

7 June 2018

Misconduct in the Banking, Superannuation and Financial Services Industry FINSIA's Submission to the Royal Commission

FINSIA welcomes the opportunity to provide a written submission to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission). FINSIA is the key professional membership body for individuals working across the full spectrum of the financial services industry in Australia. As such it provides a uniquely broad perspective on the financial sector. FINSIA's core mission to deepen trust in financial services by raising standards of professionalism, a requirement brought into sharp focus by the Royal Commission.

The industry has the opportunity to take responsibility for the current situation and provide a unified, rigorous and comprehensive solution that will result in a robust financial services industry worthy of consumer trust. A piecemeal and fractured approach will not meet the requirements or expectations of government, regulatory bodies or customers and will be to the detriment of the industry in the long term.

Regulators have stated many times they cannot regulate behaviour and the law cannot give guidance as to how a person should behave in every circumstance. The more one places a reliance on the law as a substitute for taking responsible decisions, the more one devalues ethics as it then becomes a question about what is required, rather than what is just the right thing to do.

FINSIA has reviewed professional banking models in other jurisdictions (Refer to Appendix A). FINSIA has conducted consumer research of over 2000 respondents by the RFi Group between 22nd February and 1st March 2018. Respondents that took part are either main or joint decision makers when it comes to their banking (Refer to Appendix B).

OUR PURPOSE

Raising industry standards of professionalism is key to reducing poor customer outcomes and improving consumer trust.

KEY RECOMMENDATIONS

- 1. Establish professional standards of conduct and competence for the industry**
 - Establish an independent standards body
 - Formalise the role of professional membership bodies
 - Underpin the standards with the Banking and Finance Oath
 - Improve individual practitioner monitoring and disciplinary measures
- 2. Require completion of professional qualifications at defined roles and levels of seniority**
- 3. Implement an annual certification process to provide a Statement of Professional Standing**

KEY OUTCOME

Improved industry professionalism must form a necessary and integral part of the response to the Royal Commission's findings.

SPECIFIC RECOMMENDATIONS

1. Establish professional standards of conduct and competence for the industry

The first step is the development and introduction of standards of conduct and competence for defined critical roles in the industry. These standards must be explicit and set out the minimum competencies required for key roles in the industry at every level.

Industry-led standards, supplemented by regulation where required, is the best approach. Ultimately support for professional aspiration and a professional culture will be far more successful than prescriptive regulation and a compliance mindset. Any standards established by the industry must go meaningfully beyond regulatory minimums and be supported by organisational culture and strong disciplinary processes.

The Royal Commission has demonstrated that regulation alone can drive a singular focus on compliance and legislation as a hurdle to be overcome and a 'race to the bottom' that is contrary to consumers' interests.

It is critical that the standards of professional conduct and competence ensure customers' interests are considered first and are written in simple language so that they are easy for customers to understand. For standards to be effective customers need to be able to easily recognise when their banker/adviser has met the standards and to understand the disciplinary action that will be enforced should breaches occur.

1.1 Establish an independent standards body

FINSIA supports the formation of an independent body to govern the industry wide standards of conduct and competence. We have termed this the Professional Banking Council (PBC). This council would oversee the setting, implementation and rigorous monitoring of agreed standards. It needs to be constituted in a form that will establish credibility, manage conflicts of interest and support the purpose of achieving the best possible community outcomes from financial services.

