31 July 2009

Committee Secretary,
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
PO Box 6100 Parliament House
Canberra ACT 2600

Email: corporations.joint@aph.gov.au

Dear Madam/Sir,

Inquiry into financial products and services in Australia

The Institute of Chartered Accountants in Australia ('the Institute') welcomes the opportunity to make a submission to the Inquiry into financial products and services in Australia.

The Institute of Chartered Accountants in Australia (the Institute) is the professional body representing Chartered Accountants in Australia. Our reach extends to more than 62,000 of today's and tomorrow's business leaders, representing over 50,000 Chartered Accountants and 12,000 of Australia's best accounting graduates who are currently enrolled in our world class Chartered Accountants postgraduate program.

Our members work in diverse roles across commerce and industry, academia, government, and public practice throughout Australia and in 140 countries around the world.

We aim to lead the profession by delivering visionary leadership projects, setting the benchmark for the highest ethical, professional and educational standards, and enhancing and promoting the Chartered Accountant brand. We also represent the interests of members to government, industry, academia and the general public by actively engaging our membership and local and international bodies on public policy, government legislation and regulatory issues.

The Institute can leverage advantages for its members as a founding member of the Global Accounting Alliance (GAA), an international accounting coalition formed by the world's premier accounting bodies. With a membership of approximately 775,000, the GAA promotes quality professional services, shares information, and collaborates on international accounting issues.

Established in 1928, the Institute is constituted by Royal Charter. For further information about the Institute, visit **charteredaccountants.com.au**

The Institute is ideally positioned to take an objective view on the current financial services environment. Members of the Institute operate and hold a wide range of roles within the financial services industry including small practices through to major financial institutions and financial product manufacturers

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The Institute addressed the Inquiry's Terms of Reference by extensively canvassing the views and opinions of a wide range of Chartered Accountants who are authorised representatives under an AFSL, who operate under their own AFSL licenses, have roles within the product manufacturers and unlicensed accountants who provide traditional accounting services.

The Institute invited members with extensive professional and personal experience and expertise in the area of financial advisory services to forums to discuss the matters raised by the Committee. In addition the Institute engaged members in discussion groups on some of the more pertinent areas.

The Institute has addressed a selection of the matters raised in the Terms of Reference of the Inquiry that it believes it is most appropriate to provide comment on.

The Institute would like to clearly state that is very supportive of the objectives the Inquiry and understands the importance of a robust financial services regulatory framework for the industry and the services provided to the public.

Should there be any queries on this submission, please contact Mr Lee White, General Manager Leadership and Quality 02 9290 5598 or at lee.white@charteredaccountants.com.au or Mr Hugh Elvy, Head of Financial Planning and Superannuation on 02 9290 5564or at hugh.elvy@charteredaccountants.com.au

Yours sincerely,

Graham Meyer
Chief Executive Officer
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Parliamentary Joint Committee on Corporations and Financial Services

Inquiry into Financial Products and Services in Australia

Executive Summary

The Australian financial services industry has a generally strong and robust framework however the recent corporate collapses for example of Storm and Opes Prime indicate that there are deficiencies and inadequacies that require review and consideration.

While the economic downturn has resulted in the corporate collapses it is nevertheless an opportune time to review the current regulatory regime. The Financial Services Reforrm Act was introduced over 7 years ago, and there have been a number of refinements since its introduction. This Inquiry provides an important opportunity to review a number of key aspects to enhance the framework to deliver a greater level of protection to consumers and a more professional financial services industry.

Many investors have lost savings, and in some cases these losses have resulted in considerable financial hardship, however it should be noted that there are many financial services businesses and financial advisers who are providing a very valuable service to the Australian public. Investors in Australia have available to them the foundations of a strong financial services industry.

At a member forum held by the Institute to inform our Inquiry response, a key issue and message was the ethical behaviour of businesses and advisers. A primary concern raised at the forum for the regulatory environment was the delivery of professional services based on ethical behaviour, trust, integrity and honesty for the benefit of the Australian public

The Institute identified and analysed the key drivers for the provision of quality financial advisory services and would emphasise.

