



**AUSTRALIAN BANKERS' ASSOCIATION**

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23 March 2004

Dr Kathleen Dermody  
Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
The Senate  
Parliament House  
CANBERRA ACT 2600

By Email to: [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

Dear Dr Dermody,

**DRAFT REGULATIONS-CORPORATIONS AMENDMENT REGULATIONS 2003/04  
(BATCH 7) – REGULATION 7.1.29A**

The Australian Bankers' Association (ABA) provides this submission for the consideration of the Committee to assist it with this inquiry. The ABA has 23 member banks authorised to carry on banking business in Australia. Its membership comprises large and relatively small banks.

The ABA has considered the submission to the Committee dated 26 February 2004 by the three accounting bodies, The Institute of Chartered Accountants in Australia, the National Institute of Accountants and CPA Australia (the accountants' submission). The accountants' submission seeks an extension of a financial product advice exemption for accountants under regulation 7.1.29A that was limited to self managed superannuation funds to any "Superannuation Fund Structure".

The ABA does not support the accountants' submission. The ABA is also aware that there are concerns from other financial services organisations over the wider exemption being sought.

The financial services reform legislation (FSR) model was developed specifically to regulate function rather than institution. The FSR policy basis contemplates that the regulation of financial services should be competitively, and in the regulatory sense, neutral.

The ABA's concerns are that the exemption being sought -

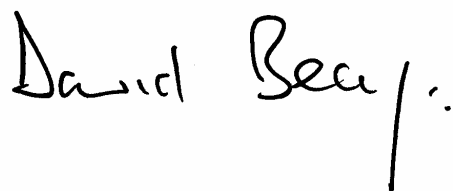
1. would undermine the policy of functional regulation in the FSR - the exemption being sought concerns a financial product advice function for which other participants in the financial services industry are required to hold an Australian Financial Services Licence or are otherwise required to be adequately trained for this purpose;
2. would not create a competitive and regulatory neutral situation;
3. would mean that accountants would not have to provide ASIC complying alternative dispute resolution facilities for clients or submit themselves to advisory training programs set out by ASIC in Policy Statement 146 and would be exempt from the Statement of Advice and other advisory requirements of the FSR that are designed to provide protection to investors;
4. would create an artificial line between advice about a fund's structure and advice about a fund's investment portfolio, management and operations - the ABA submits these two aspects are inseparable and there is an appreciable risk of accountant's advice straying into the latter area; and
5. would enable an accountant to provide "Superannuation Fund Structure" advice with the risk that the client would rely on this advice without receiving advice on the important financial and investment aspects of the client's decision.

The scope of the accountant's exemption in regulation 7.1.29 that is confined to advice in relation to the "establishment, operation, structuring or valuation" of a superannuation fund is appropriate and reflects the training required for an accountant's qualification that is different to the training requirements of a financial product adviser. The existing exemption in regulation 7.1.29A is arguably a reasonable and practical extension based on regulation 7.1.29. For the reasons expressed in this submission, the ABA submits that it would not be reasonable or in the interests of investors to extend the exemption as is being sought in the accountants' submission.

Further, it is mentioned that member banks of the ABA have devoted substantial resources and committed major expenditure over the past two years in preparation for the full commencement of the FSR on 11 March 2004. A great deal of banks' expenditures have been for training of staff ranging from the front line at the branch counter and in call centres to the investment planning and advisory functions of their operations. In summary, the costs of implementing FSR have been substantial but all participants in the financial services sector have met those costs with a view to supporting and complying with the FSR model, irrespective of the size of the organisation and whether they are small or large businesses.

The ABA hopes that this submission is of assistance to the Committee.

Yours sincerely,

A handwritten signature in black ink that reads "David Bell". The signature is written in a cursive style with a long vertical stroke at the end of the name.

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**David Bell**