



CHARTERED ACCOUNTANTS™
AUSTRALIA + NEW ZEALAND

4 February 2022

Advice and Investment Branch
Retirement, Advice and Investment Division
The Treasury
Langton Crescent
Parkes ACT 2600

Attention: Ms Anna Schneider Rumble
By email: AdviceReview@treasury.gov.au

Dear Anna

Review of the quality of financial advice – Draft Terms of Reference (December 2021)

Chartered Accountants Australia and New Zealand (CA ANZ) has long advocated for industry reform to ensure that more consumers are able to access high quality, ethical and professional financial advice. We therefore welcome this opportunity to comment on the [Draft Terms of Reference](#) for the upcoming 'Review of the quality of financial advice'.

CA ANZ supports raising the standards of financial advice to better serve and protect consumers. We are wholeheartedly committed to helping the industry move forward and fix something that is clearly 'broken'. We therefore support this review as recommended by Justice Hayne in his findings from the Royal Commission into Misconduct into the Banking, Superannuation and Financial Services Industry.

We believe there is, and will continue to be, a need for trusted advisers to look after the financial advice needs of everyday Australians. This will be best served by providing a legislative environment which is consumer centric, with a reduction of regulatory overlay whereby high quality, professional and ethical financial advice can become more affordable to Australian small businesses and individuals.

The financial planning industry is working hard to raise education, CPD and ethical standards to be recognised by the public to be a true profession. However, Chartered Accountancy has been a true profession in its own right for decades. This review needs to consider the role of accountants within the industry. Put simply, consumers trust Chartered Accountants (CAs) in the financial advice industry. We do not believe accountants have been appropriately recognised to date.

Any further exodus of CAs is likely to significantly reduce the overall level of training and expertise in the industry.

If you would like to discuss our submission, please do not hesitate to contact Bronny Speed (Leader, Financial Advice) on (02) 8078 5442 or at bronny.speed@charteredaccountantsanz.com.

Yours sincerely

Simon Grant FCA
Group Executive
Advocacy & Professional Standing

CA ANZ comments relating to the Draft Terms of Reference

1. Government commitment to ensuring Australians have access to high quality, affordable and accessible financial advice.

CA ANZ thoroughly supports the Government in this stated goal.

The consumer must be pivotal to further reforms and CA ANZ agrees with the thrust of para 4 in the Draft Terms of Reference.

CA ANZ's consumer-focused views have been made clear in many previous submissions including, but not limited to:

1. CA ANZ Education Standards for Financial Advisers submission (Feb 2022)
2. CA ANZ Better Advice Bill ED Regulation submission (October 2021)
3. CA ANZ Hayne Royal Commission Response - Better Advice Bill 2021 (July 2021)
4. CA ANZ SDB submission (May 2021)
5. CA ANZ Response to ASIC CP332 (January 2021)

These submissions can all be provided upon request.

2. Regulatory framework

Comments/feedback:

- All types of investors must be considered when crafting the Terms of Reference, not just retail (refer para 2)
- As noted in the draft Terms of Reference, opportunities to streamline and simplify regulatory compliance (leading to reduced costs of providing advice) are essential.
 - Principles based, rather than rules-based regulation should be made an objective of the Review, and
 - Greater clarity in compliance documents targeted at consumers can be achieved if some of the current regulatory disclosures required are either *eliminated* or at least *reduced* (para 2.3 does not seem to contemplate this)

3. Legislative framework

Comments/feedback:

- Not all industry participants want to provide personal advice to retail clients in relation to relevant financial products requiring an Australian Financial Services Licence (AFSL). It is therefore imperative this fault in the legislative framework is addressed, as many secondary factors emanate from this existing premise.

- It is pleasing to see that the Draft Terms of Reference (para 3.1.1) refer to ways in which other forms of advice, not just financial product advice, can be provided.
 - The current legislative ‘types’ of advice are currently confusing to consumers. As noted in para 3.1.1 of the Draft Terms of Reference, the Review needs to find a way to simplify this area of the Corporations Act as ‘financial advice’, ‘general advice’, ‘limited advice’, ‘wholesale advice’ and ‘strategic advice’, just to name a few, mean different things to different consumers and some professionals.
- The safe harbour provisions were introduced as a framework for financial planners to follow to ensure the best interests of clients was put first. As this is a core tenet of the training of CAs, and therefore deemed unnecessary to be included in the legislative framework, consideration to repeal the provision is welcomed.
- It is good to see the Draft Terms of Reference focus on how we create a sense of professionalism in the sector (para 4.1). CA ANZ’s view is that if financial advice is to truly be accepted as a profession in the community, it’s time for individual professional practitioners within it to take responsibility for their own actions, their own ongoing qualifications, their own ongoing CPD and their own adherence to high levels of professional standards. Therefore, the need for a licensee needs to be reviewed.
- CA ANZ notes the reference in para 3.1.7 of the Draft Terms of Reference to Recommendation 7.2 of the Review of the Tax Practitioners Board. As current legislation stands in the Regulations to the Better Advice Bill, Tax Financial Advisers will be grandfathered across to ASIC automatically whereas RTAs, who are more qualified in tax than TFAs, are currently not automatically being transferred. This anomaly needs to be reviewed.
- The designation of sophisticated and wholesale investors should not only address whether the consent arrangements are working effectively, they should also address consumer protections of wholesale versus retail clients.
- FASEA’s ‘one-size-fits-all’ approach has simply not worked across most of the integrated model components, these being education, CPD, Code of Ethics, Foreign Qualifications, the FASEA exam, Professional Year. A review of each of the Legislative Instruments should be specifically included in the Terms of Reference.
- The Terms of Reference should provide an opportunity to consider whether there should be a category of advisers able to provide what CA ANZ refers to as “strategic advice” (a term not mentioned in para 3.1.1). By way of background:
 - A significant number of accountants simply want to be able to advise their clients on strategic matters, particularly in relation to superannuation issues, yet they can’t do so under the existing FASEA standards. Without an AFSL, these professionals are unable to discuss one of the most important topics clients want from them – single issue (limited) superannuation advice. If limited strategic advice is provided via an AFSL (limited or full), the process is complex, time-consuming and hence expensive. Clients simply don’t want to, and won’t pay for, large fees for work they believe suitably qualified accountants should be able to provide in the ordinary course of their business advice.

