Before 28 February 2023
EGM for member approval of the Proposed Merger	28 February 2023
<i>(Assuming all conditions precedent are satisfied or waived)</i>	
Legal completion	3 April 2023
Implementation period (including invitations for New Membership)	3 April 2023 – 30 June 2023
Last day of AFA membership for transferring and resigning AFA members	30 June 2023
New Membership become effective	1 July 2023
Winding up of the AFA	After 1 July 2023

On behalf of the board,



Sam Perera, AFA National President

Schedule 1 New Membership Matrix

Merged Entity Category	Sub-category	Previous category – AFA	Previous category - FPA	Voting Rights	Obligations	Eligibility Criteria	Annual membership fees incl. GST (2023/24 Renewal)
CERTIFIED FINANCIAL PLANNER® Professional	CFP® Professional	N/A	CFP® Professional	Full – stand for any office (including Board and Chapter Chair), vote at AGM etc	Abide by Constitution and all regulations	An applicant must at the time of application: <ul style="list-style-type: none"> (a) be approved by the GM, Education & Professionalism for granting of the CFP® professional designation; and (b) be <ul style="list-style-type: none"> (i) a current Member of the association or (ii) a current Affiliate Member of the association, and have completed the Member Declaration and Membership agreement prior to admission to the category of CFP® Professional; and (c) meet the education and training standards (if any) prescribed by law; and (d) satisfy the general obligations for each applicant prescribed in the Member regulations, and (e) must abide by the CFP® Code of Professional Practice in force from time to time; and (f) meet the definition of ‘Practising’. 	\$995
	CFP® Professional (Non Practising)	N/A	CFP® Professional	Full – stand for any office (including Board and Chapter Chair), vote at AGM etc	Abide by Constitution and all regulations	An applicant must at the time of application: <ul style="list-style-type: none"> (a) be approved by the GM, Education & Professionalism for granting of the CFP® professional designation; and (b) be <ul style="list-style-type: none"> (i) a current Member of the association or 	\$795

Merged Entity Category	Sub-category	Previous category – AFA	Previous category - FPA	Voting Rights	Obligations	Eligibility Criteria	Annual membership fees incl. GST (2023/24 Renewal)
						<ul style="list-style-type: none"> (ii) a current Affiliate Member of the association, and have completed the Member Declaration and Membership agreement prior to admission to the category of CFP® Professional; and (c) meet the education and training standards (if any) prescribed by law; and (d) satisfy the general obligations for each applicant prescribed in the Member regulations; and (e) must abide by the CFP® Code of Professional Practice in force from time to time; and (f) does not meet the definition of 'Practising'. 	
	CFP® Academic	N/A	CFP® Academic	Full – stand for any office (including Board and Chapter Chair), vote at AGM etc	Abide by Constitution and all regulations	<p>Meet the criteria outlined above to be eligible for CFP membership AND</p> <ul style="list-style-type: none"> (a) are engaged in Full-time employment as an academic at an Australian higher education provider; or (b) are engaged in Part-time employment as an academic at an Australian higher education provider and not engaged in other employment in the financial services profession; and (c) do not meet the eligibility criteria for a higher category of Membership; and (d) do not meet the definition of 'Practising'. 	\$497.50
Practitioner	Financial Planner AFP®	Practitioner	Financial Planner AFP®	Full – stand for any office (including Board and Chapter Chair), vote at AGM etc	Abide by Constitution and all regulations	<p>The applicant must at the time of application:</p> <ul style="list-style-type: none"> (a) not meet the eligibility criteria for a higher sub-category of Membership; and (b) provide evidence that they: 	\$595

