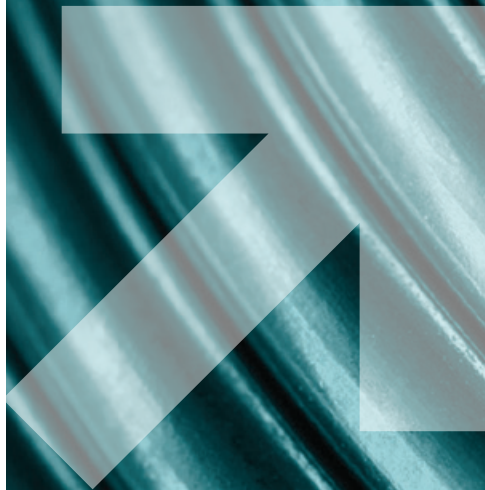


White paper

**Professionalisation of
financial services**



1 executive summary

The Professional Standards Councils (PSC) is developing a series of white papers focused on professionalisation within the services sector in Australia, with consideration to community, economic, regulatory and personal benefits that accrue to Australians from improved professional standards.

The first of the whitepaper series has focused on the financial services sector, considering what community, economic, regulatory and personal benefits might arise from improved professionalism and formal professional systems being introduced in this sector. Financial Services was prioritised as a sector of consideration because of the public scrutiny on conduct in this sector, and the opportunity for more efficient regulatory design that improves consumer protection and motivates expanded professional obligation.

The research project involved extensive interviews with key participants to better understand their perspectives on the opportunities, costs and barriers to professionalisation, assuming that a coordinated strategy for Financial Services professionalisation might already be underway. It is clear from this research that steps have been taken and some communities have invested substantially in the process of advancing professionalisation. It is also clear though, that this is limited to a few communities within the ecosystem of Financial Services and that professionalisation (in the larger construct of standards and regulation oriented to consumer protection and higher duty) has not been defined or universally committed to by the whole industry.

There is strong support for professionalisation of the financial services industry from a cross section of industry stakeholders. However, the lack of common understanding and agreement on the essential elements of professionalism poses a significant obstacle to professionalisation.

A roadmap has been proposed that outlines the possible steps for industry and government collaboration, as well as potential areas for practice reform and is offered as a starting point to an expanded and coordinated set of discussions about the future of regulation in financial services.

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LIST OF ABBREVIATIONS

ABA	Australian Bankers' Association
ADF	Australian Defence Force
ASIC	Australian Securities and Investment Commission
CFP	Certified Financial Planner
CPA	Certified Practising Accountant
CPAA	CPA Australia
CPD	Continuing Professional Development
FPA	Financial Planning Association
FSI	Financial Systems Inquiry
FSRA	Financial Services Reform Act
ICAA	Institute of Chartered Accountants Australia
IESBA	International Ethics Standards Board for Accountants
ISA	Industry Super Australia
NIBA	National Insurance Brokers Association
OECD	Organisation for Economic Co-operation and Development
PSA	Professional Standards Authority (regulatory agency for PSC)
PSC	Professional Standards Councils (statutory body for PSL)
PSL	Professional Standards Legislation
QRP	Quality Review Program
SBAA	Stockbrokers Association of Australia
SMSF	Self-Managed Super Fund
SPAA	SMSF Professionals Association of Australia
TPB	Tax Practitioners Board

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2 introduction

The Professional Standards Councils (PSC) is developing a series of white papers focused on professionalisation within the services sector in Australia. The services sector is the fastest growing sector within the Australian economy, represents more than 75% of Australia's gross industry value-added and employs approximately 80% of Australians.¹ The services sector in Australia is large and diverse and, of particular relevance to this report, the professional and business services sector, at \$7.7 billion, represents our third largest services exports.²

Debate about the structure and purpose of the regulatory environment surrounding the services sector prompts our interest in contributing to a wider conversation about how professionalisation might be useful as a way of both aligning the services sector's economic and public interests, but also potentially posing new models of innovative regulation that encourage industry capacity and reduce cost to government and the community.

The white papers will examine each industry by considering the context of government and community interest and issues in those industries, as well as the regulatory and academic debate on professionalisation in those industries. A central element of our research will involve canvassing industry perspectives on professionalisation and applying the unique knowledge of that community to uncover the barriers to professionalisation, and the likely economic, community, regulatory and personal benefits of professionalisation in the sector.

Using this approach and our expertise and research on the wider issues of professions we hope to be able to offer a useful consideration of the unique professionalisation challenges for each sector we investigate.

¹ ACCI, *Services: The new economic paradigm*, ACCI, Canberra, 2011.

² Department of Foreign Affairs & Trade, *Trade in Services Australia 2012*, DFAT, Canberra, 2013.

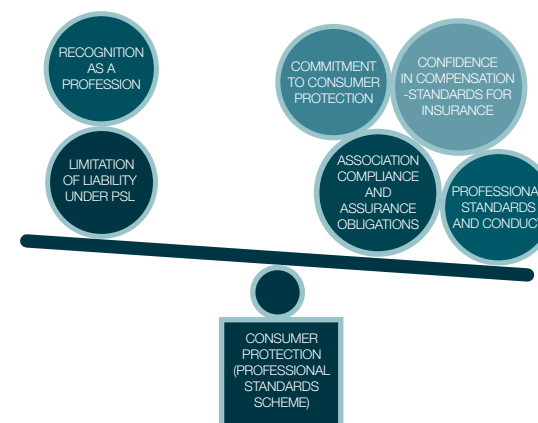
2.1 THE PROFESSIONAL STANDARDS COUNCILS (and the Professional Standards Authority)

The Professional Standards Councils (PSC) is the combined Australian government's statutory body responsible for the approval, monitoring and enforcing of professional standards schemes and has the goal to protect consumers by demanding high levels of professional standards and practice from those professionals who participate in professional standards schemes. The Professional Standards Authority (PSA) is the expert services and advisory agency for the Professional Standards Councils with responsibility to the PSC for the monitoring and enforcement of professional standards schemes. With expert and academic staff it also has a Development and Research role to work with occupational associations to develop and improve self-regulatory initiatives by oversighting professional conduct and risk management strategies, including codes of ethics and conduct, education standards and mandatory insurance and consumer compensation strategies.

Australia has adopted a globally leading and innovative approach to the regulation of professions. Professional Standards Legislation (PSL) has been introduced through statute in every State and Territory to encourage professionalisation amongst communities, on the assumption that professions can play a vital and positive role in consumer protection. The encouragement to professionalisation comes in the PSC having the power to limit the civil liability (damages) that a member of an approved profession can be

required to pay. In turn the professional is required to have enough insurance or financial resources in place to compensate for such a claim, as well as be required to respond to an agreed range of increased professional requirements designed specifically to protect consumers. This includes such things as having effective complaints handling systems and disciplinary procedures.

In order to allow specific communities to access these benefits of self-regulation, it is necessary for governments to be assured that robust professional frameworks have been established and that those communities take their obligations very seriously. The goal of those frameworks is to improve the professional standards and conduct of individuals (professionals) in such a way as to prioritise the interests of the community and individual consumer protection. The process of achieving this outcome is called professionalisation.



2.2 THE VALUE OF PROFESSIONS

It is our view that professions deliver benefits to:

The community – The community and individual consumers are faced with a complex and sometimes bewildering array of choices in their need for professional services, whether in the field of medicine and health through to business and financial services. Professions can play a vital role in ensuring that consumers get access to much needed, trusted expertise in a way that assures them of quality and consumer protections, by establishing and policing standards that ensure community expectations of good practice and social purpose are met.

In providing this confidence, professions also demonstrate their commitment to the larger issue of building a positive society. As the Professional Body Sector Review 2014 points out, ‘widespread support for trustworthy professionalism generated for individual professions can act collectively as a form of social infrastructure for society’³, expanding the positive aspects of good services in the economy.

The economy – Professions improve individual consumers’ access to services as well as generate a higher contribution to the broader economy in terms of services. Professions also support generalised economic activity by providing confidence and trust in the services offered by professionals, which is an increasingly important economic marker in our services-oriented society where knowledge forms the basis of many transactions. Also vitally important is the role that professions play in expanding careers and offering education, specialisation and professional opportunity to Australians.

Regulators – By improving the standards of practice of professionals and improving the regulatory capacity of professional communities, it reduces the burden of regulation and supervision on government. It has been argued that professionalism represents a distinctive form of regulation in itself, one that is more closely aligned to better practice⁴. ‘Professions create and maintain distinct professional values or moral obligations (e.g. codes of ethics)⁵, which should improve the oversight of professional conduct at the coalface with consumers. Bringing the tools of regulation closer to the people and practices being regulated leads to more responsive, efficient and improved regulatory action. In this way individual professionals and professional associations assist regulatory bodies to understand the complexity and detail of the standards they regulate.’⁶

Professionals – professions not only improve employment and career longevity, they can also provide an important community purpose and empowerment, allowing the channelling of contribution to social good in people’s career. Professionals enhance their reputation and skills by adhering to the professional standards and CPD requirements of their professional bodies. The public’s reliance on the expertise of professionals is a great responsibility, but it also provides professionals with an opportunity to make a difference in society; to assist the public to assess risks and make crucial life decisions, and more broadly to strengthen the social infrastructure of society.