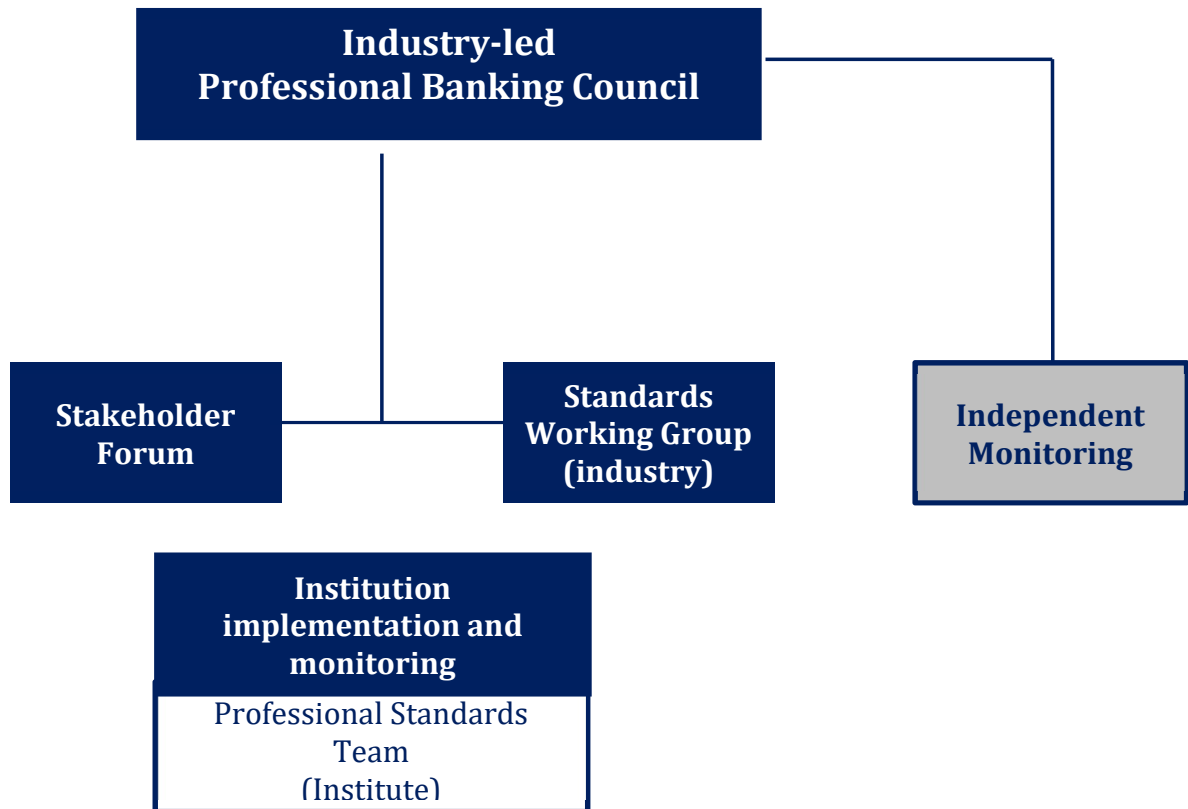
Individual accountability and maintenance of consistent standards across the broader industry cannot be effectively achieved by individual bank monitoring and internal codes of conduct alone.

The PBC would monitor compliance with the standards including that of industry institutes and professional membership bodies. In the event of an individual practitioner breaching industry standards, peer-sanctioned disciplinary process must be free of conflicts of interest and practitioners cannot arbitrage disciplinary processes or penalties across professional bodies. The PBC would work closely in support of the disciplinary processes of relevant professional membership bodies and regulators to ensure disciplinary measures are consistent and upheld.

An Independent Monitoring Panel would form part of the PBC model and acts as a fully independent body to monitor the effectiveness of the standards and the extent to which the PBC aims are being delivered.

Establishment of such a council would require the support and commitment from the many diverse institutions across the industry. FINSIA strongly believes that genuine industry-led reform, backed up by regulation, is preferable to regulation alone. A regulatory driven approach runs the risk of encouraging organisational behavior designed to meet basic regulatory compliance requirements rather than increased overall professionalism and better customer outcomes.

A suggested framework for the roles for standards setting is below:



The Professional Banking Council

Council members representing member firms will expect to have the level of seniority and requisite skills and experience to exert influence across their organisation and promote the work of the Professional Banking Council.

Stakeholder Forum

The key role of this forum will provide feedback on the activities of the Professional Banking Council, including the development of the standards. To avoid duplication, similar forums such as the ABA Stakeholder Forum could provide this consultation.

Standards Working Group

The development of the standards will be guided by the Standards Working Group. This working group would consist of suitable representatives from member banks.

Independent Monitoring Panel

The Independent Monitoring Panel will be fully independent of the Professional Banking Council and its constituent member banks. Its role is to monitor the effectiveness of the standards and the extent to which the Professional Banking Council aims are being delivered. This may be via a published annual audit.

Institution Implementation and Monitoring

Institutions decide how they wish to meet the standards and are responsible for the implementation of appropriate monitoring systems.

Professional Standards Team

The professional institute will provide the resources for the Standards Team to support the work of the industry and Professional Banking Council. The Standards Team would be responsible for much of the standards research and development work.

1.2 Formalise the role of professional membership bodies

Representative membership bodies that assist in the maintenance of professional standards are core to the concept of professions. Membership needs to be mandatory for defined critical roles for such a model to work. Professional membership needs to run in parallel with the setting of professional standards of conduct and competence. This needs to be supported by the Royal Commission legislative recommendations.

1.3 Underpin the standards with the Banking and Finance Oath

FINSIA endorses the Banking and Finance Oath (BFO) to underpin the Code of Professional Conduct. The Banking and Finance Oath is positioned to complement regulation and compliance. It provides an individual ethical framework and reinforces the ethical underpinnings that are essential for a profession.

