Legitimacy of the current Australian Financial Services Licensee-authorised representative licensing model: Theory and Australian empirical evidence

A thesis submitted in fulfilment of the requirements for the degree of

Doctor of Philosophy

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Master of Commerce and Management in Financial Management (Lincoln University, New Zealand), Diploma in Management (University of Canterbury, New Zealand)
Baccalaureus Commercii Honores (Nelson Mandela Metropolitan University, Republic of South Africa)
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April 2018
DECLARATION

I certify that except where due acknowledgement has been made, the work is that of the author alone; the work has not been submitted previously, in whole or in part, to qualify for any other academic award; the content of the thesis is the result of work, which has been carried out since the official commencement date of the approved research program; any editorial work, paid or unpaid, carried out by a third party is acknowledged; and, ethics procedures and guidelines have been followed.

I acknowledge the support I have received for my research through the provision of an Australian Government Research Training Program Scholarship.

Angelique Nadia Sweetman McInnes

30 April 2018
TOEWYDING

Aan my oorlede liefste liefdevolle ouers,

Alettha, Elizabetha Sweetman (nee Horn)
(7 Desember 1945 – 10 Oktober 2009)

en

Aidan Albert Fredrick Sweetman
(2 Februarie 1945 – 9 September 2014)

Ek dra hierdie werk aan u toe.

Met u jare lange aanmoediging en geloof
het ek uiteindelik ’n
Doktor in die Filosofie
behaal, net soos u verwag het.

Alhoewel u nie meer saam met my is
om in hierdie prestatie te deel nie,
Ek weet u is altyd met my in die gees.

Ek dank u vir u toegewyde offers en liefde
wat my tot hierdie oomblik toe geleë het.

Met rose liefdevolle liefde, u dogter

Angie
ACKNOWLEDGEMENTS

Now this work is completed, I acknowledge foremost, my God and Saviour. Next, I am eternally grateful to those who were knowingly, and unknowingly, part of this journey. Most importantly, my earnest gratitude goes to Hugh, a husband like no other, as well as our loving children, Kaitlin, Calum and Tegan. While you watched me sit behind my laptop in the living room for several years, together we experienced a rollercoaster ride of setbacks and breakthroughs. Your love, sacrifices, understanding and support were the main contributors to the success of this research. Sorry for the high emotional, mental, social and even physical price we all paid during this difficult PhD journey. Apologies for my selfishness and neglect of my obligations and responsibilities as wife and mother to you all during this ride. Forgive me for not being present when you needed me most. Recognitions also extends to my extended family, friends and acquaintances for keeping in touch with the hermit I have become.

I specially acknowledge the dedication, patience and guidance of Associate Professor Abdullahi D. Ahmed [Ahmed]. Doctor Maryam Safari and Doctor Daniel Richards your encouragement, together with the support from the academic and professional staff at RMIT’s School of Accounting, Flinders University’s Business School, and Central Queensland University’s School of Business and Law, has also not gone unnoticed. A special mention goes to Professor Pi-Shen Seet who, unknown to him, played a vital role in the success of this thesis. To you I am sincerely grateful for your suggestion to read the literature on legitimacy and institutional theory during a question and answer session at one of my presentations on the topic. Doing so led to the formulation of a key part of the theoretical framework for this study.

Next, I thank Simon Hoyle for giving this research media attention. I am grateful to Tom Reddacliff, Russell Galt, Troy Penney, Sonnie Bailey, Aleks Vickovich and those many unnamed financial planners for their constructive critical commentaries via the survey, social media, email, face-to-face and telephone. Thank you also to the attendees at the Annual Personal Finance and Investment Symposiums of 2014, 2015, 2016 and 2017 for listening and providing valuable critical feedback on several conference papers relating to this research. My gratitude extends to the Financial Planning Research Journal team for publishing a paper on this controversial matter.

To Gill Lilley and my sister Antoinette Sweetman, thank you for taking on the daunting task of meticulously proof-reading your first PhD thesis. Also, to the authors in the reference list, thank you for your dedication to publish your respected works for me to cite.
EXECUTIVE SUMMARY

The purpose of this research is to investigate the legitimacy of the current Australian Financial Services licensee-authorised representative licensing model [also referred to as the AFSL-AR or licensee-adviser licensing model]. This research makes specific reference to the issue of conflict of interest from association and independence in relation to the Commonwealth Corporations Act 2001 [the Act]. Negative media attention, unsubstantiated personal assertions and hearsay by lobby groups in practice, troubled the longstanding debate around licensing advisers through third-party product-conflicted commercially oriented licensees. Surprising, this matter has not yet received any scholarly attention. Looking at the existing literature, the absence of a normative theoretical framework within the financial planning discipline, limited the formulation of empirically testable models to properly define, measure and examine legitimacy to collect substantiated evidence. To address some of the existing challenges and provide both theoretical and empirical analysis, this research examines the extent to which the current individual advisers’ licensing through third-party licensees is problematic. To this end, the study assessed the legitimacy of the current AFSL-AR licensing model using principal-agent theory in conjunction with four identified objectives of the Act. Further, the researchers applied the legitimacy types conceptualised within financial planning theory by adopting, extending and applying the legitimacy theoretical framework Suchman (1995) developed. Finally, this investigation studied the independent professional individual self-regulation mechanism, based on the regulatory regimes of other well-establish professions, to determine how financial planning adviser regulation compares.

Within the current regulatory structure, Australian financial advisers face a dual-agency role when licensed via third-party product-conflicted commercially oriented licensees. While considering the need for regulatory compliance and viability of commercial activities, advisers serving both the commercial interest of licensees and the best interests of clients simultaneously, leads to conflict of interest from association. Thus, the current licensee-adviser licensing structure raises serious doubts in its consistencies to achieve four identified objectives of the Act. Consequently, these inconsistencies delegitimise the current licensee-adviser licensing model when tested against Suchman’s legitimacy criteria. Furthermore, if the claim of illegitimacy is true, then a strong argument exists to replace the current, institutional licensing via multiple licensees with individual licensing via a single independent body, like other professions, such as doctors, lawyers and accountants.
While noting the existing licensing model could be a potential source of lack of public confidence and trust in financial services delivery, the analysis focussed on four key objectives when examining the legitimacy of the current licensing model. First, the research investigated to what extent advisers perceive a dual-agency role arising from licensing advisers through third-party licensees, as specified in the Act, where they service both the interests of licensees and their clients simultaneously, leading to conflict of interest from association. Second, the investigation examined the extent to which advisers perceive licensing authorised representatives via third-party licensees is inconsistent with four identified objectives of the Act. Third, the extent advisers perceive the current licensee-adviser licensing model as legitimate based on Suchman’s (1995) legitimacy academic framework applied to financial planning theory was assessed. Fourth, the extent financial advisers perceive individual licensing through an independent professional standards body, like other professions, is a worthy replacement alternative for consideration was considered.

Initially, a critical literature review of the principal-agent theory, regulatory obligations, legitimacy theory and expected standards of an accredited true professional to develop the theoretical underpinnings of an acceptable licensing model was undertaken. To achieve the abovementioned research objectives, a post-positivist research paradigm formed the basis for the choice of research strategies, methodology and research design. Using mixed methods methodology, the researchers conducted an empirical survey of 4,000 authorised representatives selected from the Australian Securities and Investments Commission [ASIC] Adviser Register via a probability random sampling approach. Utilising a parallel convergent design, both quantitative and qualitative data was collected simultaneously to integrate together into the overall interpretation of the results. Data collection involved emailing participants across Australia an online, semi-structured survey questionnaire of open-ended and closed-ended questions developed and hosted on the Qualtrics server. Structural equation modelling [SEM] technique empirically analysed the quantitative data, while identifying causative pathways. In undertaking the qualitative data analysis, the investigators applied constant comparative technique with a focus on content analysis of the specific words written by respondents. To generate common concepts, categories, patterns and themes the researcher sorted and analysed the data in terms of frequency, meanings, and associations of words quoted by survey informants. During analysis these commonalities were integrated into the the overall interpretation of the results of the quantitative data.
Empirical results revealed advisers felt licensing via third-party product-aligned commercially oriented licensees turns them into dual agents facing conflict of interest from association. For different reasons, the regulator ASIC, AFS licensees, their advisers and clients face *caveat emptor*, when advisers serve the commercial interest of licensees and best interests of clients simultaneously. For example, ASIC, licensees and their advisers risk their reputations. While their clients risk suffering financial losses when receiving recommendations biased by conflicted licensees’ in-house products and commercial interest. In support of the dual-agency role findings, empirically clear from the perspective of advisers, this structure of licensing displays inconsistencies with four identified objectives of the Commonwealth Corporations Act 2001. In the presence of minority counter claims, survey respondents pointed out three top drivers leading to these illegitimacy tendencies. Ranked from most significant to least, they included: (1) unintentional [and intentional] breaches of the statutory best interest duty, (2) practices misaligning adviser-client interests, and (3) licensees’ commercial interests compromising the best interest duty. These potential contraventions of statutory compliance requirements can encourage class action. Evidence also established even highly qualified and professional advisers lack professional autonomy and power to stop AFS licensees from controlling their professional ethics with key performance indicators, sales targets and threats of job and remuneration losses to promote a product sales culture. Accordingly, these results strengthened arguments for individual licensing through a single independent professional body, like other professions. Thus, the findings support the notion to turn financial advisers into recognised accredited professionals, who are subject to the same legal professional, educational, ethical and entry standards as other true professionals. In the presence of minority critics, survey respondents make known a preference for licensing via such a single independent body. However, they fear losing the subsidised support services offered by their licensees, such as software, training, professional indemnity, research, compliance, business, legal and back office support. Furthermore, another major concern for advisers, should they move to individual licensing, would be the cost implications of individual licensing. Additionally, qualitative evidence determined numerous unresolved issues around licensing consist of: practicality, professional indemnity, approved product lists, buyer of last resort agreements, ‘white’ and ‘private’ label products, and vertical integration. In addition, advisers expressed, no matter what licensing regime was in operation, AFS licensees would always find ways to incentivise advisers to distribute their products. These concerns and unresolved issues requires further investigation in future research.
When considering the findings, licensing advisers via product-conflicted commercially oriented third-party licensees threatens independence, a key characteristic of a profession. Additionally, when attention to any conflict of interest is critical to a professional, this manner of licensing results in conflict of interest from association. As part of policy recommendations, the legislated Financial Adviser Standards and Ethics Authority [FASEA] tasked with professional standards, education and ethics could evolve to also appoint, register, regulate, discipline and cease individual advisers to practise their craft as recognised accredited professionals. Since the financial planning profession is growing rapidly, this single body should accredit financial advisers to practice their skill. In support of Kingsford Smith’s (2014) views, this single monopoly body is the most effective way to regulate the future financial planning profession. In comparison, multiple independent professional bodies covering multiple designations often accredited other professions, resulting in consequently multiple challenges. Moreover, the empirical results show, independently licensed advisers promote improvement in public trust and confidence. Most importantly, disconnecting individual advisers from AFS licensees will further the cause of professionalising the emerging financial planning industry into a recognised accredited profession. Another likely benefit of individual licensing encompasses incentivising university graduate talent to enter the financial advisory sector, because recognised professions have status. Based on the findings, all financial planning stakeholders should work together towards an individual licensing model, by drawing on the experience of other true professions.

Like other empirical studies, this research has several limitations. A balanced view of the current licensing model was difficult to present given the lack of scholarly attention and harmful commentary to this matter. It was not the intention to examine legitimacy at the micro- or tactical level. Instead, empirical validity of legitimacy happened at the macro- or strategic level because not many academics addressed this issue before. On that account, researchers should broaden the legitimacy criteria in time as more information becomes available. Industry superannuation licensees were excluded from the study because, unlike corporate retail superannuation who pay profits to their shareholders, they plough back any profits to benefit their members. Given the sensitive and controversial nature of the topic, the self-report design could have resulted in common method bias. However, researchers reported results to both include and exclude the evidence of common method bias to better identify the common direction of the relationships between the legitimacy criteria items.
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LIST OF FREQUENTLY USED ABBREVIATIONS

AARP   American Association of Retired Persons
aBIC   Sample size-adjusted Bayesian information criterion
ACL    Australian Credit Licence
ACT    Commonwealth Corporations Act 2001 or Corporations Act 2001
ADF    Asymptotically distribution free
AFS    Australian Financial Services
AFSL   Australian Financial Services Licence
AFSL-AR Australian Financial Services licensee-authorised representative
AGFI   Adjusted goodness of fit
AIC    Akaike information criterion
ANOVA  One-way analysis of variance
ANZ    Australia and New Zealand Banking Group Limited
APES 230 Accounting Professional Ethical Standards 230
APESB  Accounting Professionals and Ethics Standards Board
APL    Approved product list
AQF    Australian Qualifications Framework
AR or Auth.rep Authorised representative
ASIC  Australian Securities and Investments Commission
ASV    Average shared variance
AVE    Average variance extracted
BCHEAN Business College Human Ethics Advisory Network
BD     Broker-dealer’s institution
BDM    Business Development Manager
BIC    Bayesian information criterion
BOLR   Buyer of last resort
CA ANZ Chartered Accountants Australia and New Zealand
CAIC   Consistent Akaike information criterion
CAR    Corporate authorised representative
CBA    Commonwealth Bank of Australia Limited
CFA    Confirmatory factor analysis
CFI    Comparative fit index
CFP    Certified Financial Planner
CI     Confidence interval
CLERP  Corporate Law Economic Reform Program
CLF    Common latent factor
CMIN   Chi-square value
CN     Critical sample size
COB    Conduct of business
CPAA   Certified Practicing Accountants Australia
CR or c.r. Critical ratios
CRCM   Composite reliability for congeneric measures model
CWTH   Commonwealth
<table>
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<th>Abbreviation</th>
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<tr>
<td>DF</td>
<td>Degrees of freedom</td>
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<tr>
<td>DOL</td>
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<td>E/CFA</td>
<td>Exploratory factor analysis within the confirmatory factor analysis framework</td>
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<td>Expected cross-validation index</td>
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<tr>
<td>EFA</td>
<td>Exploratory factor analysis</td>
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<td>EM</td>
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<td>EM</td>
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<td>Independent Professional Financial Planning Standards Board</td>
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<tr>
<td>LIC</td>
<td>Life insurance corporation or life insurance company</td>
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<tr>
<td>M</td>
<td>Mean</td>
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<tr>
<td>MAR</td>
<td>Missing at random</td>
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<td>Maximum</td>
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<td>Multigroup confirmatory factor analysis</td>
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<td>Minimum</td>
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<td>Maximum likelihood estimation</td>
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<td>Maximum shared variance</td>
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<td>NAPFA</td>
<td>National Association of Personal Financial Advice</td>
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<td>NASAA</td>
<td>North American Securities Administrators Association</td>
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<tr>
<td>NFI</td>
<td>Normed fit index</td>
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<tr>
<td>NNFI</td>
<td>Non-normed fit index</td>
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<tr>
<td>N.S.</td>
<td>Not significant or insignificant</td>
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NSW  New South Wales
OCIE  Office of Compliance Inspections and Examinations
PCLOSE  Closeness of fit
PI  Professional indemnity
PJC  Parliamentary Joint Committee
PS  Policy Statements
PSA  Professional Standards Authority
PSC  Professional Standards Councils
QCF  Qualifications and Credit Framework
RAR  ‘Restricted’ advisers or appointed representatives
RDR  Retail Distribution Review
RG  Regulatory Guides
RIA  Registered investment advisers
RIAR  Registered independent advice representative
RMSEA  Root mean square error of approximation
RO  Ruler-option
RR  Broker-dealer registered representative
SB  Satorra & Bentler
SD  Standard deviation
SE  Standard errors
SEC  Securities and Exchange Commission
SEM  Structural equation modelling
SMSF  Self-managed superannuation funds
SOA  Statement of Advice
SPS  Statement of Professional Standing
SRC  Standardised residual covariance
SRO  Self-regulatory organisation
STD  Standard
TFI  Tucker-Lewis fit index
UK  United Kingdom
US  United States of America
VIF  Variable inflation factor
%  Per cent
df  Degrees of freedom
n  Sample size
p  Statistical significance level
r²  Squared multiple correlation
S. or sig.  Significance or significant
β  Beta, correlations
λ  Lambda standardised or unstandardised regression weights
χ²  Chi-square
z  Z-score
GLOSSARY OF DEFINITIONS FOR THIS RESEARCH

AFSL-AR  
Current Australian Financial Services licensee-authorised representative licensing model or licensee-adviser licensing model.

Agent  
Financial adviser or authorised representative.

Conflict of interest by or from association  
Conflict advisers face by being directly or indirectly associated with, owned by or affiliated to licensees who distribute, issue, and/or manufacture in-house financial products.

Dual-agency role  
Licensee-adviser-client role.

Independent or independence  
Refers to the definition of s923A of the Act.

Licensing  
Includes appointing, authorising and regulating individual financial advisers.

Principal  
Client or Licensee.

True professional  
In the context of this thesis refers to professionals who are formally recognised and accredited under the Professional Standards legislation and schemes.

caveat emptor  
Let the buyer beware.

etc.  
Et cetera.

ex  
Without.

cum  
With.

inter alia  
Among other things.

vice versa  
In the opposite direction from the way, it was previously stated.

vis-à-vis  
In relation to or about.

viz  
Videlicet, namely.

Dual [a1]  
Advisers are dual agents.

Simult [a2]  
Simultaneously serving licensee and client.

BestRev [a3]  
Generating revenue for licensees and serving clients best interests.

AlignAct [a5]  
Aligning adviser-client interests is difficult.

CoIAct [a6]  
Unavoidable conflicts of interest present.