³ PARN, Professional Body Sector Review 2014, PARN UK, 2014, 6

⁴ J. Evetts, ‘Sociological Analysis of Professionalism: Past, Present and Future’, Comparative Sociology 10, 2011, 10; and E. Freidson, Professionalism: The Third Logic, Polity Press, London, 2001.

⁵ J. Evetts, ‘Sociological Analysis of Professionalism’, 10.

⁶ PARN, Professional Body Sector Review 2014, 5.

2.3 OBJECTIVES OF THE WHITEPAPER PROJECT

The purpose of the whitepaper project is to generate an informed dialogue within Australian Industry and Government about effective regulatory design that encourages efficiency for government and improved protection for consumers. By canvassing various industry perspectives and applying our own research material and experience of professions we can consider opportunities for improved regulatory oversight and more efficient government/industry collaboration on regulation of professions. By doing this we hope to encourage debate and discussion on professionalisation across the entire Australian economy, believing that there is likely to be a regulatory, community and economic benefit to doing so.

The first white paper in this series will focus on the financial services sector. Future white papers will focus on other service sectors.

2.4 WHY THE FINANCIAL SERVICES SECTOR

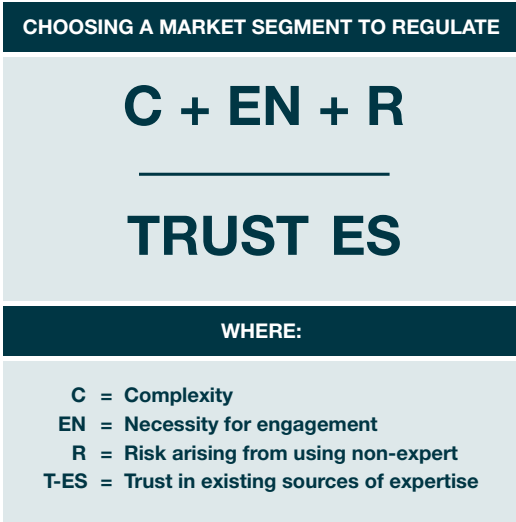
We have identified the Financial Services industry as potentially benefiting from formal professionalisation for three reasons:

Firstly, because the social and consumer protection elements of financial services are a subject of frequent public debate and government inquiry. Not only has there been an escalation in commentary and debate since the global financial crisis, the recent Financial Systems Inquiry (FSI) presents a formal opportunity to consider options for the social purpose and effective regulation of this economically vital industry.

Secondly, at the Professional Standards Councils we prioritise areas of research and regulatory interest based on issues of community risk and complexity, balanced by the opportunity for professional standards to improve that area. One tool we apply to assist in this identification is a regulatory prioritisation formula developed in independent research by Dr Deen Sanders,⁷ CEO of our agency (Figure 2.1).

Applying this formula to the Australian market of financial services further highlights the urgency and opportunity for change because it has become such a central element of our economic and social fabric. For instance, the fact that Australia's compulsory superannuation means that all working Australians are, by necessity, exposed to a complex financial services sector, places unique importance on the relationship between financial services, the community and public policy for government.

Figure 2.1: Regulatory prioritisation tool



Sanders, PSA

Researchers such as Gray and Hamilton⁸ reflect that this new expectation of financial expertise on consumers is forging the creation of 'financial citizens', where the populace at large is required to take responsibility for their own lifelong financial security because government pension policies need to respond to changing demographics and budget priorities. Anxiety might be deepened when research data demonstrates that people are rarely good at differentiating complex financial risks and frequently overestimate their capacity to manage money.⁹ This 'necessity', along with the 'complexity' and 'risk' elements of dealing with financial services demonstrates the benefit of research in this area.

⁷ Sanders, D., The legitimisation of modern professions (Professional enlightenment of financial planning in Australia), DProf(TransSt). Thesis, CQU, Australia, 2010.

⁸ Gray, J. & Hamilton J., *Implementing Financial Regulation: Theory and Practice*, John Wiley & Sons, London, 2006.

⁹ OECD, *Improving Financial Literacy: Analysis of Issues and Policies*, OECD Publishing, Paris, France, 2005, pp. 43-44.

Thirdly, the Professional Standards Councils' interest in financial services is also motivated by the fact that there are a range of aspiring professional communities in this area and a growing regulatory interest in this industry through the increasing convergence of professional services and the intersection with current regulated and identified professional communities (such as Accounting and Law).

2.5 METHODOLOGY AND APPROACH

This study draws on interviews with key stakeholders in the financial services industry as well as a detailed consideration of the public, government and industry challenges and the professionalisation drivers and barriers determined from an understanding of the academic and government literature on professions, regulation, and the financial services industry.

In undertaking research in Financial Services we have sought to:

- understand the current community, government and industry context for professionalisation in the industry.
- report on the current state of professionalisation within the industry.
- seek views of industry on cost, progress and expectations for professionalisation.
- seek views of industry about the process of professionalisation, and the costs and benefits of professionalising financial services.
- generate debate and interest in how professional regulation might be useful to future regulatory considerations.
- apply our body of expertise and research to the specific challenge of professionalisation in this industry.

Interviewing key actors and stakeholders in the industry is an effective way of collecting first-hand evidence of industry perspectives. Creative Consequences, a specialist consultancy in this area, was engaged by the PSC to conduct semi-structured interviews with key stakeholders in the Financial

Services Industry and prepare the initial analysis of stakeholder comments. The interview questions were designed to seek industry views about the process, costs and benefits of professionalising financial services. A standardised set of interview questions was developed by the PSC.

There are estimated to be more than 60¹⁰ interest groups, associations and professional bodies with an interest in the financial services industry. It is not possible in such a project as this to incorporate or capture the views of all parties and we acknowledge that the results are necessarily limited as a consequence. Given that the subject matter was one of professionalisation and self regulatory capacity, the particular perspective of eight (8) groups with an active interest and potential capacity in this area were sought and from a cross section of the Financial Services industry so as to represent a range of industry perspectives.

For context and depth, other perspectives were also sought through interviews with a further five (5) participants from large corporations to small businesses, consumer advocacy groups, and professionals working in the industry.

IMPORTANT NOTE: This was not an audit of current professionalisation progress and no documents, processes or systems from Associations were reviewed or assessed. The interviews were the primary form of engagement with the industry and so the bias and limitation of interview formats, such as gaps in knowledge and individual experience, are acknowledged and reflected in the outcomes. No assumptions should be drawn about any specific group from the research comments or the recommendations in the whitepaper.

¹⁰ FSEAA, (2004) *Quality and professionalising education in Financial Services*, Financial Services Education Agency of Australia

2.6 CLASSIFICATION OF INTERVIEW PARTICIPANTS

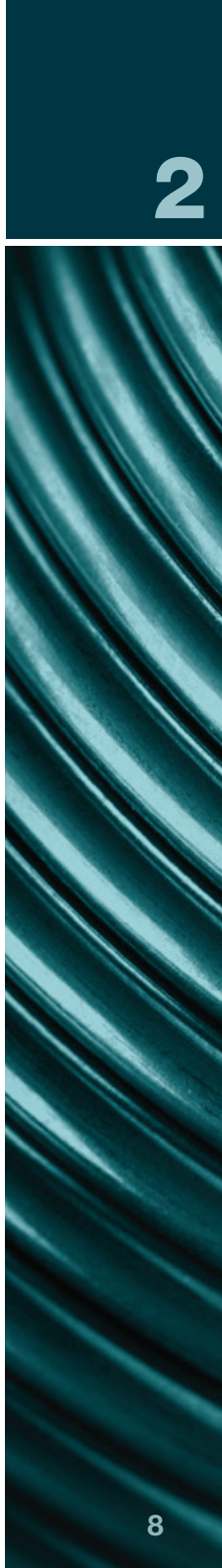
For this type of research and reporting it is important to preserve confidentiality of participant comments and data, and in order to report the commentary of participants, it is necessary to classify the participants into specific groups. For this research, interview participants have been divided into three groups: recognised professional groups, association groups and industry participants.

Recognised professions are those groups that are formally recognised with professional standards schemes and regulated under professional standards legislation.