- The current issues raised by the Inquiry have occurred with investors receiving advice and products from businesses and advisers who had met the current regulatory and licensing requirements.
- The services associated with the provision of financial advice and the delivery of quality advice is significant for many Australians.
- Financial advisory services and their effect on investors are very unique.
- Financial advice is more than the sale of a product – appropriate advice incorporates taxation, wealth creation, estate planning, asset protection and meeting an individual's personal goals and objectives.
- The enhancement of the advisory services provided within the industry will be based on developing advisers with a stronger technical level of expertise.
- The need to encourage the development of more practical behavioural attributes within the industry such as imbedding a fundamental ethical framework that is incorporated in the educational requirements.
- The significant impact remuneration models have had within the industry.

The Institute commissioned a paper two years ago on the professionalism and direction of the financial planning industry. The paper addressed a number of the matters raised by this Inquiry - remuneration, adviser education, consumer education, business models and the direction of the industry. (Attached are copies of the paper Reinventing Financial Planning and a report on the industry forum that was held by the Institute to discuss the issues highlighted in the paper.)

Finally the Institute strongly supports the financial services industry, the role of advisers and the importance and value of providing appropriate and quality financial advice to Australians.

Key Recommendations

1. Recommendation

Transition the education requirements for those who provide financial advice to at least an undergraduate degree level. We would encourage the learning to include a practical and experience component.

2. Recommendation

Remove the linkage between the product manufacturers and the adviser in terms of remuneration and other benefits. Remuneration should be payable from the client and for the advice provided, not the sale of a product. We would encourage the solution on remuneration be developed by industry leaders.

3. Recommendation

Change the legislative and regulatory framework's from financial products and financial product advice to regulating financial advice. The industry operates in line with this regulatory product focus.

4. Recommendation

Consider the appropriateness of the current annual compliance audit of AFSLs and potentially expanding the audit to incorporate the advice provided by the representatives of the AFSL.

5. Recommendation

The Government, regulators and industry stakeholders to continue to support all educational initiatives that are currently available. A greater understanding by consumers will lead to them to taking a greater responsibility for their financial situation.

6. Recommendation

Introduce a more detailed registration of financial planners that is publically accessible.

7. Recommendation

A review of the product fees, costs and remuneration disclosed in Statements of Advice and Product Disclosure to Statements to simplify and ensure ease of comparability. Consideration should be made to ensure common fee terminology is used to assist comparability.

8. Recommendation

Review the licensing regime requirements whereby authorisation of its representatives is permitted by a product manufacturer to advise only on a single product.

1. The general regulatory environment for these products and services;

In 1996 the Australian government established an inquiry into the Australian financial system to review the significant changes to the regulatory framework. The resulting Wallis inquiry recommendations included establishing ASIC with responsibility amongst others responsible for the administration of all consumer protection laws for financial services, consistent disclosure requirements, a single licensing regime for financial sales advice and dealing; a single set of requirements be introduced for financial sales and advice including minimum standards of competency and ethical behaviour, disclosure of fees and adviser capacity responsibilities for agents and employees.

The objective was to look after consumers and ensure they receive proper disclosure, are dealt with fairly by qualified people, receive useful information and have access to a proper complaints handling procedures.

Ian Johnston ASIC executive Director Financial Services Regulation in a speech in 2002 stated the following:

"The main objectives of the FSRA are to promote firstly, confident and informed decision making by consumers of financial products and services while facilitating efficiency, flexibility and innovation in the provision of those products and services. It is also intended to promote fairness, honesty and professionalism by those who provide financial services and create a fair, orderly and transparent market for financial products.
There are general obligations on all licensees:

- Act efficiently, honestly & fairly
- Comply with licence conditions
- Comply with financial services laws: "financial services laws" is a wide concept
- Ensure your representatives comply with financial services laws. Compliance applies to actions of licensee and on behalf of the licensee
- Unless APRA regulated – have adequate financial, human, IT resources
- Maintain competency to provide the services
- Ensure your representatives are adequately trained and competent
- Where your services are to retail clients – have a complying dispute resolution system
- Unless APRA regulated – have adequate risk management systems
- Have satisfactory compensation arrangements.