FiducAct [a7]  
Greater risk of breaching best interest duty.
CompAct [a8] Advisers limited from competing fairly.
Consequential [a10] Consequential illegitimacy - Licensee commercial interests compromising adviser best interest duty.
Procedural [a11] Procedural illegitimacy - Sales policies, procedures & practices window dressed to appear to comply with the Act.
Structural [a4] Structural illegitimacy - conflicts of interest from association.
Personal [a13] Personal illegitimacy - individual leaders of aligned licensees aim to protect their product distribution channels when lobbying government.
Cognitive [a14] Cultural-cognitive illegitimacy - public cannot clearly distinguish s923A independent advisers from those advisers who are not.
Trust [a16] Individual adviser licensing will improve public trust and confidence in advisers.
Independence [a17] Individual adviser licensing will promote independence from product-biased licensees.
EliminateCoI [a18] Individual licence should be in line with other professions, such as accounting, legal and medical.
IPFPSB [a19] Advisers prefer individual licence through a single independent registration, competency, education, conduct, standards and disciplinary board.
EliminateCoI [a21] Individual licensing through a single independent professional standards board will eliminate conflict of interest from association.
Old Structural (deleted) [a12] When advisers leave their licensee, unless they sign up with another licensee, they lose their ability to work.
Defend (deleted) [a15] Media exposure of scandals has resulted in financial advisers defending their relationship/association/affiliation with their licensee to clients.
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AND MEDIA INTEREST

Publication:


Symposium papers:


Media Interest:

Eight media articles were published because of this research.
CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

This research investigates the legitimacy of the current Australian Financial Services licensee-authorised representative licensing model, as specified in the Commonwealth Corporations Act 2001.

A longstanding debate in the media and practice initiated examining the legitimacy of appointing, authorising and regulating [henceforth, licensing] individual financial advisers through third party, institutional product-conflicted commercially oriented, licensees. Unsupported damaging statements, personal assertions and hearsay seem evident in most mainstream commentaries in the media and in practice. A sticking point is the lack of a theoretical framework within financial planning theory to define, model and measure legitimacy required to obtain substantiated evidence.

This thesis rectifies the deficiency in scholarly attention to this matter by developing a new conceptualised notional framework for the financial planning discipline. It does so by considering theories in agency, legislation, legitimacy and the independent individual regulatory regimes in other professions, applied to financial planning theory to examine the legitimacy of the current Australian Financial Services licensee-authorised representative licensing model [henceforth, AFSL-AR or licensee-adviser licensing model].

Understanding the underlying problem of licensing authorised representatives [ARs] via third-party licensees starts with a brief historical background discussion on the legislative framework of the AFSL-AR licensing model. A simple description of the licensee-adviser licensing structure continues the discussion. Then the trends in licensing advisers in the United States and United Kingdom compared to Australia is deliberated. Against this brief backdrop, this chapter develops the normative conceptual model to clarify the nature of the problem further. Afterwards, to narrow the scope of this complex study, the primary and secondary research objectives shadow the conversation. Then this introductory chapter outlines the methodology used to conduct the investigation. Subsequently, the chapter highlights the importance of examining the legitimacy of the existing licensee-adviser licensing model. In the closing statements, this introductory chapter presents the plan of the study.
1.2 BACKGROUND TO THE STUDY

1.2.1 Legislative background to the AFSL-AR licensing model

The start of the licensing debate, in and outside of the Australian Parliament, has roots dating back to 1996. The Wallis Financial Systems Inquiry recommendations published in 1997 and the implementation of the subsequent Corporate Law Economic Reform Program [CLERP] (Corbett 1999; Overland 2007) led to the implementation of the Commonwealth Financial Services Reform Act 2001 [FSRA] (Hutson & Vonnessen 2003; Parliamentary Joint Committee on Corporations and Financial Services 2014). FSRA repealed the old licensing system of multiple licences regulating the activities of insurance agencies, brokers, securities dealers, accountants and solicitors (Pearson 2006b). Chapter 7 in the new Commonwealth Corporations Act 2001 replaced the old corporation’s legislation. From early 2002 (Australian Securities and Investments Commission 2016j), a single licensing system (Banister et al. 2013), namely the Australian Financial Services License [AFSL], enforced by the regulator Australian Securities and Investments Commission [ASIC], authorised financial institutions [licensees] and their authorised representatives to offer financial products and services to the public (Hutson & Vonnessen 2003; Pearson 2006b).

Then the 2008 Global Financial Crisis happened, which was followed by subsequent corporate scandal exposures of licensees’ and their advisers’ unethical behaviour. These scandals damaged public trust and confidence in the financial advice industry (Ap 2011; Taylor, Juchau & Houterman 2013). To deal with the unethical behaviour triggered by conflicts of interest (Alexander 2011) from product sales (Burke & Hung 2015), the Australian Government responded with the Parliamentary Joint Committee on Corporations and Financial Services (2009b) [Ripoll Inquiry] (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Australian Government The Treasury 2014). This inquiry led to the enactment of the Future of Financial Advice [FOFA] legislation (Australian Government The Treasury 2014). One of FOFA’s intentions included improving public trust and confidence in advisers (Ap 2011). Thus, began a legal process of professionalising the financial advice sector away from a sales-driven distribution network (Burke & Hung 2015). Although Ripoll (Parliamentary Joint Committee on Corporations and Financial Services 2009b) recommended individual licensing and an independent industry standards board, the Government decided to start with consumer credit legislation to regulate conflicts of interest relating to advice on loan products (Banister et al. 2013). From mid-2010 the enforcement of an Australian Credit
Licence [ACL] as specified in the National Consumer Credit Protection Regulations 2010 (Holley Nethercoate Commercial & Financial Services Lawyers 2014a) happened. Subsequently, additional regulation moved FOFA away from single licensing back to multiple overlapping ACLs, AFSLs and limited AFSLs (Banister et al. 2013).

More financial corporate scandals ensued, specifically the well-known Trio Capital and Storm Financial debacles (Commonwealth of Australia 2016c). Further confirming critics’ misgivings of FOFA, *vis-à-vis*: FOFA proposals did not prevent licensees’ and their advisers’ unethical behaviour (West 2009; Hartnett 2010). Subsequently, three tranches of FOFA legislation were implemented to amend specific clauses of the Act (Kell 2013). Operative mid-2012, with mandatory compliance commencing mid-2013 (Burke & Hung 2015), the Corporations Amendment (Future of Financial Advice) Act 2012 [first tranche] and Corporations Amendment (Further Future of Financial Advice Measures) 2012 [second tranche] were enacted as separate yet related FOFA regulations (North 2015). Initially ASIC took a facilitative approach to compliance. Thereafter, all AFSL licensees had to comply (Australian Securities and Investments Commission 2016g). The Corporations Amendment (Streamlining of Future of Financial Advice) Act 2014 [third tranche] was mooted on 19 November 2014 (Australian Securities and Investments Commission 2016g). The Australian Senate reversed the law back to the initial regulations before their implementation (Australian Securities and Investments Commission 2016g). In addition, the Corporations (Statements of Advice) Repeal Regulation 2014 revoked, on 16 December 2014, the Corporations Amendment (Statements of Advice) Regulation 2014\(^1\). Afterwards, the Government worked on foundations of these disallowed regulations. The Corporations Amendment (Revising Future of Financial Advice) Regulation 2014 and the Corporations Amendment (Financial Advice) Regulation 2014\(^2\) reinstated a few provisions in the disallowed legislation. These three tranches and successive regulations, unambiguously covered increasing ASIC’s powers, client’s best interest duty, annual fee disclosure statements, renewal notices where clients would opt in every two years to continue ongoing fee payments, as well as banning conflicted remuneration (Burke & Hung 2015; Corones & Irving 2016).

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In addition to the above regulatory changes, amendments were made to the previous accountants’ FSRA AFSL licensing exemptions clauses (Banister et al. 2013). Until mid-2016, accountant’s Regulation 7.1.29A exemption (Halsey & Halsey 2014) applied, allowing accountants to advise on certain financial products and services, *inter alia* self-managed superannuation funds [SMSFs] without an AFSL (Adams 2002). Since then, this exemption was repealed. Now accountants must hold a full, limited AFSL or become ARs under another licensee’s AFSL when making any recommendation relating to financial products and services, such as SMSFs (Global Accounting Alliance, Chartered Accountants Worldwide & charteredaccountantsanz.com 2016).

With FOFA reforms taking hold, opponents asserted the reforms were reactive (Valentine 2013), unnecessarily complex, a burden and reduced advice availability to the public by increasing advice costs (Mennen 2014). Accordingly, towards the end of 2013 the Australian Government announced a Financial System Inquiry [Murray Inquiry] reviewing the financial services industry’s overall strength (Commonwealth of Australia 2014a). Together with recommendations to simplify the system’s overall complexity, provide certainty, reduced compliance costs and lower administrative burdens (North 2015), Murray endorsed lifting professional, ethical and education standards among advisers (Parliamentary Joint Committee on Corporations and Financial Services 2014). Murray’s inquiry concluded with the implementation of the Corporations Amendment (Professional Standards of Financial Advisers) Act 2017, which was suspected, will influence the future licensing of individual financial advisers. Notable, during the Murray review’s consultation phase a brief dialogue in the Australian Senate explored a single individual financial licence for each financial adviser, rather than advisers being licensed via multiple institutional licensees (Commonwealth of Australia 2014e). Surprisingly, the final Murray report made no recommendations regarding individual licensing (Commonwealth of Australia 2014a). Instead, his report concluded the existing regulatory framework of product design, product distribution, disclosure and financial advice was insufficient to deliver reasonable adviser conduct to clients (Commonwealth of Australia 2014a). However, maybe this recent legislation is a first phase “policy nudge” (Ariely, Amir & Lobel 2008, p. 2098) from the Australian Government to advance the process

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of professionalising financial advisers. In this regard, this “policy nudge” (Ariely, Amir & Lobel 2008, p. 2098) was followed by “coercive measures” (Ariely, Amir & Lobel 2008, p. 2098) with the establishment of an independent standard setting body5, the Financial Adviser Standards and Ethics Authority (O’Dwyer 2017). Accordingly, this research explores advisers’ views of an independent body of this nature about individual licensing in terms of its potential consequential impact on the legitimacy of the current licensee-adviser licensing model.

1.2.2 The current Australian licensee-adviser licensing model

Supported by the Corporations Regulations 2001, Schedule 2 and 3 in the Corporations Amendment Regulations 2013 (No 3), Explanatory Memoranda and ASIC Regulatory Guides (Global Accounting Alliance, Chartered Accountants Worldwide & charteredaccountantsanz.com 2016), Part 7 Division 5 forms key parts in the Act relating to licensing financial institutions and their ARs (Jones 2012; Banister et al. 2013). Discussed in more detail in Chapter 2, with a few exceptions, the Corporations legislation6 permits three licensing options: 1) limited license; 2) full license (Teale 2008); or 3) authorised representative of an AFSL licensee. For example, under a limited AFSL, licensees may allow their ARs to advise on SMSFs, superannuation products, securities, simple managed investment schemes, general and life insurance, plus basic deposit products. Alternatively, licensees can obtain a full licence offering comprehensive ‘holistic’ personal advice7. Individual ARs do not require a licence as specified in section 911A of the Act, unless they deliver financial advice without appointment, supervision and training via an AFSL licensee (Parliamentary Joint Committee on Corporations and Financial Services 2009b, p. 23).

Insufficiently addressed in scholarly literature, s923A of the Act carefully distinguishes between two categories, identities, roles and/or definitions of licensees, advisers and/or advice. Namely, licensees and their advisers are either truly “independent” [“non-aligned”, “non-institutionally owned”, “independently owned”, “unbiased” and “impartial”], otherwise they are product or remuneration conflicted (Australian Securities and Investments Commission 2017a). Legally those who meet the strict independence requirements of section 923A of the Act are permitted to use the terms “independent”, “impartial”, “unbiased” or any related terms. Specifically, s923A compliant licensees and advisers have no direct or indirect ownership,
affiliation or association links to product issuers. With a few exceptions, they charge no commissions or asset-based fees. On the contrary, those who are product- or remuneration conflicted cannot legally refer to their services as “independent”, “impartial” or “unbiased”. Nor are they permitted to refer to themselves as “non-institutionally owned”, “independently owned” and “non-aligned”. In addition to the categories of licensees and advisers, North (2015) confirmed, the licensing regulations permitted the development of a range of business models among licensees and advisers covering a broad range of different structures and sizes.

ASIC enforces a legal process to appoint, authorise and regulate individual advisers through third-party licensees (Beal & McKeown 2009) prescribed in the Act. Fundamentally, licensees provide legitimacy for the actions of their financial advisers, both internally and externally, on behalf of ASIC, the Act’s enforcer. To do so licensees comply with the selection process (Bender 2011) and compliance system of authorising advisers as prescribed in the legislation (Bennett 2000). Additionally, from 31 March 2015, ARs must be registered on the ASIC Financial Adviser Register, which is publicly accessible. Consequently, a review of non-scholarly literature, which was apparent in practice and lacking in scholarly works (Holley Nethercoate Commercial & Financial Services Lawyers 2014a; Power 2015; Global Accounting Alliance, Chartered Accountants Worldwide & charteredaccountantsanz.com 2016), suggested outwardly ARs can only practise their craft when they are either: (1) self-employed and independent with their own AFSL, thus taking on the legal and financial accountability of the AFSL; (2) self-employed by becoming contracted/franchised via institutional licensees and using the licensees support services without taking on the legal and financial accountability of the AFSL; or (3) employees of institutional licensees with AFSLs whereby the legal and financial accountability of the AFSL lies with the licensee.

1.2.3 International trends of professional adviser licensing

Numerous writers (see for example conversations by Brean, Kryzanowski & Roberts 2011; Adamson 2012; Inderst & Ottaviani 2012e; Walker 2012; McMeel 2013; Bateman & Kingston 2014; Deloitte & Financial Services Council 2014) documented international interest in regulating individual financial advisers operating in the retail financial services sector. Like in Australian, policymakers in the United States [US] (Stolz 2009a; Trone 2009; Laby 2010; Kaissar 2016) and the United Kingdom [UK] (Reichman 2013) focus much of their regulations

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on lowering the risk to the public when dealing with financial services providers (Valentine 2008; Hartnett 2010; Bruce 2012; Kwon 2013). Apparent in these three specific countries, principal institutions or third-party affiliates\(^9\) appoint financial advisers to work as their agents\(^{10}\) to deliver financial and/or product sales recommendations on their behalf (Zabel 2010; Bateman & Kingston 2014; Burke & Hung 2015; Financial Conduct Authority 2015). These third-party affiliates and their advisers must register with their respective regulator\(^{11}\) (Zabel 2010; Bateman & Kingston 2014; Burke & Hung 2015; Financial Conduct Authority 2015).

In an article, Arman and Shackman (2012) discussed the ability of the Australian public to distinguish between the different designations in the medical, legal and accounting professions. Yet, they found the public could not distinguish between the different designations of financial advisers, *vis-à-vis* differentiate between independent and conflicted advisers. Bhargava (2009) and Finke, Huston and Waller (2009b) concurred, the US public faces a similar situation where they also find it challenging to distinguish between conflicted broker-dealer registered representatives licensed to sell securities or insurance products and independent registered investment advisers regulated to offer investment advice. According to Finke, Huston and Waller (2009b) both types of representatives were perceived to deliver similar services. However, in contrast to the approach by the United States, the United Kingdom has dropped the idea of a clear distinction between sales and advice, settling instead for independent advice and restricted advice (McMeel 2013). In Australia whether institutions are product-aligned or independent, they all have statutory fiduciary duty obligations as well as legal obligations to disclose all conflicts of interest (Bateman & Kingston 2012). After 10 April 2010, all US financial advisers, whether affiliated to product advisory institutions or truly independent institutions, are fiduciaries required to comply with statutory best interest duties and conflicts of interest requirements (United States Department of Labour 2017). Although the UK Government has disregarded a specific fiduciary duty requirement for UK financial advisers, it has imposed a duty of care, which is of a comparable standard to the Australian statutory fiduciary duty (Deloitte & Financial Services Council 2014).

\(^9\) US financial advisory institutions, US broker-dealer institutions, ‘UK restricted’ advice institutions, UK independent advice institutions and Australian Financial Services licensees.

\(^{10}\) US independent registered investment advisers, US broker-dealer registered representatives, UK independent appointed representatives, UK ‘restricted’ appointed representatives and Australian s923A independent authorised representatives and Australian product-aligned authorised representatives.

Documented by McDermott (2016), the UK Retail Distribution Review [RDR] aims to promote adviser personal accountability. If there are lessons the UK can teach the US and Australia (Bateman & Kingston 2014; Salka 2015), then questionable is how financial advisers in any of these nations achieve personal accountability under their current licensing regimes. Especially, if advisers are licensed, regulated and authorised at the institutional level, rather than at the individual level like other true accredited professionals. Considine and Ali Afzal (2011) noted when things go wrong in some situations it results in accountabilities sharing between institutions and their agents in indistinguishable proportions. This makes it difficult to retrospectively identify who [institution, agent or both] were responsible for any legal infringements and in what proportions. Notable, true professionals have independence (Carnegie & O’Connell 2012) and autonomy within their job role (Rubin 2015). It is argued, based on numerous scholars’ writings (Bamber & Iyer 2002; Horsley & Thomas 2003; Breakey 2017; Breakey & Sampford 2017), this independence and autonomy puts them in a stronger position to avoid conflicts of interest. Although the literature survey showed some scholarly writings from the UK and US reflecting on the issue of ‘independent advisers’ and ‘independent advice’ (Gough 2005; Zabel 2010; Bender 2011; Chaston 2013; Bateman & Kingston 2014; Burke & Hung 2015), in drawing a comparison, a void was observed in the existing Australian literature on these issues. Furthermore, unlike the UK and Australia12, the United States has not yet established minimum professional standards, education and ethics for advisers to improve the quality of advice (Valentine 2013; Burke & Hung 2015). Most importantly, compelling evidence is absent in financial planning theory, and empirically, to confirm the approach of regulating advisers via multiple third parties is desired, suitable and a fitting approach to protect the public and encourage professionalism.

1.3 CONCEPTUALISED FRAMEWORK OF LICENSING ADVISERS
Against this setting, the prototype theoretical model to explain, model and measure the legitimacy of the current AFSL-AR licensing model by abstracting the reality was developed.

Emerging from the literature review, with reference to Figure 1.1 below, licensing individual advisers via third-party commercial product-aligned licensees, as specified in the Commonwealth Corporations Act 2001, creates a dual-agency role. This licensee-adviser-client

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role leads to conflicts of interest, specifically from association, because advisers serve licensees’ commercial interests and clients’ best interests simultaneously.

