PROFESSIONALISING FINANCIAL ADVICE

Policy Recommendations Following the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry in Australia

CFA Institute

CFA Societies Australia

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1. Executive Summary

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Hayne Royal Commission) has exposed significant problems in the financial industry in Australia. These include advisers failing to act in the best interest of their clients, conflicted remuneration structures that lead to poor or inappropriate outcomes for clients, and an industry dominated by vertically integrated firms that puts the interests of the firms before those of their clients. As a result, the public has lost confidence in the industry and has little trust in it. It is imperative that the financial industry and other stakeholders, including government and regulatory authorities, take decisive, visible actions to restore public trust and confidence.

CFA Institute and CFA Societies Australia do not see a single solution to the problems highlighted by the Hayne Royal Commission. Rather, we believe that reforms are needed in several areas, and that all these areas must be addressed together to ensure better outcomes for financial advice industry clients.

In responding to the Hayne Royal Commission, we focus on the issues relating to the ability of consumers to access financial advice and products, as this is the area that is the most relevant to our mission.

Prior to the Hayne Royal Commission, Australia has had many inquiries and reviews of the financial sector, which have produced a long list of recommendations, ranging from structural reforms and policy changes, to establishment of new regulatory bodies, to moves to improve professionalism and education standards in the industry. It is clear that the effectiveness of reforms to-date has been questionable and there is still much room for improvement in terms of outcomes for consumers. Strong steps must be taken this time to ensure genuine, lasting change in the financial advice industry in Australia. Without such steps, problems will continue to recur, with no real change in the way businesses operate, as they have, following previous inquiries.

CFA Institute and CFA Societies Australia believe policy needs to focus on several key areas to improve the outcomes for consumers accessing financial advice and products. The changes we recommend here would improve the public perception of the industry and help deliver better outcomes for the investing public. Our recommendations fall into four areas: strengthening best interest duty and ensuring appropriate consequences; fees and conflicted remuneration; ensuring independence of advice; and the professionalisation of the financial advice industry.

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1.1 Best Interest Duty and Appropriate Consequences

Recommendation 1: Strengthen the enforcement of the best interest duty.

As currently defined, advisers' duty to act in clients' best interest often does not translate into best outcomes for the clients. Instead, the 'safe harbour' provision gets reduced to a box-ticking exercise, leaving room for circumventing the spirit of the regulation. In practice, even this provision is often ignored, as an investigation by the Australian Securities and Investments Commission (ASIC) has shown.[1]

Better enforcement of the existing 'best interest' duty, especially around the 'safe harbour' provision, is of primary importance in the short term. In the long term, however, the industry should aspire to the adoption of a principle-based approach to relationships between clients and their advisers. In particular, adoption of the fiduciary duty standard should be considered, especially if misconduct cases persist.

Recommendation 2: Deter bad behaviour by establishing appropriate consequences for those who act against the interest of clients.

Deterrents should include the ability to suspend or ban people from the industry. Penalties should be in proportion to the damage done to clients and be significant enough that firms do not just write them off as a cost of doing business. For customers, the right of recourse should not require expensive legal court proceedings and recourse should be accessible in a timely and effectively manner. In recommendation 6.2 of the final report, Hayne tackles this and recommends that ASIC consider court action as a first option before looking at enforced undertakings or negotiated settlements, particularly for large corporations.[2]

1.2 Fees and Conflicted Remuneration

Recommendation 3: Remove the grandfathering of commissions.

Conflicted remuneration has been at the heart of many of the issues raised before the Hayne Royal Commission. We strongly believe that the grandfathering of commissions allowed under the Future of Financial Advice (FOFA) legislation should be outlawed

[1] Australian Securities & Investments Commission (ASIC) Report 562: Financial advice: Vertically integrated institutions and conflicts of interest. January 2018, https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-562-financial-advice-vertically-integrated-institutions-and-conflicts-of-interest/.

[2] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf.

either immediately or with a short sunset period to allow firms to adjust. Hayne's recommendation 2.4 is that it be outlawed 'as soon as reasonably practicable'[3], and we call for this to happen within the next 12 months.

Recommendation 4: Compel advisers to disclose and explain the fees that clients are paying.

Clients often pay for products and services without being aware of all the charges and who receives them. Advisers should be compelled to disclose and explain in plain language to clients all fees and costs in relation to a financial product. The disclosures should include, at a minimum, the amount of fees, the individual or entity receiving them, how the fees are charged and the services rendered in return. Clearer disclosure to clients of adviser remuneration, fees and charges will help clients better understand what they are paying for and to whom. Hayne partly addresses this in recommendation 2.1 which suggests annual sign up by clients and setting out total fees and services provided[4] but we believe more detailed guidance is needed.

Recommendation 5: Ban conflicted remuneration arising from platform fees.

Advisers should have an explicit duty to recommend the most appropriate platform and products. Platform fees should not be allowed to replace product commissions and thus continue a practice that rewards pushing particular products rather than seeing to a client's best interests. This issue was raised in the interim report but not addressed by the final report of the Royal Commission and may warrant further scrutiny.

Recommendation 6: Reward the right behaviour by aligning the remuneration of both advisers and senior executives to the long-term interest of customers.

Rewards for 'product pushing' are inappropriate and should not be permitted. While the Royal Commission's recommendations 5.3 and 5.4 address this, we believe they are too vague in merely stating firms should design remuneration 'to encourage management of non-financial risks' and 'set limits on the use of financial metrics in connection with long-term variable remuneration.'[5] Remuneration and incentives at all levels should be focused on broader outcomes, which include non-financial performance, client outcomes and compliance, while fostering ethical decision making and removing bias toward sales. In doing this, the industry should aim to follow the recommendations of the 2017 Sedgwick review.[6]

[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] Retail Banking Remuneration Review, https://www.betterbanking.net.au/wp-content/uploads/2018/01/FINAL_Rem-Review-Report.pdf

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1.3 Ensuring Independence of Advice

Recommendation 7: Require all financial advisory firms to disclose institutional ownership or exclusive product relationships.

To clear up confusion in the minds of consumers and to ensure that conflicts are disclosed, firms must disclose institutional ownership or exclusive product relationships with other organisations. We support Hayne's recommendation 2.2, that advisers who are not truly independent be required to give client a statement explaining why they are not.[7]

Recommendation 8: A ban on vertical integration should remain under active consideration.

We acknowledge the Royal Commission's conclusion that an outright ban on vertical integration might not be warranted at present and note that other recommended changes should help to improve consumer outcomes. However, we believe that the banning of vertical integration for firms offering financial advice should remain under active consideration at future inquiries if the progress isn't sufficient.

1.4 Professionalising the Industry

Recommendation 9: Establish an independent professional body to register financial advisers.

The financial advice industry needs to become a true profession through the establishment of an independent professional body. An independent industry body would register advisers, check qualifications and have the power to discipline its members. While Hayne's recommendation 2.10 states that there should be a single, central disciplinary body with the power to impose disciplinary sanctions on financial advisers[8]—the most serious sanction being cancellation of registration—he is not prescriptive on the form it should take. We believe that a true professional body, which educates, sets and monitors codes of conduct, and advocates not only to improve the profession but in the public interest, is a key ingredient to raise standards and deliver better outcomes for investors. This will supplement ASIC's power to ban financial advisers under Section 920A of the Corporations Act 2001.

[7] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

[8] Ibid.

Recommendation 10: Require individual licensing of financial advisers.

Currently, individual advisers act as representatives of their firms. Despite detailed compliance procedures and layers of reporting and management, firms struggle to monitor the behaviour of their advisers appropriately. Individual licensing of financial advisers should be implemented as a tool for an independent professional body (proposed in Recommendation 9) to exercise its certification and disciplinary powers. Individual licencing would impose an additional, individual level of accountability for professional conduct, in addition to the accountability of the institution. We welcome Hayne's recommendation 2.1 and his observation that this is common in other professions[9].

1.5 Industry Culture

While the ten recommendations relate to industry practices and regulations, we recognize, as does Commissioner Hayne, that the culture of the industry is a major factor underlying much of the misconduct. In addition to the strengthening of regulations, significant cultural changes are required, driven not by government or regulators, but by the industry itself. Ethical and customer-focused behaviour needs to start with senior executives and permeate all levels of management, thus serving as an example for customer-facing staff.

As the professional body for the investment management industry, CFA Institute and CFA Societies Australia have the tools and the ability to support the industry and its regulators in successfully achieving the reforms the Royal Commission has proposed. The CFA Institute Code of Ethics and Standards of Professional Conduct are an established ethical benchmark for the industry and as such they can serve as a guideline in this effort. We can also play a practical role in shaping the industry culture and improving outcomes on an individual and corporate level by lending experience, expertise and resources.

Our mission is to promote the highest standards of ethics, education and professional excellence in the investment management profession, for the ultimate benefit of society. Our focused pursuit of this mission in Australia will help rebuild public trust and confidence in the country's financial institutions and practitioners.

[9] Ibid.

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2. Introduction

CFA Institute is the premier global association for investment management professionals. A mission driven, not-for-profit organisation, CFA Institute is a global community of more than 160,000 investment professionals working to build an investment industry where investors' interests come first, markets function at their best, and economies grow.

CFA Institute represents investment professionals, including financial advisers, before standard setters, regulatory authorities and legislative bodies worldwide in its efforts to create a world-class financial system that has a high degree of efficiency, integrity and accountability.

