

Friday, 28 July 2023

The Hon Justice Mordecai Bromberg
President, Australian Law Reform Commission
PO Box 12953
George Street Post Shop
Queensland 4003

Submitted via online portal at <https://www.alrc.gov.au/inquiry/review-of-the-legislative-framework-for-corporations-and-financial-services-regulation/submission/>

Dear Justice Bromberg,

Financial Services Legislation – Interim Report C (“Interim Report C”)

Chartered Accountants Australia and New Zealand, CPA Australia, the Financial Advice Association of Australia, the Institute of Public Accountants and the SMSF Association (the joint associations) are pleased to make this submission to Interim Report C as part of the Australian Law Reform Commission’s inquiry into the Review of the Legislative Framework for Corporations and Financial Services Regulation (“the inquiry”).

The Joint Associations agree with the finding of the Financial Services Royal Commission; that the existing legislative framework for corporations and financial services regulation is unnecessarily complex, fails to communicate fundamental norms, and hinders compliance¹.

Interim Report A, B and the many published background papers have brought to life not just how complex and difficult the legislative framework is for participants to navigate, but also the sheer scale of this framework, that further adds to this complexity.

Interim Report C in particular highlights the complexity of navigating the legislative framework, and as noted in our previous joint submission, finding provisions that are relevant to financial advice and interpreting those provisions is extremely problematic for those operating under the current legal framework.

Without being able to locate, understand and apply relevant provisions with certainty, participants are at risk of failing to comply with their obligations. As a result, participants are investing heavily in their compliance functions, with many spending between \$100,000 and \$500,000 each year on internal compliance staff alone².

The complexity of the existing legislative framework is also arguably adding to the cost to regulate the sector, even with declining financial adviser numbers over the past five years. This is evidenced by increasing levy charges to retail financial advice sector each year under the ASIC Industry Funding Model since implementation.

Given the Government is seeking to ensure Australians have access to reliable and affordable advice³, reform is crucial to address the unnecessary compliance costs being incurred by financial services participants, which in turn is driving up the cost of accessing financial advice.

¹ Commonwealth of Australia, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Final Report (Volume 1, February 2019) 494–6

² <https://www.moneymanagement.com.au/news/financial-planning/internal-compliance-costs-surpassing-1m-annually-licensees>

³ <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/delivering-better-financial-outcomes-roadmap-financial>



We strongly support the recommendations and proposals in Interim Report C and the ongoing efforts of the ALRC to investigate how to simplify (by reframing and restructuring) the financial services law. Simplification will reduce compliance costs, and in turn support the objective of improving the access of quality, affordable financial advice. It follows from our support of the proposals in Interim report C that we would answer question C11 in the affirmative.

The Joint Associations also support that these recommendations and proposals consider how existing legislation can be structured and framed to facilitate future reforms, including those arising out of the Quality of Advice Review.

We believe this review provides an immediate opportunity for the Government to consider how the recommendations and proposals can be incorporated into its roadmap for financial advice reform. The need for reform is urgent. We encourage the ALRC to convey to government the clear wider economic benefits, and therefore urgency, of simplifying the financial services laws. It is our expectation that a simplified financial services regulatory environment will lead to a more efficient and cost-effective financial services industry. It is reasonable to assume that retirement savings for many will be higher because the cost savings from lower compliance costs will flow through to increased superannuation and investment balances.

We particularly encourage the Government to adopt proposal C12 by establishing a specifically resourced taskforce (or taskforces) dedicated to implementing reforms to financial services legislation. Without such a taskforce and without appropriate resourcing of that taskforce, the complexity and scale of the goals of the Interim Report C are less likely to be achieved.

Yours Sincerely,



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