Figure 1.1 Conceptualised framework of the legitimacy of the AFSL-AR licensing model

Consequently, licensing advisers via third-party licensees is inconsistent with four identified objectives of the Act. Therefore, the current licensee-adviser licensing model is delegitimised, based on the criteria of Suchman’s legitimacy theoretical framework applied to financial planning theory. Accordingly, any threats to AFSL-AR licensing legitimacy strengthens arguments for an individual professional licensing model, like other professions. Let us look at the theoretical basis for this argument.

1.3.1 Dual-agency role of financial advisers

Chapter 7 of the Commonwealth Corporations Act 2001 defines the licensee as the principal who appoints, registers and regulates authorised representatives to act on their behalf (McKeown, Kerry & Olynyk 2014). This model forms the licensee-adviser [principal-agent] contractual legislated agency (Gor 2005) relationship (Eisenhardt 1989; Smith & Walter 2001). Prominent in academic financial planning textbooks (McKeown, Kerry & Olynyk 2014; Taylor & Juchau 2017) and scholarly literature (Harvey 2002), yet inadequately defined in the Act, the second principal-agent contractual relationship between the client [the principal] and the financial adviser [the agent] (Corones & Galloway 2013) completes the dual-agency role of advisers.
Clearly, under the current legislation, advisers serve two principals, the licensee and the client, simultaneously (Kingston & Weng 2014). Kingston and Weng (2014) noted when an agent tries to serve two principals simultaneously it creates a conflict of interest. This research specifically focuses on the financial planning academic neglect of conflict of interest from association, because Valentine (2008) emphasised the need to place conflict of interest from association at the head of further research. Especially in the presence of allegations the majority of financial advisers are licensed via product-conflicted third-party licensees to act as their product distribution pipeline (Starke 2013a). For purposes of this investigation, conflict of interest by association, ownership or affiliation is defined as the conflicts advisers face by being directly or indirectly associated with, or owned by or affiliated to, licensees who distribute, issue, and/or manufacture in-house financial products.

From the perspective of Corones and Galloway (2013), conflict of interest from association challenges advisers’ statutory fiduciary duty obligation. Statutory fiduciary duty according to Corones and Irving (2016) is clearly specified in the Act and in common law. Notably, while licensees direct their agents to act in the best interests of clients, simultaneously the profit motive drives them (Lewis 2013). The literature remarks on the tension between the commercial interests of the licensee and the best interests of the clients (Perkins & Monahan 2011). An issue yet not critically evaluated and verified empirically. Therefore, an important part of conflicted association involves investigating this profit motive. As a further explanation, both the adviser’s loyalty to the client, and their occupational contractual loyalty as an authorised representative to their licensees influences conflict of interest from association. Hiller, Mahlendorf and Weber (2014) emphasised, institutional-professional conflict is evident when individuals, who lack independence, confront the issues of loyalty to their institution and loyalty to their profession. Therefore, from a structural, operational, ethical (Arnold & McCartney 2008) and legal point of view, advisers under the current licensing regime are in some way hindered to act as true professionals, who characteristically should be independent (Murphy & Watts 2009; Smith, Clarke & Rogers 2017). Consequently, making it problematic for them to perform in accordance with the objectives of the Act, which is introduced in the next section.

1.3.2 Four objectives of the Commonwealth Corporations Act 2001

Explained above, the Australian Government, and so the regulator ASIC, aims to protect retail financial consumers by means of a complex set of rules (Corones & Irving 2016), including
regulating ARs through third-party Australian Financial Services licensees via the Act. For purposes of this thesis, four identified objectives of the Act underlie this main social aim (Simes, Harper & Green 2008) when it comes to regulating advisers. These objectives include: (1) encouraging alignment of advisers’ interests with their clients’ best interest; (2) managing, controlling or avoiding conflicts of interest; (3) ensuring compliance with the statutory fiduciary duty; and 4) promoting competitive behaviour between financial service providers (Bora & Lewis 1997; Corbett 1999; Mutton 2001; Collier 2003; Serpell 2008; Jones 2009; Alexander 2011; Ap 2011; Ireland & Gray 2011; Kell 2012). They are vital to this study, because until now a discussion nor critical evaluation from the perspective of the legitimacy of the current AFSL-AR licensing model has not occurred. Therefore, the thesis highlights how licensing advisers via third-party licensees with a product bias is inconsistent with the intent and purpose of four of the objectives of the Commonwealth Corporations Act 2001. Licensing advisers via third-parties, potentially threatens the legitimacy the current licensee-authorised representative licensing model, because Bender (2011) determined legitimacy is threatened by conflicts of interest while Kury (2007) noted, complementary to agency theory.

1.3.3 Integrating Suchman’s theoretic legitimacy framework to AFSL-AR licensing

Despite international empirical work in legitimacy theory (Gualini 2004; Díez-Martín, Prado-Roman & Blanco-González 2013) covering various sectors (Low 2010; Sonpar, Pazzaglia & Kornijenko 2010; Pellegrino & Lodhia 2012) and professions, namely accounting (Fisher, Swanson & Schmidt 2007; Andon, Free & Sivabalan 2014) and law (Rogers, Smith & Chellew 2017), notional and empirical deficiencies applying legitimacy theories in financial planning literature exists. This gap is addressed in detail in Chapter 3 by specifically applying all the criteria in Suchman’s (1995) complete legitimacy theoretic framework to the current licensing model. This approach differs to common legitimacy empirical research practice, noted by Doh et al. (2010) of only examining one or two legitimacy criteria at a time.

In this regard Suchman (1995, p. 574) defined legitimacy as a “generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.” Implicit in this definition is the understanding, the legitimacy of ASIC licensing ARs through third-party AFSLs as

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specified in Chapter 7 of the Act\(^\text{14}\), should be perceived as “desirable, proper or appropriate” (Suchman 1995, p. 574), when operating within the financial advisory industry’s “socially constructed system of norms, values, beliefs, and definitions” (Suchman 1995, p. 574).

Understanding the legitimacy of the AFSL-AR licensing model is dependent on examining Suchman’s (1995) three broad, yet specific, types of legitimacy: (1) pragmatic [regulative]; (2) normative [moral]; and (3) cultural-cognitive [cognitive]. Importantly, Scott (2014) noted, entities exhibiting regulative, normative and cultural-cognitive legitimacy increases their survival rates.

Starting with **pragmatic legitimacy**, Suchman (1995) outlined this legitimacy; as the perception of the social support for an entity’s activities operating within some socially acceptable system. Based on existing literature, **regulative legitimacy**, derived from pragmatic legitimacy (see, Rao 2004; Chen & Roberts 2010), occurred when regulatory entities use laws to create perceptions of trust and confidence in society (Kostova & Zaheer 1999) by regulating behaviour (Scott 2013, p. 59). Notional (see, Scott 2014) and empirical legitimacy studies (for example, Bitektine 2011; Chelli, Durocher & Richard 2014) indicated entities gain and maintain regulative legitimacy in the presence of the perception of compliance with the legislation. On these grounds, determining empirically licensing’s regulative legitimacy involves examining the presence of perceptions that licensing advisers through third-party aligned licensees risks them from unintentionally breaching regulatory compliance of the Act, because of their licensees’ affiliations to product issuers.

With **normative [moral] legitimacy** attention focuses on specific morals, values or ethics (Chen & Roberts 2010; Chua & Rahman 2011) of an entity’s outcomes, goals, activities, and/or structures, within a socially accepted (Johnson & Holub 2003) and constructed value system (Bitektine 2011). Consequently, understanding the licensing model’s normative [moral] legitimacy requires assessing Suchman’s (1995) (1) consequential; (2) procedural; (3) structural; and (4) personal legitimacies.

**Consequential moral legitimacy** considers an entity’s socially valued outcomes from an ethical perspective (Suchman 1995, p. 579). In the literature, specifically aligned-licensees allegedly perform as “commercial businesses using advisers as a sales force” (Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24) to support shareholder

theory\(^{15}\) (Griffiths 2007, p. 231; Lindorff & Peck 2010; Kofman & Murawski 2015). This focus on shareholder wealth maximisation is contrary to developing social capital\(^{16}\) (Lindorff & Peck 2010) by supporting stakeholders’ interests, instead of shareholders’ interests. However, ASIC expects licensees and their ARs, when managing conflicts of interest, to always put their client’s best interests first, even when not in the licensees’ or the licensees’ shareholders’ best interests (Australian Securities and Investments Commission 2016i). Debatably, conflicts of interest can be managed through disclosures (Serpell 2008) while complying with the best interests duty. However, Bruhn and Miller (2014) concluded, disclosures was done ineffectively. The scandals of Commonwealth Bank of Australia (Ferguson, Masters & Christodoulou 2014; Ferrier 2015; Wilkins 2015; Henderson & Conifer 2016) serves as examples of tension between licensees’ commercial interests and their clients’ best interests, which is briefly introduced above when discussing the advisers’ dual-agency role. Also confirmed by Smith’s (2009) mixed methods study, employee financial advisers face conflicts between their professional obligations to provide appropriate advice to clients and their commercial obligations of business profit and time pressures. Maclean and Behnam (2010) claimed, critical to ensure legitimacy, institutions should resolve their struggle to manage their regulatory compliance, especially when the legal requirements compromise their commercial activities. Therefore, whether [or not] licensing advisers through third-party aligned licensees creates tension between the licensees’ commercial interests and their clients’ best interest should determine the existence of the licensing model’s consequential moral legitimacy.

**Procedural moral legitimacy** considers the moral perspective of an entity’s socially acceptable practices, standards and procedures (Suchman 1995, p. 579). In legitimacy theory, decoupling (Cole & Salimath 2013) occurs where formal policies, processes and rules for legislative compliance differ from actual practice (Carruthers 1995) and behaviour (Scott 2014). Unconfirmed allegations suggest licensees implement legislated practices, standards and procedures reinforcing the advisers’ product distribution role (Ferguson, Masters & Christodoulou 2014; Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24). In this way, Sampson (2010) noted, sometimes done without detection, they decouple legislative compliance from practice. Newnham (2012) agreed adding licensees are adept at keeping in place distribution channels masquerading as sources of advice. Except for the inductive qualitative analysis by Maclean and Behnam (2010) of a US financial services

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15 Shareholder wealth maximisation and/or profit maximisation.
16 Goodwill, reputation and/or sustainability.
organisation where widespread deceptive sales practices occurred, a deficiency exists in Australian inquiry empirically validating or verifying the above claims. Therefore, to address this deficiency and examine licensing’s procedural moral legitimacy, requires testing the existence of perceptions licensing advisers through third-party aligned licensees result in deceptive sales procedures, standards and practices to reinforce product distribution, while giving the appearance [window dressing] of satisfying regulatory requirements. Should this not be the case, then the licensee-adviser licensing model demonstrates procedural legitimacy.

Suchman (1995) defined structural moral legitimacy as the moral evaluation of adopting formal structures acceptable to society. Presently under the existing licensing regime, a licensee, particularly those with strong product affiliations whether by ownership, affiliation or association, appoints, authorises and regulates multiple representatives (Australian Government The Treasury 2014). Licensees control advisers as quasi-employees (Pokrajac 2014), rather than as true professionals. Consequently, this “cohabitation” (Money Management 2014) when product manufacturers, distributors and advisers toil together as co-workers servicing clients’ needs leads to conflict of interest from association. The available evidence seems to suggest even highly qualified and professional advisers lack professional autonomy (Smith, Armstrong & Francis 2009) to practise their craft like other professionals under the present licensing regime. In principle, the Australian financial advisory industry is buying into a formal structure of conflict of interest from association to product-aligned licensees without critical assessment or evaluation. Consequently, empirically evaluating the licensing model’s structural moral legitimacy requires investigating whether licensing financial advisers through third-party licensees leads to conflict of interest from association. On these grounds, if it does not, then licensing advisers in this way shows structural legitimacy.

To achieve personal moral legitimacy requires the moral and social evaluations of charismatic individual’s roles (Carnegie & O’Connell 2012; Goretzki, Strauss & Weber 2013) who exert their personal influence to dismantle or create new entities (Suchman 1995). Young and Thyil (2014) suggested financial institutional leaders’ have a duty and moral obligation to all stakeholders, not only shareholders, to be doing the right thing to obtain their implicit or explicit consent to operate. Therefore, if individual leaders of aligned licensees’ contributions to the debate surrounding the licensing of advisers does not have the objective of protecting their product distribution channels, then the licensing model displays personal legitimacy.
Additionally, **cultural-cognitive legitimacy** occurs in the presence of a perception of shared understanding, activities, norms and beliefs (Santana 2012) with the aim to perpetuate an institutional order (Kury 2007) based on cognition or awareness (Meyer 2007). Put simply, with legislation, clients and their advisers should have, a shared understanding as to (1) who advisers are [identity] (Zimmerman & Zeitz 2002, p. 420), (2) what is expected of them [role] (Zimmerman & Zeitz 2002, p. 420) and (3) how effective they are [performance] (Scott 2014). For the same reason, clients and their advisers should have a shared understanding of the adviser’s identity and role, so the objectives of the Act can be achieved [performance]. Considering this previous dialog, cultural-cognitive legitimacy of the licensing model exists, if the Australian public can clearly distinguish between independent financial advice [independent advisers] and conflicted financial advice [aligned advisers], which subsequently should lead to achieving the objectives of the Act.

To the contrary, if all the above criteria are unfulfilled, then the licensing model lacks legitimacy. Illegitimacy strengthens arguments for a move from the rhetoric in the media and in practice of an alternative solution [individual licensing] (Parliamentary Joint Committee on Corporations and Financial Services 2009b, 2014; Vickovich 2014c; Vickovich & Garber 2014; Hoyle 2017a, 2017c, 2017d, 2017b, 2017e; Professional Planner 2017b; Reddacliff 2017) to implementation.

### 1.3.4 Individual licensing as an alternative solution

Balasubramnian, Brisker and Gradisher (2014) found, trust counts as one of two most vital determining factors to influence a member of the public to seek financial advice or not. Cost they noted is the other, which is outside the scope of this study and a topic for future research. Widely publicised exists a climate of instability and lack of confidence in financial planning (Hely 2012; Australian Securities and Investments Commission 2013a; Taylor, Juchau & Houterman 2013). Therefore, this research assesses whether individual licensing, rather than licensee-adviser licensing, will improve public trust and confidence.

Important to note, retail clients receive financial recommendations from trusted ‘natural persons’ [individuals], not institutions or in other words licensees. Sanders and Roberts (2015, p. 18) highlighted in a white paper, the business models within the financial advisory sector, together with the licensee-adviser licensing model favours the institutional commercial licensee over the individual professional adviser. They acknowledged, despite the “*legitimate legislative basis for this*” (Sanders & Roberts 2015, p. 18), it is contrary to the approach of accredited
professions. Although arguably advisers can self-license, both corporation, including registered entities, management investment schemes and institutional licensees, (Australian Government Corporations and Markets Advisory Committee 2012) and ‘natural persons’ [such as individual financial advisers who self-license] are subject to the same licensing regime. Questionable is whether corporate institutions and supposedly professional ‘natural persons’ should be grouped together under the same corporate regulations. Particularly undecided, which this research explore, is whether the Commonwealth Corporations Act 2001, to achieve its intent and purpose, is a suitable legislative vehicle to license individual financial advisers through multiple third-party licensees.

Many authors agreed (see for example, North 2015; Australian Securities and Investments Commission 2017a; Smith, Clarke & Rogers 2017; Vickovich 2017a), professional independence is a key controversial issue facing the advisory sector. Outstanding, many of the financial services transgressions were at the institutional level, for instance, Great Southern Limited, Storm Financial, TimberCorp Group and Commonwealth Bank of Australia are four illustrative cases, where the focus included narrow sales recommendations and culturally endorsed unethical adviser behaviour (Australian Government Corporations and Markets Advisory Committee 2012; North 2015). Arguably, licensing financial advisers through third-parties in this way is seemingly a direct threat to independence, which North (2015) confirmed also results in unethical behaviour.

Recent developments in behavioural theory (Dolan et al. 2012) pointed out, making even subtle changes to contexts, environment or choice architecture can have a powerful effect on behaviour. Therefore, as advised in a paper by Steen, McGrath and Wong (2016), removing the connection between product issuers and individual advisers may lead to a culture shift in the financial advisory sector to consequently reduce risks to the public of more financial scandals. Therefore, this research considers whether advisers want disconnection from appointment, licensing, regulation and authorisation by multiple AFSL institutions. If so, then should individual licensing via a single body replace the current licensing model? This idea legal scholars, O’Brien and Gilligan (2014) support, when Murray briefly put individual licensing for financial advisers on the table during the consultation phase of his inquiry (Parliamentary Joint Committee on Corporations and Financial Services 2014). They expect professional obligations should be framed by considering the empirical evidence around the failure of the prevalent codes of conduct, together with the risks associated with the existing institutional
licensing regime. Especially when principally this system of institutional licensing is absent in other true professions.

Surprisingly, the Australian financial planning emerging profession is likened to other professions in the literature (Ap 2011; Bruce 2012; Knutsen & Cameron 2012; Australian Securities and Investments Commission 2014f; Burke et al. 2015). Yet upon closer inspection, the way the Act, as ASIC enforces, structurally licenses individual advisers makes these proclamations of similarity misleading. Doctors may prescribe certain pharmaceutical products they favour (Everingham 2014), otherwise they are “contracted to practices, to a chain of medical centres, to health providers, or to corporations” (Breakey & Sampford 2017, p. 262), but they are not licensed to practise their craft through these third-parties. Lawyers, doctors and accountants work for large corporate commercial institutions, but they retain autonomy and control within their job role (Rubin 2015; Breakey & Sampford 2017). When accountants (Bamber & Iyer 2002; Institute of Chartered Accountants of Australia 2012), lawyers (Arteta 2016; Australian Bar Association 2016) and doctors (Medical Board of Australia 2012) leave their workplace they retain their professional status (Evett 2011), their licence to practise and ability to work without needing to transfer to other corporate institutions.