Based on these objectives and their implementation the Australian financial services industry has developed into a strong and comprehensive regulatory framework. The industry now has specific competency requirements for those who provide financial product advice, there is a extensive disclosure regime to inform consumers, dispute resolution framework and a solid licensing framework. This regime was supported by extensive guidance by the regulator ASIC.

However despite the significant progress within the industry more recently there have been a number of corporate collapses and investors have lost significant amounts of their life savings. This indicates that while the framework is reasonably robust and has many positive attributes there are deficiencies and it would appear that the recent economic downturn has brought to the fore these deficiencies.

It should be noted that it would appear some of the corporate collapses and associated consequences to investors' funds occurred in the current regulatory framework where the various conditions and requirements of operating within the financial services industry had been met.

As a result it is appropriate to review the practical application of some of the conditions and requirements that exist.

Issues

The introduction of this regulatory framework raised a number of important issues for the industry.

- An increased compliance cost for businesses operating within the financial services industry. Some would argue that these increased costs have had a consequence that some investors have been unable to access advice
- The regulations and legislation is very much centred on financial products as opposed to financial advice. Some in the industry believe this has resulted in an industry that is particularly products and sales focused
- Has the introduction of comprehensive disclosure documentation assisted consumers in making informed decisions?
- The training for financial planners is based around ”products” as opposed to the provision of financial advice
- The education and training of financial planners is a positive outcome but the level is too low and questions are being asked about the quality of some courses.

2. The role of financial advisers;

The role of financial advisers within the industry is widely debated between those that adhere to the view that the primary role of financial advisers is to provide “financial advice”, that is provide advice to consumers irrespective of product, others view the role of financial advisers is to sell financial products.

The Institute’s view is that the primary role of financial advisers is to provide financial advisory services, the emphasis is on providing financial advice and that the “sale” of a product is a potential end by-product of the process. The service to the client is advice. The investing in a investment product or setting up an insurance policy while a legitimate outcome of the advice it is not the principal objective. Specifically the role of the financial adviser is to provide strategic advice and this advice revolves around personal goals and objectives, structuring, taxation, wealth creation, wealth protection, estate planning, risk management and not the sale of products.

In addition the role of a financial adviser includes educating consumers and not only providing advice as what to do and to do it but also “stopping clients from making mistakes” - advising them of what not to do.

The role of the financial adviser is to operate in the best interests of the client as a trusted adviser and providing professional advisory services.

Adviser education and training

The financial services industry continues to grow in complexity, this includes the products, services and in areas such as taxation and social security. As a consequence the need for technical professionals providing advice to Australians is critical. The financial planning industry widely accepts that there are deficiencies in the current education framework for financial planners. Technical expertise, the level of education and consistency are vital to the overall financial advisory services regulatory framework.

The development of investors’ trust in financial planners and the financial planning industry will be enhanced by the introduction of a consistent level of education. Currently the education requirements introduced through FSR are at a minimum level and the training courses available range from a few days to completion of a post graduate diploma or under graduate degree. All of these course options meet the regulatory requirement of a financial planner becoming compliant with ASIC Regulatory Guide 146. Australians cannot have a professional relationship with an adviser when there is such disparity in the education levels of the advisers in the industry. The trusted relationship between a client and other professionals such as doctors, lawyers, and accountants is based on the understanding the client has of the professionals' education and qualifications.

Education is an important component, however, it is not a stand alone solution to improving the services and advice provided by financial planners. Specifically, enhanced education regulation will not eliminate the problems that have come out of the collapse of Storm and other corporate collapses. Education is wider than the technical and theoretical component of the education process.

In a paper the Institute released in 2007 it was noted - "Higher academic standards must be accompanied by compulsory training of all new entrants in a solid ethical framework". Interestingly as previously mentioned despite the education requirements that exist currently and the regulations that are in place ethical behaviour is not an area that can be regulated. Ethics is a behavioural attribute that must be developed from the outset for all financial planners and on an ongoing basis.

In addition it is recommended that an experience or practical component be included for all new financial planners. While the technical and theoretical components of providing financial advisory services can be developed through traditional education programs, the provision of financial advice requires a practical experience component.