CFA Societies Australia is a non-profit organisation that represents the local member societies of Sydney, Melbourne and Perth, which are member societies of CFA Institute. Its aim is to help connect members to a global network of investment professionals and to promote fairness and integrity across the investment industry.

On behalf of CFA Institute and CFA Societies Australia we offer recommendations on key policy areas arising from the report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. The recommendations address areas where we see a need for improvement, to ensure better outcomes for consumers of financial advisory service in Australia.

3. Historical Background

Over the last decade, Australia has had many inquiries and reviews of the financial sector. As mentioned in the Hayne Royal Commission interim report, 'as many as 70 public inquiries concerning the conduct of banks and their associates had been or were being conducted'[10]. Despite being generally well-served by firms that are at the forefront of many developments in the industry globally, their clients have experienced mistreatment and overcharging—issues that have been identified many times. Cases of fraud and misuse of client funds range from insurance to investment advice and retail banking. The inquiries and reviews have led to a long list of recommendations, including proposals for structural reforms, policy changes, establishment of new regulatory bodies, and improvement in the industry's professionalism and education standards.

Despite the many inquiries and their associated recommendations, the effectiveness of reforms to-date has been questionable and there is still much room for improvement in terms of outcomes for consumers. The oligopolistic nature of the banking industry in Australia and the strong positions of the large players have led to entrenchment in business practices and culture, and a lack of any real impetus to change. Thus, there remains in Australia a sense of a lack of true accountability and a perception that white-collar crimes are not punished.

We summarise below some of the key inquiries and reports that preceded the Hayne Royal Commission. This historical perspective underscores our belief that strong steps must be taken this time to ensure genuine, lasting change in the industry in Australia. Otherwise, the vicious cycle will continue: problems will be uncovered from time to time, causing community outrage and industry embarrassment, followed by public apologies and promises to restore trust, protracted remediation and restoration, with minimal adverse consequences for the culprits or changes to the way business is done. As time goes by, memories will fade, and the cycle will repeat, with problems re-emerging, leading to more inquiries and recommendations.

3.1 The Financial System Inquiry Final Report 1997

The Financial System Inquiry Final Report 1997[11] (the Wallis Inquiry) was one of the earliest inquiries. It led to the establishment of the Australian Prudential Authority (APRA).

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[10] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (28 September 2018), *Interim Report*, https://financialservices.royalcommission.gov.au/Pages/interim-report.aspx, Vol. 1, p. 3.

[11] Treasury, Government of Australia (March 1997), *Financial System Inquiry Final Report*, https://treasury.gov.au/publication/p1996-fsi-fr/

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However, the Hayne Royal Commission and many prior reviews have found that, 20 years later, ASIC and APRA still lack the ability or will to enforce regulations and punish wrongdoing. They appear to have too often been reliant on the firms they are regulating to report issues and to act to fix them.

3.2 Parliamentary Joint Committee on Corporations and Financial Services 2009

The Parliamentary Joint Committee on Corporations and Financial Services Inquiry 2009[12] (the Ripoll Report), although focused on banking, insurance and superannuation, also highlighted problems in financial advice. It noted that remuneration arrangements induce adviser misbehaviour resulting in clients receiving poor financial advice. The inquiry's final report included a recommendation that the Corporations Act be amended to explicitly include a fiduciary duty for financial advisers operating under an Australian financial services licence, requiring them to place their clients' interests ahead of their own. It also recommended looking at ways to end payments from product manufacturers to financial advisers. Neither of these issues have been resolved and they remain troublesome.

3.3 The Financial System Inquiry 2014

The Financial System Inquiry 2014[13] (the Murray Inquiry) was chaired by David Murray, now AMP Chairman and former CEO of Commonwealth Bank of Australia. The inquiry made 44 recommendations to the government and, like the 1997 Wallis Inquiry, noted that 'unfair consumer outcomes remain prevalent'. One of the overall themes in its recommendations was the need to 'enhance confidence and trust by creating an environment in which financial firms treat customers fairly'. The inquiry found that 'the current framework is not sufficient to deliver fair treatment to consumers. The most significant problems relate to shortcomings in disclosure and financial advice'. It recommended changes to 'further align the interests of firms and consumers and improve standards of financial advice by lifting competency and increasing transparency regarding financial advice'.

[12] Parliamentary Joint Committee on Corporations and Financial Services (November 2009), *Inquiry into Financial Products and Services in Australia*, https://www.aph.gov.au/binaries/senate/committee/corporations_ctte/fps/report/report.pdf

[13] Treasury, Government of Australia (2014). Financial System Inquiry Final Report, http://fsi.gov.au/publications/final-report/.

The Inquiry also noted that responsibility for sound governance, robust risk management and adequate financial soundness rests primarily with a financial institution's management and its board. Financial institutions have a responsibility to operate with integrity to build and protect trust and confidence in the financial system.

Again, these issues do not seem to have been addressed by policymakers or the industry in Australia and have been highlighted once more by the Hayne Royal Commission.

3.4 The Retail Banking Remuneration Review 2017

The Retail Banking Remuneration Review 2017 (the Sedgwick Review)[14] focused on product sales commissions and product-based payments in retail banking in Australia. Although Sedgwick found there was 'not sufficient evidence of significant systemic risks of poor outcomes for customers to support an outright ban on all product-based payments in retail banking', he still found that 'some current practices carry an unacceptable risk of promoting behaviour that is inconsistent with the interests of customers and should be changed'. Most relevant to the current discussion are Recommendations 2 and 9:

- **Recommendation 2:** Banks remove variable reward payments and campaign-related incentives that are directly linked to sales or the achievement of sales targets (including, but not limited to, cross sales, referral targets, and profit and revenue targets).
- **Recommendation 9:** Each bank formally examine its workplace culture and institute formal processes to redress any conscious or unconscious bias towards sales in preference to ethical behaviour and customer service.

These issues relate to the broader financial advice industry in Australia and have been raised by the Hayne Royal Commission.

3.5 Productivity Commission: Competition in the Australian Financial System 2018

The Productivity Commission: Competition in the Australian Financial System 2018[15] inquiry highlighted what we believe is a major issue in the Australian market and a reason why drastic policy change has not happened but is now needed:

[14] Sedgwick, Stephen (April 2017), *Retail Banking Remuneration Review Report*, https://www.betterbanking.net.au/wp-content/uploads/2018/01/FINAL_Rem-ReviewReport.pdf

[15] Australian Government Productivity Commission (June 2018), *Competition in the Australian Financial System: Productivity Commission Inquiry Report No. 89*, https://www.pc.gov.au/inquiries/completed/financial-system/report.

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The larger financial institutions, particularly but not only in banking, have the ability to exercise market power over their competitors and consumers. Many of the highly profitable financial institutions have achieved that state with persistently opaque pricing; conflicted advice and remuneration arrangements; layers of public policy and regulatory requirements that support larger incumbents; and a lack of easily accessible information, inducing unaware customers to maintain loyalty to unsuitable products.

3.6 Prudential Inquiry into the Commonwealth Bank of Australia 2018

The Prudential Inquiry into the Commonwealth Bank of Australia 2018,[16] requested by APRA, found a number of prominent cultural themes in the industry, such as a widespread sense of complacency, a reactive stance in dealing with risks, insularity, an inability to learn from experiences and mistakes, and an overly collegial and collaborative working environment that lessened opportunities for constructive criticism, timely decision making and a focus on outcomes.

The inquiry report also focused on remuneration, finding 'a remuneration framework that, at least until the Australian Transaction Reports and Analysis Centre (AUSTRAC) action, had little sting for senior managers and above, when poor risk or customer outcomes materialised (and, until recently, provided incentives to staff that did not necessarily produce good customer outcomes)'.

3.7 Productivity Commission 2018 Inquiry Report: Superannuation

The Productivity Commission 2018 Inquiry Report, *Superannuation: Assessing Efficiency and Competitiveness*[17], although focused solely on the superannuation sector, contains language that we strongly believe also applies to the financial advice sector: 'Policy initiatives have chipped away at some problems, but architectural change is needed'. The report

[16] Australian Prudential Regulation Authority (APRA) (April 2018), Prudential Inquiry into the Commonwealth Bank of Australia, https://www.apra.gov.au/sites/default/files/CBA-Prudential-Inquiry_Final-Report_30042018.pdf.

[17] Australian Government Productivity Commission (December 2018; publicly released January 2019), *Superannuation—Assessing Efficiency and Competitiveness: Productivity Commission Inquiry Report No. 91*, https://www.pc.gov.au/inquiries/completed/superannuation/assessment/report/superannuation-assessment.pdf.

identified sub-par outcomes for members and recognised that inadequate competition, governance and regulation have led to these outcomes.

We note as well that the Productivity Commission recommended yet another inquiry to add to the long list above: 'The Australian Government should commission an independent public inquiry into the role of compulsory superannuation in the broader retirement incomes system' (Recommendation 30).

Despite the long list of inquiries conducted in Australia over many years, identifying weaknesses and recommending solutions, issues have persisted as highlighted in the Hayne Royal Commission report.[18]

The dilution of the intended changes introduced in the FOFA legislation[19] exemplifies the problem. FOFA was intended to outlaw conflicted remuneration structures, but 'grandfa-thering' provisions and weak regulatory follow-up have resulted in many of the issues that Commissioner Hayne references as not being addressed.