Furthermore, among many others, Bearden (2002) and Cheetham and Chivers (2005) set out numerous characteristics of traditional professions, which they believe provide professions legitimacy. Fundamentally, through their independent bodies, Tom (1995, p. 3) noted, each new entrant into these professions must meet their specific entrance and ongoing membership requirements and standards of ethics, education and performance on a continual basis (Breakey & Sampford 2017). In contrast to the attributes of other true professionals, Australian financial advisers are not self-regulatory, collegial, independent, structured, hierarchical and only client-focused (Riaz, Buchanan & Bapuji 2011). Nor do they operate within a recognised professional body with status (Evett 2011) within society (Riaz, Buchanan & Bapuji 2011). Nor do they control their specialised knowledge and skills observed in other professionals (Schuchardt et al. 2007). Evett (2011) found professionals, for instance doctors and academics, employed in public services organisations [hospitals and universities], were closed to being controlled through managerial interventions and institutional controls. He claimed these professional groups have autonomy over their work practices, is accompanied by high status, while holding both power and authority. In comparison, even highly qualified and professional financial advisers do not have professional autonomy (Smith, Armstrong & Francis 2009), power and authority. Reinforced by a substantial body of literature (see for example, Rogers 2004; Watts
contemporary professions are constantly developing to address new challenges. This development is around professional ethics (Breakey 2017) autonomy, power and authority as a result of corporatisation of professions and professionals (Evetts 2011; Breakey & Sampford 2017; Rogers, Smith & Chellew 2017), notwithstanding the influence of technological changes (Greenleaf 2017). These issues incorporates problems created by large corporate professional services institutions employing them, which results in corporatising professions and professionals (Evetts 2011; Breakey & Sampford 2017; Rogers, Smith & Chellew 2017). Add to this, the challenges technology advances are creating for professions and professionals (Rogers, Smith & Chellew 2017; Smith, Clarke & Rogers 2017), which financial planning cannot escape either. Especially when it comes to opportunities of cost reduction and efficiency savings financial technology [Fintech] offers those who want their firms to survive in the future (Morgan Stanley 2018). Like other professions, seemingly advisers face a struggle for autonomy, power and authority around professional ethics too (Smith, Armstrong & Francis 2009). However, arguably it is for completely different reasons than other professions. This research considers one of the reasons for advisers’ struggle to achieve autonomy, power and authority, namely licensing via multiple third-party licensees. Consequently, Steen, McGrath and Wong (2016) may be right when they contend the emerging financial planning profession has some way to go before it can be considered a true profession.

Unsurprisingly, since the Ripoll Inquiry in 2009 (Parliamentary Joint Committee on Corporations and Financial Services 2009b), government support for professionalising financial planning via industry self-regulatory approaches is obvious. However, no commitment from them, until the passing of the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2017 and the setting up of the Financial Adviser Standards and Ethics Authority discussed above (Newnham 2017) has occurred. Although the regulator ASIC has not been in favour of a self-regulatory model (Australian Securities and Investments Commission 2012a), they do acknowledge the potential benefit of such an approach, namely making employee advisers more visible to everyone (Vickovich 2014c). Omarova (2010) argued, like professional self-regulation evident in law and medicine, industry self-regulation, is critical to the proper functioning of the financial services industry. Mainly he reasoned, because private profit-seeking institutions are not trustworthy enough to regulate their own activities in the best interests of the public. Self-regulation in the advice sector is supported by the Professional Standards Authority (Professional Standards Councils 2014;
Sanders & Roberts 2015). Furthermore, Tuch (2005, p. 38) maintained complying by managing the conflict, not necessarily avoiding or eliminating it, may leave an institution and their advisers in breach of their fiduciary duty. In rebuttal, Angel and McCabe (2013) asserted, society tolerates conflicts of interest as inescapable. Therefore, with this lack of consensus on some of the issues around conflicts of interest, this study considers the extent licensing advisers with an individual licence via a single independent professional body eliminates this conflict.

1.4 RESEARCH OBJECTIVES AND CONTRIBUTION

As already noted, licensing individual advisers via multiple third-party licensees with commercial interests and a product bias is inadequately addressed by scholars, yet evident in debates in practice and the media. Therefore, guided by the normative theories in agency, legislation, legitimacy and professions, integrated into financial planning theory, the primary research objective of this work is to examine the extent to which the current Australian Financial Services licensee-authorised representative licensing model is legitimate. Positive theories will reveal the answer to this fundamental objective, by investigating four secondary research objectives.

The first key point for investigation is the extent licensing advisers through third-party licensees creates a dual-agency role, leading to a conflict of interest from association. The second key issue analysed is the degree to which a conflict of interest from association, by licensing advisers through third-party licensees, is inconsistent with the objectives of the Act. The third key issue examined involves a critical empirical evaluation of the level the current licensee-adviser licensing model is legitimate based on an academic framework. This framework is based on Suchman’s (1995) legitimacy theoretical model. The conceptualised theoretical framework of this study finishes with the epistemological fourth key issue, namely an enquiry into the degree individual licensing through an independent professional standards board, like other professions, is a worthy alternative to consider.

1.5 STATEMENT OF IMPORTANCE

An intensive search of national and international textbooks, journals, reports, including mainstream and professional media reports, government documents and white papers occurred. This literature exploration included the lists and abstracts of Australian theses using the National Library of Australia’s Trove service, as well as the library theses search engines at Central Queensland, Flinders and RMIT University. This secondary data search showed the
topic to be under-researched and under-reported in Australia and further afield. Further searches and review of the literature over the duration of this research project revealed its distinctiveness and importance. Hence, the need for deeper scholarly attention was evident.

From the above deliberation, conflict of interest from affiliation to third-party institutions is a subject Australia, United Kingdom and the United States (McMeel 2013; Bateman & Kingston 2014) all confront. Consequently, the findings of this investigation will highlight some of the important issues surrounding licensing, while providing policymakers, domestically and internationally, with initial data and preliminary evidence of some of the problems and possible solutions to licensing individual advisers. Thus, this information could potentially influence the role of the regulators, the professional associations, licensees and advisers.

Well documented, besides legislators, focusing on the inherent conflicted remuneration of financial services17 (Australian Securities and Investments Commission 2013b; Batten & Pearson 2013; Bird & Gilligan 2015a); they too have concentrated on professional, education and ethical standards18, to address advisers’ wrongdoings. Merely concentrating on these issues to improve the conduct of financial advisers, is misguided. Clearly, many recognised (Valentine 2008; Parliamentary Joint Committee on Corporations and Financial Services 2009b; Kennedy 2012; Banister et al. 2013, p. 1436; Johnston 2014; Pokrajac 2014; Vickovich & Garber 2014; Hoyle 2017a), conflicts between advisers and their clients also arose from ownership, affiliations or association structures between particularly conflicted licensees and their authorised representatives who distribute product. Yet, conspicuously neglected in peer-reviewed scholarly financial planning and legal writings is this issue, which this investigation attempts to resolve.

Clearly illustrated in Tables 1.2 and 1.3 below, for most advisers commonly found are affiliations to product producers. Particularly, from Table 1.1 less than one per cent (33/4,351) of licensees regulate 50.6 per cent of all ASIC registered advisers (Professional Planner 2017a). Prominent in Table 1.2 below, it appears none of these 33 licensee groups employing more than 250 ARs listed in Table 1.1 meets the s923A independence definition as specified in the Commonwealth Corporations Act. This data confirms the findings during the literature review (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Smith, Armstrong & Francis 2009; Sandlant 2011; Accounting Professional & Ethical Standards

17 Regulatory Guide 246: Conflicted remuneration.
explicitly most advisers in Australia are directly or indirectly associated with product issuers and corporates who have a legal shareholder wealth maximisation obligation.

Table 1.1 Total number of licensees and advisers registered on the ASIC Adviser Register on 5 April 2017

<table>
<thead>
<tr>
<th>Category</th>
<th>Licensee</th>
<th></th>
<th>Adviser</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>Per cent</td>
<td>Frequency</td>
<td>Per cent</td>
</tr>
<tr>
<td>250+ ARs</td>
<td>33</td>
<td>0.8%</td>
<td>12,312</td>
<td>50.6%</td>
</tr>
<tr>
<td>50-249 ARs</td>
<td>56</td>
<td>1.3%</td>
<td>5,114</td>
<td>21.0%</td>
</tr>
<tr>
<td>20-49 ARs</td>
<td>75</td>
<td>1.7%</td>
<td>2,204</td>
<td>9.1%</td>
</tr>
<tr>
<td>5-19 ARs</td>
<td>3,133</td>
<td>72.0%</td>
<td>2,617</td>
<td>10.8%</td>
</tr>
<tr>
<td>2-4 ARs</td>
<td>608</td>
<td>14.0%</td>
<td>1,642</td>
<td>6.7%</td>
</tr>
<tr>
<td>1 AR</td>
<td>446</td>
<td>10.3%</td>
<td>446</td>
<td>1.8%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>4,351</td>
<td>100.0%</td>
<td>24,335</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

*Source: (Professional Planner 2017a, citing Adviser Ratings and ASIC)*

In addition, although Power (2017) reported a total of 85 well-known, truly independent advisers affiliated to 45 licensees exist, it is unclear how many advisers in Australia satisfy s923A independence definition of the Act. A clear imbalance between the number of product biased and independent advisers in Australia, notwithstanding a shortage in independent advisers is apparent. Together with the review of the existing literature, under-representation of independent licensees and advisers is undesirable, because the Australian public claimed they trust independent over conflicted advice more (Egan 2008; Australian Securities and Investments Commission 2010b). Adding to this independence debate, the public should be able to clearly differentiate advisers who provide s923A independent advice of the Act19 from those who may provide conflicted advice (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Boutique Financial Planners 2014). Arman and Shackman (2012) pointed out, which a Roy Morgan survey (Morris 2013) further supported, this is not the case. Thus, making the issue of independence an important consideration in this study.

To add to the discussion, the accounting profession incorporated ethical standards for accountants providing financial services into their APES 230 standards (Accounting

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Professional & Ethical Standards Board Limited 2013). Then the Certified Practicing Accountants [CPA] formed CPA Australia Advice to successful apply for their own AFSL and ACL in 2016. Therefore, CPA members who want to avoid the responsibilities of self-licensing are in a position to apply for authorised representative status to deliver independent financial advice through CPA Advice (Certified Practicing Accountants 2015; King, Cowling & Liew 2016). Accountants repositioning financial planning within their profession, according to Brown (2008) sets the expectations of the accounting profession and the public, as well as what financial advisers should be doing for their clients in the future. In turn, Lambert (2013) suggested, this redefinition should significantly influence the future of financial planning. Specifically, when it comes to the issue of professionalising financial planning.

Scholars contended the FOFA legislation and current licensing model was unsuccessful in bringing tangible benefits to the public (Pearson 2006b; Kingsford Smith 2011; Mennen 2014; Bird & Gilligan 2015a; Commonwealth of Australia 2015; Coorey & Eyers 2015; North 2015; Commonwealth of Australia 2016d, 2016b; Ferguson 2016; Henderson & Conifer 2016; Australian Securities and Investments Commission 2017c). Investigating the legitimacy of AFSL-AR licensing is imperative, particularly politically, given Burke and Hung (2015) documented evidence of scant research on the impacts of FOFA.

During the study, ASIC Report 515: Financial advice: Review of how large institutions oversee their advisers released in March 2017 (Australian Securities and Investments Commission 2017e) indicated the top five licensees in Table 1.1 were failing on many levels when overseeing their authorised representatives. This is further supported by empirical research conducted by Bird et al. (2016) on the number of enforceable undertakings accepted by ASIC for reasons of misconduct by financial advisers and licensees. Specifically they identified three common issues of misconduct: 1) promotion, marketing, advertising and sales of financial products and services infringements; 2) contraventions around specific financial and product advice provided; and 3) governance of financial advisory or financial product and services businesses in terms of supervision, training and monitoring of ARs for compliance.

It is argued, the licensing model could be a potential source of the lack in public confidence and trust (Taylor, Juchau & Houterman 2013), notwithstanding possible class action (Corones & Irving 2016) under various regulations (Bird & Gilligan 2015a). In terms of this argument, inquiry in this area will highlight the extent the current licensing model is responsible for and
adds to the contraventions by advisers licensed via licensees with product bias and commercial interests leading to lack of public trust and confidence.

Table 1.2 Frequency of the top licensee groups and their advisers registered on the ASIC Adviser Register on 5 April 2017

<table>
<thead>
<tr>
<th>Licensees with more than 250 Authorised Representatives</th>
<th>Advisers</th>
<th>Frequency</th>
<th>Per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>AMP Limited</td>
<td>2,870</td>
<td>11.8%</td>
<td></td>
</tr>
<tr>
<td>Commonwealth Bank Limited</td>
<td>1,719</td>
<td>7.1%</td>
<td></td>
</tr>
<tr>
<td>National Australia Bank Limited</td>
<td>1,667</td>
<td>6.9%</td>
<td></td>
</tr>
<tr>
<td>Australia and New Zealand Banking Group Limited</td>
<td>1,151</td>
<td>4.7%</td>
<td></td>
</tr>
<tr>
<td>Westpac Banking Corporation Limited</td>
<td>1,136</td>
<td>4.7%</td>
<td></td>
</tr>
<tr>
<td>IOOF Holdings Limited</td>
<td>860</td>
<td>3.5%</td>
<td></td>
</tr>
<tr>
<td>SMSF Advisers Network Pty Ltd</td>
<td>715</td>
<td>2.9%</td>
<td></td>
</tr>
<tr>
<td>Morgans Financial Limited</td>
<td>468</td>
<td>1.9%</td>
<td></td>
</tr>
<tr>
<td>Centrepoint Wealth Pty Ltd</td>
<td>380</td>
<td>1.6%</td>
<td></td>
</tr>
<tr>
<td>Synchronised Business Services Pty Ltd</td>
<td>424</td>
<td>1.7%</td>
<td></td>
</tr>
<tr>
<td>Dover Financial Advisers Pty Ltd</td>
<td>366</td>
<td>1.5%</td>
<td></td>
</tr>
<tr>
<td>Bell Potter Securities Limited</td>
<td>280</td>
<td>1.2%</td>
<td></td>
</tr>
<tr>
<td>GPS Wealth Limited</td>
<td>276</td>
<td>1.1%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>12,312</strong></td>
<td><strong>50.6%</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Source: (Professional Planner 2017a, citing Adviser Ratings and ASIC)*

The feasibility of implementing individual adviser licensing to promote independence was only briefly considered during the Ripoll Inquiry (Parliamentary Joint Committee on Corporations and Financial Services 2009b), although never implemented. During the consultation phase of the Murray Inquiry the appropriateness of outsourcing adviser licensing to third-party aligned licensees was questioned (Commonwealth of Australia 2014a; O’Brien & Gilligan 2014; Vickovich & Garber 2014). Many conflicting submissions were presented during the Murray Inquiry consultation phase about the matter (see for example, Financial Rights Legal Centre, Choice & Consumer Action Law Centre 2016; Koh 2016). Although uncommitted to individual licensing at the time of the Murray Review, the Australian Government demonstrated continued interest in individual licensing (Commonwealth of Australia 2014a) by inferring they are
keeping it on the negotiating table (Commonwealth of Australia 2014e). Therefore, this research is important for the future of licensing advisers in Australia.

Furthermore, this thesis will further contribute to other projects such as the work undertaken by the Professional Standards Councils in partnership with the University of New South Wales about professions, professional obligations and regulation in the 21st century (Breakey 2017; Greenleaf 2017; Morgan & Hanrahan 2017; Rogers, Smith & Chellew 2017; Smith, Clarke & Rogers 2017). Its focus is on financial planning as a profession, professional obligations of advisers and their regulation during this century. Moreover, it adds to the work undertaken by the Centre for International Finance and Regulation in partnership with the University of Melbourne concerning enforceable undertakings and penalties (Bird & Gilligan 2015b; Gilligan et al. 2015a; Gilligan et al. 2015b; Bird et al. 2016; Gilligan et al. 2017).

The lack of enough peer reviewed financial planning literature supported by epistemologically sound definitions, principles, models, norms and decision rubrics (Paulo 2003) to define, model, measure, test and challenge the legitimacy of the licensing model, is because the conceptual construct is difficult to define and quantify. However, research in the Australian financial planning discipline has no sanctioned methodological or concrete research frameworks (Wiseman & Anderson 2013) adequately developed for such a challenge. Thus, the development of a conceptualised theoretical framework to examine the legitimacy of the current Australian Financial Services licensee-authorised representative licensing model is important. The proposed rectification of this deficiency is embedding agency theory further into financial planning theory, while integrating legitimacy theory into financial planning theory within the context of legislation governing licensing of financial advisers as true professionals. Not only will this research advance financial planning theory, but will also raise questions for further empirical investigation.

Equally, the evidence is important information to make further contributions in shaping the future policy of licensing individual financial advisers in Australia. Particularly when the key agenda for policymakers is professionalisation of this emerging profession to operate with the same standards and ethics as other professions. Correspondingly, the evidence aims to find better solutions to protect the public, while restoring public trust and confidence in financial advisers.
1.6 OUTLINE OF THE THESIS

This thesis comprises eight chapters. Chapter 1 provides the standard introduction found in most theses and evident in the foregoing. Then a secondary study in Chapter 2 serves to discuss the background to licensing advisers in Australia, together with the licensing models in the US and the UK. Based on an extensive literature review, Chapter 3 will develop the conceptualised theoretical framework for examining the legitimacy of the current AFSL-AR licensing model. Chapter 4 presents the questions and hypotheses, the decision behind using a post-positivist research paradigm, mixed methods methodology and the research strategy. Details of the empirical survey and method of quantitative and qualitative analyses closes Chapter 4. Chapter 5 explains the scope, difficulties encountered and results of the study. In Chapter 6, the discussion focusses on the main findings. Chapter 7 has a duplicate purpose. Firstly, a summary of the key issues, policy implications, plus practical application around licensing. Secondly, Chapter 7 also serves as a standalone paper to distribution to survey respondents who provided their email contact details expressing an interest to receive a copy of the findings. The study will close with concluding remarks in Chapter 8. This final chapter includes major contributions; limitations of the study; and commendations for further research.
CHAPTER 2: INTERNATIONAL TRENDS IN FINANCIAL ADVISER REGULATION

2.1 INTRODUCTION
Before examining the legitimacy of the current AFSL-AR licensing model, the purpose of this chapter is to set the stage by providing a detailed contextual background account of the licensing topic. The conversation begins here with a detailed discussion of the historical background on licensing financial advisers within the Australian regulatory framework. A further explanation of the current Australia licensee-adviser licensing structure by building on the introduction in Chapter 1 follows. The evolution of the US adviser model succeeds the later discussion. Then a similar discussion of the implementation of the United Kingdom’s Retail Distribution Reform commences. In closing, the Australian licensing of advisers is discussed in conjunction with the regulatory trends and challenges taking place in the US and UK. This chapter serves as a basis for Chapter 3 where the researchers develop the conceptualised theoretical model of the research for the inquiry.

