



FINANCIAL
SERVICES
INSTITUTE
of Australasia

20 March 2018

By email
financial.system@pc.gov.au

Dear Commissioner,

Re: Competition in the Financial System Draft Report

FINSIA welcomes the opportunity to provide a written submission about the Productivity Commission's draft report, 'Competition in the Australian Financial System'.

FINSIA appeared before the commission at its public hearing in Sydney on 1 March 2018. This submission expands on the comments made by FINSIA at the public hearing.

About FINSIA

Founded in 1886, FINSIA is Australasia's peak membership body for financial services professionals. Our 8000 plus members work across retail and business banking, funds management, superannuation, financial advice and capital markets for a range of institutional types including the emerging fintech market.

FINSIA's mission is to deepen trust in financial services by raising standards of professionalism. In this, FINSIA has identified three goals:

- > Drive an aspiration for conduct at a higher level of integrity than regulatory compliance to bolster the industry assets of trust and reputation.
- > Raise skill levels to improve customer outcomes and support the tradition of prudent stewardship for customers' finances.
- > Attract and retain the right talent to work in banking through the provision of a professional pathway.

General comments on competition and professionalism

As the commission observes, information plays a crucial role in ensuring that markets are competitive and deliver good consumer outcomes. Adequacy and clarity of information about financial products and providers ensures that consumer choices are fair and transparent.

FINSIA agrees that competition is essential to good consumer outcomes, and sees that competition is an important part of defining industry-wide standards of conduct that apply to individuals.

FINSIA is part of the Global Banking Education Standards Board (GBESTB) — a global initiative to define standards of ethics education for banking professionals.

The initial draft of the standards enshrines fair competition as an ethical principle desirable among all banking professionals that has regard to:

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- > demonstrating proper standards of market conduct at all times;
- > actively promoting greater trust in the banking industry;
- > supporting the common interests and reputation of the banking industry;
- > maintenance of a fair marketplace, as required by competition laws.

The GBESTB is consulting with its member institutes on the draft standards, and it is expected that the standards, when finalised, will apply to the member institutes from June 2018.

The landscape of retail banking

FINSIA recognises that the financial services industry is being changed fundamentally by technology, and this has implications for how services are delivered, as well as the competencies and skills required of industry participants. A challenge for FINSIA as a professional institute is how to respond to these changes and equip our members with the skills and networks to develop as trusted professionals in a climate of profound change.

Technology also raises regulatory challenges. As discussed in FINSIA's presentation to the commission hearings, FINSIA has publicly supported the establishment of the ASIC regulatory sandbox. It is appropriate that the development of new technologies is supported by a staged regulatory approach.

Notwithstanding the support that FINSIA has and continues to give to ASIC's regulatory approach in this area, FINSIA submits that fintechs should be able to demonstrate similar levels of competence to those required of individuals that personally provide advice, or other banking and financial services. In other words, a condition of the regulatory sandbox should be that fintechs have a plan to get out of the sandbox by satisfying regulatory requirements and building professional expertise.

A further area of work for ASIC and the industry at large is to ensure that new technologies are appropriately monitored and audited to ensure that consumer data is protected, and that principles of fairness, transparency and competitiveness apply.

FINSIA notes that the fintech industry is attempting to define an industry code of conduct. Naturally, we support this move and recommend that the fintech code be developed in collaboration with financial services industry incumbents.

The residential home loan market

Several recommendations in the draft report concern the residential home loan market, and these point to significant issues that are concurrently being explored by the Financial Services Royal Commission. Without second-guessing the Royal Commission findings, FINSIA suggests that remuneration structures in the broking sector be reviewed.

As stated at the hearing, the financial advice sector has already progressed down the path of professionalisation by reviewing incentives as well as ethical and education standards. FINSIA ultimately wishes to see professionalisation occur more broadly across financial services, including in the mortgage broking sector.

FINSIA supports recommendation 8.1 that ASIC impose a clear legal duty on mortgage aggregators owned by lenders to act in the consumer's best interests, and recommendation 8.2 concerning disclosure requirements for mortgage brokers.

Improving outcomes for consumers

Information request 12.1: Potential to increase the scope of financial advice to include some credit products

From FINSIA's perspective as a professional membership body concerned with raising professional standards, the primary concern with extending the scope of financial advice to include credit products is the impact on the consumer's ability to have access to advice and services from appropriately qualified professionals that are subject to a code of conduct.

However, the commission has indicated, and FINSIA agrees, that an underlying issue with extending financial advice in this way is the different incentive and licensing arrangements for credit and investment products. FINSIA is concerned that the full lifecycle impacts of change are considered. It is indicated that the impact of trail commissions is under review and this review is supported by FINSIA. However, care needs to be taken that a change does not generate a shift in product type recommendations which is, in the long run, adverse to customer best interests. For instance, this might be towards short-term fixed rate loans, which generate regular upfront commissions for brokers but incur application fees in addition to interest charges for customers.

Remuneration and incentive structures have been shown to have significant impacts on culture and conduct across the industry. Any final recommendations made by the commission should have regard to the alignment of remuneration and incentive structures in different parts of the financial services marketplace. FINSIA observes that the Financial Services Royal Commission is making extensive inquiries on these issues and this should be reflected in the Productivity Commission's ultimate recommendations.

Draft recommendation 12.1: Rename general advice to improve consumer understanding

While the commission has acknowledged that the definition of general advice is arguably a tangential issue to the current inquiry, FINSIA agrees that it is an important one that goes to customer interactions with the financial system and improving the fairness and transparency of these interactions.

FINSIA concurs with draft recommendation 12.1 that the term 'general advice' as currently defined in the Corporations Act has the potential to mislead consumers. As to its replacement, FINSIA suggests that:

- > The term advice should only be used where it is given by a provider that is appropriately qualified and skilled to do so — that is, the provider should meet an agreed standard of competence, and be bound by a code of professional conduct.
- > The replacement term has regard to the implementation of the Financial Adviser Standards and Ethics Authority's (FASEA) professionalisation framework — particularly the proposed requirement that advisers be bound by a code of conduct that is monitored by a professional body.
- > Where fintechs or incumbents provide advice through roboadvice tools, they should demonstrate a comparable level of competence to skilled individuals who provide personal financial advice and likewise be bound by a code of professional conduct.
- > Further, fintechs should be required to disclose the level of personalisation for an individual's financial circumstances that their tools provide, including disclosures

about ownership relationships where a fintech is wholly or substantially owned by an ADI.

- > Replacement terms are tested with ordinary consumers, and that consumers are educated about terms as revised.

Conclusion

FINSIA commends the commission's work to date and looks forward to delivery of the final report in July 2018.

Please refer any future enquiries to Caroline Falshaw A Fin, Head of Industry Affairs and Policy

With kind regards,

Chris Whitehead F Fin

CEO and Managing Director