Thus, despite the long list of prior inquiries and their associated recommendations, the Hayne Royal Commission found and highlighted ongoing issues relating to the industry's mistreatment of customers, and propensity to put corporate revenues and personal benefit ahead of clients' interests. We believe that significant action is needed this time by the industry and by Australian policymakers to eliminate these problems once and for all. In the following pages, we discuss in detail the areas that should be a focus for policy change.

[18] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2018).

[19] *Corporations Amendment (Future of Financial Advice) Act 2012*, No. 67 (2012), https://www.legislation.gov.au/Details/C2012A00067.

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4. Best Interest

4.1 Recommendations

- **Recommendation 1: Strengthen the enforcement of the best interest duty.**
- **Recommendation 2: Deter bad behaviour by establishing appropriate consequences for those who act against the interests of clients.**

The Hayne Royal Commission has highlighted several problems with the current operation of the best interest provisions contained in the Corporations Act. The current definition is not clear enough. Although there is a 'safe harbour'[20] provision for advisers to rely on, investigations by ASIC[21] show that this is often ignored in practice. Furthermore, even when firms or advisers have been found to be in breach of the provisions, regulatory action appears to be limited.

The Commissioner in his final report (p177)[22] noted that he had considered making the best interest duty more specific—such as having to detail products and options considered. He concluded however that he did not favour this. He noted that he also considered removing the 'safe harbour' provision. On balance, he concluded that there should be a review in three years' time to see if things have improved, rather than making changes now.

We believe that better enforcement of the best interest duty is needed. Currently, it is often seen as no more than a 'box-ticking exercise'. Advisers often rely too much on the FOFA 'safe harbour' provisions or even ignore them altogether. Advisers might carry out an assessment of a client's needs and risk profile, but then, for example, fail to consider the appropriateness of the client's existing holdings.

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[20] The legislation provides a 'safe harbour' for satisfying the best interests duty. This enables the advice provider to comply by proving that a series of prescribed steps have been followed. These steps include assessment of client's circumstances and objectives; taken steps to gather missing information; considered if they (adviser) has appropriate expertise and investigated appropriateness of any products recommended.

[21] Australian Securities & Investments Commission (ASIC) (January 2018), *Financial Advice: Vertically Integrated Institutions and Conflicts of Interest* (Report 562), https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-562-financial-advice-vertically-integrated-institutions-and-conflicts-of-interest/.

[22] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

ASIC's January 2018 report, *Financial Advice: Vertically Integrated Institutions and Conflicts of Interest*[23] found that:

- In 75% of the files reviewed, the adviser did not demonstrate compliance with the requirements of Section 961G of the Corporations Act to give 'appropriate advice';
- In 75% of the files reviewed, the adviser appeared to have prioritised the adviser's own interests; and
- in 10% of the files reviewed, ASIC had 'significant concerns about the impact of the noncompliant advice on the customer's financial situation'.

It is the issue of personal gain where we believe many advisers have been wrongly relying on the 'safe harbour' exemption under FOFA, while they are often still in a position to benefit from fees, rebates and commissions.

We acknowledge the recommendation of the Productivity Commission[24] that banks should appoint a principal integrity officer to ensure compliance with best interest duty:

> All banks should appoint a Principal Integrity Officer (PIO) obliged by law to report *directly* to their board on the alignment of any payments made by the institution with the new customer best interest duty. The PIO would also have an obligation to report independently to ASIC in instances in which its board is not responsive. [emphasis in original]

Although this is a step in the right direction, this can be further enhanced by a more detailed, externally monitored assessment process. This could involve firms reporting on research conducted, risk adjusted performance and efforts to minimise costs for clients.

We acknowledge that individual clients are more diverse in their needs than members of a standard balanced superannuation fund. Nevertheless, we call attention to the recently published APRA Prudential Standard SPS 515 Strategic Planning and Member Outcomes. Although this standard relates to superannuation funds, something similar could provide a basic framework for a best interest test for the financial advice sector. The intention behind the APRA standard could provide useful guidelines for financial advice firms considering whether they are indeed acting in the best interests of their clients. Such measures might include the following:

[23] Australian Securities & Investments Commission (ASIC) (January 2018).
[24] Australian Government Productivity Commission (June 2018).

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- Is the firm keeping operating costs under control to minimise charges to clients?
- Do the products the firm recommends provide suitable risk-adjusted returns in the client's time horizon?
- Does the firm have sufficient access to tools such as research and compliance?
- Are the firm's clients better off, or, at the very least, no worse off?

In particular, financial advice firms should be able to show that they are able to access a broad range of products to cover client needs, and that they have appropriate risk and compliance systems in place. Model portfolios used by most financial advice firms could be measured over the longer term against relevant performance benchmarks to ensure they are achieving desired objectives. Firms could also be required to report on client education and availability of information.

APRA's Prudential Standard SPS 515[25] requires a registrable superannuation entity (RSE) licensee to undertake an annual assessment of outcomes being provided to members as part of the annual review of its business plan. In conducting an outcomes assessment, APRA expects that an RSE licensee would:

- Articulate the outcomes it seeks for members and the metrics it will use to measure whether those outcomes have been achieved;
- Undertake an assessment of outcomes using these metrics, in absolute and relative terms and against appropriate benchmarks and targets;
- Determine the impact of the features or characteristics of its products, services and business operations on the outcomes delivered to members; and
- Identify and pursue opportunities for improving outcomes, where appropriate.

An RSE licensee would be expected to take a broad approach to considering the outcomes sought, including, but not limited to, risk-adjusted investment returns net of investment fees, administration and other fees, member services, engagement and education.

To ensure that such self-assessment driven process is valid, we recommend that it be monitored by APRA through regular site visits and by internal audit reports.

The Board of the International Organisation of Securities Commissions, in a 2013 report, made recommendations on how the interests of clients should be considered. Principle 5 of the report recommends that: 'whenever an intermediary recommends the purchase of a particular complex financial product, including where the intermediary advises or

[25] Prudential Standard SPS 515 Strategic Planning and Member Outcomes; APRA, December 2018

otherwise exercises investment management discretion, the intermediary should be required to take reasonable steps to ensure that recommendations, advice or decisions to trade on behalf of such customer are based upon a reasonable assessment that the structure and risk-reward profile of the financial product is consistent with such customer's experience, knowledge, investment objectives, risk appetite and capacity for loss.'[26]

While the measures detailed above help improve investors outcomes, in the longer term we recommend a move towards a principle-based approach to relationships between clients and advisers. In particular, adoption of a fiduciary duty standard should be considered, especially if incidents of misconduct continue.

Fiduciary duty is a clearly established standard in common law, whereby advisers are required to always take the action (or take no action) that results in the best outcome for their clients, even if it results in lower fees or other income to the adviser or their firm.

As a matter of legal definition, a person acting in a fiduciary capacity is held to a high standard of honesty and full disclosure in regard to the client. This makes clear the duty of advisers to their clients, and in particular emphasises that they must not benefit at the expense of the client. Fiduciary duty also extends to avoiding conflicts of interest, while disclosing and managing conflicts if they arise.

4.2 Discipline and Consequences Must Match Behaviour

Advisers and advice firms that do not act in the best interest of clients should face consequences that reflect the damage caused to those clients. The size of any penalty must be severe enough to deter self-interested behaviour. This should include jail time for advisers or senior executives where an offence is of a severe nature. Fines imposed on firms should reflect the magnitude of losses suffered by clients and be seen as a true deterrent, rather than being dismissed by firms as a cost of doing business. The Hayne Royal Commission has clearly demonstrated that APRA and ASIC are unable to cope with the growth of the financial advice industry. ASIC appears to have too often been reliant on the firms it is tasked with regulating to report issues and fix them, accepting too easily that systems are in place to prevent problems or to enact changes when needed. Considering the issues that have been raised, when penalties have been imposed, they appear to be inadequate when juxtaposed against the damage and loss suffered by clients. In particular, ASIC has

[26] Suitability Requirements With Respect To the Distribution of Complex Financial Products; International Organisation of Securities Commissions, January 2013

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been too eager to accept the use of enforceable undertakings or agreements with the firms under its supervision, rather than imposing significant penalties for wrongdoing.

In his final report, Commissioner Hayne noted the need for the regulators to adopt a ‘tougher’ approach and we commend this. He recommends (6.2) that ASIC consider court action as a first option before looking at consultation, particularly for large corporations.

Although improving the funding and resourcing of APRA and ASIC would help them to perform their important roles, we believe that a truly independent professional body, outside of government, is needed to register and monitor the behaviour of financial advisers. Importantly, membership of this professional body would be a requirement for financial advisers, creating a means to suspend or ban members from working in the industry. We further expand on the principles behind this in section 7.2 of this paper.

An independent body with the ability to impose penalties is the only way to ensure that clients’ best interests are served. It would give members a vested interest in protecting their own reputations and that of the profession. This will supplement ASIC’s power to ban financial advisers under Section 920A of the Corporations Act 2001.

An independent professional body would have the power to suspend or ban members from the industry, just like CFA Institute has the power to suspend or even cancel a member’s ability to use the Chartered Financial Analyst® designation if the individual breaches ethical standards or industry laws and regulations. At present, advisers who are found to have acted against the best interests of clients are able to continue to practice in the industry. If there exists a threat that a financial adviser would be unable to practice if he or she were found to have behaved wrongly towards clients, then advisers would be likely to pay more attention to their clients’ best interests.

