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Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

By email: corporations.joint@aph.gov.au

5 September 2014

Dear Sir / Madam

Re: PJC Terms of Reference: Proposals to lift the professional, ethical and education standards in the financial services industry

Thank you for the opportunity to comment on the PJC's Terms of Reference relating to professional, ethical and education standards for financial advisers. Deloitte Touche Tohmatsu (Deloitte) supports the Government's efforts to lift the professional, ethical and education standards in the financial services industry.

We believe that any proposals to lift the education requirements should ensure that any education and training requirements are relevant to the financial services that are provided. This is particularly important given recent law reform that will result in more accountants providing regulated financial services that do not involve financial planning. In this regard, we also refer you to our submission to ASIC on *CP 153: Licensing: Assessment and professional development framework for financial advisors* dated 1 June 2011, in which we stated:

"We have some specific concerns in relation to the application of this guidance and the need to recognise differences in the financial advice provided by licensees (i.e., financial planning advice differs from valuation advice provided in an Independent Expert's Report) ...

We recommend that these courses should be targeted to ensure that course content is appropriate and sufficient for advisers to obtain the necessary knowledge to provide high quality financial advice."

Comments on specific questions

For the reasons set out below, we support:

1. Increasing education requirements for persons providing financial product advice to the level of a tertiary education or a bachelor's degree for financial advisers (i.e., Australian Qualifications Framework level 7), so long as the education is relevant to the nature and complexity of financial services that are provided; and
2. Compliance with professional standards or rules of professional conduct which would govern the professional and ethical behaviour of financial advisers, through membership of a relevant industry association such as the Institute of Chartered Accountants Australia (ICAA) and CPA Australia (CPA) for accountants or the Actuaries Institute for qualified actuaries.

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We do not support previous proposals relating to a national exam or the introduction of a uniform set of education or training requirements that do not reflect the nature and complexity of financial services that are provided.

About Deloitte's AFSL holders

Deloitte is the Australian member firm of Deloitte Touche Tohmatsu Limited (DTTL). Deloitte is a partnership which provides accounting, assurance, advisory, taxation and consulting services. Deloitte has six service lines including Financial Advisory (FAS), Audit & Assurance (A&A), Deloitte Private, Consulting, Risk Services and National Tax.

Deloitte provides financial services pursuant to three Australian Financial Services Licences (AFSLs), which are held by Deloitte Corporate Finance Pty Limited (DCF), Deloitte Growth Solutions Pty Limited (DGS) and Deloitte Actuaries & Consultants Limited (DACs) that is used by Consulting.

Deloitte's Authorised Representatives have tertiary (and often post graduate) degrees in accounting, economics, law, actuarial and business studies and are required to be RG 146 compliant. They are also generally members or affiliate members of the ICAA or CPA who are required to complete 120 hours of continuing education over 3 years, 40% of which must be relevant to their area of practice. They are also required to attend mandatory, internal AFSL Compliance Training each year and adhere to Deloitte's ethical and quality and risk monitoring requirements, as well as being subject to our external AFSL audit.

Deloitte Corporate Finance Pty Limited (DCF)

The AFSL held by DCF is used for advisory work on acquisitions, mergers and divestments, corporate fundraising and certain valuations. Due diligence, valuations for financial reporting and tax purposes and advisory work relating to the sale of assets and business otherwise fall within an exemption.

DCF has appointed almost 50 Authorised Representatives who are all partners and consultants of Deloitte. Typically, DCF's Authorised Representatives are engaged by wholesale clients to provide financial services pursuant to the AFSL that relate to mergers and acquisitions, valuations, Independent Expert's Reports (IERs) and Investigating Accountant's Reports (IARs). Advice that is included in a public disclosure document is also provided to retail clients. DCF does not provide personal advice to retail clients.

DCF's Authorised Representatives are therefore generally required to be RG 146 compliant in securities, interests in managed investment schemes and, where relevant, derivatives. We ordinarily enrol new Authorised Representatives in a relevant Kaplan Professional course to become RG 146 compliant. While the quality of the course materials and their speakers has been high, the majority of the course materials (that reflect ASIC's training requirements) are tailored for financial planners, not accountants who provide valuations, IERs or IARs. If the current regime relating to RG 146 is maintained or strengthened, course providers such as Kaplan need more guidance and flexibility to develop courses that are more targeted or relevant to limited advice such as the preparation of IERs or IARs.