Association Groups are most simply defined as those associations that are not recognised or regulated under Professional Standards Legislation. We acknowledge that this classification is a wide one and may include industry associations (whose primary role is industry advocacy) through to groups aspiring to, or believing they have reached, professional status but not yet recognised under professional standards legislation and everything in between.

Industry participants are classified as those who participate in the industry, incorporating a variety of entities and sizes, as well as consumer and fund representatives.

Table 2.1: Classification of Interview Participants	
CLASSIFICATION	
Recognised Professional Groups	CPA Australia (CPAA), Institute of Chartered Accountants Australia (ICAA), Law Society of NSW (LSNSW)
Association Groups	Australian Bankers Association (ABA), Financial Planning Association (FPA), National Insurance Brokers Association (NIBA), Self-Managed Super Fund Professionals Association of Australia (SPAA), Stockbrokers Association of Australia (SBAA)
Industry Participants	Australian Defence Force Financial Services Consumer Council, AMP, Innova, Superannuation Consumer Centre, Industry Super Australia



3 professionalisation

3.1 DEFINITION

There are many different ways of thinking about professions and professionalisation and a range of academic perspectives on what makes a group a profession or a person a professional. The Professional Standards Authority has developed a sophisticated regulatory model that identifies more than 40 separate elements of consideration for groups applying for a professional standards scheme (Appendix 4).

For the purpose of public education and to facilitate easier public and policy debate we propose a simple 5 Elements (5 E's) model that reflects certification practices familiar to a number of professions.¹¹ This simplified system is not sufficient for our regulatory purposes but usefully allows us to narrow consideration down to focus on the costs, benefits and processes of different elements. (see Table 3.1).

Table 3.1: The 5 E's of Professionalisation

EDUCATION	The specific technical and professional requirements to practice in a discrete professional area. Often linked to entry-level formal qualifications or certification but also reflected in ongoing (CPD) education expectations.
ETHICS	The prescribed professional and ethical standards that clients can rightfully expect their professional adviser to exhibit. This extends into specific expectations of practice and conduct (process and conduct rules) and a commitment to a higher duty. This is typically negotiated through the community of professionals who govern conduct in this area and is expected to deliver improved consumer protections, not just a reiteration of statutory expectations.
EXPERIENCE	The personal capabilities (personal competencies) and expectations of experience required to practice as a professional in a discrete professional area.
EXAMINATION	The mechanism by which all of the elements above are assessed and assured to the community. This is more than qualification and/or certification requirements and also extends into expectations of regular assurance of practice (e.g. compliance and professional audit expectations).
ENTITY	In order for a profession to exist there must be a capable entity to oversee and administer professional entry, professional standards and compliance expectations on behalf of the community that relies on professionals in that area. This is often a [professional] association made up of the individuals who will be regulated participants in that profession. It is this entity that the PSA regulates under Professional Standards Legislation.

¹¹ For example the international Financial Planning Standards Board utilises a 4 element model.

4 research results on the financial services sector

4.1 CURRENT STATE OF THE FINANCIAL SERVICES SECTOR

Interviewees were asked about the current role of professions in the financial services industry. When asked if they considered the group they represent to already be a profession, 53% (seven of the overall 13) of respondents answered in the affirmative. Of these, three bodies are recognised as professional bodies under professional standards legislation, three are association groups, and one is an industry participant, reflecting that 75% of the professional association groups (6 of the 8) hold the view that they are already a profession. Other interviewed stakeholders responded that financial planners and advisers are emerging professions.

The financial services industry is a complex one made up of a multi-disciplinary amalgam of professional, semi-professional, and non-professional roles. The stakeholders interviewed were asked to identify the professional roles, aspiring professional roles, and non-professional roles that their members perform. Table 4.1 identifies the variety of roles identified by the interviewees, and in particular the range of roles that are perceived to be professional.

A number of established (recognised) professionals work in the industry, such as auditors, lawyers, and accountants, who are monitored by established professional associations. There are also a range of other roles, such as financial planners, financial advisers, stockbrokers and insurance brokers, which are considered to be professional roles or at least professional functions, but which do not necessarily fit the traditional conception of a profession, and are not necessarily publicly recognised as a profession.

NOTE 1: The research questions and interview participants were deliberately chosen to reflect multiple and varied sectors of the industry. Despite this, most participants focused their comments on the debate regarding financial advice professionalisation, which is reflected as a dominant output in the results.

NOTE 2: This was not an audit of current professionalisation progress and no documents, processes or systems from Associations were reviewed or assessed. The interviews were the primary form of engagement with the industry and so the bias and limitation of interview formats, such as gaps in knowledge and individual experience, are acknowledged and reflected in the generalised outcomes and comments from all participants. No assumptions should be drawn about any specific group from the research comments or the recommendations in the whitepaper.

Interestingly there was an inconsistent view among the stakeholders interviewed about which roles within the sector are professional. It is particularly notable that there is significant variation in how financial planners and financial advisers are classified by interviewees. Table 4.1 summarises the responses of the stakeholders interviewed, and it is evident that association groups and industry participants described financial planners and financial advisers as performing both professional and aspiring professional roles. Indeed, certain interviewees differentiated between types of financial advisers – those who had completed specific training requirements, and those who had not. Some respondents believed that financial advisers are professionals, but financial planners are not, whilst others saw the reverse. Still others believed both financial planners and financial advisers are professionals. Whilst a significant proportion of interviewees believed that neither financial planners or financial advisers constitute a profession.

In addition to identifying the professional roles performed by their members, the stakeholders interviewed were also asked to explain why they defined these roles as professional. When defining professional roles, interviewees placed most emphasis on the educational and examination requirements of the 5 Es. The completion of a prescribed and accredited education program, and/or a tertiary degree, as well as participation in ongoing professional development were identified as the defining characteristics of professional roles by all interview participants. It is evident that corporations and industry groups largely rely on professional associations to prescribe the ethical and ongoing education requirements of their professional staff and members.

The disagreements within the industry about which roles can currently be defined as professional roles and how they are defined, combined with the variety of roles within the sector, presents an added challenge on the journey to whole of industry professionalisation.

Table 4.1: Summary of professional and non-professional roles in the Financial Services Industry, as identified by interview participants.

	Professional Roles	Aspiring Professionals	Non-professional Roles
Recognised Professions	Certified Practicing Accountants, Chartered Accountants, Lawyers	Candidates, Students, Paralegals	Administrative Staff,
Association Groups	Accountants, Lawyers, Financial Advisers, Financial Planners, Actuaries, Insurance Brokers, Tax Agents, Auditors,	Para-planners, Bank Tellers, Broker Assistants, Broker Associates, Compliance Officers, Financial Planners.	Administrative Staff, Client Inquiry Roles.
Industry Participants	Accountants, Lawyers, Financial Advisers (who have completed specific training).	Para-planners, Customer services officers, Client managers, Financial Advisers (unqualified).	Administrative Staff, Telemarketers.

4.2 INDUSTRY PERSPECTIVES ON PROFESSIONALISATION

All interviewees considered that professionalisation is in the best interests of the financial services industry. Further, they stated that professionalisation is on the agenda for the industry. All five association groups interviewed are considering professionalisation; two of these bodies stated they are pursuing plans for professionalisation as core strategic objectives. All five industry participants support professionalisation within the industry generally. Overall, this indicates strong support for professionalisation within the financial services industry.

4.3 BENEFITS OF PROFESSIONALISATION

There is a general perception that the benefits of professionalisation outweigh the costs and transition effort required to achieve it. All interviewees agreed this to be the case. However, only two of the thirteen organisations interviewed had conducted research into the benefits of professionalisation. Many interviewees pointed to anecdotal evidence to suggest that professionalisation is desirable and worth the effort. This indicates that professionalisation is seen in a positive light by a

cross-section of the industry, and that the industry may be receptive to attempts to professionalise.

Interviewees were asked to consider the economic, regulatory, community and personal benefits of professionalisation in the context of the financial services industry. Table 4.2 summarises their responses.

Table 4.2: Benefits of professionalisation in the Financial Services Industry identified by Interviewees.

Economic	Community
Positive impact on business growth. Increased business activity generated by increased level of trust. Reduction in litigation. National economy, and Government budget will benefit if more people receive good financial advice.	Consumer protection. Increased community trust and confidence in the financial services industry. Increased accountability. Guard against the social impact of financial loss. Greater opportunities for utilising quality financial advice.
Regulatory	Personal (for individual professionals):
Reduction in regulatory costs. Less regulation (government interference). Opportunity for greater self-regulation. Reduction in compliance costs.	Professional pride/esteem. Reputational benefit. Opportunity for increased remuneration. Increase in skill level/standard of skills.

