

**Submission by Empirical Capital to the  
“Inquiry into Proposals to Lift the Professional,  
Ethical and Education Standards in the Financial  
Industry”.**



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**To Senator David Fawcett, Chair Parliamentary Joint  
Committee on Corporations and Financial Services  
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**The Committee Secretary (via [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au))**

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## 1. EXPERIENCE SUMMARY

I started by banking career in the late 1970's and have worked and lived through what can only be considered a tumultuous and transformational time for all stakeholders within the financial system. This submission brings with it, unique customer insights and understandings gained over two careers, initially as a "banker" working for over 20 years in domestic and international banking across many different roles (the last being with the Commonwealth Bank of Australia from 2003 to 2012 where I was initially tasked with designing and implementing the skills and training packages for the Financial Services Reform Agenda for the then "Institutional and Business Services" division of the bank and finally ending up as Head of Strategy (Service and Sales) Regional and Agribusiness Banking in Business and Private Banking). My second career involved the world of academia, working in the faculties of business, social sciences, mathematics and economics.

Upon leaving the bank I was asked to be the inaugural Executive Chair of the Agribusiness Council of Australia (ACA) and was tasked with defragmenting the agricultural voice and getting this fledgling organisation to launch. This was achieved in the main committee room at Parliament House Canberra, on the 20<sup>th</sup> March 2013 attended by over one hundred consular and ambassadorial stakeholders (G20 and APEC) as well as politicians and industry leaders.

Empirical Capital was set up following the launch to continue the work, identified by the industry as being of most importance and urgent and working out solutions. I have continued to inform myself of the concerns and issues of the wider economy and the banking and finance industry by presenting at conferences, attending industry events and forums as well as making contributions, submissions and presentations to the many industry events, some of which are included below:

- Invited industry representative (at request of Chair of the Parliamentary Joint Committee on Corporations and Financial Services) , *"Inquiry Into The Operation Of Australia's Family Business Sector"* (Senator Deborah O'Neill is now Deputy Chair of this Committee)
- Invited industry representative (at request of Chair of the Education, Employment and Workplace Relations References Committee), *"Inquiry into Higher education and skills training to support agriculture and agribusiness in Australia."*
- Invited industry representative (at request of the former Minister of Agriculture) to the *"Agricultural Finance Forum"* held by the Department of Agriculture.
- Invited industry representative (at request of the Chair of the Education and Training Committee), *"Inquiry into Agricultural Education and Training in Victoria"*
- Invited as a speaker and a delegate (2014) (at request of Director General), Food and Agriculture Organisation, (FAO) to launch of the *"2014 International Year of Family Farming"* (IYFF) Global Forum and Expo - BUDAPEST, HUNGARY and to speak on *"The three*

*dimensions of sustainability – harmonizing the social, environmental and economic aspects”*  
and the “*Role of Science, Research, Innovation and Education*” in sustainability”

- Invited industry representative (at request of the NSW Department of Education and Communities) on the industry roundtable “*Independent Review into Agricultural Education and Training in New South Wales*”.
- Invited by the Australian Bureau of Statistics (ABS) and the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) as an industry representative to the “National Agricultural Statistics Review (NASR) Stakeholder Forum”
- Keynote speaker (2013) (at the request of the High Commissioner of India), Regional Pravasi Bharatiya Divas Convention, Sydney Convention and Exhibition Centre: “*Bilateral Business Opportunities in Primary commodities - Australia’s experience in developing the agri-business sector*”
- Invited speaker, University of Adelaide, Waite Research Institute, (SA) “*Every Australian child should be taught agriculture at school*”. (Debate at the Waite)
- Worked in partnership with the Primary Industry Centre for Science Education (PICSE), Business Higher Education Round Table (B-HERT) and AgriFood Skills Australia to conduct an Education Industry Round Table (including a youth forum) with key findings presented to Hon. Sid Sidebottom, Parliamentary Secretary for Agriculture, Fisheries and Forestry.
- Invited as a keynote speaker to present at the 7th annual Skilling Australia and Workforce Participation Summit (NSW) on “Graduate recruitment – overview of current graduate recruitments as an indicator of skills availability”
- Invited as a delegate and panel member to the roundtable discussion at the 2nd Regional Tertiary Education Conference (QLD) on “Agricultural and Agribusiness skilling and the role of the regional tertiary sector”
- Submission to Mr David Murray AO, Chairman of the Australian Governments “Financial System Inquiry” and attended Sydney public forum 20<sup>th</sup> August 2014, .



