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The Hon. Stuart Robert
Assistant Minister for Defence
PO BOX 733
Biggera Waters QLD 4216

Dear Assistant Minister,

RE: Submission to Financial Systems Review

I am writing in my capacity as Director of Elite Wealth Solutions Pty Ltd to provide a submission to the abovementioned review currently being undertaken by the Government. In your capacity as the Member for Fadden, my local electorate, I would greatly appreciate your assistance by forwarding this submission to the Assistant Treasurer for his consideration.

Introduction

The crux of various legislation and reforms implemented in recent years has been to improve the quality and affordability of advice provided to retail consumers of financial advice and services. However, I believe they have avoided addressing the major issues that hamper improvement of the overall outcomes experienced by advice consumers. These issues also restrict the potential economic growth that can be achieved both within the Financial Services industry and the wider national economy by ensuring more people are able to access quality financial advice.

The most pressing issue within the advice industry is the existence of bias within the advice process. Much of this bias results from the onerous costs and burdens of complying with the various legislation, regulations and interpretations as enforced by the Australian Securities and Investments Commission (ASIC).

Rather than undertaking the cumbersome and expensive process necessary to obtain an Australian Financial Services Licence (AFSL) from ASIC, small and medium financial advice firms have been attracted to operate as Authorised Representatives of larger institutions - known colloquially as "Dealer Groups" - who hold their own AFSL. By operating under these institutionally owned AFSLs Financial Advisers have come to rely on these institutions to develop a myriad of processes and procedures that demonstrate compliance with the relevant complex legislation and ASIC guidelines.

Generally these institutions are subsequently owned, or at least heavily associated with, a larger institution that provides financial products to the market and, in particular, the clients of the advisers.

In order to meet their obligations as an AFSL holder, these institutions purport to conduct research into the various financial products and services available, and develop an Approved Product List (APL) that directs the Advisers which products they can recommend to be used as part of their financial strategy. In other words, they claim to give consideration to the available products across the entire market and their suitability to meet the needs of retail advice clients.

Given that many of these AFSL holders are owned and operated by institutions that supply the financial products recommended to retail advice clients, AFSL holders develop APLs which virtually exclude all other products from providers who compete with their parent company. This bias exists in both the so-called Retail Financial Services organisations and the Industry Super network. In essence, institutionally owned AFSL holders (both union affiliated and otherwise) claim that the products provided by other institutions are not fit and suitable for use by retail advice clients.

As a result of the systemic bias within the AFSL holder organisations, clients are not recommended to use alternative financial products provided by a competitor of the AFSL holder's parent company regardless of any superior ability meet the client's needs. In addition to this, clients may also unknowingly pay more than is necessary for a financial product given that the only products that the advisers are authorised to recommend, as part of the standards set by the AFSL holder and their Professional Indemnity insurance, are those provided by the AFSL holder's parent company.

Increasing Economic Growth by Reducing Institutional Bias within the Financial Services Industry

As result of the institutional bias prevalent within the Financial Advice and Services industry, clients are paying more for advice services and the associated financial products than is necessary. Clients may also be denied the opportunity to achieve greater economic/investment returns as a result of their Financial Advisers being denied the ability to freely consider, and recommend, all available products on the market suitable for clients. This ultimately reduces the future economic prospects of the clients as they are not achieving their personal goals as efficiently as possible, and are potentially denied the ability to make greater investments into our community.

By reducing the systemic institutional bias within the Financial Advice and Services industry, the costs involved in providing advice to clients will be reduced due to increased competition between AFSL holders, advisers and product providers. This in turn will incentivise a greater proportion of the community to obtain the financial advice necessary to improve their financial position, which will lead to increased investment into our markets and continue to further improve the economic strength and diversity of the Australian economy.

Furthermore, as the number of advice consumers increases and the economies of scale improve, an even greater proportion of investor funds will be directed to the underlying investments rather than suffer erosion due to fees and charges. This increased capital will help Australia reduce its reliance on foreign capital; increase government revenues; improve employment prospects across the nation; and, ultimately enable more people to become financially independent from Government financial assistance, thus reducing the government's economic footprint and overall expenses.

I believe that the abovementioned economic improvements can be achieved by actively targeting systemic bias by reducing the red-tape associated with acquiring and operating an AFSL; thereby enabling smaller firms to more readily access their own AFSL and provide advice free of the biased influence institutional ownership of AFSL holders has on the advice process.