The Banking and Finance Oath was developed in 2012 to restore trust and encourage ethical behaviour in the financial services industry.

It has two clear aims:

- To encourage a strong ethical framework for individuals in our financial services industry.
- To strengthen the values of integrity, honesty and trust that must underpin the industry's dealings with the Australian community.

The Oath provides individuals committed to high ethical standards with a way to 'stand up and be counted'. By taking the Oath publicly, signatories freely accept a set of professional obligations, and they choose to be accountable for upholding the tenets of the Oath and to call out behaviour that falls short.

Broadly speaking, researchers agree that oath taking leads to more ethical behaviour. However, not all oaths are created equal and there are criteria identified that make an oath more effective in leading ethical behaviour.

- An oath needs to be public, ideally taken publicly but also visible beyond the act. This encourages peer-to-peer accountability and allows the signatory to be held to account by all stakeholders. The BFO website lists all signatories.
- There needs to be a professional independent body that insures compliance with terms of the oath and penalises a lack of adherence. The BFO has a robust system in place with a review panel that is engaged if a signatory is called out for not adhering to the tenets.

The BFO encourages self-reflection, deliberation and individual accountability. There is the creation of a common language around ethics that is shared with signatories and a common ground when assessing a situation for ethical consideration.

Self-regulation is a vital part of being a professional. Oaths, in conjunction with codes of conduct and professional frameworks, are part of the creation of larger 'institutional frameworks' that are necessary to change the ethical nature of a given occupation or profession.

1.4 Improve individual practitioner monitoring and disciplinary measures

To monitor and maintain professional industry standards professional membership bodies, independent standards bodies and regulators must work together. FINSIA is seeking active engagement with regulators. It acknowledges this might include regulatory oversight of its governance, operations and performance.

It is noted that in many jurisdictions regulators have significant influence over their local banking institute, although the institute continues to ultimately work for the benefit of the industry and practitioners, with very strong industry engagement and influence also in place. This approach acts as a 'soft arm' of regulation to encourage the right values and standards. It is also a good means to support future industry strategy, for instance the development of standards and skills in digital banking that support international competitiveness and industry growth.

Any robust peer-sanctioned industry disciplinary process must have the following elements to be truly effective in ensuring standards of professionalism are maintained and consumers' interest are protected:

- A range of available sanctions that appropriately correspond to the severity of the standards breach.
- Close links with other professional membership bodies, independent standards bodies and relevant regulators to ensure pertinent information about members is shared. This needs to include oversight or access to information on investigations from other membership bodies and regulators.
- A proactive, adequately resourced investigative process.
- Any reprimands or sanctions against a member need to be consistently applied and upheld by all parties.
- A national, publicly available register that list any investigations or sanctions against a member.

FINSIA acknowledges that its, and other professional bodies, disciplinary process needs to be considerably strengthened and may require regulatory support to be most effective. For example, the requirement that all individuals obtain an annual Statement of Professional Standing confirming their membership standing, up to date CPD requirements and the status of any complaints or investigations against them. FINSIA is currently undertaking a review to determine what internal measures need to be put in place to meet future requirements.

The disciplinary process and professional codes upheld by the Australian Health Practitioner Regulation Agency may wish to be examined as a good example of a robust disciplinary process across a diverse and complex profession. Fifteen National Boards, each covering a specialty area, work together to regulate the health professions by sharing information, publishing a national register of practitioners that includes conditions or reprimands against the practitioner and upholding any disciplinary measures that are taken against a practitioner.

This is potentially a model that could be adopted to regulate the various financial services professions as a group, with national standards bodies (such as the PBC) for banking, financial advice, insurance, superannuation, etc.

2. Completion of Professional Qualifications at defined roles and levels of seniority

Industry standards are often met through the completion of professional qualifications and memberships requiring CPD with an in-built emphasis on ethics and integrity.

Unlike other comparable jurisdictions, Australia does not have professional qualification requirements in banking or financial services. This is a major weakness of the industry and must be addressed if material change in outcomes is to occur.

A professional banking qualifications pathway must be developed which meets or exceeds the industry standards and that enables portability of skills nationally and internationally. Formal recognition of academic qualifications would form part of the professional qualifications pathway, but more is needed to support professional standing.

Professional qualifications have the benefit of close engagement of practitioners in their development and maintenance to ensure relevance and practical application with the further benefit of professional networks.

FINSIA is developing professional pathways for the industry leveraging partnerships with the UK's Chartered Banker Institute and the Chartered Institute of Securities and Investment. We are ensuring the content is suitably tailored to the Australian market. The first of these qualifications (Professional Banking Fundamentals) was launched in May 2018. We will launch the remainder of these qualifications during 2018 and 2019.