## 2. EXECUTIVE SUMMARY

This inquiry is long overdue and the terms of reference (TOR) for this inquiry are appropriate given the emerging issues and concerns of stakeholders who are being increasingly affected by less than exemplary personal and organisational standards, activities, advice and behaviours resulting in sometimes catastrophic consequences for those stakeholders who relied on their “expertise and specialist knowledge” advice.

The financial system is in a constant state of change, accelerating with deregulation following the Campbell Report which was the catalyst of change, followed up by the Martin Review, the Wallis Report, Royal Commissions (e.g.; the HIH Insurance Group), other inquiries as a result of the GFC, Storm, the future of financial advice, the Murray Inquiry and now this inquiry into Financial Services Standards.

This submission will focus on the excellent results which were originally achieved with financial services corporate law reforms, the disclosure and licensing regime and the system changes which were implemented on the 11<sup>th</sup> March 2001 through the “Financial Services Reform Act (FSRA).

At the time it focused all stakeholders on what their legal, governance and compliance requirements were and at the time there was real commitment to act appropriately to ensure that customers were protected by regulating not only financial products and services but also providing a framework within which all market players could operate effectively to the highest possible standards.

This should still be the case today, but it is clear that these “individual and industry standards” have slipped somewhat with dire consequences to the very people it was designed to protect.

Let nobody be in any doubt, there will be more to come.

What we are continually finding today is that consumer protection, financial safety and market integrity have, for the past thirteen years come a very poor second to the key internal organisational drivers of revenue, growth and profit as the key measures of success and also at an individual level activities and behaviours are driven by income, bonuses, promotions, intrinsic and extrinsic benefits with the customer as almost an afterthought.

The responsibility for what must be considered as “market failure” to regulate, maintain and then embed the standards set by the Financial Services Reform Act (FSRA) must be borne by not only the independent government statutory authorities and by extension the Government, who retains responsibility for their administration, but also the entire banking and finance industry as well whose products and services are being distributed. Those organisations, associations and industry bodies have a moral, ethical and social responsibility to ensure the highest standards of



honesty, openness and accountability are practiced on the people who rely on them for professional financial advice and guidance – their customers.

So, this submissions recommendations will cover off from a period in the early 2000's when all stakeholders invested the necessary time energy, resources and efforts into achieving commendable minimum standards for individuals and the industry.

It was during this time when the eyes of the regulators and the banking organisations were firmly focussed on lifting professional integrity, ethical and education standards of all participants in the financial services industry and when customer's, medium and long term needs, wants and requirements were the key drivers of activity and behaviour and it was then that I was engaged by the Commonwealth Bank of Australia with an important brief;

"To ensure that the CBA (and staff) were fully aware of their governance and compliance requirements prior to their FSRA licence "go live" date of the 1<sup>st</sup> December 2003.

