

15 October 2021

The Director
Retirement, Advice and Investment Division
Treasury
Langton Crescent
Parkes ACT 2600
By email: SDBConsultation@treasury.gov.au

Dear Sir/Madam

Better Advice Bill - Exposure Draft Regulations

Chartered Accountants Australia and New Zealand (CA ANZ) has long advocated for industry reform to ensure that more consumers are able to access good quality, ethical and professional financial advice. We continue to advocate on behalf of our members and in the public interest at every opportunity.

CA ANZ supports raising the standards of financial advice to better serve and protect consumers. We are wholeheartedly committed to helping the industry move forward and fix something that is clearly 'broken'.

We believe there is, and will continue to be, a need for trusted advisers to look after the financial advice needs of everyday Australians. This will be best served by retaining Chartered Accountants (CAs) in the financial advice industry and we will continue our efforts to support this, as any exodus of CAs is likely to significantly reduce the overall level of training and expertise in the industry.

CA ANZ's detailed comments are in Attachment 1 to this covering letter.

Attachment 2 provides background on the important role our members play in the financial advice space and the CA ANZ professional framework.

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

Yours sincerely

Simon Grant FCA
Group Executive
Advocacy & Professional Standing

Attachment 1

Introduction

The Government has released for consultation exposure draft regulations and a draft legislative instrument supporting the Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Bill 2021 (the Bill).

The Better Advice Bill was introduced into Parliament on 24 June 2021 and implements:

- recommendation 2.10 of the Financial Services Royal Commission to establish a single disciplinary body and new registration system for financial advisers.
- recommendation 7.1 of the Independent Review of the Tax Practitioners Board (TPB) to introduce a single disciplinary and registration system for financial advisers that provide tax (financial) advice services; and
- the Government's decision to wind up the Financial Adviser Standards and Ethics Authority (FASEA) and transfer its functions to the Government, with the Australian Securities and Investments Commission (ASIC) responsible for administering the financial adviser exam.

The Government seeks stakeholder feedback on the exposure draft regulations and legislative instrument which implements key elements to support the operation of the Better Advice Bill. These include:

1. setting the criteria for when ASIC must refer matters to the single disciplinary body.
2. specifying the administrative sanctions made against a financial adviser that must be included on the Financial Advisers Register.
3. extending the deadline to complete the financial adviser exam to 30 September 2022 for financial advisers who have attempted the exam twice before 31 December 2021.
4. proposing new fees for the financial adviser exam and registration of financial advisers from 1 January 2022; and
5. outlining the registration, education and training requirements for financial advisers providing tax (financial) advice services.

It is intended the Better Advice Bill and the supporting regulations and legislative instrument will come into force on 1 January 2022.

CA ANZ response

Although we support the overall objectives of the Bill designed to enhance industry professionalism, we remain concerned about some elements of the Bill, the draft regulations and unintended consequences of increased compliance and costs.

Any unintended consequences will ultimately increase the cost of advice and therefore decrease access to advice, both of which have a negative impact on consumer ability to access affordable advice. It is vital that the Bill does not exacerbate recent increases in regulatory costs that are driving current advisers out of the advice space. This is a concerning trend, especially at a time when more and more clients want and need access to affordable advice.

Transitioning Tax Financial Advisers from the TPB to ASIC

CA ANZ is particularly concerned with the level of duplication and complexity of the proposed transition of Tax Financial Advisers from the TPB to ASIC. We feel there hasn't been sufficient work to ensure the system will work effectively. We feel the proposal introduces unnecessary levels of duplication and complexity. Furthermore, it is important to consider the need for a level playing field between those financial advisers registered under the TPB and ASIC.

Considering this element of the Bill is not strictly related to the Hayne Royal Commission recommendation, we recommend this part to be excised from the Bill to allow uninterrupted passage for the remaining elements of the Bill including the Single Disciplinary Body, the winding up of FASEA and the registration of financial advisers.

Although CA ANZ supports passage of the remaining elements of the Bill to pass, we remain concerned about the implementation of the different elements of the Bill and recommend on-going consultation with the profession during the implementation phase to avoid unintended consequences.

ASIC referring matters to the Single Disciplinary Body

CA ANZ response

CA ANZ supports the requirement that the Financial Services and Credit Panel (FSCP) must convene, if ASIC reasonably believes a financial adviser has failed to comply with Corporations Act obligations.

It is critically important that professional associations are appropriately represented on the FSCP, and regularly consulted on the formation and operation of the panel. CA ANZ has nominated three candidates with strong relevant experience, whom we believe would make a positive contribution.

Administrative sanctions included on the FAR

CA ANZ response

The government needs to ensure there are no unintended consequences in the implementation of the regulations related to this measure (refer previous comments regarding consultation on implementation aspects).

Extending the deadline to complete the financial adviser exam for financial advisers who have attempted the exam twice

CA ANZ response

CA ANZ supports the proposal to extend the deadline to complete the financial adviser exam to 30 September 2022 for financial advisers who have attempted the exam twice before 31 December 2021.

New fees for the financial adviser exam and registration of financial advisers from 1 January 2022.

CA ANZ response

The new exam fee represents a significant increase (almost 50%) from the current fee. It is important this fee doesn't become too prohibitive particularly for new entrants.

The government should consider reducing the fee.

Registration, education and training requirements for financial advisers providing tax (financial) advice services

CA ANZ is particularly concerned with the level of duplication and complexity of the proposed transition of the Tax Financial Advisers (TFAs) from the TPB to ASIC. We feel there hasn't been sufficient work to ensure the system will work effectively post the transition.

Also, the proposal introduces unnecessary levels of duplication and complexity with the Tax Relevant Providers moving to ASIC and those who remain under the TPB. Further consideration should be given to whether a level playing field is being created between those financial advisers registered under the TPB and ASIC.

CA ANZ believes this is an important component of the operation of the overall advice process. It is therefore imperative to ensure this aspect of the legislation is constructed and implemented correctly with due consideration to all stakeholders to ensure smooth transition and achieving the intended optimum outcome of the Bill.

Considering this element of the Bill is not related to the Hayne Royal Commission recommendation, we recommend it be excised from the Bill to allow the uninterrupted passage for the remaining elements of the Bill including the Single Disciplinary Body, the winding up of FASEA and the registration of financial advisers.

Education and training standards for relevant providers

CA ANZ response

CA ANZ supports the changes reflected in for principle 5 (Corporations (Relevant Providers—Education and Training Standards) Determination 2021) relating to the method for taking the exam, and the eligibility to take the exam, by removing the three-month waiting period before being able to register to take the exam again after failing.

CA ANZ also supports extending the deadline to complete the financial adviser exam to 30 September 2022 for financial advisers who have attempted the exam twice before 31 December 2021.

Attachment 2

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 130,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

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

Highly qualified

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

Significant continuing professional development obligations

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

Broad experience

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

Fully accredited

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

Future-focussed

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

Highest ethical and professional standards

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

Protection to consumers and members through the Professional Standards Scheme

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

Quality Review Program

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

Conduct and disciplinary processes

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