In particular I recommend the following be undertaken in order to reduce bias within the advice process and enable a greater portion of our community to receive quality Financial Advice:

1. **Establish an Australian Financial Planning Standards Framework and Australian Financial Planning Standards Board**

   The Accounting profession operates under the Accounting Standards framework which outlines the standards Accountants must meet across all sections of their work. These standards and pronouncements are developed and maintained by the Australian Accounting Standards Board (AASB).

   This framework enables accountants to efficiently implement the AASB policies and procedures to ensure they provide professional, ethical, unbiased and accurate accounting services to all clients. This framework has provided Accountants with clear expectations around how to operate and provides a centralised body who develops and maintains the standards necessary to comply with regulation and the interpretations from the Australian Taxation Office and ASIC. Complying with these standards is not impacted by the relevant accounting association accounts work under.

   By replicating this model for the Financial Advice and Services industry, and removing the need for Dealer Groups to set and maintain their interpretation of these standards; small-to-medium firms will be provided with the support and guidance necessary to operate their own AFSL in a compliant, professional and ethical manner. By replicating the AASB and AAS Framework, the government will mitigate the systemic institutional bias by reducing the influence product providers have on the development of the policies and the Approved Product Lists Financial Advisers rely on to remain compliant, and therefore, covered by their Professional Indemnity Insurance provider.

   To ensure that small-to-medium advice firms are provided with clear and concise professional standards and policies, an Australian Financial Planning Standards framework should cover the following areas:

   1. Financial Planner's legal obligations to comply with the relevant legislation
   2. Prohibited Conduct
   3. Education standards and ongoing professional development requirements
   4. Dealing with client money and assets
   5. Charging for Advice and services
   6. Dealing with Private and confidential client information
   7. Supervision of staff
   8. Professional engagement with clients and previous employers
   9. Advice documents
   10. Complaints management
   11. Conflict of Interest management
   12. Types of Financial Services able to be offered

13. "Know Your Client" obligations and processes
14. Client engagement and information gathering
15. Financial Product research
16. Advice formulation and documentation
17. Implementation of Advice/Provision of services
18. Financial Advice strategy & Asset allocation development

Establishing an Australian Financial Planning Standards framework and subsequent Australian Financial Standards Board would reduce the duplication between AFSL holders and increase the efficiencies within the Financial Advice industry due to the reduction in 'red tape' created by the current compliance regime.

Given the Standards would likely encompass how to complete and document research on financial products, there would be a reduced need for AFSL holders to develop an Approved Product List. As such, the framework would work towards reducing the institutional bias that negatively impacts on advice consumers by increasing their costs and restricting their economic potential. Furthermore, by reducing the compliance burden on existing AFSL holders, there will be a commensurate reduction in the cost of proving AFSL services, and consequently, lower advice costs to consumers. The increased client-centric focus within the advice process would improve the potential outcomes for consumers and deliver the economic strengths mentioned earlier.

Centralised standards would also remove the duplication of red tape between AFSL holders and their Authorised Representatives, who develop and review their own standards to remain compliant. This, in turn, would facilitate greater flexibility for advisers to move between dealer groups in order to find a more cost effective and supportive licencing arrangement.

By increasing the ease with which advisers can transfer their authorisations between AFSLs, greater competition will develop between dealer groups. As a result of the increased competition, the fees advisers pay to be licensed under an AFSL holder will potentially decrease over time leading to cost savings which can be passed on to consumers or enable greater investment by the advice firm. These cost savings and additional support may enable advice firms to create additional jobs in order to meet the increased demand for advice from consumers. Furthermore, the quality of support and guidance provided to advisers by AFSL holders will also increase due to the need to retain and attract advisers to the dealer group. This will lead to retail clients receiving higher quality advice from advisers given the higher support from the AFSL holder.

By improving the financial outcomes for clients by improving the quality of advice, there would be long-term cost savings for the government due to more clients achieving financial independence and becoming less reliant on government support via the welfare system.

Higher demand for advice services will increase employment opportunities within the Financial Services industry and help transition the Australian economy towards a more diversified economic foundation. Therefore, the Australian economy will be shielded further from economic crises and accusations of being a "two-speed economy".

Furthermore, the likelihood of increased wealth being achieved by retail advice clients will also improve the opportunities to develop nation-building infrastructure and other initiatives central to the continual improvement and development of our communities. This will help reduce Australia's reliance on foreign capital and increase our value to the global markets.