This mandatory "awareness, skills and competency training" included all staff in IBS (e.g. Executive General Managers, General Managers, Relationship Executives, Product Managers, Relationship Bankers plus relevant Risk Management staff) with interactive forums presented nationally and covering off on all FSRA requirements, namely:

- Context & Purpose to achieve "trusted advisor" status.
- Key Concepts of:
  - Classification – Wholesale and retail, (Size of Business Test, Wholesale/Retail, Individual Wealth Test – personal clients only, Professional Investor Test and Transaction Size Test)
  - Advice - The key areas to be compliant relate to the type of financial advice given, how the general public and/or our clients could interpret it and who provides the advice.
  - Disclosure documents - Financial Services Guide (FSG), Product Disclosure Statement (PDS), Statement of Advice (SoA)
  - Accreditation – Working with staff and service providers. (to ensure all relevant staff were either Tier 1 or Tier 2 accredited)
- Differences between regulated and non regulated products
- How to prepare for a client meeting including building pitch materials
- Training of staff on the FSRA IT tools was developed in house. There were designed to record FSRA client facing interactions and activities. (one was called Integrated Client Explorer "ICE" and the other was called SmartWeb) I worked with the developers, scoped and designed the training approach and rolled out this systems based training)
- Process to Action through case study analysis & role play discussions
- Reviewed and updated all warnings, disclaimers and FSRA specific notices including: client facing marketing materials for key marketing functions including advertising, (due diligence on each project/initiative), direct mail, speaking in public forums (including general advice warning (GAW) and checklists, media & PR approach, promotional materials and collateral, Internet content, Exhibitions and trade fairs including agricultural field days



A critical success factor for the CBA of this “division wide” rollout was that it was designed to be “leader” led. It was of paramount importance that the entire banks “Institutional & Business Services” (IBS) leadership team were seen to be actively supporting this change initiative. This meant that any issues and risks were addressed immediately as part of the FSRA rollout solution. For the most part the industry and banks new legislative environment and obligations as they related to engaging with clients was fully met.

I was also fortunate enough to contribute to the Group Wide Advice Model (GWAM) where staff were given the skills and abilities to recognise financial planning opportunities, set client’s expectations, match needs and wants and ensure that clients understood the consequences and results of different options, decisions and changing and evolving circumstances within the banks parameters and legal requirements.

Following this initiative and an internal restructure, the skills of all client facing staff were enhanced further with the development of a divisional internal service and sales process with financial planning “referrals” linked to activities and behaviors as well as to key performance indicators (KPI’s) and therefore remuneration. This initiative again was designed to raise the level of competence amongst client facing staff and ensure consistency of activities and behaviors and a structured approach when dealing with clients. The purpose of these “Cultural Transition Training” initiatives were part legislative and part the banks attempts to achieve “best practice” outcomes.

So to again achieve what the industry achieved back when in financial services reforms were enacted through the FSRA we need to go “back to the future”. Back then, eyes and resources were focused on industry standards and what needed to be done to achieve them and protect the customers from an individual, organisational and industry wide perspective.

So, the first overarching key recommendation (there will be more contained in the recommendation section of this submission) has to be to:

**“Develop the communication, education and training solution around the recommendations from this inquiry. (and not the other way around)”**

This committee can have 101 recommendations, but unless this inquiry can effectively communicate how, where, when, why and by whom these will be achieved then the recommendations will become lost in yet another report. The people who have been affected and also who have spent so much time energy and effort making submissions to this inquiry deserve to have their voices heard.

This will not happen if recommendations for action by government and industry are not adequately addressed for immediate as well as “over the horizon” solutions.





### 3. RECOMMENDATIONS RELATING TO THE “TERM OF REFERENCE” OF THIS INQUIRY

All recommendations, reforms or ideas identified and undertaken as a response to this inquiry will be limited in efficacy, if education and training is not the key driver of the change. No stakeholder must be left in any doubt about their own specific roles and responsibilities.

#### Recommendation 1:

**“Develop the communication, education and training solution around the recommendations from this inquiry. (and not the other way around)”**

So, to lift the professional, ethical and education standards in the financial services industry, there must be a primary focus and priority given to education (skills, knowledge and competency based) which is at the very heart of a smarter nation and these need to be embeddable with the right ongoing focus to protect individuals around training and development and sustainable customer service principles in all people at all levels..