We acknowledge that some industry bodies already exist, such as the Financial Planning Association and the Association of Financial Advisers. We would welcome an industry body solely responsible for promoting professionalism in the industry and enforcing standards of ethical behaviour. The key is that advisers not be allowed to ‘shop around’ for a lower standard. If an adviser is reprimanded or banned by one body, that information should be publicly available, and the adviser should be prevented from joining any other industry body to try and circumvent punishment.

It is also vital that customers have a right to recourse against organisations or individuals who have acted in a way harmful to their interests. This should not require expensive court action and it is important that this right of recourse be accessible in a timely and efficient manner.

5. Fees and Conflicted Remuneration

5.1 Recommendations

- **Recommendation 3: Remove the grandfathering of commissions.**
- **Recommendation 4: Compel advisers to disclose and explain the fees that clients are paying.**
- **Recommendation 5: Ban conflicted remuneration arising from platform fees.**
- **Recommendation 6: Reward the right behaviour by aligning the remuneration of both advisers and senior executives to the long-term interest of customers.**

5.2 Grandfathering of Commissions

Related to adviser remuneration structures is the issue of grandfathered commissions. We strongly believe that the grandfathering allowed under FOFA should be outlawed either immediately or with a short (maximum of 12 months) sunset period to allow firms to adjust. We believe that this was the original intention under FOFA and that the practice has been abused to allow it to continue for longer, and to remain a more significant source of revenue for advice firms than was expected. Commissioner Hayne in his final report recommended (2.4) that grandfathering be abolished 'as soon as reasonably practicable'[27]

Recent press reports and industry surveys have suggested that more than half of financial advice firms still rely on grandfathered commissions for at least 15% of their revenues and that for a significant proportion of the industry grandfathered commissions still represent a meaningful portion of revenue. A survey undertaken by *Professional Planner* found that a combined 42% of survey respondents said they received over 15% of revenue from grandfathered commissions; 18.5% said they received 15% to 25%; 11.5% said they received 25% to 50%; and 12% said they received over 50% of their revenues from grandfathered commissions[28].

[27] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

[28] *Professional Planner*, 26 October 2018, https://www.professionalplanner.com.au/2018/12/advisers-not-pre-empting-commissions-ban/

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We note that some larger institutions have already announced that they will cease to pay grandfathered fees to their advisers. According to *Professional Planner*[29], Macquarie Group, National Australia Bank, CBA and ANZ have all announced they will cease paying grandfathered commissions to their salaried advisers. The Australian Banking Association and the Association of Superannuation Funds of Australia have also announced support for the scrapping of grandfathered commissions. This move appears to be gathering support across the industry and is something we strongly endorse. We encourage the immediate implementation of the Royal Commission's recommendation.

5.3 Disclosure and Explanation of Fees

Part of the potential difficulty with convincing clients to pay upfront fees for financial advice is that it is not immediately clear to the clients how much they are currently paying in costs hidden in product fees, commissions and charges. As these charges are not clearly disclosed, the client often does not know the full amounts and therefore does not object to paying. Such an arrangement also hides how advisers benefit from rebates and kickbacks. If advisers were required to present a clear list of all fees and charges to clients, clients might more easily make the comparison with firms that are charging upfront fees.

It is important that advisers be compelled to disclose to clients all fees and costs in relation to a financial product and the origin of those fees—whether they originate from the adviser, the distributor or any other person. Such disclosures should be made in a clear, brief, precise and readable form, targeted for the audience. They should include, at the minimum, the amount of fees, the individual or entity receiving them, how the fees are charged, and what services are rendered in return.

In addition to disclosure, advisers need to explain to clients, clearly and thoroughly, all fees and charges to help them understand what they are paying and to whom. As well as tackling the issue of commission-driven biases, this will provide clients a clearer picture of how much they are actually paying for advice as well as its value proposition.

In a submission to the Hayne Royal Commission, Professor Sunita Sah[30] notes that disclosure can work to remind advisers of their duty to the client. Having to disclose clearly the full charges in front of clients makes advisers realise what their clients are paying, and can help to remind advisers that, in return, they should have the best interest of the clients

[29] *Professional Planner*, 11 December 2018, https://www.professionalplanner.com.au/2018/10/post-hayne-advice-in-the-new-world-order/

[30] Sunita Sah, (November 2018), *Submission to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry: Conflicts of Interest and Disclosure* (Research Paper), https://financialservices.royalcommission.gov.au/publications/Documents/research-paper-conflicts-interest-disclosure.pdf, pp. 23–24.

at the forefront. Referring to our earlier comments on adviser remuneration, we would point out that Professor Sah also stated that '*Realigning incentives for advisers to eliminate or reduce conflicts of interest will thus have a much larger effect than disclosure in encouraging higher-quality unbiased advice in the marketplace.*'

We strongly believe that, for the sake of clarity, disclosure obligations should extend to all fees, including both adviser fees and product fees.

In the CFA Institute Statement of Investor Rights[31] we state that financial professionals should be able to:

- Show that the fees clients are paying are based on the same fee schedule as for all other similar clients;
- Show that clients are not paying more than other clients with accounts of similar size; and
- Share information about the fees and costs charged by competitors offering similar products, if such information is publicly available.

5.4 Platform Fees

The interim report of the Hayne Royal Commission[32] highlighted problems with lack of competition in the area of investment platforms driven by the vertical integration of the industry:

> The evidence about platform fees (and service provision) thus invited attention to some fundamental questions about aspects of the structure of the financial advice industry. In particular, it invited attention to **how the vertical integration of the industry may harm clients by protecting platform entities associated with advice licensees from competitive pressures. Clients end up paying more for platform services than other providers would charge for the same service**. [emphasis in original]

Despite being highlighted in the interim report, this is an area that was not addressed in the final report of the Royal Commission. It is a topic that requires attention, to ensure that the best interests of clients are looked after and that this does not become another form of conflicted remuneration.

[31] CFA Institute Statement of Investor Rights 2018; https://www.cfainstitute.org/-/media/documents/support/future-finance/investor-rights/translations/statement-of-investor-rights-english.ashx?la=en&hash=2942F479540A5ABD1BDDDB18E845B14177000832

[32] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2018), p. 138.

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Although the legislative intent of FOFA was to remove conflicted remuneration and payment of product commissions, it has come to our attention that the practice of charging clients 'platform fees' is effectively a 'backdoor' way of bypassing the FOFA ban on commissions.

Platforms (also labelled as 'wraps') are designed to streamline the administration, management and reporting of the increasingly complex portfolios investors have today. They simplify the investment process because they consolidate all investment reporting and administration, and send regular portfolio valuations and tax statements. Most platforms offer a choice of managed funds, access to different asset classes and cash solutions.

Most advisers use platforms to hold their clients' portfolios and produce statements. Platform fees are paid directly or via the advisers to platform providers by end clients. From our discussions with senior executives in the industry, it appears these platforms often rebate part of such fees to the adviser. As an illustration, if a client is paying an annual platform fee of 1%, 40% of that fee (or 0.4%) would be rebated by the platform provider to the adviser, either as commission or as an incentive to encourage advisers to recommend that platform to their clients. These fee rebates are hidden from clients. This is no different than the previous practice of clients being unaware of commissions their advisers receive from products or funds they advise on.

In addition to this practice of rebating platform fees to advisers, we also have concerns over the practice where some platforms or adviser groups place 'wraps' around existing funds and then market their own 'products' to clients as a way to access certain funds or investment managers. This allows the adviser to charge higher fees than would apply if the client was given direct access to the underlying investment product.

The Interim Report of the Hayne Royal Commission[33] highlighted this practice:

> Licensees may and often do include third party manufacturers of products on their approved product lists (including the approved product lists maintained by platforms) but, much more often than not, advisers recommend that clients use products that are manufactured by entities associated with the advice licensee with which the adviser works.

Related to this practice is the issue of fund managers paying a 'sponsorship fee or 'shelf space fee' to have their products offered on platforms. This means that even if a firm claims to be independent and use 'open architecture' (offering access to all products), the best products are not necessarily those that are put in front of a client seeking advice.

[33] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2018), p. 136.

We also see problems with the current system where fund managers pay to have their products rated by rating agencies. The conflict is obvious—an agency is being paid by a fund manager to rate that manager's fund offerings. Fund manager also may shop around to find an agency that will provide them with a better rating. They then pay this rating firm and advertise the resulting rating of their funds in their marketing material.

In its comments on Platforms, the Interim Report of the Hayne Royal Commission[34] noted the following:

> The charging of platform fees evoked comparisons with fees for no service because the default setting seemed too often to be 'set and forget'. Charging platform fees evoked comparison with inappropriate advice because, very often, the platform that an adviser recommended the client use was a platform provided by an entity associated with the licensee with which the adviser was aligned or by which the adviser was employed and the arrangements were allowed to stay in operation despite the platform not remaining cost-competitive. Both the practice of 'set and forget' and the ways in which fees for, and services provided by, platforms could remain unaltered over time show that customers using platform services exert little or no effective competitive pressure on platform operators.

Just as when recommending investment products, financial advisors should have the client's best interest in mind when recommending an investment platform. This is consistent with the financial services regime which treats platforms as financial products and hence best interest must be observed when one is recommended.