4.3.1 ECONOMIC BENEFITS

Interviewees made a link between professionalisation and a potential expansion of business in the financial services industry. This was based on the supposition that professionalisation will increase community trust in the industry, which would in turn make the public more likely to use the services provided by the industry. This argument assumes that growth in the financial services industry acts to stimulate the overall Australian economy. The inter-relationship between increased trust in the financial services industry and an increase in business activity is a common theme in the interview responses.

In an environment where superannuation is compulsory, most Australians will at some stage of their lives engage with the financial services sector. It is argued by several interviewees that professionalisation will improve the quality of financial advice, which is likely to encourage more people to seek advice. If this occurs, it is argued that it will benefit the Australian economy by reducing the general public's reliance on government, and even on welfare payments. There is a recognition that securing the savings of current and future retirees is crucial to Australia's long-term economic wellbeing.

Professionalisation is, therefore, considered beneficial for the short-term growth, and the long-term stability of the Australian economy.

4.3.2 REGULATORY BENEFITS

Professionalisation may provide an opportunity for re-thinking the regulatory frameworks operating within the financial services industry. There is a general expectation among the industry stakeholders interviewed that professionalisation will eventually lead to a reduction in regulation in the industry. It is expected that the need for direct government regulation of the industry will be reduced if an appropriate professional standards response was initiated by industry. Such a scenario would ensure that actors within the industry complied with professional standards set and overseen by a professional regulatory entity, thus reducing the need for direct government regulation. Furthermore, 38% of respondents envisaged that this would reduce the regulatory and compliance costs of businesses within the industry, resulting from better informed and more practically aligned obligations.

Any reduction in direct government regulation of the industry is viewed favourably. However, most interviewees recognised that even if this occurs, ongoing compliance and regulation is necessary to ensure accountability within the sector. The opportunity for greater self-regulation was discussed by some interviewees, who viewed this as a key potential benefit of professionalisation.

4.3.3 COMMUNITY BENEFITS

The community benefits of professionalisation identified by interviewees flow from a potential improvement in the quality of financial advice, and from an improvement in ethical standards within the industry. It is expected that consumer trust and confidence in the sector will increase with professionalisation, which will potentially see an increase in the number of people seeking financial advice and lead to a better informed and more financially secure public. Professionalisation is considered a means of reducing the risk for consumers in seeking financial advice; consumers are assured that they are receiving advice from a qualified professional who must adhere to professional ethical and technical standards.

The community will be able to have confidence that people working in the sector will be held accountable for their conduct. Furthermore, where professionals are members of a professional standards scheme under Professional Standards Legislation, consumers are assured that professionals have objectively assessed professional standards, as well as confidence in adequacy of the insurance requirements expected to be held by them.

4.3.4 PERSONAL (FOR INDIVIDUAL PROFESSIONALS) BENEFITS

The industry stakeholders interviewed recognise that professionalisation would be highly beneficial to individuals employed within the sector and future employees. Public recognition as a profession and an expected increase in technical and ethical standards within the sector were regarded as potential benefits. Indeed, 53% of interview respondents identified an expected increase in professional pride as a key personal benefit of professionalisation. An increase in professional pride was considered particularly important in the context of recent scandals within the sector, which have had an adverse impact on morale in the sector and may have a negative effect on future recruiting prospects.

The reputational benefits of professionalisation were also identified by interviewees, who suggested that an enhancement of the reputation of individuals working within the sector would lead to a commensurate increase in their opportunities for increased remuneration.

4.4 COSTS OF PROFESSIONALISATION

It is widely acknowledged that the process of professionalisation has associated costs, both for the establishment of professional frameworks, and the maintenance of these frameworks. Interviewees were asked to estimate the costs associated with professionalising the financial services sector. Although few of the industry stakeholders interviewed had conducted detailed research on the cost of professionalising, most had done some preliminary thinking on areas of expenditure.

Establishing education and examination frameworks for the assessment of members' professional skills is regarded by interviewees as the main establishment cost. Two of the association groups interviewed estimated that the development and implementation of education and examination frameworks would cost millions of dollars based in one instance on anecdotal commentary on the experience of other countries, such as South Africa.

Interestingly, interviewees representing association groups had given less consideration to how much it would cost to establish the elements related to ethical frameworks and oversight systems. Indeed, the cost of establishing or converting their current organisational structure so as to become a regulatory entity has received very little consideration. It is clear, however, that the oversight function of professional associations is a significant

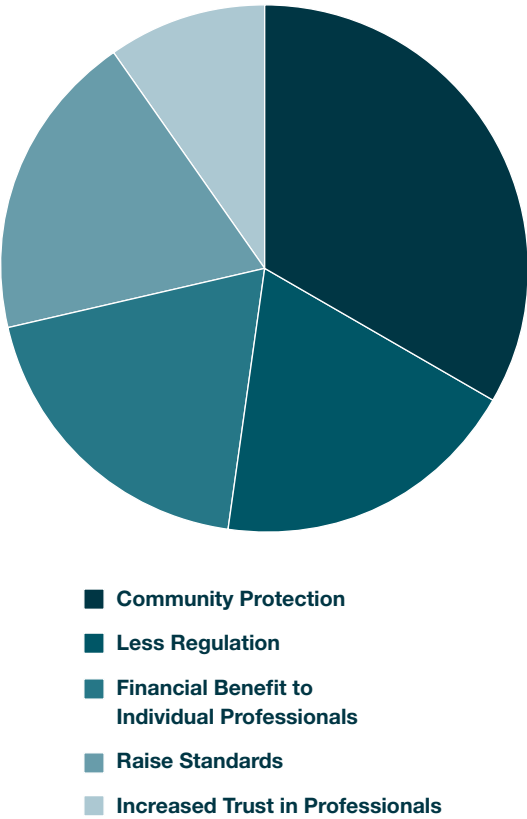
cost. One recognised professional association estimates they invest 10% of their total revenue on oversight programs to manage risks. Similarly, another recognised professional association estimates that 50-60% of their budget is spent on maintaining current frameworks (ethical, education, compliance).

Despite recognising that there are significant costs associated with professionalisation, all of the industry stakeholders interviewed were in favour of it. Indeed, all of the interview respondents were confident that the benefit of professionalisation outweighs the cost and transition effort required to achieve it. Of the stakeholders interviewed, association groups, who are aspiring to embark on professionalisation, were most concerned about the cost. Despite this they all agreed that the benefits outweighed the costs. Figure 4.1 summarises the main reasons for this perspective. Interestingly, interview respondents focused on benefits to the community, such as consumer protection and trust in the industry, and to individual professionals, such as financial and improvement in standards, when explaining why the cost of professionalisation is justified. Presumably the benefits to individual consumers and professionals will provide flow-on benefits to the industry as a whole.

Crucially, increased trust in professionals was described as one of the key reasons that professionalisation is considered worth the cost and effort. The inter-relationship between trust and professional status is a recurring theme in interviewee responses to questions about professionalisation. Industry stakeholders' hopes for professionalisation are closely tied to the goal of building community trust in the financial services industry, and gaining public recognition of the professional skills of people working in the industry.

Community trust in the financial services industry is one of the over-arching benefits of professionalisation, from which many other benefits (consumer protection, increased remuneration, less regulation) may flow.

Figure 4.1 Reasons that the benefits of professionalisation outweigh the costs



5 barriers to professionalisation in the financial services sector

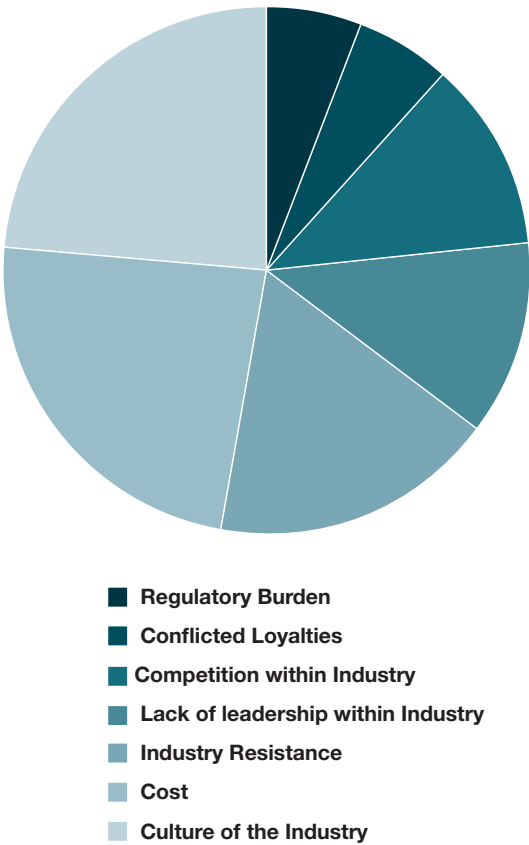
Interviewees were asked to consider the barriers to professionalisation in the financial services industry.