Deloitte Growth Solutions Pty Limited (DGS)

The AFSL held by DGS is used by Deloitte Private. Deloitte Private provides taxation, audit, superannuation, business and family advisory services, with industry specialists in motor industry, tourism hospitality and leisure, consumer business, manufacturing, real estate, education, health, the not for profit sector and technology.

Deloitte Private has appointed approximately 25 Authorised Representatives to provide financial services pursuant to the DGS AFSL. However, the majority of services provided by Deloitte Private fall within the myriad of exemptions that are used by accountants. Those exemptions include:

1. advice relating to the taxation implications of financial products
2. traditional accounting activities that involve:
 - a. business planning
 - b. compliance advice
 - c. financing the acquisition of assets
 - d. insurance
 - e. share valuations and due diligence
 - f. superannuation
3. asset allocation
4. referrals
5. factual information (although not technically an exemption).

The use of these exemptions by accountants is well articulated in "Guidance for the Accounting Profession: Financial Advice and Regulations" by the ICAA and CPA.

The type of financial services which are provided pursuant to the DGS AFSL (that fall outside an exemption) typically relate to superannuation, such as contribution strategies that go beyond the taxation implications of concessional contributions. When the so called “accountants’ licensing exemption is removed on 1 July 2016, advice relating to the establishment and disposal of an SMSF will also be provided pursuant to the DGS AFSL.

While ASIC has clarified the circumstances in which the trustee of an SMSF may be considered a wholesale client, unless our client is the trustee of a superannuation fund with more than \$10 million in net assets, our superannuation related clients are considered retail clients. The DGS Authorised Representatives who provide advice relating to superannuation are therefore required to be RG 146 compliant in superannuation. When they consider retail clients’ objectives, financial situation or needs, they will be providing personal advice and therefore must also complete the RG 146 skills component.

We also enrol new DGS Authorised Representative’s in Kaplan’s skills course to enable them to provide personal financial product advice pursuant to the DGS AFSL. While we agree it is important for any adviser to provide their clients with the information required by a Statement of Advice and to act in the best interests’ of their client, there is no value in making our partners and principals complete an assignment that can take up to 40 hours, which is irrelevant and entirely geared towards financial planners who prepare comprehensive financial plans.

Any education requirements should be relevant and help add value to the type of services that are provided. More flexibility and guidance is also required to enable education providers such as Kaplan to develop a skills course that is relevant to financial service providers, other than financial planners, particularly in preparation for the removal of the accountants’ licensing exemption.

Deloitte Actuaries & Consultants (DACs)

The AFSL held by DACs is used by actuaries and consultants who sit within the actuarial arm of the Consulting service line within Deloitte. While DACs provides services relating to banking, wealth management and life insurance, general insurance, health, superannuation and valuations, the majority of this work is provided by actuaries in the ordinary course of providing actuarial services to wholesale clients and therefore falls within the actuarial exemption (regulation 7.6.01(1)(oa)). The AFSL is otherwise required when an actuary provides financial product advice that is included in a public disclosure document that may be read by retail clients. This will ordinarily apply to superannuation related advice because of the narrow definition of retail clients when advice *relates* to superannuation. As noted above, if a Statement of Advice is required to provide personal advice relating to superannuation, any skills course should be relevant to the nature and complexity of the advice that is sought.

Although we do not believe the AFSL regime should apply to any work that is ordinarily performed by an actuary, (irrespective of whether their advice is included in a document that may be read by a person who is a retail client), if the Government is of the view that actuaries require an AFSL, guidance is required to ensure more consistent use of AFSLs by actuaries across the industry. In those circumstances, the education, training and regulatory requirements more generally should also cater for the type of actuarial advice that purportedly requires an AFSL. We support the use of concepts such as “scaled advice” and the “nature, scale and complexity” (in *RG 105 Licensing: Organisational competence*) to build flexibility into the regulatory regime, including training requirements.

We urge ASIC to integrate these concepts into its decision making and education requirements to help ensure the regime is workable and cost effective for the whole range of financial services providers. Particularly, when an AFSL is required to provide a very limited range of services, but compliance with the full breadth of the regulatory regime is otherwise required. In the absence of a flexible, workable, cost effective regulatory regime, the industry will become more concentrated, resulting in less competition and less choice for consumers.

In summary, we support the Government’s proposal to lift professional, ethical and training requirements when increased training requirements result in higher quality advice and advice that is in the best interests of clients. However, training that is irrelevant, and one size fits all, does not achieve this objective, and otherwise imposes an unnecessary cost and burden on other professional service providers that are caught by the financial services regulatory regime.



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Please do not hesitate contacting us by email [REDACTED] if you have any questions relating to our submission.

Yours sincerely

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