5.5 Remuneration of Financial Advisers

Most of the problems highlighted before the Hayne Royal Commission are a result of sales-based or volume-based incentives. We do not see a place for this form of remuneration in the industry. We agree with Commissioner Hayne's remarks in his interim report[35] that bad behaviour in the industry has often been related to '*the pursuit of short term profit at the expense of basic standards of honesty*'.

[34] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2018), p. 135.
[35] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2018), p. xix.

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We believe that once financial advisers can clearly demonstrate to the public that they are a true profession with a high degree of responsibility towards their customers, then people will be more willing to pay for advice. The profession needs to articulate its role and value proposition.

We acknowledge that incentives are still a valid part of remuneration in any organisation. However, in the financial advice industry, these incentives should not be based purely on volume or sales targets. In particular, cash or non-cash incentives for winning a sales contest or achieving a sales target are incompatible with the concept of best interest and should be disallowed.

A broader 'balanced scorecard' would be more appropriate. This system could include factors such as compliance, customer outcomes, risk management and whether an employee truly reflects the values expected by the firm (including perhaps continuing professional education and mentoring of other staff). While an appropriate balance between the fixed and variable components of remuneration is very important, what is even more important is that the variable component be based above all on fulfilling client interests, not the firm's financial objectives. The variable component of remuneration should be based entirely on positive client outcomes and client satisfaction. Given the long-term nature of financial advice, it is vital that a significant part of any incentive be longer term in nature. Deferred equity is a common practice in many financial institutions. Best practice is that the equity component of any variable remuneration be deferred over several years. It should also be subject to hurdles, including the absence of any negative events during the deferral period.

Notwithstanding that circumstances in Australia are more complex due to superannuation and tax considerations, we note that other jurisdictions have tried to implement a balanced scorecard that takes account of client best interest. One example of global best practice is Singapore. In 2016, the Monetary Authority of Singapore (MAS) introduced regulations to require a balanced scorecard framework for financial advisers[36]. The balanced scorecard concept focuses on non-financial indicators. In its initial consultation paper on the changes, MAS said that the aim of the changes was to better align the interests of financial advisers, representatives and supervisors with that of their customers, and to minimize conflicts with customers' interests that are inherent in volume-based remuneration arrangements.

[36] Monetary Authority of Singapore (2015), Notice on Requirements for the Remuneration Framework for Representatives and Supervisors ('Balanced Scorecard Framework') and Independent Sales Audit Unit [Notice No. FAA-N20], http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Financial-Advisers/Notices/2015/Notice-on-Requirements-for-BSC-Framework-and-Independent-Sales-Audit.aspx

The balanced scorecard framework adopted by MAS refers to 'non-sales key performance indicators' or non-sales KPIs. The non-sales KPIs are[37]:

1. understanding a client's needs,
2. suitability of product recommendations,
3. adequacy of information disclosure, and
4. professional and ethical conduct in providing service.

Advisers operating in the best interest of their clients will always seek out the best products for those clients. Thus, there should be no need for a product-based fee or commission. Similarly, if we are able to level the playing field in the industry by outlawing volume and sales incentives, the best product in a category should be able to 'sell itself' and find its way into portfolios.

An alternative way of charging clients for financial advice is to do so as a percentage of assets under management. We would see this as preferable to commission but note that there could still be issues. For example, an adviser might be biased against steering clients to add to cash holdings if those holdings are not considered part of the asset base for charges. The strategy could also lead to a bias towards financial assets over real assets, such as property, or against recommending a strategy of debt reduction for a client.

Some advice firms currently operate on a fixed charge for advice. They might have a smaller fee for an initial consultation, then a more significant charge for a detailed financial plan. Annual or semi-annual consultations to review investments would also incur a fixed-dollar charge. We would highlight again the need for the financial advice profession to educate the public on the value of the work they perform. Clients will be more willing to pay if they clearly understand the value of the advice they are paying for.

We note similar concerns raised by Treasury and others in their submissions to the Hayne Royal Commission that a fee for service model might deter smaller clients. Countering these concerns, we would still see a role for smaller firms or ones that can use technology to help reduce costs. If larger firms were to move away from servicing smaller clients, it would create a market opportunity for others to step in. Just as in other professional service areas, (e.g. law, accounting), we see a role in the industry for smaller firms to provide advice to less complicated or smaller retail clients, as well as a role for larger national firms who deal with more complex or larger clients. A smaller retail client is likely to have a relatively simple financial situation and should be able to be serviced at lower cost, reflecting the lower level of resources needed. In a 2013 study published

[37] Monetary Authority of Singapore (2015), pp. 28–29.

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by CFA Institute[38], we noted concerns that restricting or abolishing sales inducements could potentially lead to fewer firms servicing smaller investors and reduced access to advice and to product choice for retail investors, who are reluctant to pay for advice compared to high-net-worth individuals. However, the concerns of an advice gap can be countered by new business models and are offset by the more important need to ensure that advice received by clients is genuinely independent and in their best interest.

Technology is also developing rapidly and offers opportunities for low-cost advice models. So-called 'robo-advice' is one such option, under which a client receives all services and advice online rather than face to face with a human adviser. Developments in artificial intelligence and software robotics make this a potentially more viable business model. It would however be critical to ensure that service providers using this model are monitored to ensure they are taking steps to deliver appropriate outcomes for clients. Although still a relatively small part of the Australian market, some firms are already using this model. The model is a more established part of some overseas markets such as those in the United States; those firms might see opportunities to enter the Australian market following any changes in the industry.

Some firms operating in the industry in Australia have established genuinely independent advice businesses that do not charge commissions or product fees. Many of these firms have successfully grown and are profitable, suggesting that this business model can work. In the case of one firm we studied, senior staff have ownership in the business, which helps to align their interests with those of the clients they are serving. The firm will only grow clients and fees if the advice provided is perceived as being worth the fees. Clients who are happy with the service will recommend the firm to others.

We spoke with a former CEO of the Australian branch of a large global wealth business who was astounded by the level of conflicts of interest inherent in both the retail and institutional markets in Australia. To avoid such conflicts, the aforementioned business changed its operating model in Australia from a turnover and commission-based model to a fee-for-service proposition, where clients pay a percentage of funds under management. In addition, the company significantly reduced its product manufacturing capacities. Advisers are now paid a salary and a bonus based on a list of criteria much broader than just sales. Since its revamp, this business has grown and has significant funds under management, with associated improvements in profitability. Worth noting is that in the markets in which this particular global wealth management business is active, this model is somewhat unique and unusual—most other markets adopt a typical vertical integration

[38] Claire Fargeot and Matt Orsagh, (December 2013), *Restricting Sales Inducements: Perspectives on the availability and quality of financial advice for individual investors*, (Position Paper), https://www.cfainstitute.org/en/advocacy/policy-positions/restricting-sales-inducements-perspectives-on-the-availability-and-quality-of-financial-advice-for.

structure. Furthermore, in extensive client surveys conducted by the firm globally, clients in Australia have consistently rated their experience positively, in some years with the highest ratings across all markets by a factor of two.

The above example illustrates that being perceived as acting in the client's interest without being conflicted by remuneration practices builds trust and confidence and helps to attract and retain clients.

We are not against commission payments in all situations. A commission-based system is appropriate for some businesses and clients. For example, knowledgeable self-directed investors might be happy to pay commissions for trading conducted on their behalf or for use of a platform to buy and sell funds. Where we do believe commissions are inappropriate, however, is where they drive adviser behaviour and lead to a focus on volume and profits when the focus should be on serving the best interests of the client. It is inappropriate for a reward structure to lead advisers to prefer one product over another based on the adviser's own personal gain rather than the best interest of the client. The goals of an adviser incentivised to make a sale are incompatible with giving financial advice in the client's best interest.

5.6 Remuneration of Senior Executives

The right culture needs to spread from the top down. Senior executives need to demonstrate ethical and customer-focused behaviour. Therefore, it is vital that executive remuneration be connected with appropriate incentives and penalties tied to behaviour. Executives need to be rewarded when objectives for client service and compliance with regulatory and industry requirements are met. By the same token, executives need to accept appropriate consequences and penalties when they fail their clients. In short, accountability for bad behaviour is needed. Regulatory and compliance breaches should not be brushed off as 'a few bad apples'. Management with oversight of financial advisers or at the top level of a firm that offers financial advice should suffer appropriate remuneration consequences when clients are harmed. Turning a blind eye to inappropriate behaviour is as wrong as actively taking part in it.

If senior executives are rewarded only on the basis of short-term profitability or revenue targets, then they will model their behaviour to earn these rewards and emphasise these monetary targets to staff. Even if staff are no longer being rewarded for volume, they will feel pressured if their senior managers are emphasising the importance of volume-based goals.

The report of the Group of 30 into banking conduct and culture[39] noted that desired behaviours and values should be part of the process of hiring, evaluating, promoting and

[39] Group of 30 (July 2015), *Banking Conduct and Culture: A Call for Sustained and Comprehensive Reform*, http://group30.org/publications/detail/166.

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rewarding staff. They highlighted the importance of not rewarding those who do not meet a minimum threshold of acceptable behaviour.