Merged Entity Category	Sub-category	Previous category – AFA	Previous category - FPA	Voting Rights	Obligations	Eligibility Criteria	Annual membership fees incl. GST (2023/24 Renewal)
						<ul style="list-style-type: none"> (i) are actively engaged in providing advice or services for financial reward within the financial services sector, and (ii) are registered with a regulatory or industry body appropriate to their area of practice, including, but not limited to, as either: <ul style="list-style-type: none"> (A) having a ‘current’ status on the FAR, or (B) registered as a tax practitioner with the TPB, or if they are unable to provide evidence that meets the requirements of this clause: (C) completes a Statutory Declaration to confirm that they are actively engaged in providing advice or services for financial reward within the financial services sector, and (c) meet the education and training standards (if any) prescribed by law; and (d) satisfy the general obligations for each applicant prescribed in the Member regulation. 	
	Provisional Planner / Adviser	(Some “New Entrant” category advisers would fit here if FAR status is “Provisional”)	Provisional Planner	Full – stand for any office (including Board), vote at AGM etc	Abide by Constitution and all regulations	Means a person who is undertaking work and training that meets the <i>Corporations (Work and Training Professional Year Standard) Determination 2018</i> (or as amended by the Minister from time to time).	Year 1: \$95 Year 2: \$225
Affiliate	Affiliate	Affiliate Associate Ambassador	FPA Affiliate	Restricted – can stand and vote for Chapter	Abide by Constitution and relevant	A person who: <ul style="list-style-type: none"> (a) has an interest in the financial planning profession typically through employment 	Standard: \$495 Graduate (year 1): \$95

Merged Entity Category	Sub-category	Previous category – AFA	Previous category - FPA	Voting Rights	Obligations	Eligibility Criteria	Annual membership fees incl. GST (2023/24 Renewal)
		Paraplanner Support		Committees, can attend and ask questions at the AGM but not vote. Note: Some AFA Non-Practicing Affiliates may have previously had voting rights as AFA members due to TPB requirements. No such voting rights will exist for this membership category in the Merged Entity.	sections of all regulations	<p>in a financial planning business or in a related role in financial services; and</p> <p>(b) does not meet the eligibility criteria for a higher category of Membership; and</p> <p>(c) does not meet the definition of 'Practising'.</p> <p>Note: the following must be applicable to be eligible for the transition pricing: Paraplanner: A financial services professional who provides paraplanning support to financial advisers as their primary function. Support Staff: An employee of an advice practice, licensee, or financial services company who provides support to advisers or an advice business (e.g. client services) as their primary function.</p>	Graduate (year 2): \$225 Transition pricing: Paraplanner: \$350 Support Staff: \$120
	Retired	Retired	Retired	Restricted – can stand and vote for Chapter Committees, can attend and ask questions at the AGM but not vote	Abide by Constitution and relevant sections of all regulations	A person who meets the criteria for having Retired.	\$95
	Retired CFP®	N/A	Retired CFP®	Restricted – can stand and vote for Chapter Committees, can attend and ask questions	Abide by Constitution and relevant sections of all regulations	<p>A person who:</p> <p>(a) has previously met the criteria for and held CFP® Professional Membership; and</p> <p>(b) continues to abide by the requirements for CPD for Retired CFP® affiliate</p>	\$195

Merged Entity Category	Sub-category	Previous category – AFA	Previous category - FPA	Voting Rights	Obligations	Eligibility Criteria	Annual membership fees incl. GST (2023/24 Renewal)
				at the AGM but not vote		members as outlined in the CPD Policy; and (c) meets the criteria for having Retired.	
	Leave of Absence	N/A	Leave of Absence	No voting rights, can attend and ask questions at the AGM but not vote, not able to stand for election as an office holder (e.g. Chapter Committee)	Abide by Constitution and relevant sections of all regulations	A person who has been approved for a Leave of Absence for one of the following reasons: (a) Parental; (b) Illness/injury/disability; or (c) Concession.	\$95
	Academic	Academic	Academic	Restricted – can stand and vote for Chapter Committees, can attend and ask questions at the AGM but not vote	Abide by Constitution and relevant sections of all regulations	A person who: (a) either: (i) are engaged in Full-time employment as an academic at an Australian higher education provider; or (ii) are engaged in Part-time employment as an academic at an Australian higher education provider and not engaged in other employment in the financial services profession; and (b) does not meet the eligibility criteria for a higher category of Membership; and (c) does not meet the definition of 'Practising'.	Complimentary
	Student	Student	Student	No voting rights, can attend and ask questions at the AGM but not	Abide by Constitution and relevant sections of all regulations	A person who is either: (a) studying an approved Degree; or	Complimentary