It will be through a clear communication plan and strategy that key messages will be known, delivered and understood. It will be through asking the education and training questions of each and every recommendation about the why, when, where, how and by whom, that they will then be able to be brought to life.

#### Recommendation 2

**Relaunch an updated version of the “Financial Service Reform Act”.**

Driven by government and industry, relaunch, realign and reinvigorate the financial services reform agenda (to reflect current circumstances/environment) on a national basis. This must include a complete understanding by all stakeholders of the act itself as well as the activities and behaviours expected from those in the industry. Develop a “Code of Financial Services Standards” (CFSS) which all stakeholders sign off on and agree to implement and abide by.

#### Recommendation 3

**Develop an “Adviser Accreditation Declaration” (AAD) disclosure document.**





Add one further disclosure document to those already existing (FSG, PDS and SoA). This will be called an “Adviser Accreditation Declaration” (AAD) which must be provided along with the FSG and the PDS. This document would need to be signed off by an accrediting organisation (ASIC or FPA or both) and be updated bi-annually to instil confidence to consumers that the advice and information they are receiving is from a person who is qualified to give it. This will also provide comfort to clients, that the person providing the advice has current accreditation by the industry body that supplied the qualification. (In terms of professional development and ongoing training skills and qualifications).

## Recommendation 4

### Develop a “Specialist Retirement Advisor” (SRA) category.

With Australia’s aging population, there is growing concern amongst those retiring or nearing retirement that the quality of advice received is insufficient and inadequate to meet the needs of the clients. Not only immediately upon retirement but for the time left until people die.

There needs to be a specific solution applied to these people, so this recommendation is to accredit those advisors who have industry specific skills and have attained industry specific accreditation (for example agriculture). They would be well experienced in their field and well positioned to offer specialist advice specific to the industry and the individuals’ current and changing situation and circumstances.

## Recommendation 5

### Financial Advice Insurance Scheme

The question must be asked is: What happens if the industry fails to get its “advice and standards house” in order. There is considerable risk to the entire banking, finance and superannuation industry.

This recommendation is a sustainable one and will provide the mitigating elements to that risk not only to the institutions, the individuals providing the advice but more importantly the customers who invariably have very little “market power” or available time when it comes to compensation for loss of lifestyle or financial wellbeing due to poor standards or advice.

This will provide short term solutions for those who might be impacted and affected by “poor advice” (industry pays) or another GFC (user pays) this recommendation will provide



compensation for short and medium to long term exceptional circumstances deteriorating conditions. There might need to be some underwriting by government (state and federal) but the national benefits will far outweigh the costs.

A Financial Advice Insurance Scheme (FAIS) will offer a universal sustainable safety net and like all change initiatives will have its detractors but if the TOR of this inquiry is any guide this recommendation will get full support from this committee, from the industry and 100% support from people everywhere who have watched their life savings and “nest eggs” disintegrate and deteriorate before their very eyes due to the inconsistency of standards within the industry.

A FAIS product will always have to have satisfactory information to enable informed decisions, after all the cost to all stakeholders and our nation will be impacted by this knowledge. That is why all will need to be informed and educated about its features and benefits and things like underwriting, premiums, adverse selection, asymmetry of information, basis risk, coverage level, moral hazard, reinsurance, risk appetite, systemic risk, take-up level will all need to be effectively communicated (and understood by all) at a national level.

This will need more work but it is a solution which will work and build confidence, sustainability and minimum standards into the whole industry.

If we delay what needs to be done, then we again condemn those who have already retired and are running out of time, those with a short term horizon to their own retirement and future generations who will be unwilling or unable to trust the industry or the players in it. This recommendation is a sustainable one which will provide sustainable benefits for all stakeholders.

## Recommendation 6

**Develop a “National Minimum Standards - Code of Conduct” to ensure consistency and meet the TOR – “The adequacy of current qualifications required by financial advisers”;**

Qualifications will provide the knowledge to understand and know information; they will not necessarily provide consistency of behaviours or surety around minimum standards or an industry code of conduct.