We believe that any incentives for senior executives should be long-term based and vest over several years. This will help to align executives with the long-term success of the business and thus with keeping clients happy. Long-term incentives should also be subject to hurdles such as an absence of significant compliance or regulatory breaches by the firm. It is not appropriate for senior executives to continue to receive bonuses or variable compensation when the organisation they are overseeing has been breaching regulations or damaging consumers. Such provisions could also include the ability for the firm to 'claw back' bonuses that have been granted if future outcomes show that those under the supervision of senior management engaged in the mistreatment of clients or illegal or unethical behaviour. In addition to incentives and penalties, setting the right tone from the top is also critical to building an effective risk and compliance culture of ethical behaviour at an organisation. Senior executives should set a strong tone that permeates all levels of the organisation.

In its response to the interim report of the Hayne Royal Commission, Treasury suggested that the Banking Executive Accountability Regime (the 'BEAR') could perhaps be broadened to cover other sectors such as financial advice[40]. The BEAR regime is intended to ensure that directors and senior executives face clear consequences if the institution fails to meet expectations on accountability. We agree this is one course of action that could help to ensure senior executives in organisations that offer financial advice are held accountable; we also note that APRA would require a boost to its staffing and resources to manage such a regime.

The Royal Commission has recommended[41] (5.3, 5.4) that firms 'design remuneration to encourage management of non-financial risks' and that they 'set limits on financial metrics in long-term variable remuneration'. We believe however that these recommendations are too vague. We would suggest more specific guidelines including recommending use of a 'balanced scorecard' or perhaps a specific limit on the financial metrics.

We note also that the Royal Commission recommended (5.5) that banks implement all of the recommendations of the Sedgwick Review[42]. These included Recommendation 2, stating that 'banks remove variable reward payments and campaign-related incentives that are directly linked to sales or the achievement of sales targets (including, but not limited to, cross sales, referral targets, and profit and revenue targets)'.

[40] Treasury, Government of Australia (2018), p. 3.

[41] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

[42] Sedgwick, Stephen (April 2017). Retail Banking Remuneration Review Report, https://www.betterbanking.net.au/wp-content/uploads/2018/01/FINAL_Rem-ReviewReport.pdf

6. Ensuring Independence of Advice

6.1 Recommendations

- **Recommendation 7: Require all financial advisory firms to disclose institutional ownership or exclusive product relationships.**
- **Recommendation 8: A ban on vertical integration should remain under active consideration.**

6.2 Independent Financial Advisers

Consumers are often confused as to the independence of the adviser or advice firm they are dealing with. The use of different brands and unclear disclosure of ownership or affiliation can mislead the consumer. Advisers and their firms might propose a restricted offering to consumers, who would not realise that the restriction was due to the adviser's affiliation with another financial institution.

As long as vertically integrated firms remain a major part of the financial advice industry, we emphasise the importance of ensuring that advisers and advice firms are not allowed to hold themselves out as independent if they are part of a larger organisation or if they only represent the products of one particular manufacturer of investment products. We would point to the example of regulations in the United Kingdom, where advisers or financial advice firms cannot claim to be independent if they are in fact part of a larger group. We acknowledge that Section 923A of the Corporations Act already contains terms governing who can say they are independent[43]. In our view, this should go further to require those that are not independent clearly state they are not, especially to acknowledge if they are owned by a larger corporation.

[43] See ASIC's clarification of Section 923A of the Corporations Act: https://asic.gov.au/about-asic/news-centre/find-a-media-release/2017-releases/17-206mr-asic-clarifies-its-position-on-the-use-of-independently-owned-under-s923a/

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Commissioner Hayne in his final report has recommended (2.2)[44] that advisers who are not truly independent be required to give the client a statement explaining why they are not. We support this recommendation.

In tandem with this proposal, we recommend that individual advisers or firms that are associated with a larger institution be required to disclose that connection in all branding and marketing material. If a larger firm has equity ownership, then a statement acknowledging that 'We are a subsidiary of/owned by XYZ Group Ltd', or a statement such as 'We are affiliated with XYZ Group, use their research and recommend their products' should be required.

We note that this was previously a recommendation of the 2014 Financial System Inquiry[45]. Recommendation 40 of that inquiry was to 'require advisers and mortgage brokers to disclose ownership structures'. Despite this, many firms continue to operate under names that give no clues to their ultimate ownership, leaving consumers often erroneously believing they are dealing with an independent adviser. We acknowledge that further work may be needed to examine the appropriate threshold of ownership for (1) mandatory disclosure; (2) negating the independence test.

Firms and advisers, whether independent or not, should be required to disclose not only what payments they receive but more importantly, where those payments come from and where client fees are going. This will help to inform clients about the true independence of the adviser, or lack thereof.

Hayne recommends (2.1) the requirement for an annual sign-up by clients and setting out total fees and services provided. We welcome this recommendation but would argue that it does not go far enough. We believe it is necessary to specify clearly that the disclosure should include fund/platform fees and other fees or rebates received by adviser.

These concerns around corporate structure and independence relate specifically to financial advisers rather than employees of banks and other financial institutions, whose role involves selling or providing information on investment products. As discussed in Section 7, 'Professionalising the Financial Advice Industry', we strongly believe that to be held out as a 'financial adviser', a person should have minimum qualifications, membership in an appropriate professional organisation, commitment to a code of ethics and to ongoing professional development.

[44] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

[45] Treasury, Government of Australia (2014).

The Institute of Chartered Accountants in Australia explained the role of financial advice clearly in its submission to the Inquiry into Financial Products and Services in Australia 2009[46]:

> 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 an investment product or setting up an insurance policy, while a legitimate outcome of the advice 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.

We believe that, if the different parts of a business (manufacturing, distribution, advice) are allowed to continue as an integrated firm, they should operate with genuine independence. This needs to include Chinese walls, separate boards and separate management structures for the various parts of the business. Effective information barriers should be established between the parts of the firm, and remuneration structures should not overlap. The employees of the separate divisions should be remunerated on the performance of their part of the business and not rewarded for referring clients or selling products across divisions.

An argument often put forward by the industry is that clients should not be surprised if they go to XYZ bank and are sold products from XYZ bank. A comparison is often made to the purchase of a car: a customer enters a dealership for a certain brand and expects to be sold that particular brand of car. We strongly believe that such comparisons are inappropriate. A car dealer is not claiming to be giving advice on the best brand of car but is clearly selling a particular product. If financial advisers are in the business of giving advice to clients on the most appropriate financial plan and investments for the clients' situations, then those advisers should be completely separated from any manufacturer or provider of products. We believe that this is the only way to ensure that advisers genuinely have the best interest of clients at heart.

[46] Institute of Chartered Accountants in Australia, as quoted in Submission to the Senate Inquiry into Financial Products and Services in Australia (2009), https://www.aph.gov.au/binaries/senate/committee/corporations_ctte/fps/report/report.pdf.

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6.3 A Ban on Vertical Integration Should Remain under Active Consideration

As we highlighted in our original submission[47] to the Hayne Royal Commission, the vertically integrated structure of financial services organisations, and the sales-driven culture of those organisations, including remuneration incentives and a lack of independence regarding which products can be recommended, has led to a misalignment between business and consumer outcomes.

The concept of vertical integration is one of the most contentious issues considered by the Hayne Royal Commission. We acknowledge a range of views exists in the industry on this matter. Some believe that with suitable disclosure and separation of parts of the firm vertical integration can be appropriately managed. Others hold that housing financial advice and product manufacturing under one organisation gives rise to insurmountable levels of conflict of interest.

In the final report[48], Commissioner Hayne stated that costs of a ban would probably outweigh potential benefits and noted that a ban on vertical integration was not recommended by regulators. Hayne did however note *'The 'one stop shop' model creates a bias towards promoting the owner's products above others, even where they may not be ideal for the consumer.'* He suggested that other changes proposed might be sufficient. He also noted (p193): *'It follows that the trend away from vertically integrated institutions may well continue, even if structural separation is not mandated'*[49].

We have carefully considered all these views and the underlying issues, and have concluded that while it may not be appropriate to ban vertical integration at this time, this option should remain under active consideration. If the future review recommended by Commissioner Hayne finds that there has been insufficient improvement in consumer outcomes, a ban should be re-considered.

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[47] CFA Societies Australia submission to the Hayne Royal Commission, 31 August 2018, https://cfas.org.au/wordy/wp-content/uploads/2018/08/HayneRoyalCommission_Letter_CFASubmission_FINAL-1.pdf
[48] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf
[49] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

The 2009 Senate Inquiry into Financial Products and Services in Australia in 2009[50] addressed the issues raised by vertically integrated firms:

> The financial advice industry has significant structural tensions that are central to the debate about conflicts of interest and their effect on the advice consumers receive. On one hand, clients seek out financial advisers to obtain professional guidance on the investment decisions that will serve their interests, particularly with a view to maximising retirement income. On the other hand, financial advisers act as a critical distribution channel for financial product manufacturers, often through vertically integrated business models or the payment of commissions and other remuneration-based incentives.

In its submission to that inquiry, ASIC noted that 'financial advisers usually play a dual role of providing advice services to clients and acting as the sales force for financial product manufacturers'.[51]

Treasury also noted in its submission to the Hayne Royal Commission[52] that the proliferation of in-house products in client portfolios is often due to factors such as 'a tendency for advisers to identify with a firm and its products'. This bias towards in-house products is not solely or even always driven by sales commissions or remuneration practices. Treasury noted that factors such as career progression within an organisation and simply the ease of access to products and the ability to gather more information on in-house products are also important. We do not believe that these factors can easily be negated in a vertically integrated business. Advisers working for large integrated firms are always likely to feel a connection with their employers and have biases towards their employers' products.