For example the Institute's Chartered Accountants Program incorporates a practical experience program. The purpose of the practical experience requirement is for candidates of the Chartered Accountants Program to build on their academic qualifications by applying theoretical knowledge and developing the professional skills and values relevant to their specific job.

The workplace provides the professional environment for candidates of the Chartered Accountants Program to develop and apply their professional knowledge and skills. It is also in the workplace where they will face real professional issues.

It is important to emphasise that these critical technical and practical components for delivering a professional advisory service to consumers cannot be achieved through a short form course.

Recommendation

Transition the education requirements for those who provide financial advice to at least an undergraduate degree level. We would encourage the learning to include a practical and experience component.

3. The role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers

The issue of conflicts of interest and the debate over "commission arrangements" have been a long term subject for the financial planning industry. For many years the industry has denied that importance of remuneration models and their impact on the advice process. A number of key stakeholders have stated that consumers must have a choice in how they "pay" for advice and in addition that the current licensing requirement is well positioned by outlining the disclosure of remuneration. The Institute's view is that while consumer choice and disclosure are important they do not adequately resolve the problems associated with real and perceived conflicts of interest.

For many years the Institute has stated that the only way forward for the industry is to recognise the need to remove remuneration models, which are based on percentages, and replace them with genuine fee-for-service arrangements that have no connection with products or investable funds. The remuneration to financial planners should be based on the provision of financial advice, not on the sale of a product. That is the financial planner receives remuneration for the advice irrespective of whether the consumer implements the plan and invests funds in a product.

The Institute and the accounting profession has led the debate as to the conflicts of interest associated with the provision advice.

The accounting profession released a Standard in 2005 that encouraged members to adopt a genuine “fee for service” remuneration model as this is considered a more consistent with the principles of professional independence. In addition the Standard states “A mere standardised percentage basis applied to all funds under management or advice is not a “fee for service.”

Further the Institute commissioned paper “Reinventing Financial Paper” stated for the financial planning industry to be recognised as a profession a key issue is the implementation of appropriate remuneration models.

It is encouraging that the industry is moving in this direction with both the FPA and IFSA releasing papers on remuneration of financial advisers. However it is important that the remuneration models are based on the payment from the client and not from the product manufacturer. It is important that the linkage between the product manufacturer and the adviser is removed.

The Institute also believes the issue of remuneration is one that should be addressed by the industry’s leadership. (There have been calls within the industry to simply “ban commissions”, while commendable, unless appropriately defined such remuneration structures will given other names and continue within the industry.)

Tax deductibility

A peripheral but key aspect of the remuneration debate around “commission” and genuine fee for service relates to the tax deductibility of financial advisory fees. It is argued that a benefit of commission arrangements is their tax deductibility, while fee for service arrangements for example the preparation and implementation of a financial plan are not. This issue has been revisited a number of times. For the debate over remuneration the tax deductibility issue is one that is required to be reviewed.

Recommendation

Remove the linkage between the product manufacturers and the adviser in terms of remuneration and other benefits. Remuneration should be payable from the client and for the advice provided, not the sale of a product. We would encourage the solution on remuneration be developed by industry leaders.

4. The role played by marketing and advertising campaigns

The Institute does not have a comment.

5. Adequacy of licensing arrangements for those who sold the products and services

Generally the Institute believes that the current licensing is reasonably robust

There are a comprehensive range of regulations and requirements to obtain an Australian Financial Services License and to provide financial advisory services. However the range of corporate collapses and the associated loss of funds by consumers over the last 18 months would indicate that there are deficiencies in the current licensing regime.

The Institute would like to reiterate that while the recent events are not acceptable, the introduction of further regulations and legislation will not totally eliminate such events from occurring in the future.

A key issue as previously mentioned is the challenge of regulating ethical behaviour - both for advisers and businesses operating in the financial services industry.

Single Product Licence

The current licensing regime permits a business to apply for an Australian Financial Services License that is limited to advising only on their own products that are very limited and then authorise individuals to advise only on these limited range of products.