They were asked to identify what they see as the main internal and external barriers to professionalisation.

5.1 INTERNAL BARRIERS

Although all industry stakeholders interviewed believe that the benefit of professionalisation outweighs the cost, a significant portion of respondents recognised that cost was a notable barrier to professionalisation. Association groups, who aspire to embark on professionalisation, were particularly concerned about the financial burden posed. The cost of establishing professional frameworks and maintaining them is considerable.

Figure 5.1: Internal Barriers to Professionalisation of the Financial Services Industry



Cost is particularly pertinent considering that professional associations are funded by members, therefore any increase in costs will potentially be borne by those members. In a sector such as the financial services sector, where there is competition between associations for members and market share, an increase in cost could potentially leave associations vulnerable and currently appears to discourage investment and action.

Competition between associations is perceived by a number of interviewees as a hindrance to professionalisation. Not only is there competition for members, there are not uniform standards (educational, ethical, professional, conduct) across the sector. Resistance from some within the industry to increasing professional standards is identified as a means of undermining the process and increasing competition. Competition between associations makes it difficult for organisations to unite to work towards professionalisation. It also means that there is an internal struggle within the industry as to who will lead the professionalisation process. Lack of leadership from within the industry, and the absence of a united voice are holding back the process.

Underlying the lack of unity within the sector is the absence of a common understanding of what it means to be a profession. At the core of this are divergent views on whether the current culture and remuneration structure of the industry needs to be changed. 24% of interview respondents regarded the current culture of the industry as the biggest hurdle to professionalisation. The interviews revealed conflicting opinions as to whether the dominant remuneration structure undermines any claims to professional status within the industry. Independence and expertise are generally considered key characteristics of a professional. An industry culture and remuneration model that is seen to interfere with these two traits of professionalism is inherently problematic.

The lack of unity, the absence of an agreed approach to professionalisation, and the current culture of the industry serve as internal barriers to professionalisation in the financial services industry.

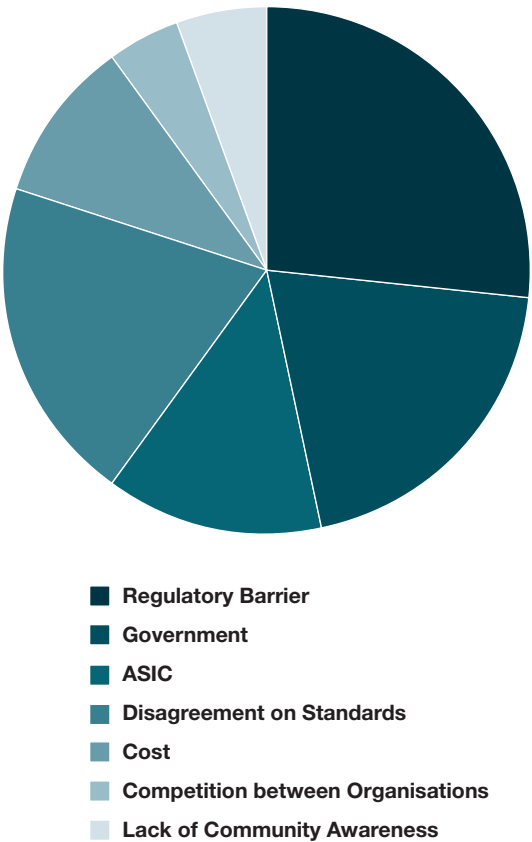
There was also substantive evidence that there are fundamental challenges surrounding the industry's relationship with financial products. In particular the complexity and variety of products should make expert advice more valued but the financial (or other) relationship between manufacturer, distributor and adviser (including research and product list arrangements) was not always clear.

This lack of certainty about who is being paid, how much, and for what, gives rise to concerns of potential self interest that act as a community distraction to acceptance of professionalisation.

5.2 EXTERNAL BARRIERS

External barriers to professionalisation are a significant distraction for stakeholders in the financial services industry. For instance, the current regulatory framework is perceived as a barrier and discouraging to professionalisation, and it would seem mainly because the relationship between regulators, associations and the wider industry is a complex one, framed in resistance and compliance driven perspectives. ASIC was frequently referenced as

Figure 5.2: External Barriers to Professionalisation of the Financial Services Industry



a focus for much of industry's frustration with the current regulatory framework, stemming at least partly from a perception that the association, the professional or, even more widely, the industry voice is not being heard by the regulator. There was a consistent request for greater collaboration and dialogue between industry and regulator.

RG146 (ASIC Regulatory Guide 146 – Licensing: Training of financial product advisers) training standards were another frequently referenced source of frustration for stakeholders in the financial services sector. A significant proportion of interviewees identified these entry level training requirements as too low. There is a perception that by setting minimum standards too low, the regulator has created a disincentive to extended professionalisation in the financial services sector.

The combination of regulatory barriers, unpopular minimum standards that discourage professionalisation, and licensing structures that emphasise licensee over individual, lead to a perception that the current regulatory and government framework is a significant external barrier to the process, and a primary disincentive to industry driven initiative to professionalisation.

The final external barrier of note is perceived to be community attitudes towards the financial services industry. Community recognition is acknowledged as an important facet of attaining professional status, but trust in the industry is at a low point after the Global Financial Crisis and a decade of financial scandals. One of the association groups interviewed made it clear that it is the public that is the final arbiter of their professional status. Professional status is unattainable without community acceptance.

5.3 CHALLENGES FOR PROFESSIONALISM WITHIN CORPORATE WORKING ENVIRONMENTS

Another exacerbating element of professionalisation in financial services is the largely employed model of the industry and the Corporations Act licensee model of legitimisation that preferences licensee (corporate entity of any size) over the individual. Whilst there might be a legitimate legislative basis for this, it is a further element of difference to the approach of professions where the individual professional (natural person) has duties and obligations that may exceed those of the employer¹² (see Discussion section).

¹² For more detail on PSCs view of professionalisation in corporations and the role that regulation might play see: Sanders, D., 'Rethinking Regulation', *Law and Financial Markets Review* 8.2, June 2014 (forthcoming).

6 discussion section

6.1 THE PROFESSIONALISATION PROCESS

Traditionally, the path to professional status has been grounded in the prescribing of expert knowledge by a specific community, who then control entry to employment in that expertise and develop standards for practice in that expertise. It was historically the case that professional knowledge was generated exclusively in the academic sphere of University, and led to those trained in this knowledge having an expert monopoly with an ultimate goal to have this expertise recognised by the community (and often formally by the State)¹³. However, the modernisation of professions has led to the public demanding new areas of expertise to emerge in rapid ways, so as to meet changing social and service demands. This also translates to the public playing an increasingly important role in whether a new (or even established) group is accepted and trusted for its professionalism and expertise.

Public perceptions of trustworthiness and systems of trust are significant factors in the recognition of an occupational group as a profession. In order to begin that process of community acceptance, in our view, an occupational group needs to publicly demonstrate how they respond to models of professional regulation in ways that evidence their professional status.

Typically organisational theorists focus on a set of objective traits for the confirmation of a profession, each seeking to identify the series of required properties or criteria that a group must demonstrate in order to be considered a profession.

¹³ Brosio, G., 'The regulation of professions in Italy', *Conference on Pressure groups, Self-regulation and Collective Decision-making*, 1997.

6.2 PROFESSIONS AND REGULATION

6.2.1 Regulatory Options

For instance in 1957 Greenwood¹⁴ established that a profession requires the elements of a:

- Body of theory
- Authority
- Community sanction
- Code of ethics
- Professional culture

As already stated, the Professional Standards Authority takes a more detailed approach to the consideration of regulatory recognition of a profession and includes elements (amongst others), such as how an association:

- Implements and responds to legislation and its regulatory obligations
- Advocates for public protection
- Responds to risks and changing expectations of the public
- Ensures good governance
- Meets the resource requirements (financial and people) to run an effective profession
- Promotes and ensures professional, ethical conduct of members
- Collaborates with other agencies and professions
- Develops and provides guidance to members on good practice
- Establishes and engages the community on a professionally and practically responsive professional standards improvement program
- Is held to account by its members and by the public and ensures transparency of professional conduct issues
- Ensures continuing competence of members
- Maintains a formal register of professionals

The typical goal of professions is to achieve self-regulatory capacity, where the State does not intervene directly or at all in the professional functions and policing of individuals in that profession. Increasingly over the last century, government preference has been to focus more strongly on consumer protection and the primacy of government as the vehicle for that and so self-regulation has waned as a government preference for regulatory practice. Instead other models such as statutory licensing and registration of occupations have become predominant.