Issues have been raised about possible economic benefits to customers arising from vertical integration and the potential for a reduction in competition if it is outlawed. One of the main concerns is the viability and cost effectiveness of the provision of advice if vertical integration is banned. Proponents of vertical integration see it as potentially offering economies of scale and allowing for more efficient operation of a business. They also argue that clients might prefer a 'one-stop-shop' for financial advice and that vertical integration

[50] Parliamentary Joint Committee on Corporations and Financial Services (November 2009).

[51] Australian Securities and Investments Commission (ASIC) (August 2009), *Submission by ASIC to the Senate Inquiry into Financial Products and Services in Australia*, https://download.asic.gov.au/media/1311547/ASIC-submission-PJC-Financial-Products-and-Services-Inquiry-2009.pdf.

[52] Treasury, Government of Australia (July 2018), *Submission on Key Policy Issues to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Background Paper No. 24*, https://financialservices.royalcommission.gov.au/publications/Documents/Treasury-background-paper-24.pdf.

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is perhaps easier for clients and potentially allows client information to be shared within different parts of the business to benefit clients by providing better outcomes.

We acknowledge that Treasury's submission on key policy issues[53] and the Productivity Commission[54] have both argued against banning vertical integration. Nevertheless, Treasury did note in its submission that 'the Commission's hearings have highlighted the inherent misalignment of incentives within firms that integrate personal financial advice along with product manufacture, and the challenges firms have had in adequately managing those conflicts'. Despite these concerns, in its submission on key policy issues to the Hayne Royal Commission, Treasury argued that *'structural separation would also be complex and disruptive'*.

We acknowledge Hayne's view[55] that other changes he has recommended in areas such as independence of financial advisers and bans on commissions could improve outcomes without the disruption that banning vertical integration might cause. However, we believe that the highly concentrated nature of the Australian financial services sector has led to a degree of complacency that has prevented important changes being implemented in the past. If improvements are not evident after the implementation of Hayne's recommendations, enforced disruption of current business models still needs to be considered, including a ban on vertically integrated business models.

We note that many of the major institutions involved in the industry argued before the Hayne Royal Commission that vertical integration was not the cause of most of the identified problems. Despite these representations, we would highlight that several large Australian banks have now begun moves to end vertical integration and to separate their asset management and financial advice arms. This would suggest an acknowledgement that vertical integration does not sit easily with providing genuinely independent financial advice. Commissioner Hayne also highlighted that these changes were happening without any enforcement and this was part of his reasoning for not proceeding to the more drastic step of recommending a ban.

[53] Treasury, Government of Australia (July 2018).
[54] Australian Government Productivity Commission (June 2018).
[55] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

7. Professionalising the Financial Advice Industry

7.1 Recommendations

- **Recommendation 9: Establish an independent professional body to register financial advisers.**
- **Recommendation 10: Require individual licensing of financial advisers.**

7.2 The Financial Advice Industry Needs to Become a True Profession

We believe that changes must be made to enable the financial advice industry to become a true profession. Thus, we recommend the establishment of an independent industry body that registers advisers, checks qualifications and has disciplinary powers over members.

Commissioner Hayne recommends[56] (2:10) that 'there should be a single, central disciplinary body with the power to impose disciplinary sanctions on financial advisers—the most serious sanction being cancellation of registration'. While we strongly agree with his conclusion, we do not believe his recommendation is detailed enough. He does not outline who this body should be or how it is to be constituted. *'I do not wish to be overly prescriptive about the form that the new disciplinary body should take'* (p216).

The industry needs an independent professional body similar to those of other professions, such as law, medicine or accounting. The Financial Adviser Standards and Ethics Authority (FASEA) was established in April 2017 to set the education, training and ethical standards of licensed financial advisers in Australia. It was authorised under the Corporations Act 2001 to establish qualifications standards, continued professional development (CPD) requirements and a code of ethics for the industry. The establishment of FASEA is a move in the right direction, but we firmly believe that a non-government independent professional body is needed, with disciplinary powers and control over things

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[56] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

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such as CPD requirements. Membership in this body should be compulsory, as it is, for example, for surgeons or lawyers (i.e. one cannot hold oneself out as a lawyer without belonging to the appropriate professional body). This will supplement ASIC's power to ban financial advisers under Section 920A of the Corporations Act 2001.

We note the Commissioner's comments in the final report:[57] 'Other professions are not so pervaded by conflicts of interest and do not have such a high tolerance for the continued existence of conflicts of interest. Other professions do not have such faith in the notion that conflicts of interest and conflicts between duty and interest can be effectively managed. Until something is done to address these conflicts, the financial advice industry will not be a profession'.

We strongly support the current proposals to ensure that financial advisers have relevant educational qualifications. The plans to introduce compulsory educational requirements for both existing financial advisers and new entrants to the profession are vital for the protection of the public and the quality of advice. Given the importance of advisers being suitably qualified, we would also recommend that the dates for advisers to meet these requirements be enforced and not subject to further delay. Section 1546B(1) of the Corporations Act states that by 1 January 2024, existing advisers need to have either: 'a) met the education and training standard in subsection 921B (2)'; or 'b) completed one or more courses determined by the standards body FASEA to give the provider qualifications equivalent to that standard'[58]. New advisers entering the industry on or after 1 January 2019 are required to have an approved bachelor's degree.

As we outlined in our initial submission to the Hayne Royal Commission,[59] we fully support FASEA's view that a well-defined and robust CPD program is necessary for financial advisers. Combined with a suitable qualification pathway and a strong ethical philosophy, CPD is a key to a financial adviser's professional development.

To provide ongoing investor protection and to increase trust among financial advisers, clients and the larger investment community, the education and training of advisers should continue after advisers qualify for their jobs. Products, technology and clients' needs change continuously. As part of their job, advisers must understand these dynamics. A well-structured CPD program ensures that advisers' qualifications remain up to date and increases their technical knowledge and professional capabilities.

[57] P135: Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

[58] Corporations Act 2001—SECT 1546B, http://www5.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s1546b.html.

[59] CFA Societies Australia (August 2018), *Submission to the Hayne Royal Commission*, https://cfas.org.au/wordy/wp-content/uploads/2018/08/HayneRoyalCommission_Letter_CFASubmission_FINAL-1.pdf.

We also recommend that advisers be compelled to sign on to a code of ethics and that ethics training form a key part of the CPD requirements. We are a strong supporter of ethical behaviour and professional standards in the industry. Successfully earning the CFA® credential demonstrates that an individual has a commitment to the highest ethical and professional standards as well as a mastery of a comprehensive range of advanced investment principles needed to successfully practise in the investment management and financial advice industry, including extensive understanding of behavioural finance and comprehensive study of ethical behaviour. We note that under the Corporations Act 2001 advisers will be required to comply with the FASEA Code of Ethics from 1 January 2020. In our view, this is a step in the right direction.

An independent professional body would also play an important role in promoting financial advice as a profession. Educating the public about the high standards required to belong to the profession and the benefits that good financial advice can bring to individuals would improve the standing of the profession and make potential clients more willing to pay for advice.

Currently, clients often don't understand what they are paying for or how much advice is costing them. Fees tend to get hidden in product commissions and trailing fees over several years.

We note that the public is generally willing to pay up front to see a lawyer or tax accountant. These individuals are recognised as professionals and the value of their services is generally accepted as a fair reflection of their training and knowledge. We believe that consumers and the society at large would benefit if the financial advice industry adopted a similar model.

7.3 Individual Licensing of Financial Advisers

Under the current system in Australia financial advice firms are licensed by the regulator. A firm is granted an Australian Financial Services Licence and then individual advisers within the firm act as representatives of the firm under that licence. We note that firms have struggled to appropriately monitor the behaviour of their advisers. Even the largest corporations in Australia have had advisers who have acted in a manner that is severely damaging to the interests of the clients they are meant to be acting for. This has occurred despite the larger firms having in place detailed compliance procedures and layers of reporting and management.

Furthermore, advisers who have been requested to leave or even have been dismissed from one firm, seem to find it all too easy to move to another firm and continue to work in the industry. Clients have no way of knowing of the previous behaviour or problems with the adviser.

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We note that Treasury, in its response to the interim report of the Hayne Royal Commission,[60] also highlighted that the current system has not worked and that licensees have not properly supervised their representatives. Although acknowledging that the change could impose significant costs, Treasury suggested it might be appropriate to move to a system of individual licensing of financial advisers.

We strongly believe that individual licensing of advisers is required, which is in keeping with a number of international markets, such as Hong Kong, and is the usual practice in other professional bodies. For example, in the medical profession, doctors are not employed to practice medicine under the licence of the hospital, but must be individually registered with an appropriate professional body. This professional body is able to check their credentials and discipline them if they behave in a way that is damaging to the profession or causes harm to patients.

We are pleased to note that Commissioner Hayne in his final report has recommended[61] (2.10) that individual licensing be required for financial advisers. The Commissioner noted, as we have outlined above, that this is standard practice for many other professions.