While there is industry discussion around institutions having a tied sales forces or tied financial planning distribution channels the issue is not specifically that authorised representatives are tied to a product manufacturer (eg fund manager/ institution) and are limited to advising only on their products and services. In many cases these “tied” authorised representatives are able to provide advice on a wide range of products, services, investment structures, (eg superannuation, non superannuation, insurance, fixed interest products etc) As a result such financial planners can provide a holistic and overall financial advisory service. The financial planner is able to consider different structures and investment alternatives.

It is the situation where that representative maybe limited to one type of product by that AFSL holder, a managed fund or superannuation fund of one product manufacturer. This inevitably reduces the breadth of advice that can be provided and more importantly can create a conflict of interest as the alternative is either to advise on that one product or provide no product advise.

License condition example:
“This licence authorises the licensee to carry on a financial services business to:
Provide general financial product advice for the following classes of financial products:

a) (i) interests in managed investment schemes limited to:
    a. (A) own managed investment scheme only; and

This would appear to be an anomaly in the licensing regime as to how an authorised representative can appropriately provide advice when the products/ services are significantly limited

Recommendation

Review the licensing regime requirements whereby authorisation of its representatives is permitted by a product manufacturer to advise only on a single product.

6. The appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served

The introduction of FSR has resulted in consumers having a wide range of information and disclosure documentation to provide detailed information on the advice and products they are receiving. It is generally accepted that that these documents now provide too much information for consumers to easily comprehend.

As a result the Government and industry has commenced a range of projects to review the documentation provided to consumers.

In addition it would appear that the advice provided though Storm had met the regulatory disclosure requirements.

There are two key ASIC regulatory guides (RG175 and 168) to assist in meeting the disclosure requirements.

ASIC Regulatory Guide 175: Financial product advisers - Conduct and disclosure is a guide for persons who provide financial product advice and their professional advisers. The guide considers how certain conduct and disclosure obligations in Part 7.7 of the Corporations Act 2001 apply to the provision of financial product advice to retail clients. The Corporations Act 2001 requires persons who provide financial product advice to retail clients to comply with certain conduct and disclosure obligations. These obligations are designed to ensure retail clients receive professional and reliable advice about financial products.

ASIC Regulatory Guide 168: Product Disclosure Statements (and other disclosure obligations) is a guide on preparing a Product Disclosure Statement in compliance with the PDS requirements of the Corporations Act 2001

RG 168.6 In general, under the Corporations Act, a retail client must receive a PDS before acquiring a financial product. The PDS is the point-of-sale document that sets out the significant features of a financial product, including its risks, benefits and cost.

RG 168.7 The broad objectives of a PDS are to help consumers compare and make informed choices about financial products. To achieve these objectives, the legislation requires that all information contained in a PDS must be worded and presented in a clear, concise and effective manner.

There are three disclosure documents required to be provided to consumers when they receive financial advice.

- Financial Services guide (FSG)
- Statement of Advice (SOA)
- Product Disclosure Statement (PDS)

All three documents provide a comprehensive information for the consumer to assist in making their financial advice decisions.

Financial Services Guide

There is a requirement for all financial planners to present a “Financial Services Guide” (FSG) to retail clients. The FSG explains: the services they offer how they operate, how they get paid (including any commissions), how they deal with customer complaints, and any interests, associations or relationships that could influence them. The information in a FSG is to be presented clearly and concisely, with enough detail for an investor to make an informed decision about whether they want the services described.

While the regulatory basis for this documentation is commendable it is a consumer disclosure document that can be up to 20 pages in length. It is therefore questionable as to the ease with which consumers can understand the information.

Additionally it is worth noting that significant components of an FSG revolve around the disclosure of the remuneration the adviser will receive and also the complaints process. This would indicate the importance and potential impact remuneration may have on the advice being provided.

A more efficient and simple regulatory system should not require such extensive detail for the consumer to make a decision over. (It could be argued from the consumer’s perspective that the multiple complaint options are a concern.)

Statement of Advice

The SOA is a document that helps a retail client understand, and decide whether to rely on, personal advice.

ASIC RG 175 States - In summary, all SOAs must set out in a clear, concise and effective manner: The advice and the reasoning that led to the advice, information about remuneration and benefits, all conflicts of interest that may affect the advice, and the costs, loss of benefits and other significant consequences when recommending switching between financial products.