2.2 AUSTRALIA

2.2.1 Legislative background to Australian adviser regulation
Illustrated in Figure 2.1, the beginnings of the current AFSL-AR licensing model began with the Wallis Inquiry in 1996 and the Corporate Law Economic Reform Program (Corbett 1999; Cooper 2006; Haigh 2006; Overland 2007). The Australian Government appointed Wallis to conduct a Financial Systems Inquiry into the efficiency, competitiveness, consumer interests and regulatory framework of the financial system (Bora & Lewis 1997; Edwards & Valentine 1998; Australian Banking & Finance 1999). Although present at the time was little evidence of financial problems within the Australian setting requiring regulatory changes, the old regime was considered an obstructive constraint (Bakir 2003). Therefore, CLERP 6, the sixth policy reform, formed part of an improvement suite modifying the old Corporations Law of Australia (Den-Toll 2001). Subsequently, the Wallis Inquiry and CLERP led to the implementation of the Commonwealth Financial Services Reform Act 2001 on 11 March 2001 (Hutson &

Vonnessen 2003). The main aim of this specific legislation was to protect consumers whenever they dealt with financial institutions and their agents (Harvey 2002; Overland 2007; Serpell 2008; Sinodinos 2013d; Australian Securities and Investments Commission 2014a). Here the government imposed higher standards on financial services providers by implementing more consistent uniform regulations for all financial instruments at the institutional level (Knutsen & Cameron 2012).

Figure 2.1 Background to the licensee-adviser licensing model

Prior to FSRA, the Australian Financial System comprised several market participants, who all operated within numerous overlapping financial institutions and markets, with licences issued by various entities and regulators (Bora & Lewis 1997). Bennett (2000) informed, one of the features of the CLERP regulatory framework was considerations around the most appropriate mechanism for licensing financial institutions and their advisers. Consequently, one of Wallis’s recommendations published in 1997 included changing the licensing regime for financial sales, advice and dealing (Hanratty 1997). Depending on the classes of financial products and services offered, the old licensing system of multiple licences for financial services providers as
specified in Chapter 7 and 8 of the old Commonwealth Corporations Act 1989\(^{21}\) was repealed and replaced by a new Chapter 7 of the new Commonwealth Corporations Act 2001\(^{22}\) (Harding 2001; Pearson 2006b). This came into force on 15 July 2001 (Harding 2001). All the old existing range of licences, approvals and permits across the financial services industry, which regulated the activities of insurance agencies, brokers and licensed securities dealers, accountants, and all solicitors, disappeared (Cotter & Von Nessen 2001). From 11 March 2002, the focus was on a single licensing system (Clayton Utz Financial Services Reform Group 2002; Australian Securities and Investments Commission 2009; Banister \textit{et al.} 2013; Australian Securities and Investments Commission 2014b) in the form of an Australian Financial Services Licence (Pearson 2006b) for financial institutional licensees and their authorised representatives. Henceforth, licences issued to provide one or more specific classes of financial products or services under the Corporations Act 2001 (Davis 2002; Hutson & Vonnessen 2003; Pearson 2006b). The new legislation unified a disjointed legislated environment (Clayton Utz Financial Services Reform Group 2002) by consolidating many different laws into one key piece of legislation for the financial services industry\(^{23}\) (Parliament of Australia 2001; Haigh 2006; Overland 2007). In this way, FSRA systematically changed the financial services regulatory environment of Australia for licensees and their advisers (Adams 2002; Clayton Utz Financial Services Reform Group 2002; Overland 2007; Bruce 2012).

Then in 2008 the Global Financial Crisis, and significant financial losses suffered by clients associated with the high-profile corporate scandals (Ellis 2010), by Opes Prime in 2008 (Julian 2009; Ap 2011; Lewis 2013), Westpoint Corporation (Valentine 2008; Beal & McKeown 2009; Fitzpatrick 2011) and FinCorp (Valentine 2008; Australian Securities and Investments Commission 2013a) caused a climate of instability and lack of confidence in the financial services sector (Taylor, Juchau & Houterman 2013). Most of the headlines pointed to unethical behaviour as one of the leading reasons for this loss in public trust and confidence in financial advice (Ap 2011; Taylor, Juchau & Houterman 2013). The Australian Government responded with the Parliamentary Joint Committee on Corporations and Financial Services (2009b) \textit{Inquiry into financial products and services in Australia}, well-known in Australia as the Ripoll


\(^{23}\) Financial Services Reform Act 2001.
Inquiry (Australian Government The Treasury 2014). Ripoll’s recommendations (Parliamentary Joint Committee on Corporations and Financial Services 2009b) resulted in Future of Financial Advice reforms (Australian Government The Treasury 2014) to deal with conflicts of interest (Alexander 2011) from remuneration and product sales (Burke & Hung 2015). Furthermore, the government suggested the need for better quality of advice and greater access to advice for Australian retail clients (Corones & Galloway 2013) in the financial advisory sector. Public discussions emerged around professionalising the financial advice sector away from a sales-driven distribution network (Taylor, Juchau & Houterman 2013; Burke & Hung 2015) to improve the lost public trust and confidence in financial services (Ap 2011). Ripoll contemplated the effectiveness of licensees overseeing and taking responsibility for the conduct of their authorised representatives (Parliamentary Joint Committee on Corporations and Financial Services 2009b). As part of this contemplation, individual licensing and an industry-based professional standards entity was considered a possible solution to overcome inadequate oversight of authorised representatives by their licensees (Parliamentary Joint Committee on Corporations and Financial Services 2009b). However, Government put aside the matter of individual licensing and a professional standards body during the FOFA legislative reforms.

Instead, FOFA reforms started with consumer credit legislation.24 Under this legislation, effective 1 January 2010 (Ap 2011), the Australian Government regulated conflicts of interest relating to loan products (Banister et al. 2013). ASIC enforced from 1 July 2010 an Australian Credit Licence (ACL) on licensees and their credit representatives (Holley Nethercoate Commercial & Financial Services Lawyers 2014a), who were, in many instances, also ARs (Banister et al. 2013). This additional regulation moved FOFA away from a single licence back to multiple licences. Banister et al. (2013) maintained the overlap between the ACLs, full AFSLs and the limited AFSLs initially confused everyone.

After implementation of the first phase of FOFA reforms, critics contended its proposals would not prevent unethical behaviour (West 2009; Hartnett 2010). Their concerns were confirmed when more financial corporate collapses ensued, specifically Trio Capital (Taylor 2012; Commonwealth of Australia 2016a) and Storm Financial (Kingsford Smith 2009; Ap 2011; Lewis 2013; Commonwealth of Australia 2016a, 2016c). Subsequently, three tranches of FOFA legislation were implemented to amend specific clauses of the Act (Kell 2013).


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Operative 1 July 2012, with mandatory compliance commencing 1 July 2013 (Burke & Hung 2015), the first25 and second26 tranches were implemented as separate yet related FOFA regulations (North 2015), covering client’s best interests duty, annual fee disclosure statements and renewal notices where clients would opt in every two years to continue ongoing fees. It banned conflicted commission and volume payments (Burke & Hung 2015). Implementation of a voluntary transition period and grandfathering arrangements to provide time for licensees and advisers to adjust their business models to comply with FOFA ensued. Initially, ASIC took a facilitative approach to compliance; afterwards, all AFSL licensees had to comply (Australian Securities and Investments Commission 2016g). The third27 tranche covering commissions, best interests duty, opt-in requirements and fee disclosure statements, was mooted on 19 November 2014 (Australian Securities and Investments Commission 2016g). In addition, the Corporations (Statements of Advice) Repeal Regulation 2014 revoked the Corporations Amendment (Statements of Advice) Regulation 2014. The Australian Senate reversed some of the laws back to the initial regulations before their implementation (Australian Securities and Investments Commission 2016g). Subsequently, the government worked on foundations of the disallowed regulation. Two regulations, implemented on 16 December 201428 and 1 July 201529 reinstated a few provisions in the disallowed legislation.

In addition to the foregoing changes, amendments30 were made to the previous qualified accountants’ FSRA AFSL licensing exemptions (Banister et al. 2013) commencing 1 July 2013. Until 30 June 2016, accountants’ Regulation 7.1.29A exemption (Halsey & Halsey 2014) applied, allowing them, for example, to set up self-managed superannuation funds or advise on the tax implications of financial products, or provide ‘incidental advice’ (Adams 2002). Operative 1 July 2016 this exemption was repealed31. Now recognised accountants must hold a full or limited AFSL or become ARs under another licensees’ AFSL should they advise on

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certain financial products and services, such as SMSFs (Global Accounting Alliance, Chartered Accountants Worldwide & charteredaccountantsanz.com 2016), tax implications of financial products and ‘incidental advice’ on securities, general and life insurance products, basic deposit products, superannuation, managed investment schemes, etcetera. To assist accountants to adjust their business models, they have until 30 June 2019 under a streamlined application process to apply for a full or limited licence as specified in Regulation 7.6.01BA. However, after 1 July 2019, this regulation will be removed and any future licence applications from accountants will have to comply with the full obligation of s912 (1e) of the Act, like other licensees.

With FOFA reforms taking hold, some maintained the reforms were reactive (Valentine 2013), unnecessarily complex and a burden; while reducing advice availability to the public by increasing advice costs (Mennen 2014). Accordingly, on 20 November 2013 the Australian government announced a Financial System Inquiry [Murray Inquiry] reviewing the financial services industry’s overall strength (Commonwealth of Australia 2014a). To encourage advice cost flow-on-effects to clients, the review’s purpose was to simplify the system’s overall complexity, provide certainty, reduce compliance costs and lower administrative burdens by decreasing red tape (North 2015). On that account, the review pointed to the claim professional, ethical and education standards among financial advisers should be lifted (Parliamentary Joint Committee on Corporations and Financial Services 2014). At this stage acceptable standards for admission into the emerging financial planning profession in Australia, notwithstanding internationally, had been lacking. For instance, in terms of educational standards, all Australian advisers had to comply with ASIC Regulatory Guide 146 Licensing: Training of financial product advisers32 by undergoing some initial minimum competency tests, continuing with ongoing and specialised training and education with accredited training providers. Although previously recognised as sufficient to address the regulators minimum licensing requirements, inconsistent standards of financial planning qualifications were evident at the Graduate Diploma and/or Advanced Diploma level offered at various vocational education institutions of variable standards as part of competency-based programs (Bruce 2012). This indicated advisers only needed a diploma in financial planning and/or specialist accreditations in the areas of SMSF, gearing and derivatives (Deloitte & Financial Services Council 2014). Additionally, it is documented in financial planning academic literature, government and the

regulator ASIC’s websites, as well as via online searches, the FPA® is considered the premier professional association advisers look to for their professional qualifications in Australia. Yet, although FPA® encourages its members to obtain the internationally recognised Certified Financial Planner® [CFP®] qualification, not all financial advisers seek a CFP® qualification nor is it mandatory. Therefore, the PJC’s consideration from March 2015, based on Murray’s recommendations in 2014, to raise advisers’ educational standards by expecting all new advisers to complete a minimum degree qualification; obligatory ongoing professional development; as well as a structured professional year as a prerequisite for registration as a financial adviser (Parliamentary Joint Committee on Corporations and Financial Services 2015), started moving financial advisers away from a product sales focus to a professional advisory focus.

Aside from the professional standards issue during the Murray Review’s consultation phase, a brief, yet separate, dialogue in the Australian Senate took place with regards to a single financial licence for each individual financial adviser, rather than one licence for an institutional licensee contractually engaging a number of advisers (Commonwealth of Australia 2014e). Recall from ponderings above, this was not the first time a government inquiry contemplated individual licensing. The Ripoll Inquiry considered individual licensing and a professional standards body “to share responsibility with ASIC for establishing, monitoring and enforcing competency and conduct standards for financial advisers” (Parliamentary Joint Committee on Corporations and Financial Services 2009b, p. 136). Despite a second inquiry contemplating individual licensing, surprisingly, the Murray report made no recommendations regarding the matter (Commonwealth of Australia 2014a). Instead, his report concluded the existing regulatory framework of product design, product distribution, disclosure and financial advice is insufficient to deliver reasonable treatment to clients (Commonwealth of Australia 2014a). However, as was mentioned earlier, with more financial scandals emerging, notably Commonwealth Bank of Australia (Mennen 2014), the Australian Government had no choice but to implement a “policy nudge” (Ariely, Amir & Lobel 2008, p. 2098) in the form of new legislation33 passed on 9 February 2017 to further spearhead the process of professionalising financial advisers away from financial product sales. This prod was followed by “coercive measures” (Ariely, Amir & Lobel 2008, p. 2098) of including an independent professional

standards setting body\textsuperscript{34}, the Financial Adviser Standards and Ethics Authority (O'Dwyer 2017). This body develops and sets educational standards and examinations for all new advisers, professional year requirements, continuing professional development requirements and develops a code of ethics for financial advisers. In the new legislation, existing advisers are given a transition period to complete an appropriate degree equivalent, have a recognised transition pathway and/or pass an exam. At the end of this research project, the independent standard setting body FASEA tasked with this statutory responsibility was determining details. Legislating a code of ethics that all advisers will be expected to comply with, is an indication the Australian Government realises, as anticipated by Heath (2009), merely urging more ethical behaviour upon financial advisers, does not present a solution to prevent the unethical behaviour of rogue advisers. Consequently, at the time of writing, individual advisers were now being regulated by two regulators, namely ASIC via third-party licensees and FASEA directly. Equivocally, although still in early stages, both FASEA and ASIC share overlapping licensing powers to prevent or cancel the authorisation of individual financial advisers from practising their craft, albeit for different reasons. Thus, these latest regulatory requirements around professionalism are yet to take hold to protect the Australian public when receiving financial advice.

\textbf{2.2.2 Adviser licensing regime in Australia}

Part 7 Division 5, key parts in the Act, relates to licensing financial institutions and authorising their agents. In addition to Chapter 7 of the Act, Teale (2008) highlighted, the regulations are continually updated to be legally enforceable with a separate process from the government involving Corporations Regulations 2001\textsuperscript{35}, plus Schedule 2 and 3 in the Corporations Amendment Regulations 2013 (No 3)\textsuperscript{36} as additional support (Beal & McKeown 2009; Global Accounting Alliance, Chartered Accountants Worldwide & charteredaccountantsanz.com 2016). In addition, ASIC introduced Regulatory Guides [RG]\textsuperscript{37}, previously known as Policy Statements as guidance to ‘regulated entities’ within the financial planning industry when considering the interpretation and compliance of the law (Beal & McKeown 2009). Although not legally enforceable, they assist in the understanding, interpretation and regulation of the

licensing of licensees and authorised representatives (Bennett 2000; Tomlinson 2001; Clayton Utz Financial Services Reform Group 2002; Pearson 2006b; Australian Securities and Investments Commission 2014a). Illustrated above, as part of the process of keeping participants in the advice industry informed or to clarify any confusion, ASIC continues to amend existing regulatory guidance over the course of the changes to reflect the FOFA reforms where necessary (Australian Securities and Investments Commission 2014d). Furthermore, there are also Explanatory Memoranda and Statements38 accompanying every new Bill, which the Commonwealth Government issues (O'Neill 2006). Although they are not legally enforceable, they form part of the additional guidance notes to the Act and the Regulations to offer insights into the intention behind any rules and how the Commonwealth Government intends for it to operate in practice. Of note, although financial product advisers are subject to the Act, this legislation is also backed up by other important protections in common law (Sinodinos 2014; Boyle 2015). The law of contract and duty of care exercised by financial advisers are of specific relevance in common law (Adams 2002). Therefore, the principles of common law built up through successive court decisions, also extends and complements the Corporations Act 2001.

The Act and supporting documents requires institutions who provide financial services and products (Beal & McKeown 2009) to hold an Australian Financial Services Licence with a few exceptions (Beal & McKeown 2009; Jones 2012; Banister et al. 2013). AFS licensees are either individuals, partnerships or companies, but not trusts, unless held in their capacity as trustees, but not in the name of the trustees, as qualified in the Act (Australian Securities and Investments Commission 2016d). Therefore, the AFSL regime is available to financial institutions, accountants, and credit licensees, trustees of superannuation funds, fund managers and individuals who qualify. Notably, licensees once licensed are registered on the Professional Register (Australian Securities and Investments Commission 2016f). An AFSL imposes a range of ongoing obligations (Adams 2002) and minimum standards of conduct provisions on the licensees at institutional level and on their advisers at the individual level (Harvey 2002; Teale 2008; Australian Securities and Investments Commission 2016d). To illustrate further, these obligations include the type of advice, general or personal, provided; audit requirements; uniform product disclosure obligations and authorised representative competency standards (Holley Nethercoate Commercial & Financial Services Lawyers 2014b; Australian Securities

and Investments Commission 2016d). All licensing, conduct and disclosure requirements apply to all providers in relation to financial services offered to both wholesale and retail client (Banister et al. 2013). Both Banister et al. (2013) and Rantall (2014) mentioned, the policies, processes and procedures licensees have in place to ensure their compliance with the law, serve as critical proof to ASIC of their, and their ARs’, competency to deliver financial services in an efficient, honest and fair manner.

Since implementation of FSR, ASIC has introduced three licensing options to provide certain financial product and financial advice services with some common legal responsibilities as listed in Table 2.1 below. Either a full AFS licence (Teale 2008) or a limited AFSL licence option (Serpell 2008; Halsey & Halsey 2014) or where the AR is licensed via AFSL licensees. Obtaining full AFSL39 enables the licensee and their adviser to offer comprehensive personal financial product and services advice, including recommendations in a broad range of areas (Halsey & Halsey 2014). Obtaining a full licence requires the employment of experienced and qualified responsible manager/s for the licensees too (Holley Nethercoate Commercial & Financial Services Lawyers 2014a; Australian Securities and Investments Commission 2016k).