These two professional qualification pathways enable people in the banking, wealth management, securities and investment professions to develop robust knowledge of their practice, including the requirements of different consumer groups across the lifecycle, with a practical understanding of how to apply high ethical standards in practice.

FINSIA's educational offering would not be the only means to achieve professional standards. In line with establishing industry standards of conduct and competence, there needs to be an agreed path of professional development for the whole financial services industry. As a non-profit professional membership body, FINSIA recommends a uniform approach to providing professional qualifications and CPD across the entire financial services sector. All professional education providers should be accredited and closely monitored. FINSIA believes that professional qualifications and associated CPD requirements from other professional membership bodies should be recognised as both relevant and equivalent if accredited.

3. Annual Certification Process to achieve a Statement of Professional Standing

To renew their membership with their relevant professional membership body each year and to continue as a practitioner, members must be able to demonstrate that they have met the required professional standards.

Several elements are required in a robust Certification Process to receive an annual Statement of Professional Standing from your professional membership body. An individual must:

- Confirm they have completed the required annual Professional Development hours (CPD requirements).
- Confirm that they are qualified to perform the role they are currently employed in.
- Confirm via independent audit that they, as a practitioner/adviser have no investigations open or pending against them. Any current sanctions against a practitioner would also be recorded via the annual certification process.

Meeting these requirements results in the confirmation and issue of an individual's Statement of Professional Standing for the next 12 months. The details of all industry individuals who have met these requirements and have a current Statement of Professional Standing should be held in a publicly accessible Membership Register at the relevant professional membership body.

The Membership Register would also serve as a record of any practitioner that has sanctions or disciplinary actions against them by their professional membership body. This register would work hand in glove with the proposed industry-wide monitoring process overseen by the Professional Banking Council to ensure that any sanctions against any individual are consistently recorded and applied.

UK Example for Statement of Professional Standing execution.

The Statement of Professional Standing model is successfully in place in the UK. The Financial Conduct Authority (FCA) is the conduct regulator for 58,000 financial services firms and financial markets in the UK and the prudential regulator for over 18,000 of those firms.

Their strategic objective is to ensure that the relevant markets function well and their operational objectives are to:

- *protect consumers – they secure an appropriate degree of protection for consumers*
- *protect financial markets – they protect and enhance the integrity of the UK financial system*
- *promote competition – they promote effective competition in the interests of consumers*

For example, The FCA requires that all retail investment advisers now hold a Statement of Professional Standing (SPS) that are awarded by one of seven professional membership bodies. The membership bodies themselves are audited every two years by the FCA. In practice this means that individuals need to belong to professional membership bodies.

In the Securities and Investments market one of the accredited professional membership bodies able to provide an SPS to practising individuals is the Chartered Institute for Securities and Investment.

A SPS can only be issued by an FCA appointed accredited membership body and confirms that an individual:

- *Has adhered to a recognised code of ethical standards – i.e. the professional body's code of ethics*
- *Holds the required qualifications for the activities they undertake*
- *Has completed appropriate CPD, usually 35 hours, and complied with APER (Statements of Principle and Code of Practice for Approved Persons). In practice this means that they do not have any disciplinary breaches or charges outstanding either in their firm's environment, or through their professional body. This is much wider condition than simple adherence to the rules.*

Source: Chartered Institute for Securities & Investment (UK)

Next steps

FINSIA believes this submission sets out the fundamental requirements for the increased professionalism of the banking, superannuation and financial services industry and looks forward to assisting in the progression of these recommendations in partnership with its industry peers.

Next steps include:

- Socialisation of the FINSIA submission and recommendations with broader financial services industry, including other professional membership bodies and regulators.

- Agree an approach to establishment of an Independent Standards Body (PBC) for banking with member banks, ABA, BFO, COBA and AFMA and other stakeholders.
- Convene a Standards Working Group with representatives from all member banks to research and determine professional standards and professional qualifications pathways.
- Alignment with recommendations handed down from the Royal Commission.
- Agree timeline, governance and reporting structures.

Conclusion and FINSIA Credentials

FINSIA has a heritage of over 130 years of connecting our members with industry-leading insights and influential networks to assist them in building their capabilities and advancing their careers. While strengthening the professional standing of our members we are working to deepen consumer trust by raising standards of professionalism across the industry. Ultimately this will deliver better outcomes for customers and for our community.