- Note that CA ANZ has asked the Government to urgently consider CA ANZ's correspondence requesting that a suitably qualified accountant professional who holds a Certificate of Public Practice, or who is on (or has recently been on) the Financial Adviser Register (FAR) and has additional specialist qualifications in limited specified areas of superannuation can provide consumer driven strategic advice. This outcome can easily be achieved by way of a Legislative Instrument. A favourable response from the Minister will assist many individuals and small businesses who continually request this advice from members of a number of professional member associations.

This issue is listed here for merely for completeness, as we hope the matter will be resolved prior to the commencement of this Review

- Superannuation should not be overlooked by the Review. Off the back of the [Retirement Income Covenant](#), financial advice will be of critical importance, particularly in relation to intra-fund advice provided by superannuation funds to their members. A system whereby there is a separation of product versus advice needs to be carefully considered, particularly in light of vertical integration being highlighted to be a problem in the findings of the Hayne Royal Commission findings
- Finally, consumer protections across the entire industry, including compensation for clients resulting from product provider failings, should be referred to in the Terms of Reference and link Review outcomes with the [Compensation Scheme of Last Resort](#) (CSLR) measures recently introduced to Parliament.

4. Other issues

Comments/Feedback

- Technology will rightly be a key focus area for the Review (para 4.4). The Terms of Reference should refer in particular to:
 - How technology will be used to aid in compliance checking
 - 'Robo' advice, and how it will be regulated
- Consumer protections across the entire industry, including compensation for clients resulting from product provider failings should be reviewed in conjunction with the Compensation Scheme of Last Resort (CSLR) measures recently announced

5.Process

Comments/feedback:

- CA ANZ believes the 'independent reviewer' for this Review should be supported by an independent panel of industry experts. The Review should incorporate industry feedback on a regular, ongoing basis as and when certain stages of findings are collated. Feedback should be sought *prior* to final determinations being released.
- Given the 'Better Advice Bill' appeared to be rushed through Parliament late in 2021, CA ANZ would like to see flexibility in the report date of this Review to Government, as 16 December 2022 may be premature, given the quantum of topics requiring serious consideration in the financial advice sector.

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 128,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional education and training.

In summary:

Across the country, in local communities and large cities, CAs are seen as a trusted and educated group of financial professionals who are working every day to serve the interests of individual and businesses in the Australian economy.

Being highly qualified

As well as relevant degree-level study, all our members have completed a minimum of three years approved and mentored relevant work experience. CAs have an Australian or New Zealand approved degree at AQF7, or an overseas equivalent, and a TEQSA approved AQF8 post-graduate qualification which requires rigorous study.

Significant continuing professional development obligations

Significant ongoing professional development requirements ensure CAs skills and knowledge remain current and relevant. Members are required to complete a minimum of 120 hours of relevant training during a three-year period. This is monitored through audits for a selection of members as well as annual declarations from all members.

Broad experience

Our members are accountants who can offer far more than technical knowledge. CAs are broadly experienced in dealing with business and financial issues across a diverse range of management and advisory roles. This bigger picture, holistic perspective enables them to work flexibly to positively impact businesses, organisations and communities.

Fully accredited

Our members have all met, and are bound by, internationally recognised technical and ethical standards. CA ANZ is part of the Global Accounting Alliance - the coalition of the world's premier accounting bodies.

Future-focussed

Whether working in business or practice, CAs are uniquely positioned to offer advice that can be trusted. Through deep understanding they have the skills to examine the past and guide organisations into the future.

Highest ethical and professional standards

Members are required to adhere to a strict code of ethics included in the Accounting Professional & Ethical Standards Board's Code of Ethics for Professional Accountants (including Independence Standards) (APESB 110). They are also required to comply with detailed CA ANZ regulations which maintain high levels of professional standards.

Protection to consumers and members through the Professional Standards Scheme

All members in public practice must meet the requirements of the CA ANZ Professional Standards Scheme. This includes having minimum levels of professional indemnity insurance and appropriate disclosure of the limitation of liability under the scheme. This offers protection to both our members and their clients.

Quality Review Program

The CA ANZ Quality Review Program reviews practices on a cyclical basis and examines each practice's compliance with technical and professional requirements, including compliance with the professional standards scheme. The programme monitors whether our members in public practice have quality control systems in place to ensure they comply with the Code of Ethics, professional standards, and legal and regulatory requirements. All members offering services to the public are eligible for review. This helps maintain a consistently high standard of quality and service to their clients.

Conduct and disciplinary processes

There are robust disciplinary processes to hold members to account who may not comply with high professional and ethical standards. This includes investigating and resolving complaints made against members. Sanctions imposed on members can include termination or suspension of membership, a censure, training and costs.