A limited advice licence is available to a range of institutions and individuals, such as industry superannuation trustees, financial advisers and potential accountants to offer clients ‘one-off advice’ or ‘scaled advice’40 (Australian Securities and Investments Commission 2012b; Sinodinos 2013b). Consumers receive ‘scaled advice’ to meet a restricted or limited quantity of their financial planning needs, such as insurance advice only, SMSF advice only, or advise on superannuation products, securities, simple managed investment schemes, general and life insurance, and basic deposit products. Thus, licensees engineer their business models around the expertise of their financial advisers in terms of the following classifications: expert, generalist, holistic advisers and/or product specialists (Chene, Gold & Gramlich 2010; Banister et al. 2013).

Along similar lines, prominent in the legislation41, media and in practice (Fox 2014; Pokrajac 2014; Spits 2014a; Jacobson 2016; Lester 2016; Power 2016b) yet insufficiently addressed in scholarly literature is the identification and definitions of the categories of licensees and their ARs.

39 Regulatory Guide 244: Giving information, general advice and scaled advice.
40 Regulatory Guide 244: Giving information, general advice and scaled advice.
<table>
<thead>
<tr>
<th>Licensing obligations</th>
<th>Limited license</th>
<th>Full license</th>
<th>AR of an AFSL licensee</th>
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<tbody>
<tr>
<td>Definitions</td>
<td>Describes licensees who are authorised to provide only one or more of a limited range of financial services for SMSFs, superannuation products, securities, simple managed investment schemes, general insurance products, life risk insurance products, and basic deposit products.</td>
<td>Describes licensees who are authorised to provide a full range of financial services and products.</td>
<td>Describes individuals, bodies corporate, partnerships, of corporate authorised representatives appointed by AFSL licensees to provide specific financial services and products on its behalf.</td>
</tr>
<tr>
<td>Provide all financial services covered under the AFS Licence efficiently, honestly and fairly.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
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<tr>
<td>Adequate arrangements to manage conflicts of interests.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
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<tr>
<td>Comply with licensing terms and conditions.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
</tr>
<tr>
<td>Ensure AFSL licensees and ARs comply with financial services laws, such as they are competent and trained.</td>
<td>Informal action plans developed by the licensees must be in place.</td>
<td>Formalised action plans developed by the licensees must be in place.</td>
<td>AFSL licensees’ obligation.</td>
</tr>
<tr>
<td>Must have adequate resources and compensation arrangements in place.</td>
<td>Licensees requires limited resources as they do less research and have lower compensation obligations.</td>
<td>Licensees requires sufficient resources to implement their research plans and they have greater compensation obligations.</td>
<td>AFSL licensees’ obligation.</td>
</tr>
<tr>
<td>Comply with other statutory laws</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
</tr>
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42 Refer S.912A of the Commonwealth Corporations Act 2001 for the licensing obligations of the AFSL holders.
<table>
<thead>
<tr>
<th>Licensing obligations</th>
<th>Limited license</th>
<th>Full license</th>
<th>AR of an AFSL licensee</th>
</tr>
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<tbody>
<tr>
<td>Financial product research capacity.</td>
<td>Not necessary.</td>
<td>Need to provide proof to ASIC.</td>
<td>AFSL licensees’ obligation.</td>
</tr>
<tr>
<td>Have a dispute resolution and risk management systems.</td>
<td>Member Financial Ombudsman Scheme (FOS) or Credit &amp; Investments Ombudsman (CIO)</td>
<td>Member Financial Ombudsman Scheme (FOS) or Credit &amp; Investments Ombudsman (CIO)</td>
<td>AFSL licensees’ obligation.</td>
</tr>
<tr>
<td>Notify ASIC of compliance breaches and any significant changes, like the appointment and cessation of ARs.</td>
<td>AFSL licensees’ obligation.</td>
<td>AFSL licensees’ obligation</td>
<td>AFSL licensees’ obligation.</td>
</tr>
<tr>
<td>Ensure licensees and ARs have adequate PI.</td>
<td>AFSL licensees’ obligation.</td>
<td>AFSL licensees’ obligation.</td>
<td>AFSL licensees’ obligation.</td>
</tr>
<tr>
<td>Have a Privacy and Anti-Money Laundering and Counter-Terrorism Financing policy.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
<td>Licensees and ARs must comply.</td>
</tr>
<tr>
<td>Keep registers: business document, service providers, authorised representatives, and advertising and promotions.</td>
<td>AFSL licensees’ obligation.</td>
<td>AFSL licensees’ obligation.</td>
<td>AFSL licensees’ obligation.</td>
</tr>
<tr>
<td>Engage an employee, director and/or third party contractor who is of ‘good fame and character’ to be directly involved in overseeing the provision of financial services, referred to as a responsible manager.</td>
<td>Appoint at least one person per license who has had business references, police clearances and bankruptcy checks, meet education and relevant experience requirements.</td>
<td>Appoint at least one person per license who has had business references, police clearances and bankruptcy checks, meet education and relevant experience requirements.</td>
<td>The AFSL licensee must appoint at least one person per license who has had business references, police clearances and bankruptcy checks, meet education and relevant experience requirements.</td>
</tr>
</tbody>
</table>

46 Refer S.912A of the Commonwealth Corporations Act 2001 for the licensing obligations of the AFSL holders.
Well-documented in this chapter, in this thesis and elsewhere (Senate Economics References Committee 2014; Ferguson 2015; Commonwealth of Australia 2016b; Steen, McGrath & Wong 2016) is the Australian Government concern about the detriment of misconduct within financial services. Thus, in October 2014, ASIC established the Wealth Management Project (Australian Securities and Investments Commission 2016a). Their objective was to lift conduct and standards of the largest financial advice institutions [NAB, Westpac, CBA, ANZ, AMP and Macquarie] (Australian Securities and Investments Commission 2016a). As part of this project, on 2 March 2016 ASIC announced they will increase their surveillance, seek out, publicly name and shame financial services licensees or their authorised representatives who illegally refer to their financial services as “independent” (Australian Securities and Investments Commission 2016c; Jacobson 2016).

If the Act is read carefully, s923A states financial services providers must operate without any conflicts of interest from remuneration, affiliation, association and ownership links to product issuers50 (Jacobson 2016). It prohibits advisers, any related body corporates or their associates receiving remuneration in the form of commissions, some asset-based fees, volume-based payments, bonuses, gifts and/or other benefits51 (Elliott 2006; Jacobson 2016). Asset-based fees are remuneration in the form of a percentage incentive payment for funds under management (Brown 2011). If turning-off commissions is impractical, the Act instructs the rebate of these commissions back to the client52. Moreover, this law disallows restricting recommendations of financial products by a narrow-approved product list (Elliott 2006; Jacobson 2016). Currently, s923A permits receiving or charging asset-based fees for funds under management (Power 2016b), but bans asset-based fees on investments limited to borrowed funds under management [s964D and s964E]53. Available non-scholarly literature seems to indicate, permitting asset-based fees is a controversial issue. For Industry Super Australia (2014), and others, like the Accounting Professional and Ethical Standards Board (Brown 2011), receiving asset-based fees via a specific platform is technically a commission from platforms and hence product sales, which potentially leads to conflicts of interest. To the contrary the Financial Planning Association (2014) claimed asset-based fees are advice fees, not commissions. These fees are

53 Regulatory Guide 246: Conflicted remuneration
charged through the product under the direction of the client for ongoing services to obtain regular information on each investment in the client’s portfolio from respective platforms and product issuers. Like Australia, the UK Financial Conduct Authority [previously Financial Standards Authority] also permits asset-based fees with the condition it fairly represents services provided to the client (International Financial Law Review 2009). Curiously, while this research was underway, a journalist reported, ASIC is seeking independent legal guidance to establish whether those who claim independence, while charging asset-based fees are conflicted (Santacruz 2016b).

Section 923A of the Act appears to create two categories of advisers licensed via licensee, namely advisers who are either not independent [product-aligned] or independent. However, during this study, anecdotal evidence (based on reports by, Elliott 2006; Fox 2014; Spits 2014a, 2015a; Jacobson 2016; Lester 2016; Power 2016b) indicated more than two categories identifying and defining the role of advisers existed. These categories were based on ownership and remuneration, with limited reference to s923A. Colloquially, they were known as “independent” (Power 2016b), “aligned”, and “non-aligned” (Lester 2016). Seemingly, these terms were inconclusively debated in non-scholarly literature, in practice (Tucker 2009; Starke 2013b; May 2014; Spits 2014a; Vickovich 2014a) and in online blogs (Lester 2016).

Those licensees and their advisers who considered themselves aligned to product issuers providing aligned advice seem clear, they cannot legally use the terms “independent”, “impartial” or “unbiased”, because they do not meet the requirements in section 923A [for example AMP-owned and the bank licensees and advisers]. Characteristically, salaried employee or self-employed advisers licensed to licensees who are affiliated to product issuers provide aligned advice (Perri 2014; Spits 2014b). Their product-aligned employer affiliates, inter alia, AMP-owned and the bank-licensees, are generally vertically integrated (Pokrajac 2014). Aligned institutions tend to control and restrict the products and platforms on their approved product lists [APLs] (Smith 2009; North 2015; Certified Practicing Accountants Australia 2016). A fundamental challenge for aligned advisers, Sandlant (2011) and Power (2016b) claimed, is their role as distribution channels for product providers for revenue benefits.

Furthermore, the media reported (Independent Financial Adviser News 2016c) these licensees also restrict adviser ownership of the client by, for example offering buyer of last resort
Buyer of last resort [BOLR] agreement is a contract between a licensee, who usually distributes financial products, and their AR, allowing the licensee to purchase the client base from the adviser when they retire or exit the licensee. The capital purchase value is calculated based on formula applied to the funds under management [FUM] or revenue the adviser had generated. Generally, a higher percentage is paid if the FUM is with the licensee. Thus, encouraging advisers to increase the capital value of the business by recommending mainly the licensee’s in-house financial products (Francis 2006).
question “Should the term ‘financial advice’ be classified as either ‘aligned’ or ‘non-aligned’?”

In his report, he explained this poll led to the following issues: (1) how the terms ‘aligned’ and ‘non-aligned’ should be defined; (2) whether these terms should be used at all; and (3) the extent to which the terms would have meaning for the client. Some financial advisers (Hewison 2014; Perri 2014) and authors of other works (Certified Practicing Accountants 2014; Pokrajac 2014; Spits 2014a; North 2015; Spits 2015b; Lester 2016) agreed it is imperative for the sake of simplicity; to define the nature and scope of the advice; and provide clarity and protection to the public. This can be achieved through the correct definitions and use of the term ‘independent’ to better differentiate independent advisers from those advisers who are not.

Added to this controversy were allegations55 (see for example, Munro 2011; Sandlant 2011; Australian Securities and Investments Commission 2013b, 2013c; Vickovich 2015) claiming mid-sized licensees and their ARs advertised themselves as ‘independent’. While under the misconception of following the independent advice principles, they were still selling their own ‘white label’56 or ‘private label’57 products recommended from single platforms and/or allowing commissions or asset-based fees (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Smith, Armstrong & Francis 2009; Sandlant 2011; North 2015; Spits 2015a). To the contrary, ASIC’s (2014f) interpretation of s923A is different (Santacruz 2016a). They asserted licensees are not necessarily “independent” just because no affiliation to a financial product issuer exists. Subsequently, ASIC sought legal advice around the terms “independently-owned” (Santacruz 2016a), “non-institutionally owned” and “non-aligned”. This was after they penalised two non-aligned licensees, because they used these terms when they did not meet the requirements of s923A (Independent Financial Adviser News 2016a).

The argument proposed by one of these non-aligned licensees for using the term “independently-owned” was to inform the public, the banks and/or other financial institutions do not own them (Santacruz 2016c). Arguably, if they can make this claim, then on these grounds any self-employed authorised representative authorised via an aligned licensee could make the same argument. Namely, they can argue they are independently owned, because their licensee does not own them, just authorise them and restrict their activities or actions.

55 Regulatory Guide 246: Conflicted remuneration.
56 Australian Securities and Investments Commission (2013b, p. 24) defined a platform ‘white label’ arrangement as a contractual agreement between a platform owner and licensee to rebrand the platform to give the appearance it is the licensees’ own platform.
57 ‘Private label’ agreements occur when the licensee is also the platform owner and characteristically contracts out the administration of the platform to another platform operator (Australian Securities and Investments Commission 2013b, p. 27)
Interestingly, the literature review revealed Australian Securities and Investments Commission (2014f) used the term “non-affiliated” in some of their reports and the term “non-aligned” in a media report (Australian Securities and Investments Commission 2016b). Yet notably, the Australian Government only seem to use the terms “aligned” and “independent” in their public reports, with no evidence of the term ‘non-aligned’ in any of them (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Australian Government The Treasury 2014).

Despite this, advisers who did not meet the requirements of s923A independence definition were referring to themselves with related terms to independence, such as “independently owned”, “non-institutionally owned” and “non-aligned”, without using the terms “independent”, “impartial” and “unbiased”. Some viewed this play on words as potentially misinterpreting and misapplying the requirements in section 923A of the Act. Thus, potentially misleading the public to think they were dealing with an independent adviser when they had mixed feelings. Therefore, based on legal advice, the Australian Securities and Investments Commission (2017b) clarified, the terms “independently owned”, “non-institutionally owned” and “non-aligned” or related terms could only be used if advisers complied with the requirements of s923A. Consequently, they have updated Regulatory Guide 175 Licensing: Financial product advisers – conduct and disclosure explaining how to interpret s923A of the Act.

Although ASIC has clarified two categories of licensee and advice under s923A, at the time of finalising the editing of this thesis, this section of the Act remains contentious with lobby groups wanting it amended or repealed (Johnston & Walker 2017b; Vickovich 2017b, 2017c). Notably, Elliott (2006) defended, saying s923A was difficult for advisers and licensees to implement. She explained, in practice a fee-for-service business sometimes finds it almost impossible to rebate commissions back to clients when these commissions cannot be turned off. Another financial planning practitioner also confirmed, for a financial adviser, it was difficult to structure their business to meet the independence requirements, because “the industry is not set up to support this kind of ethics – it actually drives against it” (Beaman 2010c, p. 9). However, it is argued any potential misapplication or misrepresentation of s923A of the Corporations Act places licensees and advisers at risk of ASIC taking action (Pearson 2008; Australian Securities and Investments Commission 2016b), as well as legal liability consequences subject to various other regulations (Bird & Gilligan 2015a).
Thus, at the time of finalising this research, a s923A independent adviser is considered a non-aligned self-employed or salaried employee unaffiliated, unrelated or unowned by product issuers (Perri 2014; Spits 2014b, 2014a; Australian Securities and Investments Commission 2017d). Licensees and advisers who are truly independent providing independent advice are legally able to use the terms “independent”, “impartial”, “unbiased”, “independently owned”, “non-institutionally owned”, “non-aligned” and/or related terms, as specified in section 923A of the Act, for several reasons. They either meet (1) the Independent Financial Advisers Association of Australian’s gold standard and strict independence conditions, with no direct or indirect ownership, affiliation or association links to product issuers, and charge no commissions or asset-based fees [for example licensees Roskow Independent Advisory and Brocktons Independent Advisory]; or (2) all the requirements in section 923A of the Act, with no direct or indirect affiliation links to product issuers, charge no commissions, but charge asset-based fees [for examples licensees Pitcher Partners Wealth Management and Aspire Financial Consultants]. These licensees do not restrict the ownership of the client with for example BOLR terms (Perri 2014; Spits 2014b, 2014a). Unlike in many aligned cases, clients are transferred with their advisers to another licensee without any encumbrance (Perri 2014; Spits 2014b, 2014a). Allegedly, they are not vertically integrated. They enjoy broad APLs not commonly controlled by their licensees (Pokrajac 2014). The clients of the non-aligned advice sector allegedly receive a greater degree of independent advice (Starke 2013b), because allegedly product bias in the recommendations is obscured (Pokrajac 2014).

Licensees obtain an AFSL by lodging an application with ASIC once it meets regulatory standards as prescribed in the Act and several ASIC regulatory guides58 (Deloitte & Financial Services Council 2014). Only once licensed, are licensees permitted to appoint ARs, who are their agents comprising either ‘natural persons’, body corporates or partnerships [S916A of the Act] providing advice on financial products and services to the public (Beal & McKeown 2009; Deloitte & Financial Services Council 2014). Accordingly, among their numerous regulatory responsibilities, ASIC enforces a demanding legal process (Jones 2012; Banister et al. 2013)

prescribed in Sections 916A, 916B, 916C, 916D, 916E and 916F of the Act to appoint, authorise and regulate individual advisers through third-party licensees (Beal & McKeown 2009). The licensees’ role involves providing internal and external legitimacy for the actions of their advisers.

Outwardly this is demonstrated by a rigorous selection process (Bender 2011) using a monitoring, supervising and training compliance system (Bennett 2000) that meets the requirements of the legislation. For instance, some of the statutory duties imposed on licensees and advisers include: providing appropriate advice; adequate warnings of the risks; managing controlling and/or avoiding conflicts of interest through disclosure\(^59\); utilising some form of documented risk management system; and always placing the clients best interest with ‘safe harbour’ requirements ahead of their own interests (Deloitte & Financial Services Council 2014). Also noteworthy, section 916B of the Act states, where authorised representatives are body corporates, its employees and directors also needs to be appointed as authorised representatives of the licensees (Bearden 2006). Notable, individual ARs do not require a licence as specified in Section 911A, unless they deliver financial advice without supervision via an AFSL licensee (Parliamentary Joint Committee on Corporations and Financial Services 2009b, p. 23). From 31 March 2015, authorised representatives of licensees must be registered on the ASIC Financial Adviser Register available to the public online (Bateman & Kingston 2014).