Regimes, including the UK (Better Regulation Taskforce), International (the OECD) and Australia (Office of Best Practice Regulation), have captured

the typical regulatory options for government on common spectrums. These options are relatively singular in dimension and at their simplest tend to range from ‘no regulation’ at one end of the options spectrum to the assumed most interventionist position of prescriptive ‘statutory regulation’ at the other (see: Figure 6.1).¹⁵

Leaving aside the one-dimensional nature of this framework, it is primarily intended to emphasise and encourage flexibility in policy and regulatory settings when responding to differing levels and types of community risk. Interestingly, it is frequently the case that the “self-regulation” (and “principles based regulation”) end of the

Figure 6.1: Bartle and Vass’ summary of the regulatory options spectrum.

No Regulation	Self-Regulation	Co-Regulation	Statutory Regulation
No explicit controls on an organisation.	Regulations are specified, administered and enforced by a combination of the state and the regulated organisations. Principles based regulation as a form of self-regulation where the government identifies the principles but the industry regulates the detail, might be considered to begin at this point.	Regulations are specified, administered and enforced by a combination of the state and the regulated organisations.	Regulations are specified, administered and enforced by the state.

¹⁴ Greenwood, E., ‘Attributes of a profession’, *Social Work*, 2, 1957, pp. 44-55.
¹⁵ Bartle and P. Vass, “Self-regulation and the regulatory state: A survey of policy and practice”. Research Report 17, University of Bath, *Centre for the Study of Regulated Industries*, October, 2005.

spectrum is the most highly rated of these in abstract policy debate, perhaps because of the argument that this approach delivers benefits in cost, efficiency, market independence and alignment of knowledge and oversight. Policy pure arguments for flexible, efficient regulation naturally lose momentum in the face of crisis when public anxiety is often heightened by claims of consumer detriment and insufficient ethics or supervision. In the context of this debate, confidence in the financial services sector has clearly been challenged by the events of the global financial crisis, and more recently the subject matter of compensation for victims of financial loss (e.g. Storm Financial or Commonwealth Financial Planning), where the public appear to demand stronger government controls, so as to save “the market system from its excesses and inadequacies”¹⁶.

The challenge of proposing a strong (but also cost efficient), post-GFC model of regulating professions when there is a high level of public and media concern should not be underestimated. However, models of professional self-regulation or shared regulation are of increasing interest to government, regulators

and industry because of the otherwise high cost of regulation¹⁷ and the promise of more effective and efficient professional regulation. It is clear though that if they are to be accepted by the community then emerging models of professional regulation need to ensure they place the public interest at their core, harking back to the calls to a ‘higher duty’ of the traditional professions, such as law and medicine, but invoking the more contemporary discourse of ‘protecting the public’.

Professional regulation based on a contract between the profession and society to act in the public interest is being explored by a number of regulatory bodies and professional associations in the UK and Canada and is a central feature of Australia’s PSL.

It is often conceived of as shared regulation rather than self-regulation, with governments delegating the regulation of professions to professional associations, as occurs in Canada, and under PSL in Australia. Balthazard, writing in the context of Human Resources professionals in Canada, argues that the first principle of professional regulation is to protect the public,

not to enhance the status of the profession (though this often happens as a consequence of being properly regulated).¹⁸ Professional self-regulation is designed to ‘utilize the expertise of the profession, act to protect the public and simultaneously grant professions the necessary autonomy to act in a manner that avoids political imperatives’.¹⁹

A further element of frequent debate in the regulation of professions is the issue of ‘protection of title’;²⁰ where legislative protection of a title or term is often sought by those qualified so as to ensure that consumers (and other stakeholders) can properly distinguish the professional from the non-professional. As an example relevant to this debate there appears to be a general encouragement to protect the title ‘financial planner or financial adviser’, with the assumed goal of restricting such title to those who meet certain criteria and provide personal financial product advice to consumers. For most governments this is often a contestable area of competition principles where there is a general unwillingness to privilege particular groups over others, especially where Government cannot, or prefers not, to control the basis on which title is accorded. The counter argument for government intervention also suggests that ‘protection of title’ in legislation can, in fact, be restrictive to practitioners who, in an increasingly multidisciplinary world, wish to operate a range of services in their role that are not necessarily assumed or described by the protected title.

¹⁶ Summers, L., “The Pendulum Swings towards Regulation”, *Financial Times*, 27 October 2008, 13.

¹⁷ For example, in Canada, Balthazard, Claude, ‘What does it mean to be regulated?’, Human Resources Professionals Association, 2010, and in the UK, Benton, D.C., Gonzalez-Jurado, M.A., & J.V. Beneit-Montesinos, ‘A structured policy review of the principles of professional self-regulation’, *International Nursing Review* 60, 2013, 13-22; and ‘Fit and Proper? Governance in the public interest’, Professional Standards Authority for Health and Social Care, London, March 2013.

¹⁸ Balthazard, Claude, ‘What does it mean to be regulated?’, 2.

¹⁹ Benton, D.C., Gonzalez-Jurado, M.A., & J.V. Beneit-Montesinos (2013) ‘Defining nursing regulation and regulatory body performance: a policy Delphi study’, *International Nursing Review* 60, 304.

²⁰ Tamkin, P., Miller, L., Williams, J., ‘Understanding Occupational Regulation’, Institute for Employment Studies, UK Commission for Employment and Skills, March 2013

A variation on the 'protection of title' approach that can be appealing to government is where such protection does not confer a benefit but specifically limits the functions of an occupation. So for instance in this debate suggestions arose about the potential to stipulate that those people who are employed with the specific function to sell a group's (e.g. their employers) financial products might be restricted in the title they can use when dealing with consumers. 'Financial Product Sales' or other such terms were proffered on the basis that it might more accurately describe the relationship between the financial services participant and the client where current use of terms such as Adviser, when being used by all participants, might imply an unwarranted independence or expertise to consumers.

This sort of approach moves closer to the other form of legislative protection known as 'protection of function'²¹, which typically restricts a party from providing prescribed services unless they meet certain requirements, such as is often the case in licensing regimes.

In the spectrum of regulation governments typically prefer the 'protection of function' approach because it does not confer titled benefit but does influence the individuals (through education and standards) that can be authorised to perform a function or service. It might be argued that Corporations Act takes this approach with regard to financial advice by stipulating the education and oversighting

requirements for the function of financial advice to be performed. It might also then be argued that the current concerns of the government and public indicate that this approach may have failed.

Whilst 'protection' approaches have value from a professions perspective, as a general principle of self-regulatory capacity it would be preferable that the industry is empowered and authorised to promote and police 'terms' and 'functions' so that government intervention is not needed. Where it is deemed necessary, then the approach that affords the greatest consumer protection, balanced by the least cost on government and the greatest encouragement to professional obligation is the one more naturally aligned to professionalisation.

6.3 HOW REGULATION IS PERCEIVED BY INDUSTRY

Regulation is often assumed to have negative connotations. The word 'regulation' is almost always equated with direct government forms of regulation, with all other regulatory options on the spectrum ignored. Interview respondents were largely of the view that regulation in the financial services industry would remain unchanged (69%) in the immediate future. Although a significant portion of interviewees (33%) believed that government regulation was likely to increase over time. Several interviewees voiced the opinion that the only way to stop further government regulation was to professionalise the sector. It seems clear that for certain organisations within the industry professionalisation is a means of moderating future threats of increased direct regulation. It was unclear how well the participants understood the nature and purpose of professional regulation and how it should be properly constructed so as to minimise future government intervention.

As a general proposition it would seem that the industry has a poor (or generally resistant) approach to engagement with the government regulatory systems, with several groups commenting that they experienced difficulty in their relationship with the Australian Securities Investment Commission (ASIC) for example, and voicing concern at the recent approaches to legislative codification of community expectation. However, as there is little public evidence of the industry applying formal systems of its own to improve understanding of community expectations or promote better responses to community expectations, there is clearly an opportunity for better designed consumer oriented, professional standards systems to play a role.

²¹ Tamkin, P., Miller, L., Williams, J., op cit. 22.

6.4 INDUSTRY'S PREFERENCE ON REGULATORY APPROACH

Interviewees were asked about their preferred method of regulation for the financial services industry. 12 of 13 interview respondents favoured a co-regulatory model for regulating the industry, and one respondent favoured self-regulation. All interviewees expressed a preference for a reduction in direct government regulation of the industry. Many of the interviewees emphasised the need for a good working relationship between the industry and the full range of regulators, and a desire to cooperate with regulators. This indicates a significant level of interest and engagement in industry regulation from within the industry, which is a key pre-requisite for professional self or co-regulation.