That is why this is most important and that is why the TOR (1) needs to be more than just a qualification or a “tick and flick” exercise for financial advisors and the industry.



Knowledge gained through formal qualifications e.g. Tier 1 accreditation, Tier 2 accreditation, university and vocational education and training is an essential part of the learning journey, but by no means adequate for the bigger picture. The other elements to be “adequately qualified” must also include learnings through experience and exposure to many different and varying situations and circumstances.

These “qualifications” must not only have industry standards attached, a maintenance component incorporated a competency component to maintain skills and knowledge but there must also be a component which addresses any changes which may have implications for industry standards.

This recommendation will ensure buy-in by government and industry. By working in partnership with educational providers, stakeholder standards and outcomes will be improved through sharing “best practice”, knowledge and learnings.

## Recommendation 7

### National Financial Services Reform Conference

Conduct a National Financial Services Reform stakeholder conference as soon as practicable. Ensure government regulators, industry representative bodies, banks and financial institutions as well as those interested in being part of the solution are invited to be at the table.

The agenda to include at least in part the following:

- Industry Standards (roles, responsibilities, actions and consequences)
- Identify expectations from all stakeholders
- Develop recommendations for government and for industry
  - ✓ Questions to be asked and answered: What happened in the past, What is happening now? and most importantly what could be done better in the future
- Agreed timeframes for implementation and embedding
- Questions need to asked, analysed and answered:
  - ✓ What are the risk events that could happen and their triggers? (effects, frequency, costs, length, severity)
- How can the dangers and risks be minimised, transferred or mitigated?



#### 4. CONCLUSION

Industry and legislative standards must be wrapped around things like, life goals (needs & wants) of individuals, a thorough analysis and understanding of the risks associated with different options and investments, acceptable returns, time appropriate investments and intergenerational planning must be the minimum standards of outcomes and behaviours expected from the financial services industry participants.

This submission could have covered off on a thousand things that might be done, but it believes that in terms of priority, urgency and importance that the seven identified will achieve the terms of reference goals for this inquiry.

All users of the financial system must be able to rely on the advice they receive from those entrusted to provide it. Not only immediate needs but for all stages of their life and evolving financial wellbeing

My hope is that this inquiry asks the right question around the standards, accountability, governance, compliance, activities and behaviours of all stakeholders and demands answers which ask the simple questions of what, why, how, when and by whom when confronting the identified relevant issues.

I submit this paper 100% sure that it is the communication, education and customer service dimensions if focused on and addressed will ensure we continue to always focus on the right things, for the right reasons and for the right incentives.

There is great anticipation, but only if the stakeholders once again come together in collaboration and partnership to reinvigorate and realign what is already there, but has been allowed to go awry. This time though, through this inquiry, we can ensure the resources are allocated which embeds intention into “business as usual activities” after all “servicing customer’s needs” was the primary goal of deregulation in the first place.

My expectation is that the reforms which will inevitably follow from the recommendations from this inquiry will deliver a changed environment which can and will build long term sustainable solutions and standards for all.

My motivation for making this submission is because I wish to make a difference, to be involved, to contribute to our nation’s future and to proactively shape solutions which support the confidence, sustainability and integrity of our economy and our way of life and therefore our nations prosperity.



## 5. REFERENCE TO THE FINANCIAL SYSTEM INQUIRY

I urge the committee to speak with the Chair of the “Australian Governments “Financial System Inquiry” Mr David Murray AO at [fsi@fsi.gov.au](mailto:fsi@fsi.gov.au) to ensure learnings are shared and there is no overlap or conflicting or competing priorities.