2. Establish the Certified Financial Planner (CFP) and/or Fellow Chartered Financial Practitioner (FChFP) as the minimum education requirement for advisers to obtain an AFSL or to operate a practice

Most retail clients believe that when dealing with a Financial Adviser, they will be dealing with a professional who is highly qualified and experienced in wealth creation. Sadly, this is often not the case. A major impediment to the improvement of advice quality and the outcomes achieved by clients is the low barrier to entry to become a Financial Adviser.

The current minimum education requirement - a Diploma in Financial Planning - has resulted in the entry of advisers who have limited understanding of the intricacies of the economy and investment markets. The corollary to this limited knowledge and understanding is limited client outcomes that further limit the economic growth and prospects of Australia. Furthermore, the low entry standards have also attracted rogue operators who are attracted to the ability to make significant amounts of income by promoting highly attractive, yet also high risk, investment strategies such as the purchase of property within a Self-managed Superannuation Fund. This leads to lower quality of advice, potentially higher rates of poor financial outcomes for clients; and, deters a significant portion of the community from obtaining vital financial advice.

Currently, the two professional associations representing financial advisers and the advice industry offer programs akin to the Chartered Accountant and Certified Practicing Accountant programs. The accounting industry programs ensure that accountants who earn those designations have the knowledge, expertise and professionalism required to provide the utmost in quality and professional accounting services.

By introducing a requirement for Financial Planners to obtain the CFP or FChFP designations prior to establishing their own practice or providing advice direct to clients, the quality of advice that clients receive will be potentially increased due to the higher knowledge, skills and understanding held by the adviser.

According to the Financial Planning Association advisers who hold this designation represent a mere 2% of ASIC enforcement activity. This illustrates the improvement in the quality of advice that is provided to clients if the minimum education requirements are increased to include the CFP or FChFP levels of education.

By increasing the educational requirements necessary for Financial Advisers to operate their own practice or to obtain an AFSL, rogue operators and less qualified advisers will be deterred from entering, or remaining within, the industry. As such, clients will be assured of the quality of the advice they receive and the ability of their adviser to meet their needs.

Furthermore, increasing the educational requirements to this level will improve the overall knowledge, skills and understanding of advisers within the industry. As most advisers will strive to be able to provide advice without being supervised by a senior planner, or to open their own practice, it is highly likely that these programs will become a default process for advisers to complete as part of their employment. This will then result in an overall improvement in the professionalism and expertise of adviser, and in turn, improve the financial outcomes for their clients.

3. Introduce a Tiered System of Australian Financial Services Licences

As mentioned previously, the compliance burden and associated costs of obtaining an AFSL and developing the necessary standards and policies is a major deterrent from smaller operators obtaining their own AFSL. One way to improve the likelihood of smaller operators obtaining their own AFSL, and hence reducing institutional bias, would be to introduce a tiered AFSL system based on the number of advisers to be authorised under the AFSL, the amount of funds under management (FUM) to be advised by the AFSL's planners, and the areas of advice to be covered. In essence, ASIC should develop and offer a licencing system, similar to the Driver's Licence system, which offers different classes of licences to enable advice firms to operate in various fields or at various scales.

Applying for an AFSL is a massive burden with significant red tape to deal with in order to prove to ASIC that the applicant is a fit and proper person to hold an AFSL. Generally, the requirements that ASIC has in place in order to hold an AFSL are more suitable for large companies or institutionally owned dealer groups who have significant human resources and financial capital to undertake the required tasks.

If the recommendations to implement an Australian Financial Planning Standards framework and to require a CFP or FChFP designation for financial advisers were to be implemented, it would be feasible and relatively efficient to create a tiered AFSL system to enable smaller advice firms to meet ASICs requirements for an AFSL without diluting the rigour of ASICs assessment process or the high standards expected and upheld by AFSL holders.

In establishing a tiered AFSL system, in conjunction with higher education requirements and Financial Planning Standards, a greater number of planners and advice firms will be encouraged to obtain their own AFSL. This will help to reduce the licencing costs imposed on planners and planning firms whilst also further reducing institutional ownership bias impacting on advice.

By reducing the costs associated with holding an AFSL or subsequent Authorisation, a greater percentage of the population will be able to afford to receive financial advice. This will then increase the potential for these clients to become financially independent, and therefore, less reliance on government financial support.

Also, by increasing the ability of advisers to hold their own AFSLs and thereby reducing the influence product providers exert on advice, clients will be more likely to receive unbiased advice with reduced conflicts of interest bearing on the advice process. This will then potentially further improve the outcomes achieved by clients and, thus, further reduce the pressure on governments to support the population financially.

