

3 July 2026

Reducing barriers to business dynamism inquiry
Productivity Commission
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Melbourne Vic 8003

Email: BusinessDynamismInquiry@pc.gov.au

Dear Productivity Commission,

Productivity Commission Consultation – Reducing barriers to business dynamism in Australia

The Financial Advice Association of Australia¹ (FAAA) welcomes the opportunity to provide feedback to the Productivity Commission in response to the inquiry on reducing barriers to business dynamism in Australia.

The FAAA is supportive of the efforts to improve business dynamism, however in this paper we set out why in certain environments there needs to be careful limits to control the ability for entities and individuals to come into a sector, create issues for consumers and then quickly exit.

The FAAA has no shortage of views on how to address inefficiency and red tape that applies in the financial advice profession, much of which is a result of a complex and excessive regulatory regime. In terms of the more direct issues being addressed in this Inquiry on business set-up, expansion, contraction, change of ownership and closure, we will provide some limited commentary below, however also provide context around financial advice specific issues.

Business Dynamism in Financial Advice

New businesses seeking to enter the financial advice sector have the following two options:

- Seek to be authorised by an Australian Financial Services Licensee to be able to provide financial advice in the name of that licensee, or
- Apply for an Australian Financial Services Licensee to be able to provide financial advice under their own licence.

This is a critical decision as significant additional obligations rightly apply to a business that seeks to apply for and operate under their own licence. For a business that starts through an authorisation from an

¹ The Financial Advice Association of Australia (FAAA) is the largest association representing the financial advice profession in Australia, with over 10,000 members. FAAA advocates for the interests of financial advisers and their clients across the country.

existing licensee, the challenges are with respect to having the right qualifications to operate and then being able to obtain the clients that they need to make the business sustainable. All financial advisers providing personal financial advice to retail clients need to pass stringent education and qualification standards and pass a fit and proper test. If they have the right qualifications, this is not a lengthy process. Acquiring a sustainable client base involves either the option of organic growth, which can be very difficult if starting from scratch, or the acquisition of another business or client book which can be expensive. Obtaining a loan for the acquisition of a business or book of clients can be difficult as the primary asset is the rights to the receipt of fees from these clients. Often an adviser will start as a salaried adviser, before later moving out into running their own business. This transition into their own business can be a challenging phase, where patience and commitment is necessary.

The application process for an AFS licence can be lengthy. In fact, the May 2026 final report of the Independent Review of the Enhanced Regulatory Sandbox, makes the following point about the timeframe for obtaining a licence from ASIC, who are the financial services regulator:

While ASIC does not commit to a specific timeframe for deciding on license applications, it does target making decisions on 70% of complete applications within 150 days and 90% within 240 days.

Whilst we have no doubt that this process could be much quicker, it is also important to emphasise that this process of licencing is a very important process. Financial advice is a profession where there is ongoing liability for the advice that is provided. Poor financial advice can have significant and long term consequences for the clients. The clients of financial advisers have the option to make a complaint to the Australian Financial Complaints Authority (AFCA) and they can do this up until six years after becoming aware of any loss that they have sustained. The responsibility for these complaints rests with the licensee, who by the time of making the complaint may no longer operate.

The financial advice sector is subject to a compensation scheme of last resort (CSLR), where any client who has an unpaid AFCA determination related to a financial advice licensee, that subsequently goes into liquidation, can claim compensation from the CSLR, which is funded by other ongoing businesses within the sector. This scheme, that commenced in 2024, was expected to cost less than \$10 million per year (Treasury July 2021). On 2 July 2026, the CSLR announced that the cost of the scheme for the financial advice sector in 2026/27 would be \$190.3 million. This is 19 times what Treasury projected only five years ago. These losses have largely been driven by the collapse of managed investment schemes (MISs) such as those related to Dixon Advisory, Shield and First Guardian. Financial advisers are therefore very circumspect in terms of people rapidly entering the profession or leaving the profession quickly. This is one sector where business dynamism comes with complications.

The CSLR is a scheme that only captures four sectors of the financial services industry, the most significant of which is financial advice. Clients of financial advice licensees who go into liquidation are able to access protection from the CSLR, whereas the clients of MISs are not covered under the scheme, and the only way that these investors can seek compensation is to argue that they received inappropriate

financial advice from a financial adviser. Thus, the advised clients of these schemes will always seek to make a complaint against their financial adviser in order to access the CSLR, no matter how negligent or criminal the conduct of the MIS was. The CSLR has a number of problems that the Government has recently consulted on that need to be fixed as a matter of urgency. The cost of the CSLR and the uncertainty that it creates is presenting a problem for the sustainability of the financial advice profession, with the cost of advice increasing and more advisers reconsidering their commitment to continue.

Issues related to Insolvency

We note the inquiry's consideration of the design and operation of the Australian insolvency framework. On this point we believe that it is appropriate to highlight some issues with respect to the CSLR and what we believe to be phoenixing activity. Any changes to the Australian insolvency framework will need to make this much more difficult to undertake, not easier. Insolvency should not be an easy solution for those who have caused detriment to others.

In this regard there have been a number of cases that have received a lot of publicity with respect to the CSLR. The most significant case has been Dixon Advisory, which is expected to ultimately cost the CSLR as much as \$300 million. Dixon Advisory was a subsidiary of E&P Financial Group. Clients of Dixon Advisory were recommended to invest a substantial amount of money into an MIS called the US Masters Residential Property Fund (URF). The URF invested in residences in New York and New Jersey. Companies associated with Dixon Advisory made hundreds of millions of dollars from the work involved in the renovation and management of these properties. The URF declined substantially in value and clients started to complain about the quality of the advice related to investing in URF and other in-house products. In January 2022, Dixon Advisory was put into administration. The clients and advisers were transferred to another financial advice business within the same group for no payment. Despite claims amounting to hundreds of millions of dollars, E&P Financial Group were able to settle with the administrators and walk away after making a contribution of \$4 million. Thousands of complaints have been submitted to the CSLR and in fact compensation paid by the CSLR has been invested by these same clients with the E&P Financial Group.

In another case, a financial advice business was placed into administration/liquidation in 2023. In the year of going into administration/liquidation, the advisers were transferred to another business in the same Group for no payment. The subsidiary business going into liquidation paid a dividend to the parent in the year of going into administration that was used to cancel an intercompany loan owed by the parent entity. Complaints had been raised with AFCA and the company no longer had the money to pay them, resulting in cases going to the CSLR. The liquidator was eventually successful in recovering some funds.

Regrettably, it is now a well understood pathway to transfer advisers and clients to another business and continuing to operate under a different licensee, whilst leaving the cost of outstanding complaints to be picked up by other innocent operators in the profession through the CSLR.

It is important that any changes to the insolvency regime need to more carefully restrict phoenixing activity. It is also important that liquidators are empowered to pursue phoenixing activity and that those who are responsible are held to account.

Conclusion

The FAAA welcomes the opportunity to provide feedback to the Productivity Commission on the issue of business dynamism. We believe that this is a particularly important issue to address and we welcome the work that is being done in this space. We have sought to provide some sector specific commentary to address the issue of the consequences of rapid entry and exit into a profession where there are longer term consumer consequences.

If you have any questions about our submission, please do not hesitate to contact me.

Yours sincerely,

Phil Anderson

General Manager Policy, Advocacy and Standards
Financial Advice Association Australia (FAAA)