Many sections of the financial services industry believe that the regulation of the sector needs to recognise that a one-size-fits-all approach does not work and that specific expertise and functional knowledge of the industry operations was needed in the regulatory toolkit. As the findings of the interviews emphasise, the financial services industry is made up of a range of professionals, semi-professionals, and non-professionals, who perform a variety of multi-disciplinary roles. A regulatory model that recognises the differences and nuances within the industry will likely be more successful. One of the obvious options for ensuring that these nuances are recognised is to encourage greater industry involvement in its regulatory structure and to involve other specialist regulators that can partner in relevant areas. Indeed, better regulation is largely predicated

on greater industry involvement, as it is industry that has better information and expertise about the regulatory issues at stake.²²

As already noted there also appears to be an active campaign by some associations to encourage government to legislate for 'protection of title' (financial planner and/or financial adviser) to support and improve the current approach of 'protection of function' described in Corporations Act. It should also be noted that there was not consistent agreement across the participants as to whether that is appropriate or warranted.

A commitment to greater involvement in the regulation of the industry, and a preference for co-regulation fit comfortably with aspirations for professionalisation within the financial services industry. However, professionalisation should not be regarded as a means of avoiding direct government regulation, but rather as an opportunity to take responsibility for the regulation of professionals within the industry.

6.5 THE ROLE OF PROFESSIONALS IN CORPORATIONS

A last issue of magnified significance in financial services is that many professionals are either employed in, or responsible to, corporate entities. The traditional model of professions assumes that professionals work as individuals; in small firms, partnerships or as sole practitioners, and with others from the same profession. In the 21st century, professionals are increasingly working in corporate environments characterised by their multi-disciplinary nature and large number of employees. Individual professionals working in corporate environments have multiple, and often competing, obligations to shareholders, the company, their profession and the public. It is a challenge for professionals to juggle these competing obligations; continuing to uphold professional obligations in environments where incentives and authority might challenge those loyalties.

The type of approach, especially when enshrined in statute that de-emphasises the individual professional and their duty, has a potentially corrosive effect, eroding the central strength of professions that are intended to define and value such duties. Given the increased flexibility and multi-disciplinary nature of 21st century workplaces, it is now even more important to have professional associations that oversee and encourage professional obligation by providing professionals with a sense of identity, a greater purpose, a sense of higher duty, and a professional support system when they do not always have these in their immediate workplace. The PSA contends that an individual's sense of identity and pride in their profession generated through membership of a professional association may increase the likelihood of the individual professional upholding professional obligations, especially in the face of pressure to put the interests of the shareholders, companies or even client's first.²³

²² Black, J. "The rise, fall and fate of principles based regulation", LSE Law, Society and Economy Working Papers, 17/2010, 1.

²³ Sanders, 'Reinventing Regulation'.

7 conclusion

In entering into this research project it was assumed that a coordinated strategy for Financial Services professionalisation might already be underway in response to the frequency of public inquiries and the call to action from the community and media.

It is clear from this research that steps have been taken, and that some communities have invested substantially in the process of advancing professionalisation, whilst others intend to expand their existing professional systems into this emerging area. It is also clear that this is limited to a few communities within the ecosystem of Financial Services and that professionalisation (in the larger construct of standards and regulation oriented to consumer protection and higher duty) has not been defined or universally committed to by the whole industry.²⁴

Research supports the public and industry need for the development of a profession in Financial Services, in particular within the Financial Advice area of Financial Services.²⁵ Despite this, the whitepaper research suggests that a number of internal and external factors are currently acting as impediments to a coordinated, coherent “whole-of-industry” strategy for professionalisation within the Financial Services industry. An opportunity arises for the industry, government and the regulatory agencies to facilitate improved professional standards and collaborate on the development of a coordinated position on consumer protection oriented professionalisation.

²⁴ It is noted that the participants in this research emphasised the professionalisation goals for financial advice providers. Whilst this might be the obvious point of intersection with the consumer to prioritise for professionalisation, these recommendations should be read more widely to be of potential use to the whole financial services industry.

²⁵ Sanders, ‘The legitimisation of modern professions’.

8 recommendations

It is not the role or intention of the Professional Standards Authority to propose a strategy for professionalisation in any sector it investigates. However, recognising the community and government sensitivity surrounding Financial Services, and the current challenges to coordinated debate we offer the following comments and recommendations as a means of potentially stimulating industry wide dialogue and consideration.

This set of summary recommendations represents only those key opportunities for clarity, action and policy innovation by both government and industry. There is further consideration to be had and these are not definitive nor are they prioritised in any specific way. They are offered in the spirit of research and discussion, so as to encourage structured debate for government and industry. They do not represent a formal statement of regulatory expectations of the PSC and should not be read as a formula for recognition under PSL.

As we are primarily interested in the self-regulatory capacity of sectors, the bulk of the recommendations focus on options and actions for industry, emphasising the opportunity for industry led reform in professionalisation. There are also recommendations for reform and action in the government and regulatory spheres.

We recognise that these suggestions will likely require careful consideration by the sector and the PSA is available to meet with industry, government and other interested stakeholders who wish to discuss the material covered in this paper or sponsor discussions on development of a professionalisation strategy.

8.1 GENERAL RECOMMENDATIONS

1. The internal and external barriers to professionalisation that currently distract participants and regulators from progress on self-regulatory initiatives should be formally recognised, analysed and responded to by industry, Government and regulators. Removing barriers would be the first step to the development of a roadmap for professionalisation of the financial services industry. The PSA has compiled material on a range of those barriers, not all of which could be provided in this white paper, and is available to discuss that further with policy makers and industry leaders.
2. An early and useful step in the process would be to reach general agreement on the definitional elements for professionalisation. Professionalism is an academic and regulatory field prone to definitional problems - widely misunderstood and often incorrectly applied. The PSA applies a 40 point regulatory model to define the elements of legitimacy for professional status (Appendix 4). If agreement cannot be reached on the detail of formal professional regulation then a simplified 5 Elements (5 E's) model could be initially useful as a basis to agree broad principles and definitions.



8.2 SPECIFIC RECOMMENDATIONS

In the spirit of industry led reform, specific recommendations arise for industry, Government and regulatory participants:

- **Industry should consider:**

1. Negotiating for agreement on the defining characteristics of professionalism in Financial Services. A whole of industry dialogue should be actively facilitated with the goal of reaching agreement on:
 - a. the minimum standards of education and competence that allow identification (and/or registration) as an Adviser
 - b. the minimum professional standards requirements (at the level of higher ethical duties, if not practice and conduct levels) that allow identification (and/or registration) as an Adviser.
 - c. the mechanisms for policing these issues across the industry and accepting responsibility for public transparency and consumer protection.
2. The development of professional/compliance/regulatory systems that establish obligation at an individual level for each role in the industry.
3. The development of an Association or professional registration system for all professional or regulatory identified participants.
4. The alteration of reward and remuneration practices in the industry to incentivise consumer protection and professional behaviours, and remove the potential for financial conflicts in professional roles.
5. Clear separation of expected professional and non-professional roles in the consumer facing environment. For instance there is regulatory and market opportunity for differentiated titles (protection of title) and obligations for professional advice versus sales functions (protection of function).
6. The identification and support of professionalisation leadership, and the fostering of collaborative solutions to the process of professionalisation. In particular, reach agreement on a self-regulatory entity structure and collaboratively invest in consumer oriented, objectively assessed, self-regulatory capacity of the industry.
7. The establishment of a positive, partnership approach to regulatory engagement and a pro-active approach to risk management and professional standards development with priority given to community interest.

- **Government and regulatory agencies (including ASIC, PSA, TPB and others) could consider:**

1. Legislative reform in the areas of licensing and regulation that would improve authorisation, review and withdrawal powers for differentiated licenses across a formal range of product and advice (including professional advice) spheres.
 - a. The introduction of professional advice license models could allow for the introduction of prohibition of conflicts between license models for product manufacture and professional advice to consumers.
 - b. Alternative models that prohibit licenses being held by entities for product manufacture and advice might also be useful considerations.
2. Legislative reform that would encourage individual obligation and professional differentiation, including potential for liability reform.
3. Fostering leadership and incentivising professionalisation - reviewing legislative and regulatory disincentives and introduce specific incentives (for instance compliance reductions, recognition benefits, consultation benefits etc.) with the goal of rewarding groups that genuinely partner in compliance in the public interest.
4. Encouraging specialisation in regulatory capacity and expertise and/or encourage specific collaboration between regulatory systems so as to improve efficiency, capacity and expertise of regulators.
5. Options for establishing a co-regulatory (meta and/or delegated regulation) approach to industry that expands regulatory agents, public transparency and consumer protection. This would need to be coupled with increased regulatory capacity and authority for differentiated, flexible authorisation and withdrawal of such delegations.