Apparent in practice (Holley Nethercoate Commercial & Financial Services Lawyers 2014a; Power 2015; Global Accounting Alliance, Chartered Accountants Worldwide & charteredaccountantsanz.com 2016), but subtly defined in scholarly works, ARs can only practise their craft if licensed in one of three ways: 1) licensed as independent individual self-employed financial advisers with their own licence [self-licensing]; 2) contracted to licensees like a franchise arrangement using the licensees support services (Parliamentary Joint Committee on Corporations and Financial Services 2009b); or 3) becoming employees of licensees (Bennett 2000; Holley Nethercoate Commercial & Financial Services Lawyers 2014a). Firstly, independent financial advisers, who comply with s923A of the Act, can take out an AFSL and be themselves legally responsible and accountable (Teale 2008). This involves following a process as prescribed by the law and ASIC to set up a practice on their own after meeting ASIC’s education, experience, and licensee licensing requirements (Bennett

\(^{59}\) Disclosure is in the form of a Financial Services Guide, Statement of Advice, which includes a Fee Disclosure Statement and Product Disclosure Statements.
In Australia, the independent self-licensed adviser has the freedom to recommend from a choice of products for their clients, because they operate open product lists of all the products in the marketplace (Pokrajac 2014). Secondly, the contracted or franchised financial advisers wanting to be self-employed without taking on the legal and financial responsibility of an AFSL may enter a contract or franchise arrangement with licensee groups. The licensee groups remain legally responsible for the education, training, supervision and conduct of the franchised financial advisers, while the advisers operate their own business with comparative autonomy. In exchange for a fee, these licensee groups offer ARs subsidised support services (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Professional Planner 2017b), such as education, compliance, marketing, and software (Bennett 2000). Thirdly, ARs can become employees of licensees and be paid, generally, a base salary with additional performance-based remuneration (Bennett 2000). Notable, employees of AFSLs can provide financial product advice on behalf of their AFSL employer without requiring to become an authorised representative or holding an AFSL as long as their employer has an AFSL (Simes, Harper & Green 2008).

From the foregoing, it is apparent the financial services regulator, ASIC, is responsible for licensing and monitoring the activities of the AFSL holders and their agents. This involves taking the necessary action for any violations identified; imposing or changing licence conditions; reviewing sales, marketing material and investment schemes of licensees; and reviewing selected documents, such as product disclosure statements and financial statements lodged with them (Jones 2012; Banister et al. 2013). ASIC takes action against advisers who offer financial services beyond the scope of their licence conditions (Pearson 2006b) by suspending or cancelling a licence or banning a ‘natural person’ from acting as an adviser (Simes, Harper & Green 2008; Serpell 2012). If problems with the information disclosed occur or if the offer documents require additional or corrective disclosure, then ASIC is expected to enforce appropriate disclosures (Jones 2012). The enforcement involves an administrative remedy in addition to any civil or criminal remedies (Jones 2012), including enforceable undertakings and related penalties (Bird & Gilligan 2015b; Gilligan et al. 2015a; Gilligan et al. 2015b; Bird et al. 2016; Gilligan et al. 2017).

2.2.3 Australian reform consequences and challenges

Implementation of the Act, plus its subsequent amendments by both Financial Services (see, Tomlinson 2001; Bulling 2003; Moutsopoulos 2005; Haigh 2006; Jackling & Sullivan 2007)
and Future of Financial Advice Reforms (see for example, Serpell 2008; Bowen 2010; Alexander 2011; Australian Securities and Investments Commission 2014e) have not been without its critics. Pearson (2006b) claimed the FOFA rules are so wide in scope, complex and confusing it continually requires further explanation. Illustrated above was such a situation, namely the recent review by ASIC of the legal interpretation of s923A of the Act (Australian Securities and Investments Commission 2017b; Tran 2017; Vickovich 2017b; Waterson & Vickovich 2017). Valentine (2008, p.283) critically argued, some parts of the financial services industry is highly regulated, while others lightly regulated. He also noted, not all advisers operate on a level playing field, nor carry uniform regulatory burdens under the existing licensing model. For example, S765A of the Act disregards physical assets such as direct real estate [property], wine, art, stamp collections and credit facilities as financial products. Therefore, insurance brokers, mortgage brokers, real estate agents, art dealers, coin and stamp dealers, jewellers and sellers of sporting memorabilia do not require an AFSL or are only partially covered by the AFSL. Furthermore, Smith, Armstrong and Francis (2009) noted, the Act excludes estate planning or non-product strategic advice.

Although FSR was supposed to result in efficiencies and cost savings for financial services providers, Pearson (2006b) also felt it has been an expensive endeavour for the industry in terms of compliance costs, financial adviser turnovers within licensees, as well as from the exit of financial advisers from the advisory sector.

Although unverified in scholarly literature, advisers transferring between licensees, place licensees, the clients and advisers at risk, both legally and financially. For example, clients are adversely affected concerning professional indemnity insurance and when BOLR agreements are in place, especially when individual financial advisers change licensees. In 2010 Guardian and Synchron licensees had a disagreement over a clause in an adviser transfer agreement, that unless Guardian agreed to the transfer conditions, Synchron would not be covered by Professional Indemnity insurance in the event a transferring client was unhappy with the advice given to them while at Guardian, and before moving over to Synchron (Levy 2010).

Furthermore, anecdotally where clients are ‘owned’ by the licensees, particularly when BOLR agreements are in place, the client is expected to wait for the licensee to find and allocate a new adviser to the client, which may not be of the client’s choosing. Although authorised representatives can leave their licensees at any time, they lose their authority to continue working until they sign up with another licensee, or obtain their own licence (Clayton Utz
Financial Services Reform Group 2002). This potentially leaves clients, who have invested considerable time building a relationship of trust with a particular adviser (Banister 2016), without a designated adviser during the transition time of the transfer to another licensee. This void for clients could gravely impact any existing trust relationships between adviser and client (Banister 2016), notwithstanding future trust associations.

Haigh (2006) observed, despite FSR legislation introducing a legal and ethical framework governing advisers and licensees, commensurate levels of accountability are missing when shared between licensee and adviser. Under FOFA legislation accountability is not at the individual level, but at the institutional level, especially where the majority of advisers are affiliated to product producers (Parliamentary Joint Committee on Corporations and Financial Services 2009b). Prior to statutory best interest duty obligation, Gor (2005) noted, the accountability burden rested entirely on licensees to authorise representatives to offer financial services. Thereafter, he argued, they rested with both the licensees and their ARs, in indistinguishable proportions. In this regard, Haigh (2006) and Pearson (2006b) may be correct when they decided the legislation produced no tangible benefits to the Australian public.

North (2015) contended the licensing regulations disseminated a range of business models covering different sizes. Debatably, leading to inconsistent standards between licensees (Vickovich 2014d) for compliance audits, education, training, supervision, licensee licensing requirements and conduct (Bennett 2000). Highly questionable, the Act validates commercial product-aligned licensees to acquire advisers to be their financial product distributors (Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24) and hence, arguably, condones conflict of interest from association, which threatens independence and professionalism.

Furthermore, agency theory, according to Scott (2013, p. 61), highlighted the cost and difficulty of monitoring the regulation through third parties who may not necessarily be neutral. Another problem with the legislation is the potential for licensees to take advantage of technical and detailed licensing rules of the Act to develop formal compliance programs on paper to give the appearance of satisfying the regulatory requirements [window dressing], while still allowing for sales-based culture (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Smith 2009; Newnham 2012; Parliamentary Joint Committee on Corporations and Financial Services 2014; North 2015).
Also subject to deficits in academic works, yet apparent in media commentaries (Vickovich & Micallef 2013), were discussions on the advantages and disadvantages of licensing advisers through third-party licensees. Some advantages include, third-party licensees allowing advisers to focus their attention on the client while leaving back-office, compliance and regulatory burdens to the licensees. Licensees affiliated to large institutions are in a better position to pay compensation to clients for losses suffered if legal compliance violations or unethical behaviour occurred (Pokrajac 2014). Disadvantages include, *inter alia*, advisers unable to market themselves as independent to clients who consider independence important, as well as being restricted by the licensees’ approved product list when providing advice to clients (Santhebennur 2014).

In a later paper, Valentine (2013) proposed the legislation did not deal with the fragmentation of financial advice, limited licences, tax agents, grandfathering, horizontal and vertical integration, adequately. The underlying argument by Valentine (2013) was against reforms being reactive, such as for example, when the use of the descriptions ‘financial planner’ or ‘financial adviser’ by licensed individuals were added to the Act at the eleventh hour.

Burke and Hung (2015) documented the scant evidential research in Australia studying the impacts of FOFA. For example, Australian Government The Treasury (2014) released a FOFA Regulation Impact Statement titled *Future of Financial Advice Amendments—Details-stage regulation Impact Statement* in March 2014, noting the decline in the number of financial advisers since implementation of FOFA. They conceded two contributory factors to this decline in adviser numbers, namely both FOFA reforms and the ailing economy. However, it is unclear, according to Burke and Hung (2015), which contributed more to the decline, because these two impacts were connected. They also could not deduce from their findings whether increased industry concentration and compliance costs, together with increased costs of advice reduced access to financial advice for retail clients.

Another bit of research reported in the *Review of the financial advice industry’s implementation of the FOFA reforms (Report 407)* reviewing the industry’s implementation of FOFA was conducted by ASIC with their findings released in September 2014 (Australian Securities and Investments Commission 2014f). They found, which Burke and Hung (2015) also reported in an article, although most licensees increased scaled advice and strategic advice, most did no change the type of advice services they offered post-FOFA implementation. ASIC also found the statutory fiduciary duty obligations did not have any impact on most institutions’ approved
product lists, except for a few amendments such as a reduction in the number or types of products on the list. However, they did find the presence of an estimated reduction in commissions paid by product issuers, a reduction in fees based on volume of assets under advice, and an increase in fixed fees paid by clients. Yet they stated after implementation of FOFA, the [unweighted] average income source for these licensees changed little. Burke and Hung (2015) determined in post-FOFA some institutions were continuing to receive most revenues from commissions, because of grandfathering arrangements existing before July 2013, or because of excluding banning insurance commissions. Seemingly FSR and FOFA has been a long and difficult road with many sections in the Act seemingly omitted (Roberts 2012), unresolved or continuing as a work-in-progress for Australian policymakers. Interestingly, Australia is not alone in finding a suitable model to regulate the financial advice sector. Thus, this chapter shifts the focus internationally, to the UK and US, because other countries face similar challenges.

2.3 UNITED STATES

2.3.1 Legislative background to United States adviser regulation

Prior to 2010 US providers of financial services operated in a relatively unregulated environment (Baily, Klein & Schardin 2017). They would distinguished themselves, for example, by registering with private self-regulatory organizations, such as the Certified Financial Planner Board of Standards Incorporated (Finke & Langdon 2012). Historically, documented by Inderst and Ottaviani (2012e), advice provided by US investment advisers was not always in the best interests of the public. For instance, Finke, Huston and Waller (2009b) explained US retail consumers struggled to clearly distinguish between investment financial advisers and brokers designations, because of the similarity in their job titles. On top of this, the GFC in 2008 nearly destroyed the US Financial System and led to financial hardships for many Americans (Kelleher, Hall & Medina 2016).

This all changed with the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act 2010 [Dodd-Frank Act] in response by the US Government to the calamities of the GFC (Himstreet 2012; Kennedy, McCoy & Bernstein 2012; Burke & Hung 2015; Kelleher, Hall & Medina 2016). A major component of this legislation focused on the regulation of two distinct categories of financial services providers. Namely, to regulate product- and remuneration-conflicted broker-dealer institutions and independent investment adviser institutions separately by a different regulator with a different set of rules to make them more
distinguishable (Carosa 2012; Rubin 2015). Specifically, the primary regulator, the Securities and Exchange Commission [SEC] regulates the financial advisory institutions [FAIs], together with their registered investment advisers [RIAs] or registered independent advice representatives [RIARs] (Zabel 2010; Himstreet 2012). While broker-dealers institutions [BDs] with their broker-dealer registered representatives [RRs] (Bateman & Kingston 2014; Burke & Hung 2015) are now regulated by Financial Industry Regulatory Authority [FINRA] under the supervision of SEC.

The primary regulator, SEC, is authorised to write and enforce the legislative rules, as well as conduct examinations (Inderst & Ottaviani 2012e). Together with the Consumer Financial Protection Bureau they track consumer complaints (Inderst & Ottaviani 2012b). SEC, for example, deals with matters of competence, standards and disclosures of any unavoidable conflicts of interest in the financial sector (Balasubramnian, Brisker & Gradisher 2014; fi360 FiduciaryPath 2015, p. 26). Burke and Hung (2015) also claimed, SEC has, on an ongoing basis, been expected to evaluate the effectiveness of the existing legal and/or regulatory provisions, while also identifying any gaps, duplication or shortcomings in the regulations protecting retail clients (U.S. Securities and Exchange Commission 2011)\(^\text{60}\). Interestingly, Balasubramnian, Brisker and Gradisher (2014) recommended in their paper, Section 913 of the Dodd-Frank Act, obligates the SEC to consider changes in how different financial professional designations apply their fiduciary responsibilities to their clients. SEC with the US Department of Labor [DOL] was in the process of considering some rule changes in this regard. Specifically, on 8 April 2016 DOL announced a ‘fiduciary rule’, which defined US advisers as fiduciary (United States Department of Labour 2017). This is expected to affect all advisers in the US. However, the controversial rule with final compliance initially scheduled to be phased in from 10 April 2017 to 1 January 2018, was delayed until 9 June 2017. Illustrating the difficulty of the issue, a further delay until 1 July 2019 [18 months] was granted on the 28 August after DOL lodged a legal document to the US District Court for Minnesota in this regard (Waddell 2017).

Interestingly, Baily, Klein and Schardin (2017) concluded, Dodd-Frank legislation has made the financial sector much safer and more stable without loss of efficiency and economic growth. They concluded further, the legislation is addressing the “too-big-to-fail” (Baily, Klein & Schardin 2017, p. 43) problem with clear procedures for dealing with institutions in trouble. In

\(\text{60 Prescribed in Section 913 of Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.}\)
their view, by removing misleading financial products the legislation ensures the public is protected. Yet they acknowledged improvement in agency supervision has some way to go with the need to continue tweaking Dodd-Frank to improve its performance. Accordingly, in the next section an explanation is presented considering how the Dodd-Frank reform legislation resulted in US policymakers incorporating a financial advisory structure (Demina 2014) to impact the relationship between product providers, advisers and clients of financial services with consumer protection as a main objective (Inderst & Ottaviani 2009).

2.3.2 Adviser licensing regime in the United States

To permit financial institutions and their agents to provide independent financial advice, SEC enforces the definitions and specifications of the US Investment Advisers Act 1940 [54 Stat. 847] (Laby 2010) on financial advisory institutions. FAIs are not ‘natural persons’, but legal entities comprising investment advisory institutions obligated to register with the SEC (Rubin 2015). Notably, FAIs can also be registered with state agencies, depending on the size of funds under their management (Balasubramnian, Brisker & Gradisher 2014). Therefore, in order to register with the SEC, the financial advisory institutions must meet a funds under management [FUM] threshold, which at the time of writing, is set at $100 million (fi360 FiduciaryPath 2015). Accordingly, institutions with less than $100 million in FUM, instead of registering with SEC, are required to register with the states in which they have clients (fi360 FiduciaryPath 2015). Additionally, Bateman and Kingston (2014) mentioned, an extensive list of exclusions from this legislation of FAI institutions who do not have to register with the SEC is available.

FAIs must comply with the regulations promulgated by the SEC when engaging the services of registered independent advisers [registered investment advisers] (Burke & Hung 2015; Rubin 2015). Zabel (2010) penned, IARs are either independent [self-employed, while affiliated to an FIA or they have their own FAI] or they can join existing FAI as supervised employees. Independent advice representatives may include Certified Financial Planners® and/or others with similar designations (Balasubramnian, Brisker & Gradisher 2014). IARs, according to the writings of Rubin (2015), provide ongoing financial advice for compensation in the form of a fee-for-service, regardless of whether the client purchases or sells a particular financial product. Consequently, earning a transaction-based commission incentivises them to distribute any financial products (Demina 2014; Burke & Hung 2015; Egan, Matvos & Seru 2016). Noteworthy, the majority, Burke and Hung (2015) established, earned FUM based percentage fees. This confirmed the US had not placed a widespread ban on commissions for
these agents. However, IARs must disclose their qualifications and background (United States Securities and Exchange Commission 2017). Fee-for-service disclosures are required as well (United States Securities and Exchange Commission 2017). FAI licensees must also provide a written internal compliance program of policies and procedures (United States Securities and Exchange Commission 2017).

Whether the FAI institutions are either state-registered or SEC-registered, these institutions and their IARs are required to comply with a statutory fiduciary duty of care, as defined by the Investment Advisors Act (Himstreet 2012; Tittsworth 2013; Burke & Hung 2015). To reflect their fiduciary duty, SEC enforces SEC rule 204A-1, where the FAI institutions adopt and enforce a code of ethics, which forms part of the code of conduct standards for all their IARs (Balasubramnian, Brisker & Gradisher 2014). Finke, Huston and Waller (2009b) mentioned, CFPs® agree to uphold a fiduciary standard higher than required by the Investment Advisers Act. Apparently, inconsistency in the application of the best interests duty occurred, because Rubin (2015) argued, for the state-registered FIAs the application of fiduciary duty to financial advisers varies from state to state. Consequently, many financial clients did not realise, unlike CFP®s or SEC-registered IARs, some state-registered IARs are not required to owe a high level of fiduciary responsibilities to their retail clients (Rubin 2015).

Unlike in Australia and the UK, to become an independent adviser [IAR] requires limited competency assessment with no formal educational requirements (United States Securities and Exchange Commission 2017). The only exception is where an IAR also wants to advise on mutual funds. Then, depending on the state in which they operate, they have to pass a securities examinations (United States Securities and Exchange Commission 2017). At the minimum advisers need to pass the Uniform Investment Adviser Law Examination with a grade of 72 per cent (Kaissar 2016). This is simply a three-hour exam, covering a variety of law and investment-related subjects for a token fee (Kaissar 2016). The US has yet to raise the educational standards. Kaissar (2016) recommended in a non-scholarly article, for example, new entrant advisers should complete a rigorous admissions process.

In his article, like Australia, he proposed, after completing a minimum amount of undergraduate or graduate-level coursework in finance, accounting, or economics, entrants should also pass examinations in law and regulation, economics, financial statement analysis and portfolio management similar in difficulty to the CPA®, bar or medical board examinations. He argued an effective deterrent to misconduct and non-compliance is ensuring advisers invest a
substantial amount of time, money and effort into joining the profession. His underlying argument suggests making it difficult for an individual to obtain a license through a demanding admissions standard process to encourage high ethical standards. Although Kaissar (2016) admitted, it may be unfair and impractical to impose new licensing requirements on existing advisers, he suggested there was no reason why advisers should not undertake continuing professional development.

