

## 6.7. Recommendation 7

### Establish a Professional Standards Board and a compulsory Code of Ethics

#### 6.7.1. Our rationale for this recommendation

We propose the establishment of an independent Professional Standards Board to oversee the development of professional standards and act as a guardian of the public interest.

The purpose of the Professional Standards Board is to provide a common framework for professional standards across all advice channels.

Such a body will enhance professionalism and help members be seen as true professionals by consumers.

Once established the Professional Standards Board should introduce a consistent, compulsory and visibly-enforced Code of Ethics.

This professionalism proposal, whilst requiring considerable effort from many industry participants, should raise standards and thereby increase the value of financial advice from the public's perspective. That is the prize for the truly professional adviser.

We recognise that establishing a regulatory oversight framework for financial planning will be unquestionably challenging, given the work involved and the powerful special interest groups likely to oppose components of our proposal.

#### 6.7.2. Role of the FPA and a Professional Standards Board

We recognise the good work already done by the following diverse financial planning related professional groups:

- The Financial Planning Association (FPA)
- The Association of Financial Advisers (AFA)
- The Institute of Chartered Accountants - Financial Planning Chapter
- CPA Australia - Financial Planning Chapter

We especially highlight the key role in the development of financial planning in Australia played by the FPA. Here we will disclose that Quantum is a Principal Member of the FPA and that all authors of this submission are individual Certified Financial Planner members of the FPA.

In the mid 1980's the FPA played a crucial role in the genesis of the new profession of financial planning. Those involved operated in a vastly different regulatory environment from today. Their forward looking actions laid the groundwork for where we stand today.

There can be no doubt that the FPA has a proud heritage and can be quite rightly proud that it made a massive contribution to the development of financial planning as a profession in Australia. Over that time the FPA has also been at the forefront in lifting crucial minimum education and professional standards in financial planning.

Despite the above we believe that the FPA, which is often mentioned as a possible self-regulatory organisation for financial advisers, would be ill suited in its current form to oversee financial planners as a Professional standards Board. There are several reasons for our view:

#### 1. FPA currently wears too many hats

The FPA has two key facets to its operations: member services and professional standards. Unfortunately these two roles inevitably conflict.

Example 1: Until recently the FPA actively and vocally defended the rights of its members to charge 7% up-front commissions. At the same time as doing so it was setting professional standards for members setting and monitoring those standards.

Example 2: Storm Financial was an active principal member of the FPA. When confronted with the fallout from its many failures, the FPA had to deal with two issues – supporting Storm Financial as a fee paying principal member of the FPA (with all the rights of a member) and dealing with the obvious and many issues unfairly placed on Storm Financial clients.

The public quite rightly deserves a Professional Standards Board that is independent and impartial and acts in the best interests of the profession.

At the same time FPA members deserve an industry association, as the FPA is, to lobby on their behalf and provide essential services.

While other professional bodies (eg accounting) can comfortably co-accommodate member services and professional standards, the key differences between them and the FPA are that:

- In the provision of accounting advice, their members' service offerings are not based on the provision of a product manufactured by a third party that then remunerates the accountant.
- The accounting bodies membership is only made up of individual qualified accountants. A dominant part of FPA membership is made up of large firms that are financial planning firms (eg AMP Financial Planning) owned by or closely aligned to financial product manufacturers (eg AMP).

## **2. Too broad a membership**

The FPA (Financial Planning Association) is an industry association, not a professional body. Its membership is sourced from a hugely diverse number of businesses and occupations associated with financial planning and financial product providers, and not simply financial advisors. In our opinion it is unfortunate that it calls itself the Financial Planning Association (and represents employees of product manufacturers) and not the Financial Planner Association (and not solely representing financial planners).

## **3. Financial planning distribution arms of financial product manufacturers are dominant members of the FPA**

In other professions membership of the professional body is limited to individual qualified professionals. In financial planning, the dominant membership of the peak body, the FPA is made up of principal member firms such as AMP, MLC and Axa. While individual financial planner members get a voice, typically these large firms have the staff and resources to dominate. These types of firms are also the largest financial supporters/sponsors of the FPA's annual conference, a major source of ongoing income for the FPA. We do not intend to imply that this is bad but rather seek to highlight it creates an obvious conflict of interest.

We recognise that the FPA has done good work in starting to develop professional standards for financial planning in Australia which is a foundation on which a community can begin to trust practitioners of any profession

For the FPA to develop and grow its services, we recommend it relinquish its professional standards setting role (which only currently covers FPA members) to an overarching Professional Standards Board that can compulsory require all those who hold themselves out as financial planners to be members and to adhere to the required universal professional standards. This would allow the FPA to retain its important role advocating the interest of its members.

### **6.7.3. Lessons from the UK & USA**

We highlight that the FSA in the UK (equivalent to Australia's ASIC) has recently introduced a compulsory Professional Standards Board and a code of ethics for the finance industry.

We also highlight that in the USA the FPA (equivalent to the FPA in Australia) has advocated the following: “recognize financial planning as a distinct profession under the oversight of a national professional board”.

#### 6.7.4. The steps required to set up a Professional Standards Board

- ◻ **Step 1:** Establish a professional standards-setting oversight board that would initially be subject to ASIC authority and oversight.
- ◻ **Step 2:** Require individuals (not firms) who provide financial planning advice to retail clients, or who hold themselves out as a financial planner or advisor (or similar title), to be subject to the Board’s oversight.
- ◻ **Step 4:** Once the Professional Standards Board is set up, ensure it is run on a self funding basis from member dues. This ensures it is revenue neutral from the Government’s perspective.
- ◻ **Step 3:** Direct the Board to establish standards of training, experience and competence in consultation with the financial planning profession and subject to ASIC review and approval.
- ◻ **Step 4:** Direct the board to establish rules to promote the delivery of financial planning advice at a bona fide fiduciary standard of care.
- ◻ **Step 5:** Authorise the board to enforce its rules and standards in cooperation with other financial services authorities (ASIC, APRA, FOS, etc).
- ◻ **Step 6:** Once it is up and running, transfer the responsibility for running the Professional Standards Board from ASIC to self autonomy, as is the case in other professions.

#### 6.7.5. How consumers benefit from this recommendation

The introduction of such a Professional Standards Board would create a framework for professional oversight to help consumers easily identify qualified and ethical financial planners who are subject to professional standards.