4. **Allow advice fees to be deducted from superannuation on instruction by clients regardless of their super fund**

In recent years we have seen increased activity by unions to restrict the ability of employees to use superfunds of their own choice. Significant pressure has been exerted on employers to designate union-friendly Industry Super Funds as the only super fund employees can use to receive their concessional super contributions.

As part of the Industry Super Network's concerted effort to seize greater control over superannuation assets and subsequent advice, Industry Super funds have systematically denied clients the ability to utilise their superannuation funds to pay their financial advisers for superannuation and retirement advice. Conversely, retail super funds and super administration platforms provide their clients with the ability to pay for their financial advice via their superannuation accounts (so long as the advice relates to superannuation and/or retirement) regardless of the adviser's employer or AFSL provider.

For many clients the cost of obtaining the financial advice necessary for a financially independent retirement is unaffordable if they are not able to have their adviser's fees deducted from their superannuation accounts. This means that many employees who are employed under these restrictive EBAs and awards are denied the ability to receive affordable financial advice.

For clients who are employed by an organisation under an EBA or Award that requires they only use the Union preferred Industry Super Fund and denies them choice of super, are either forced to obtain advice from the advisers employed by the Industry Super Fund or its associated advice firms which are also often owned by the super fund or the associated union bodies. This results in the client being effectively denied the ability to seek advice beyond the influence of Unions. It also potentially results in biased advice being given to the client by the Union associated advisers to retain the Industry Super Fund and to make additional investments into the fund despite it potentially not being in their best interest to do so.

Also, in some cases, advisers who wish to provide services to clients who can only afford to pay their fees via a super fund have to advise the client to use an additional alternative super fund that enables the fees to be paid. This creates a potential conflict of interest as it may not be in the client's best interest to hold two accounts or to not use the Industry Super Fund, yet they have little choice due to the affordability restrictions.

Whilst it may remain more efficient to retain the status quo within the current Industrial Relations system regarding choice of super; the potential bias and conflict of interest - created by Industry Funds refusing to allow clients to use their super to meet advice costs form non-union affiliated advisers - can be mitigated by requiring all super funds to enable the clients to pay for advice using their accounts regardless of the advice provider used.

By requiring all super funds to meet advice costs agreed to between an adviser and a client for superannuation and/or retirement advice, clients will be able to access advice from their preferred adviser without being rail-roaded into using a super fund that meets the requirements of the adviser, or using an adviser that suits the super fund.

By enabling clients to instruct their super fund to pay any agreed advice fees, a greater portion of the community will receive financial advice and potentially be able to retire with a lower requirement for government assistance. Furthermore, bias within the advice process will be further reduced as advisers will be able to provide advice to clients without having to structure the advice around super funds which will pay their fees.

Facilitating greater numbers of people obtaining financial advice, regardless of where they invest their super, will improve the financial prospect for the majority of our community. In turn, our national wealth will improve enabling the government to reduce its economic footprint whilst focusing its financial support to areas of the community most in need. By empowering the community to obtain advice for retirement free from interference, a greater portion of the community will be able to look forward a financially independent retirement.

Conclusion

Bias within the Financial Advice and Financial Services industry remains a major detriment to the financial prosperity of our nation. This bias is created on many levels primarily due to the influence financial institutions have over the advice process and the financial products recommended to clients.

In order to combat this bias and increase the financial well-being of our community members, the influence of financial institutions needs to be reduced and flexibility in the AFSL regime increased. The first step would be to introduce an independent Australian Financial Planning Standards Framework and an Australian Financial Standards Board to develop and maintain clear, concise prescriptive standards that advisers need to adhere to when providing advice to clients. Secondly, in order to increase the quality of advice provided to clients, the education standards of advisers wishing to establish their own practice or to provide advice direct to clients, needs to be increased to require the achievement of the Certified Financial Planner or Fellow Chartered Financial Practitioner designations. Thirdly, in order to reduce compliance costs, and subsequently reduce institutional bias within the advice process, a tiered Australian Financial Services Licence system should be introduced that enables smaller firms to obtain and hold an AFSL independently of larger institutions. This should require the adherence to the abovementioned standards and education requirements to ensure high quality advice is provided under independent AFSLs. Lastly, in order to ensure that all Australians are able to obtain financial advice, all super funds should be required to comply with client instructions to pay for financial advice that relates to superannuation and/or retirement from their super balance regardless of the institution the adviser is associated with.

Thank in advance for forwarding this to the Assistant Treasurer.

Yours Faithfully,

Rhys Wood
Director – Financial Planning