FINSIA's professionalisation strategy is not a knee-jerk reaction to the Royal Commission. The initial planning for FINSIA's professionalisation strategy, including implementing industry-wide standards, significantly predates the establishment of the Royal Commission and commenced in 2016. However, it must be acknowledged that FINSIA had not always taken the strong leadership positioned required by both members and consumers in the past decade. FINSIA is determined to rectify this and is strongly committed to its strategy of renewed professionalism to rebuild trust in the industry and re-establish pride for those who work within it.

FINSIA is uniquely positioned to assist in the establishment of industry professional standards of conduct and competency and the development of a Professional Code of Conduct due to its independence and heritage in the development, implementation and monitoring of industry standards and its international connectivity.

FINSIA is part of the Global Banking Education Standards Board (GBESTB) – a global initiative to define standards of ethics education for banking professionals. This global Standard may prove to be a useful starting point and excellent reference for the drafting of the Australian Industry Standards for Conduct and Competence and for agreeing a consistent, standardised pathway of professional qualifications for the industry.

Financial services is an international industry and Australia cannot operate in isolation in this process. We need to consider aligning and adhering to relevant global banking professional initiatives and standards that are best practice.

About FINSIA

Founded in 1886, FINSIA is Australia's leading individual membership body for financial services professionals. Our members are individuals who work across retail and business banking, funds management, superannuation, financial advice and capital markets for a range of organisations 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 of customers' money.
- Attract and retain the right talent to work in banking through the provision of a professional pathway.

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Appendix A: Australian industry comparison with international banking jurisdictions

Banking institutes in the UK, Asia and other international jurisdictions, have documented the positive gains that have resulted from the introduction of recognized professional standards in these markets.

It is clear that an integrated approach to professionalism is essential for the betterment of the industry. Initiatives such as industry standards of conduct and competence, a clear professional qualification pathway and the role of professional membership bodies, as well as regulatory support, have all emerged as key factors.

In Australia, unlike many other countries, there is currently no requirement, or de-facto standard, for bank employees to hold professional banking qualifications or to belong to a professional membership body with an industry-wide code of conduct for individuals. This makes Australia an outlier amongst advanced economies.

The Global Banking Standards Board (GBESTB), of which FINSIA is a member, recently announced the launch of the first Global Standard for Banking Education— the Ethics and Training for Professional Bankers Standard. The Standard is the first of its kind and brings together more than 25 banking institutes to provide the foundation for high-quality and consistent education of bankers.

The Standard enshrines ethical principles desirable amongst all banking professionals and has seven key recommendations:

1. General Recommendations regarding ethics education and training
2. Key ethical principles for professional bankers
3. Content of ethics education and training programs
4. Delivery of ethics education and training programs
5. Assessment of ethics education and training programs
6. Impact Measurement of the Standard
7. Public Declaration (i.e. GBESTB member bodies shall publicly endorse the Standard)

This Standard is a key step in setting out a uniform and consistent approach to the education of professional bankers worldwide and will, in FINSIA's view, assist in the development of a strong and consistent culture of customer and client focused ethical professionalism in banking. GBESTB is developing further standards to include best practice education in lending functions.

Appendix B: FINSIA Consumer Research Findings

FINSIA conducted nationally representative consumer research in February-March 2018 with over 2000 respondents to determine current levels of trust consumers have in the banking industry, what consumers want from their banks, and the role of professionalism and professional bodies in the industry.

Key findings included:

- Only one in two consumers highly trust the Australian banking industry whilst only two in five highly trust the CEO and senior executive team of their banks.
- 57% of consumers believe the Australian banking industry as a whole does not have high ethical standards.
- Consumers' belief in high ethical standards leads to greater trust in the banking industry.
- Two in five consumers say all staff should have professional qualifications, with 75% of consumers believing that all senior staff should hold professional qualifications.
- Two out of three consumers also believe there is a clear difference between academic and professional qualifications – mainly around the level of experience and ongoing training and support for ethical and industry standards.
- Three in five consumers would trust their bank more if more staff had professional standards.
- 19% of consumers aged between 25 and 44 would change banks to be served by staff who were more professionally qualified.
- Four out of five respondents believe that it is important to have a professional membership body overseeing industry standards to ensure they are being adhered to and maintained.
- Consumers believe the three leading activities carried out by professional membership bodies that most contribute to ethical behaviour in the financial sector are:
 1. Adhering to the membership body's code of professional conduct and disciplining those who breach the code's standards.
 2. Overseeing continuing professional development (CPD)
 3. Providing guidance and advice on ethical issues.

We have also surveyed our membership and over 70% of FINSIA's members agree that increased professionalism is a minimum requirement to restore consumer confidence and trust in financial services.