There are a number of issues within this list that might be prioritised to initiate a shared industry dialogue and facilitate the professionalisation project for financial services. There are also further considerations available from this research that could inform wider reform opportunities for financial services generally. The Professional Standards Authority is available for discussion with the stakeholders in this community and is willing to assist, facilitate or potentially play a more formal regulatory role in this sector, where such a role aligns with the Professional Standards Councils consumer protection and professionalisation mandate.

appendices

APPENDIX 1: **List of Interviewees**

INDUSTRY PARTICIPANTS:

Robert M.C. Brown (Chair of the Australian Defence Force consumer council - comments were provided in his individual capacity)

AMP Horizons

Industry Super Australia (ISA)

Innova Asset Management

Superannuation Consumer Centre

RECOGNISED PROFESSIONS:

CPA Australia (CPAA)

Institute of Chartered Accountants (ICAA)

Law Society of NSW

ASSOCIATION GROUPS:

Australian Bankers Association (ABA)

Financial Planning Associations (FPA)

National Insurance Brokers Association (NIBA)

Self-Managed Super Funds Professionals Association of Australasia (SPAA)

Stockbrokers Association of Australia (SAA)

APPENDIX 2:**Interview questions****The current role of professions in your industry.**

1. We have posed a specific view of professions in the introductory material (5 E's). Does your community have an alternative model of profession you would like us to consider or are you happy to adopt our model for the purpose of this discussion?
2. Do you consider the group you represent to already be a profession?
3. When considering whole of industry systems it is reasonable to assume that there are a range of different roles and individuals. For instance:
 - a. Professional people performing professional roles
 - b. Non-professionals performing professional (or roles that you would like to see become professional) roles
 - c. Non-professionals performing roles that are not likely to ever be professional or benefit from professional and self-regulation.
4. In your view how does that break down across your sector?

Helpful background to completing this information might be:

- In relation to those persons that are recognised by your organisation as having a professional role, how did they gain recognition as having such professional status? i.e. are they registered, members of a professional organisation etc.
- In your sector does education (i.e. educational qualifications) play a role in determining a person's professional status?

- If so, what are your requirements? [If not, why not?]
- In your sector does experience (i.e. personal capacity) play a role in determining a person's eligibility for selection or advancement?
- If so, what are your requirements? [If not, why not?]
- In your organisation do you require people to have high ethical standards?
- If so, do any particular roles require high ethical standards? If so, what roles?
- If so, what are your requirements? Do you monitor and evaluate those requirements? [If not, why not?]
- In your organisation do you have an assessment system to determine whether or not your staff are meeting the expected requirements?
- If so, what is the system? Do you monitor and evaluate the system? [If not, why not?]

Embarking on a process of professionalisation

5. Are you considering professionalisation of your group?
 - If yes, why?
 - If not, why not?
6. What are the internal barriers (within your sector) to professionalisation in your group?
7. What are the external barriers (government, market or community) to professionalisation in your group?
8. If you intend to pursue professionalisation, what plans and progress have you made against the 5 E's?
9. Where are you up to on that process so far and when do you think it is reasonable to have a fully established 5E' system in place with full community visibility and confidence?

10. How much do you estimate it will cost to finalise the professionalisation goals you have and who will pay for it?

11. Are any of these plans dependent on other sectors of the industry to participate, complete or contribute in terms of cost?

- How?

Benefits of professionalisation

As stated at the outset it is our view that self-regulating professional communities deliver direct benefits to the community and professionals and the economy, as well as indirect benefits through more efficient regulatory systems and oversight of government.

12. Has your group ever conducted research into the benefits of professionalisation for your community?

13. If so, what were the results?

14. What specific estimate would you provide as to the quantum of each of these benefits?

15. Do you think the benefit of professionalisation outweighs the costs and transition effort required to achieve it?

16. If so, why?

17. If not, why not?

Regulation

18. As a general closing comment, what do you think is the likely future of regulation in your industry?

19. What would you prefer it to be?

20. How do you intend to influence that process and would professionalisation be a feature of that strategy?

**APPENDIX 3:
About the Professional Standards Councils**

The three pillars of the professional standards legislation and the Professional Standards Councils (PSC) are to protect consumers, improve professional standards, and help associations to improve professionalism within associations.

1. To protect consumers > The PSC's goal is to protect consumers by demanding high levels of professional standards and practices from those who (are within our regulated communities) and participate in Professional Standards Schemes. Associations and members who are within our regulated communities are recognised as pursuing excellence in professional standards and acting ethically, indicating that consumers can expect to receive a high level of service.

2. To improve professional standards > The PSA works with associations to develop self-regulation initiatives to improve associations' professional standards by implementing risk management strategies, and codes of ethics and conduct. The PSA supports research, develops policies and guidelines, and participates in events to promote debate and change in the areas of professional standards, codes of ethics and conduct, and risk management to improve the standard of services consumers receive.

3. To help associations > The role of the PSA is to strengthen and improve professionalism within occupational associations, and to promote self-regulation across associations while protecting consumers. The main way of doing this is that the Councils (PSC) approve and administer schemes under the professional standards legislation that limits the civil liability of professionals whose associations meet the schemes' professional standards and risk management requirements.

APPENDIX 4: 40 Elements of Professionalisation (adapted from Benton et. al., 'Defining nursing regulation and regulatory body performance: a policy Delphi study', International Nursing Review 60, 308).

Legislation Advocacy and Responsiveness	Organisational and Internal Governance	External Governance and Public Accountability	Responsibilities and Functions
IMPLEMENTING LEGISLATION <ul style="list-style-type: none"> Interprets legislation to facilitate changing public protection needs 	BOARD GOVERNANCE <ul style="list-style-type: none"> Board is subject to regular performance appraisal Criteria for selection and appointment of senior officials and Board members Induction processes are in place for new Board members 	ACCOUNTABILITY <ul style="list-style-type: none"> Is held to account (by members and others) for its performance and its strategy Process for development of standards, codes and practice expectations is free of inappropriate influence (including by government, the profession, employers or other interested parties) Acts in a manner that maintains the confidence of the public, professionals, employers and other key stakeholders Responds to its regulatory commitments with diligence 	COMPETENCE AND CONDUCT <ul style="list-style-type: none"> Continuing competence procedures are in place and uses data from multiple sources Maintains independence in resolving allegations and complaints Clear, accessible and well publicised complaints procedures that facilitate public engagement are readily available Has standards of performance and clear impartiality in dealing with receipt, acknowledgement, investigation and resolution of complaints and allegations Has an adequate range of meaningful sanctions for non-observance of standards and non-compliance, and sanctions are public
ADVOCACY <ul style="list-style-type: none"> Routinely provides comments on wider reform and change Promotes professional issues that are congruent with protecting the public 	BUSINESS PROCESSES <ul style="list-style-type: none"> Has adequate resources to enable all responsibilities to be fully discharged Collaborates with other agencies to minimise admin and maximise use and impact of data Mechanisms to align accreditation with government and related systems Develops guidance and rules that are supportive of change in sector Has mechanisms in place to detect and deal with fraudulent applications Committees have clear and explicit terms of reference and accountability to Board. 	TRANSPARENCY <ul style="list-style-type: none"> Has a set of clearly defined and publically available operating procedures Provides clear and succinct information on their responsibilities and process to registrants and public Has clear appeals processes that can be pursued if the decisions or the actions are thought to be unsound 	REGISTRY <ul style="list-style-type: none"> A register of professionals controlled is accurate and readily accessible by the public, registrants, employers and other interested parties Ensures that only persons who meet stipulated criteria for practice can be registered Renewal procedures are efficient and effective and requires compliance requirements to have been evidenced
RESPONSIVENESS <ul style="list-style-type: none"> Has processes that are consistent with related disciplines Keeps guidance, codes, standards, competencies and rules in step with changing expectations of the public 	QUALITY IMPROVEMENT <ul style="list-style-type: none"> Identifies and promotes best regulatory practice Has access to and seeks relevant expert advice to support its decision making and regulatory functions Emergent trends from the outcomes of conduct and competence processes are used to inform revisions of standards and future competence requirements Routinely examines a sample of completed CPD returns Monitors its performance and seeks to continually improve its processes for dealing with complaint matters 	COLLABORATION <ul style="list-style-type: none"> Engages and consults key stakeholders in the development of policy and standards 	ETHICS AND PROFESSIONAL BEHAVIOUR <ul style="list-style-type: none"> Promotes individual behaviour that is reflective and self-regulatory Develops and promotes sound ethical and conduct codes that exceed or expand on minimum legal requirements
			STANDARDS AND EDUCATION <ul style="list-style-type: none"> Develops codes and standards that improve consumer protection outcomes Ensures educational programs are aligned with the competence required for practice Codes, standards and education requirements are developed in collaboration with educational providers, employers, professionals and the public

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The content of this publication is intended to canvass industry perspectives on professionalisation and regulatory design in the financial services sector, and contribute to discussion of opportunities for clarity, action and policy innovation by both government and industry. You should seek professional advice before acting or relying on any of the content.

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