While Statements of Advice comprehensively detail information for consumers and assist them in their decision making, there is very little commonalty in how the fees and remuneration details are set out or how they are labelled. It is therefore a challenge for the consumer to appropriately compare the remuneration costs and product fees between Statements of Advice.

Product Disclosure Statement

Product Disclosure Statements have become unnecessarily complex and extensive in length. The combination of consumers' current lack of financial literacy and the complexities of these documents has resulted in product comparability to be very difficult for consumers. While there are guidelines for disclosing product fees and costs the range of product fees and the variety of how these fees are labelled make it near impossible to simply compare appropriately product costs. There should be consideration in having a standard range of fee names this would allow an ease of comparison for fee structures.

The emphasis by all three regulatory documents on the disclosure of fees and remuneration would indicate that this is a very important influential aspect of the overall financial advisory services regime. While the regulatory regime encourages "clear, concise and effective" the practical application of this has not occurred.

Recommendation

A review of the product fees, costs and remuneration disclosed in Statements of Advice and Product Disclosure to Statements to simplify and ensure ease of comparability. Consideration should be made to ensure common fee terminology is used to assist comparability.

7. Consumer education and understanding of these financial products and services

Much has been documented in the media that in relation to the collapses such as Storm that disclosure and transparency requirements were met by the AFSL holders and that clients signed the appropriate documentation. Further it has been reported by some stakeholders that one of the factors of investors agreeing to certain strategies related to "greed", where investors were endevouring to "make money" and grow their wealth.

It is widely recognised that consumer education is an important component to the overall strengthening of the financial services industry as whole. It is inevitably beneficial to have investors who have a greater knowledge and understanding of their financial position, the financial alternatives that exist and the role of financial planners and the advice they provide.

The financial services industry and government continues to promote the need for consumer education and the need for consumers to take a greater responsibility in regards to their finances and the decisions they make in regards to the their financial future. Similarly the regulators have focussed on building consumer knowledge through various financial literacy programs. For example the previous Government introduced the Financial Literacy Foundation and associated initiatives and the website "Understanding Money". ASIC provides an extensive range of valuable educational resources and tools through their consumer website FIDO.

ASIC also holds regular meetings for their Financial Literacy community of practice forums with representatives from all the main stakeholders, regulators and government. The objective of these initiatives is to further develop consumer literacy and understanding.

Currently the public's interest in their financial situation occurs when a significant lifestyle change arises for example changing jobs, receiving an inheritance or coming close to retirement. The interest in financial services and an individual's financial position occurs as a reactive response to their own lifestyle. (Most recently the downturn in the financial markets will have highlighted to many Australians the impact on their superannuation savings, however it is unlikely they will relate it in practical terms to their actual retirement.)

While beneficial, consumer education is not a short term solution that will resolve the problems experienced by the recent corporate collapses. The benefits of consumer education are a generational factor for the financial services industry and community as a whole. The benefits will be displayed, when the various education programs filter through the school and education networks and the financial understanding by investors becomes the norm rather than the exception.

Improved consumer understanding and education will also provide consumers with better understanding of the regulatory documentation that the consumer is required to read, understand and sign as part of their decision making process - this includes the Financial Services Guide, Statement of Advice and the Product Disclosure Statements.

Some stakeholders within the financial services industry have stated that investors should take a greater responsibility for their investment decisions and their financial position. A consequence of the current lack of consumer literacy throughout Australia is the lack of responsibility individuals have. An additional benefit of consumer education and understanding will be the development of consumer responsibility. Individuals will take on responsibility when they better understand the issues associated with that responsibility.

In summary, consumer education is important but limited. Similarly consumers' taking a greater responsibility for their investment decisions is beneficial but in the short term it is again limited. While consumer's may realise they are required to take on a level of personal responsibility they will in the majority of situations continue to want to find an adviser who can assist them and who they can trust.

Recommendation

The Government, regulators and industry stakeholders to continue and support all educational initiatives that is currently available. A greater understanding by consumer will lead to consumers taking a greater responsibility for their financial situation.