Their terms of reference includes:

1. The Inquiry will report on the consequences of developments in the Australian financial system since the 1997 Financial System Inquiry and the global financial crisis, including implications for:
  1. how Australia funds its growth;
  2. domestic competition and international competitiveness; and
  3. the current cost, quality, safety and availability of financial services, products and capital for users.
2. The Inquiry will refresh the philosophy, principles and objectives underpinning the development of a well-functioning financial system, including:
  1. balancing competition, innovation, efficiency, stability and consumer protection;
  2. how financial risk is allocated and systemic risk is managed;
  3. assessing the effectiveness and need for financial regulation, including its impact on costs, flexibility, innovation, industry and among users;
  4. the role of Government; and
  5. the role, objectives, funding and performance of financial regulators including an international comparison.
3. The Inquiry will identify and consider the emerging opportunities and challenges that are likely to drive further change in the global and domestic financial system, including:
  1. the role and impact of new technologies, market innovations and changing consumer preferences and demography;
  2. international integration, including international financial regulation;
  3. changes in the way Australia sources and distributes capital, including the intermediation of savings through banks, non-bank financial institutions, insurance companies, superannuation funds and capital markets;
  4. changing organisational structures in the financial sector;
  5. corporate governance structures across the financial system and how they affect stakeholder interests; and
  6. developments in the payment system.
4. The Inquiry will recommend policy options that:
  1. promote a competitive and stable financial system that contributes to Australia’s productivity growth;
  2. promote the efficient allocation of capital and cost efficient access and services for users;
  3. meet the needs of users with appropriate financial products and services;
  4. create an environment conducive to dynamic and innovative financial service providers; and
  5. relate to other matters that fall within this terms of reference.
5. The Inquiry will take account of the regulation of the general operation of companies and trusts to the extent this impinges on the efficiency and effective allocation of capital within the financial system.
6. The Inquiry will examine the taxation of financial arrangements, products or institutions to the extent these impinge on the efficient and effective allocation of capital by the financial system, and provide observations that could inform the Tax White Paper.
7. In reaching its conclusions, the Inquiry will take account of, but not make recommendations on the objectives and procedures of the Reserve Bank in its conduct of monetary policy.
8. The Inquiry may invite submissions and seek information from any persons or bodies.
9. The Inquiry will consult extensively both domestically and globally. It will publish an interim report in mid-2014 setting out initial findings and seek public feedback. A final report is to be provided to the Treasurer by November 2014.

**Please note:**

**I have already provided a submission to this inquiry which addressed their specific TOR’s. I believe a solution for one might contribute to a solution for both.**



## 6. CONTACT US



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### Further Information

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## 7. GLOSSARY

<b>AAD</b>	Adviser Accreditation Declaration
<b>AFSL</b>	Australian Financial Service License
<b>APEC</b>	Asia Pacific Economic Cooperation
<b>BB</b>	Business Banking
<b>BP&amp;R</b>	Banking Practice and Review
<b>BR</b>	Business Representative
<b>BU</b>	Business Unit
<b>CB</b>	Corporate Banking
<b>CBA</b>	Commonwealth Bank of Australia Ltd
<b>EGM</b>	Executive general Manager
<b>EM</b>	Executive Manager
<b>FAIS</b>	Financial Advice Insurance Scheme
<b>FSG</b>	Financial Service Guide
<b>FSRA</b>	Financial Service Reform Act
<b>G20</b>	Group of twenty world leaders
<b>GAW</b>	General Advice Warning
<b>GFC</b>	Global Financial Crisis
<b>GM</b>	General Manager
<b>GWAM</b>	Group Wide Advice Model
<b>IBS</b>	Institutional and Business Services
<b>KPI</b>	Key Performance Indicator
<b>MIS</b>	Management and Information Systems
<b>MKTG</b>	Marketing
<b>PDS</b>	Product Disclosure Statement
<b>PS146/RG146</b>	FSRA Accreditation
<b>RM</b>	Relationship Manager
<b>SoA</b>	Statement of Advice
<b>TOR</b>	Terms of Reference