Merged Entity Category	Sub-category	Previous category – AFA	Previous category - FPA	Voting Rights	Obligations	Eligibility Criteria	Annual membership fees incl. GST (2023/24 Renewal)
				vote, not able to stand for election as an office holder (e.g. Chapter Committee)		(b) studying a relevant degree at postgraduate level part- time or full time; or (c) studying an Advanced Diploma of Paraplanning (provided they have not been in a fee-paying category of FPA membership within the two years preceding the application for Student Affiliate membership), provided they: (d) have not been in a fee-paying category of FPA membership within the two years preceding the application for Student Affiliate membership; and (e) do not meet the definition of 'Practising'. Note: Those studying the CFP® program are not eligible for Student affiliate membership.	

Definitions	
Practising	means a person whose status as a Financial Adviser on the FAR: <ul style="list-style-type: none"> is listed as “current”; or has not been listed as “ceased” for more than 90 days and who declares that their ceased status is temporary (for example they are in the process of changing employers, licensees or applying for an AFS Licence).
Retired	means a person who: <ul style="list-style-type: none"> has ceased to earn an income; or works fewer than 10 hours per week; or both of the above, and has no intention to work more than 10 hours per week in the future.
Notes	
Life Members	Life Members in either association will be recognised as Life Members in the Merged Entity in the relevant category with no fee.

Fellows	Fellows in either association will be recognised as Fellows in the Merged Entity in the relevant category with no fee, and include the category in their post-nominals.
Start date	Financial members of either association who apply for New Membership within the required timeframes and maintain/renew their membership up to the date of commencement of their New Membership will retain their original start date with their respective association. Members who are not financial, or who apply outside the required timeframes, will be treated as new members with a new start date.

Schedule 2 Resolutions to be voted on

Resolutions to be voted on by AFA members

Resolutions substantially to the following effect:

1. that the AFA is approved to complete the Proposed Merger, the material terms of which are set out in this MS;
2. that, subject to legal completion occurring, the AFA in its capacity as the beneficiary of the AFA Investment Fund approves amendments to the trust deed establishing the AFA Investment Fund to make the Merged Entity the sole beneficiary of the AFA Investment Fund;
3. that, following the termination of the AFA Investment Fund, the surplus funds of the AFA Investment Fund be paid or distributed to the Merged Entity; and
4. that the directors of the AFA are authorised to do all such things as reasonably necessary or desirable to give effect to the foregoing,

as well as two additional resolutions to implement consequential amendments to the AFA Constitution to facilitate the Proposed Merger, substantially to the following effect:

5. that the AFA Board may in its absolute discretion terminate the membership of an AFA Member and remove the AFA Member's name from the AFA's register of members; and
6. changing the quorum for a general meeting of voting AFA Members to 5 members present and entitled to vote.

Resolutions to be voted on by FPA members

Resolutions substantially to the following effect:

1. that the FPA is approved to complete the Proposed Merger, the material terms of which are set out in this MS;
2. that the FPA adopts the name of the Merged Entity subject to legal completion occurring and with effect from legal completion;
3. that the New Constitution be adopted substantially in the form set out in Annexure A, subject to any changes agreed between the parties before the notice of meeting for the FPA general meeting approving this resolution, subject to legal completion occurring and with effect from legal completion; and
4. that the directors of the FPA are authorised to do all such things as reasonably necessary or desirable to give effect to the foregoing.

Annexure A - New Constitution

[Refer to separate link]