8. The need for any legislative or regulatory change.

The focus of the regulatory framework towards financial products is highlight throughout Chapter 7 of the Corporations Act 2001 and many of ASIC's Regulatory Guides. The legislation and the regulations refer consistently to financial products and financial product advice. This implies a key aspect of the financial advisory process results in the acquisition of a financial product.

An example of the financial product focus can be found in ASIC RG146 **-** the training and education of financial advisers requires demonstrating competence and skills in specific product areas eg managed investments, superannuation and insurance. The competencies revolve around products rather than strategic financial advice.

As a result it is only necessary for advisers to demonstrate competence in one type of product to meet the regulatory compliance requirements, however this must challenge their ability to provide an overall financial advisory service to the consumer. Similarly how can an adviser provide financial advice based around wealth creation strategies and be potentially restricted to advising on managed funds only or superannuation only.

Similarly the predominant remuneration models are based on the sales of products and growing funds under management for the advisers to be paid.

As a consequence the Institute's view is that the current regulatory framework encourages a product/ sales mentality.

Recommendation

Review the legislative and regulatory framework's focus on financial products and financial product advice as opposed to regulating financial advice. The industry operates in line with this regulatory product focus.

Compliance advice audit

An issue that has been raised from the recent corporate collapses appears to be the role of ASIC, the expected role of ASIC, the monitoring of AFSLs and the ongoing obligations of an AFSL under the licensing framework.

Currently there are extensive requirements as to how a business applies for an AFSL and there are ongoing requirements and obligations. However it could be argued that there seems to be a gap in the on-going compliance requirements and what is included as part of the compliance audit. An AFSL is required to be audited that involves conducting both a financial and compliance audit to check whether the licensee is complying with its licence conditions and the requirements of the Act. Currently the audit and monitoring does not examine in depth the advice being provided by the representatives of the AFSL

A consideration could be to include an "advice audit" as a component of the compliance audit. This is not a preferred solution, as it would result in increased compliance costs. However it would provide a solution to monitoring the practical application of the compliance processes within the AFSL. In addition, it may well remove any real or perceived conflicts of interest that may occur within an AFSL operation between the compliance function and other divisions of the business.

Recommendation

Consider the appropriateness of the current annual compliance audit of AFSLs and potentially expanding the audit to incorporate the advice provided by the representatives of the AFSL.

Financial planner registration

ASIC currently holds a register of Australian Financial Services Licensees and authorised representatives.

However as the importance of the role of financial advisers increases and in light of the responsibility required of financial advisers consideration could be given to the development of a more formal registration. A number of professions and advisory services have a registration framework such as tax agents and auditors. Although this may potentially add costs and compliance requirements it may develop a more robust framework.

Recommendation

Introduce a more detailed registration of financial planners that is publically accessible.

Additional regulatory considerations

The Institute strongly supports the current regulatory framework for financial product advice and has encouraged many members to incorporate financial advisory services in their practices. Many Chartered Accountants and their practices now operate under their own Australian Financial License (AFSL) or as an authorised representative of an AFSL holder.

As the importance of superannuation as a financial asset for Australians grows so does the need to provide and make available a range of advice services. The recent introduction of intra fund of advice for superannuation funds highlights the importance of delivering simple, low cost accessible advice to Australians who would not normally be able to receive financial advice.

Much of the current regulatory framework focuses on financial products and many Australians need access to simple non-product advice.

The access to simple affordable financial advice could be achieved by improving the availability of general non-product financial advice. One of the key aspects for many individuals is not specific product recommendations, hence the issue of potential conflicts of interest are significantly reduced.

However it is critical that an appropriate consumer protection regime exists. This advice could only be provided by suitably qualified individuals and be subject to similar educational and training requirements as those required of licensed financial advisers. Similarly there is a need to ensure such providers operate under the current regulatory environment through a form of licensing or registration.

Professional accountants are well placed to provide strategic financial advice. For example recognised professional accountants are degree qualified, experienced professionals who must comply with strict enforceable ethical codes and continuing professional development requirements. In addition, public practitioners are already obliged to hold professional indemnity insurance for their accounting services and are subject to their professional body's quality assurance and disciplinary processes.

This Inquiry could consider the current regulatory framework in terms of the opportunities for the access of simple non-product advice without reducing the consumer protection regime.