We acknowledge the view in the industry that individual licensing would impose a regulatory burden on individual advisers. However, we strongly believe that it is the interests of clients that must come first, not the convenience of the industry. The firms employing advisers can still assist with monitoring the requirements. Technology today makes such systems much more viable and cost efficient. Advisers can be required to provide annual evidence of their registration. Firms already have a responsibility to monitor advisers and client outcomes.

We see a move to individual licensing as strengthening accountability in the industry. Individual advisers could be more easily called to account for inappropriate behaviour and sanctioned or banned from the industry. At the same time, consumers would still have the right to seek redress against the firm that they have dealt with. Indeed, as mentioned earlier, Commissioner Hayne in his final report has recommended (6.2) that the regulators take a tougher approach with the firms that they monitor, stating that 'ASIC should adopt an approach to enforcement that takes, as its starting point, the question of whether a court should determine the consequences of a contravention'.

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[60] The Treasury, Australian Government (2018), *Financial Services Royal Commission: Submission Interim Report*, https://financialservices.royalcommission.gov.au/Submissions/Documents/interim-report-submissions/POL.9100.0001.1059.pdf.

[61] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf

8. Culture in the Industry

Many of the issues raised by Commissioner Hayne in his interim report relate to culture. Although remuneration is clearly a driving factor of behaviour, a firm's culture also plays a major part in influencing people's behaviour. Therefore, it is imperative that a firm have a strong culture of accountability and put client interests first.

As mentioned earlier, the APRA-requested Prudential Inquiry into the Commonwealth Bank of Australia found a number of prominent cultural themes, including a widespread sense of complacency, a reactive stance in dealing with risks, insularity, an inability to learn from experiences and mistakes, and an overly collegial and collaborative working environment that lessened opportunities for constructive criticism, timely decision making and a focus on outcomes. The inquiry noted that 'CBA turned a tin ear to external voices and community expectations about fair treatment'[62]. An article in the *MIT Sloan Management Review*, 'Designing Trustworthy Organisations'[63], argues that a trustworthy organisation needs clear responsibilities, accountabilities and alignment of interests. The article's authors highlight that a company must 'listen to customer needs and concerns and care about them'.

Culture cannot, and should not, be directed or dictated by government or regulators. Good culture must come from the top down. Culture can be observed through, among other things, the actions and behaviours of senior management emphasizing the importance of integrity to the long-term viability of the organisation. Senior executives need to demonstrate ethical and customer-focused behaviour. The Report of the Group of 30 into banking conduct and culture[64] noted that desired behaviours and values should be part of the process of hiring, evaluating, promoting and rewarding staff. In a genuinely customer-focused culture, employees would feel uncomfortable doing the wrong thing.

The final report of the Royal Commission[65] recommended (5.5) that banks implement all of the previous recommendations of the Sedgwick Review[66]. These included

[62] Australian Prudential Regulation Authority (April 2018).
[63] Robert F. Hurley, Nicole Gillespie, Donald L. Ferrin and Graham Dietz (Summer 2013), 'Designing Trustworthy Organizations', *MIT Sloan Management Review*, https://sloanreview.mit.edu/article/designing-trustworthy-organizations/
[64] Group of 30 (July 2015),
[65] Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf
[66] Sedgwick, Stephen (April 2017). Retail Banking Remuneration Review Report, https://www.betterbanking.net.au/wp-content/uploads/2018/01/FINAL_Rem-ReviewReport.pdf.

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Recommendation 9: Each bank formally examine its workplace culture and institute formal processes to redress any conscious or unconscious bias towards sales in preference to ethical behaviour and customer service.

We believe that good culture can be achieved through a variety of methods and approaches. As culture is linked to behaviours, it is inherently linked to incentives. Therefore, organisations should hold their staffs accountable for their actions through rewards and promotions for good behaviours and through penalties for bad behaviours. Moreover, organisations should track and systematically record staff behaviour and maintain efficient and centralized records that connect such past behaviour to human resource systems of performance management, promotions and compensation processes.

Good culture is also realised through the hiring of the right people, which is achieved through effective background checks and organisational review of any previous history of wrongdoing or disciplinary actions of the potential hire. Another important tool organisations need in order to promote good culture is a properly managed compliance training program to train or refresh staff on internal business principles and guidelines of the organisation. Organisations can also set up a whistle-blowing hotline so staff can feel empowered to report if they think the right thing is not being done. The right culture needs to spread from the top down.

As highlighted in our earlier submission to the Royal Commission[67], we believe that diversity in hiring is an important factor in developing an appropriate culture. Diversity of gender, age, physical ability, culture or sexuality are all critical elements to making a stronger industry and to avoiding a 'mates club' culture, such as that which has encouraged some professionals and organisations to turn a blind eye to the unprofessional and unethical conduct of their colleagues.

In consultation with our member base and industry, CFA Institute has created a set of codes, standards and guidelines that form a comprehensive set of requirements for financial service organisations wishing to move towards global best practice. These codes, standards and guidelines span the investment management chain from individuals to asset managers to asset owners. These include an asset manager code, a pension trustee code and our ethical standards. (Personal attestation of the code of ethics is a requirement of the CFA Charter). The diagram above illustrates these standards, while more detail on the standards is included in Appendix 1. We believe that these

[67] CFA Societies Australia (August 2018), *Submission to the Hayne Royal Commission*, https://cfas.org.au/wordy/wp-content/uploads/2018/08/HayneRoyalCommission_Letter_CFASubmission_FINAL-1.pdf.

standards and guidelines could be useful to boards and senior management as they look to change the culture of their organisations following the Royal Commission, and assist them is setting appropriate guidelines.

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9. Conclusion

The Hayne Royal Commission has shown that, despite the strong recommendations of the many inquiries that have preceded it, problems remain in the financial advice industry that are damaging consumers through mis-selling and the provision of inappropriate advice. The dominant influence of key players in Australia and the piecemeal implementation of previous recommendations have not brought the needed reform.

CFA Institute and CFA Societies Australia believe that policy needs to focus on several key areas to improve the outcomes for clients of financial advice firms. These include strengthening best interest duty and ensuring appropriate consequences; outlawing conflicted remuneration practices; ensuring independence of advice; and the professionalisation of the financial advice industry.

We believe these changes will improve the public perception of the industry, allow more equitable fees for services provided and help to deliver better outcomes for the investing public. The industry now has the opportunity to act to ensure that the structures and behaviours underlying these issues are corrected. The financial services industry is very strong in Australia and the country is at the forefront in many areas. Implementation of our recommendations in full will allow Australia to continue as a leading global force in financial services and ensure that Australian consumers receive the advice they need in a fair and cost-effective manner.

Appendix 1: CFA Codes and Standards

Applicable to individuals (related to professionalism and independence)

1. Code of Ethics (https://www.cfainstitute.org/ethics/codes/about-code-of-ethics-and-standards) *Covers: integrity, independent judgement, ethics, competence*
2. Standards of Professional Conduct (https://www.cfainstitute.org/ethics/codes/about-code-of-ethics-and-standards) *Covers: integrity, professionalism, duty to clients, duty to employees, conflicts of interest, analysis, CFA designation*
3. Analyst/Issuer Guidelines (https://www.cfainstitute.org/ethics/codes/analyst-issuer-guidelines) *Covers: information flow, paid research, corporate access, pre–publication reviews*
4. Research Objectivity Standards (https://www.cfainstitute.org/ethics/codes/research-objectivity-standards) *Covers: public appearances, company relationships, analyst compensation, personal investments*

Applicable to asset managers

5. Asset Manager Code (https://www.cfainstitute.org/ethics/codes/about-asset-manager-code) *Covers: client loyalty, investment process, trading, compliance, performance reporting, disclosures*
6. Soft Dollar Standards for Client Brokerage (https://www.cfainstitute.org/ethics/codes/soft-dollar-standards) *Covers: client relationship, broker selection, research evaluation, client-directed brokerage, disclosures, record keeping*
7. Trade Management Guidelines (https://www.cfainstitute.org/ethics/codes/trade-management-guidelines) *Covers: process oversight, policies and procedures; broker monitoring and evaluation, fair treatments, disclosures, record keeping*
8. Global Investment Performance Standards (GIPS) (https://www.cfainstitute.org/ethics/codes/about-gips-standards) *Covers: fair representation of performance, methodology, composites, unlisted assets, wraps, SMA, verification*

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Applicable to asset owners

9. Pension Trustee Code of Conduct (https://www.cfainstitute.org/ethics/codes/pension-trustee-code) *Covers: best interest, reasonable care, competence, independence, scheme mission, confidentiality, transparency*
10. Endowments Code of Conduct (https://www.cfainstitute.org/ethics/codes/endowments-code) *Covers: foundations, endowments and charitable organisations: loyalty and purpose, reasonable care, adherence to legal framework, respect for all stakeholders, investment strategy review*
11. Global Investment Performance Standards (GIPS) (https://www.cfainstitute.org/ethics/codes/about-gips-standards) *Covers: fair representation of performance, methodology, composites, unlisted assets, wraps, SMA, verification*

Applicable to financial advisers

12. Statement of Investor Rights (https://www.cfainstitute.org/research/future-finance/investors-first) *Covers: honesty, objectivity, fiduciary duty, fair treatment, conflict disclosure, advice tailored to circumstances, communication, fee disclosure, confidentiality, record keeping*
13. Realise Your Rights (link as above) *Covers items as above*
14. Integrity List (link as above) *Covers: actions to build trust and enhance your firm's reputation*

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