Arguably, Frumento and Korenman (2013) informed not all advisers in the US may lack the necessary educational standards, because the Certified Financial Planner® Board of Standards Incorporated has developed a complete program to certify US fee-only financial advisers with specific curricula and examinations criteria. According to a paper published a few years ago by the Financial Planning Coalition (2014), the CFP® Board has had limited success in encouraging increased CFP® certification, setting and enforcing competency and ethical standards, plus identifying qualified advisers to fill some of the gaps in the regulation. Of note, Frumento and Korenman (2013) mentioned, the National Association of Personal Financial Advice [NAPFA], the professional body for fee-only US financial advisers, only accept CFP®-designated financial advisers for membership. The NAPFA National Board was increasingly supporting the emerging financial planning profession with a singular professional designation they want the public to trust in the same way Certified Practicing Accountants, medical doctors, or lawyers do by meeting education, training and ethics requirements (Frumento & Korenman 2013).

Balasubramnian, Brisker and Gradisher (2014) claimed to provide retail clients a degree of assurance about any financial adviser’s registration, licensing, conduct, reliability, educational and professional experience competence they have access to some of this information and education from the SEC. With the assistance of Investment Adviser Public Disclosure [IAPD], SEC provide consumers with background checks of registered investment advisers and their affiliated institutions (Demina 2014). In a joint venture with North American Securities Administrators Association [NASAA], SEC maintain the Investment Advisers Registration Depository (IARD) (Balasubramnian, Brisker & Gradisher 2014). Moreover, various institutions, such as for example CFP® Board, various individual state agencies and American Association of Retired Persons [AARP] provides information to retired retail clients regarding how to conduct background checks on advisers and what should be considered when dealing with advisers. Through its Office of Compliance Inspections and Examinations [OCIE], the SEC monitors the activities and conduct of IARs to identify higher-risk advisers of any
misconduct the SEC’s Division of Enforcement should pursue (Demina 2014). All advisers who have been disciplined, are listed on a public record for misconduct (Egan, Matvos & Seru 2016). However, despite the US Government’s intent to protect retail consumers with legislation, the onus continues to lie ultimately with the retail clients to take responsibility for selecting their financial adviser and negotiating arrangements with them based on the disclosures they receive (United States Department of The Treasury 2009).

In contrast to FAIs, broker-dealers are subject to the provisions of the Securities Exchange Act of 1934 [Exchange Act] [48 Stat. 881] (Laby 2010; Demina 2014; Burke & Hung 2015). They must become members of the Financial Industry Regulatory Authority (Balasubramnian, Brisker & Gradisher 2014; Egan, Matvos & Seru 2016), which is an independent non-profit self-regulatory organisation (Inderst & Ottaviani 2009; fi360 FiduciaryPath 2015) registered with the SEC (Rubin 2015). Interestingly, according to the writings of Powell (2008) a United States based Financial Planning Association survey many years ago found, US financial advisers would prefer regulation by a professional regulatory organisation such as the CFP® board than self-regulation by SRO boards administered by FINRA.

Like IFAs, the BDs are not ‘natural persons’. They are business entities performing brokerage activities, such as purchasing and disposing of financial instruments (United States Department of The Treasury 2009) for profit (fi360 FiduciaryPath 2015). In addition to earning transaction-based commissions (Burke & Hung 2015), these institutions are referred to as dealers when they not only purchase or dispose of financial instruments for third parties, but also for their own account (United States Department of The Treasury 2009). The employees of BDs, are registered representatives [RRs] who are ‘natural persons’ (fi360 FiduciaryPath 2015). A paper by Burke and Hung (2015) indicated, BD entities do not have their own licensing requirements, however their RRs are generally subject to the licensing requirements of FINRA, which include Series 6, 7 licences, which comes with educational requirements. Affiliated individuals of BDs have no qualification requirements, unless they also provide advice in securities transactions (Burke & Hung 2015).

Unlike IARs, RRs are incentivised to sell products to receive remuneration in the form of commission payments (Demina 2014). So as not to mislead retail consumers, Rubin (2015) clearly stated, these institutions are obligated to be transparent in their advertising, informing consumers RRs are arms-length sales people. FINRA authorised by Congress, Rubin (2015) enlightened further, promulgates and enforces the Exchange Act provisions and rules as well
as FINRA rules (fi360 FiduciaryPath 2015). For example, they enforce the requirement that BDs disclose to FINRA all customer complaints and arbitrations, regulatory actions, employment terminations, bankruptcy and criminal or judicial proceedings (Egan, Matvos & Seru 2016). They also implement educational standards, which include for example the Series63, Series65, Series66, Series7 and Series6 licensing examinations (Egan, Matvos & Seru 2016), as well as rules governing the activities and conduct of brokers-dealers and market transparency (Balasubramnian, Brisker & Gradisher 2014). FINRA is also responsible for educating retail consumers (Balasubramnian, Brisker & Gradisher 2014) while monitoring the outcomes of risk assessment audits of the broker-dealer institutions for compliance (Demina 2014). Noteworthy, despite all these requirements, the onus remains with the retail consumer to access and select a suitable broker-dealer using FINRA Broker-Check10 of background information on brokers (Balasubramnian, Brisker & Gradisher 2014).

Instead of a higher fiduciary standard of care (Balasubramnian, Brisker & Gradisher 2014), RRs fiduciary duty is much broader (Deloitte & Financial Services Council 2014). However, it is a legal requirement under current US securities regulations, for BDs to make financial recommendations ‘suitable’ to the portfolio, financial situation, needs (Balasubramnian, Brisker & Gradisher 2014; Burke & Hung 2015; Rubin 2015) and risk profile of their clients (United States Department of The Treasury 2009). They also have disclosure requirements by providing to clients in plain English a narrative brochure containing all information as specified in Part 2 of Form ADV61 (Deloitte & Financial Services Council 2014). To do so it is mandatory for commission BDs to make a reasonable attempt to obtain personal financial information of their non-institutional client. Failing this they face FINRA’s disciplinary procedures and regulatory sanctions, such as the loss of their licence and/or possible litigation (Inderst & Ottaviani 2009), which limits their self-interests to some extent (fi360 FiduciaryPath 2015). Although Demina (2014) warned, retail clients run the risk of being placed into sub-optimal investments under the ‘suitability rule’. Arguably, it is a subordinate standard to fiduciary duty, because there is no need to avoid conflicts of interest, except to disclose them for specific financial products (fi360 FiduciaryPath 2015, p. 26). Consequently, the riskier products yielding higher returns and product commissions tied to their riskiness misaligns BDs’ RRs and their clients’ interests (Demina 2014). Hence, conflicts of interest from remuneration may potentially bias the product sales.

61 For more information go to <https://www.sec.gov/about/forms/formadv-part2.pdf>.
Balasubramnian, Brisker and Gradisher (2014) wrote consumers have the means to determine if any advisers have been involved in professional misconduct by going to the Misconduct Register. Despite US advisers being named and shamed on a public misconduct register, according to Egan, Matvos and Seru (2016) the resultant loss of reputation and increased competition from good advisers has not deterred many rogue advisers. Remarkably, Egan, Matvos and Seru (2016) found in their study, US financial advisers who were punished for misconduct are able to continue providing financial advice after being dismissed from their institution for their bad behaviour as a means of discipline. They claimed their results indicated evidence of misconduct matching of institutions and advisers, whereby advisers with a history of misconduct transfer to institutions that tend to employ advisers with a history of misconduct. This they argued weakens to some extent the disciplining mechanism of the US regulator as well as decreases the punishment for the misconduct. By implication a systemic problem for the whole industry.

2.3.3 United States reform consequences and challenges

Apparent, the above reforms legally regulate BDs and FAIs relationships with their clients (Demina 2014) differently (Bhargava 2009) in terms of definitions, registration, duties, compensations, legal requirements, legal obligations and standards of care (Bhargava 2009; Baris & Cohn 2012; Demina 2014; Burke & Hung 2015; Egan, Matvos & Seru 2016). However, Frumento and Korenman (2013) observed, despite these reforms retail consumers continue to find it difficult to separate the advice and services they offer. Bhargava (2009), Finke, Huston and Waller (2009b) concurred, the US public cannot clearly distinguish between conflicted broker-dealers licensed to sell securities or insurance products and independent registered investment-advisers regulated to deliver investment advice, because they are perceived to offer similar services. Especially when investment advisers and broker-dealers are perceived by clients to offer similar financial advice services (Demina 2014). This perception Demina (2014) pointed out, put clients at risk of harm, because it may result in divergence between adviser-client interests.

Interestingly, both FINRA and SEC regulate some advisers. Thus they receive commissions for product transactions as well as fee-for-service for offering advice (Deloitte & Financial Services Council 2014). This was confirmed in an empirical study by Burke and Hung (2015) when they found a hybrid business model is evident in practice where SEC-registered FAIs are also either registered as BDs or they have affiliations with BDs. They found in their study,
some IARs are also registered representatives of BDs, or RRs are also registered as FAIs. A later study by Egan, Matvos and Seru (2016) supported their empirical findings by confirming, those registered as both brokers and investment advisers account for about 50 per cent of all US active advisers.

While the US financial planning market is still developing (Treasury 2015), SEC has been continually working on changes, innovation and setting new rules to help retail clients distinguish between the different FAI designations who have a fiduciary duty from those RRs who do not (Balasubramanian, Brisker & Gradisher 2014). Furthermore, penalties for misconduct include fines, probation, and restitution, such as a prison sentence in the event of fraudulent misconduct (Egan, Matvos & Seru 2016).

Although US regulators continue to consider adding to the oversight legislation for advisers (Stolz 2009b), Varriale (2012) claimed, the United States regulators are struggling to decide how to regulate advisers (Baris & Cohn 2012). For example, Frumento and Korenman (2013) reported, two pieces of legislation, Investment Advisory Oversight Act of 2012, known as the ‘Bacchus Bill’, and Investment Adviser Examination Improvement Act of 2012, were introduced by the US Government with the purpose to increase what was perceived as not enough regulation regulating professionalism and investment advisers. The Investment Adviser Oversight Act of 2012 was introduced. Yet it was never enacted to mandate many Securities and Exchange Commission and state-registered investment advisers to become a member in a SRO (Tittsworth, 2013).

They also reported evidence of uncertainty as to who [which body] should supervise financial advisers. However, despite support for this legislation by several private bodies, namely FINRA (Tittsworth, 2013), Securities Industry and Financial Markets Association, National Association of Insurance and Financial Advisers and Financial Services Institute (Frumento & Korenman 2013), the Investment Advisers Association opposed it (Frumento & Korenman 2013). They opposed it for a number of reasons highlighted in a paper by Tittsworth (2013), such as unnecessary costs and lack of transparency or accountability. Both legislations were mooted after reaching the House of Financial Services Committee. Although the legislation was unpassed, it reopened the debate to professionalism of the financial advice industry and who should regulate advisers in the US (Frumento & Korenman 2013).

Schulaka (2009) observed, just under a decade ago, the move by US advisers to an independence advisory model. In his critique, he concluded, independence is unsuitable for
some advisers. Furthermore, reports indicate mainly the affluent clients seek out independent holistic advisory services (Journal of Financial Planning 2009). Yet Zabel (2010) noted, the US independence institutional business models are growing faster than broker-dealer institutional models, because of higher revenue increases, more control over client accounts, improved brand building ability as well as the opportunity to maximise value for their businesses.

Difficulties with the independence channel in the US, Aschkenasy (2009) pointed out includes the duplication of support services, such as for example, marketing plans, compliance and regulatory matters, in addition to the power wielded by a large wire house, bank or insurance-owned broker-dealer when negotiating fees or deals on behalf of their representatives. Also, if a US representative should depart from their principal licensed institution then the adviser immediately becomes a non-affiliate third-party and, from this point, the institution [FAIs or BDs] retains the client (Hansen 2008). Questionable is whether this is in the best interest of the clients retained.

Evident from the literature writings by Bateman and Kingston (2014) and Burke and Hung (2015), apparently the United States is looking towards the developments in the United Kingdom since the implementation of Retail Distribution Review in 2012. However, Salka (2015) US reforms will be delayed or limited, should the US attempt to imitate the UK model. This they base on the power of broker-dealers, multiple collage of regulations and a litigious US society. Therefore, further developments involving licensing, regulating and authorising financial advisers in the US is yet unrealised.

2.4 UNITED KINGDOM

2.4.1 Legislative background to United Kingdom adviser regulation

From 2005 to 2008 data was collected and reported in three separate thematic reports, involving mystery shopping expeditions proving the presence of inherent and widespread weaknesses in the manner UK institutions and their representatives sold products across much of the UK financial services industry (Pain 2013). This scrutiny of consumer protection, financial service integrity and competition initiatives by the UK Government (Walker 2012) resulted in the launch of Retail Distribution Review in 2006. Important for this study, is the RDR reforms and legislation, which came into effect from 1 January 2013 (Clare et al. 2013) to address the scandals in the UK retail advice sector (Ring 2015). Its purpose was to regain the lost UK consumer trust and confidence in the retail market for financial products and services (United
Kingdom House of Commons Treasury Committee 2011; Financial Services Authority 2012b; Atkin et al. 2013) by identifying and eliminating the root causes of poor advice (Burke & Hung 2015).

Until the enactment of Financial Services Act 2012 (Inderst & Ottaviani 2012b), the initial RDR UK supervisory responsibilities of financial advisory institutions and their representatives was vested in the Financial Services Authority [FSA]. Subsequently, the FSA, a single regulatory body for the entire UK financial services markets (Kwon 2013), was replaced with a new Financial Conduct Authority [FCA] (McMeel 2013) by the Financial Services Act 2012. FCA was empowered to regulate the institutions and individuals who advise on, sell or distribute financial products and services (Inderst & Ottaviani 2012e). The Financial Services and Markets Act 2000\textsuperscript{62} defines their purpose and responsibilities in FCA as a single non-government independent body, accountable to the UK Treasury, who in turn is accountable to the UK Parliament (Inderst & Ottaviani 2012e). The record of FCA legal rules and guidance are set out in the FCA Handbook\textsuperscript{63}. The statutory duties, such as best interest\textsuperscript{64}, disclosure\textsuperscript{65}, suitability rule\textsuperscript{66} imposed in them are set out in the Conduct of Business Source Book [COBS] (Financial Conduct Authority 2017a).

Specifically, FCA’s attention to supervise individual advisers via third-parties (Financial Services Authority 2010; Adamson 2012; Bateman & Kingston 2014) to ensure “appropriate, affordable, and fair advice and intermediary services” (Salka 2015, p. 87). For example, one of the broader objectives of RDR in Policy Statement PS13/1, issued by the Financial Conduct Authority (2013a), is to restrict the undesirable influence on consumer outcomes product providers have on distribution and adviser remuneration. Furthermore, the legislation has the objectives of aligning advisers interests with those of their clients as well as promoting effective competitive behaviour between the product providers (Financial Conduct Authority 2014a) by removing product provider influence over the distribution of products (Financial Conduct Authority 2013a). McDermott (2016) determined the FCA was, in the first instance, tasked with continuing arrangements for supervising authorised persons for compliance, and secondly

\textsuperscript{63} FCA Handbook is accessible at this link: <https://www.handbook.fca.org.uk/handbook>.
\textsuperscript{64} COB 2.1.1 ‘A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule)’.
\textsuperscript{65} COBS 2.2.1 ‘A firm must provide appropriate information in a comprehensible form to a client’.
\textsuperscript{66} COBS 9.2.1 ‘A firm must take reasonable steps to ensure that a personal recommendation, or a decision to trade, is suitable for its client’.
to manage the risk of non-compliance by financial institutions [of course their representatives] of managing conflicts of interest between their clients and themselves.

If UK firms want to offer financial services, including financial advice, then they must apply for permission from the FCA by lodging a Part IV Permission (Deloitte & Financial Services Council 2014) application as specified in the Financial Services and Markets Act 2000 (Financial Conduct Authority 2016b). Furthermore, FCA must approve a person who wants to deliver advice. Similar to ASIC, FCA assesses an institution against strict criteria ‘fit and proper’ (Deloitte & Financial Services Council 2014) to provide independent advice (Financial Services Authority 2012b; Financial Conduct Authority 2014c; Burke & Hung 2015).

Furthermore, individual advisers must meet a minimum standard of education, including a minimum of 35 hours of continual professional development hours annually. Also they must be issued with a statement of professional standing by a recognised professional body (Deloitte & Financial Services Council 2014). The UK policymakers from 31 December 2012 imposed additional requirements. Like Australia new pre-sale disclosure requirements67 and point-of-sale disclosure requirements68 were imposed (Deloitte & Financial Services Council 2014; Financial Conduct Authority 2017a). Commissions were also banned after 31 December 2012 (Deloitte & Financial Services Council 2014). Notable, financial services institutions and their representatives were obligated to describe or self-label their financial services to fall in one of two regulated activities, namely as either ‘restricted’ or ‘independent’ advice (Bateman & Kingston 2014; Burke & Hung 2015), which is a prominent feature of the UK’s regulations.

### 2.4.2 Adviser licensing regime in the United Kingdom

The first category of UK advisers, namely independent financial advisers [IFAs], Burke and Hung (2015), defined as those who are legally obliged to consider all types of retail investment products distributed across the whole financial services market by all financial institutions, in addition to making unbiased and unrestricted recommendations. IFAs, whether individuals or institutions, according to Thorpe (2012) and supported by information from the Financial Conduct Authority (2016c) must show they have adequate structures and processes in place to ensure compliance. Specifically, concerning the twin tests of “comprehensive and fair analysis” (Financial Services Authority 2012b, p. 6; Thorpe 2012) and “unbiased and

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unrestricted” (Financial Services Authority 2012b, p. 6) criteria for independence. To demonstrate achievement of the twin tests, Thorpe (2012) concluded may involve the use of software, third-party research providers, review panels of selected products and/or product providers to show how the market and selected products are aligned with a client’s risk tolerance and suitability. What needs clear articulation to retail clients, he further recommended, is the nature of the service and restrictions, the types of products, size of product range, access to different product providers, together with specialisations offered to differentiate independent from ‘restricted’ advice. Unlike restricted advisers, the UK independent financial advisers are authorised and regulated by FSA [now FCA] to work in the best interest of clients by not representing any financial institutions such as insurance companies, banks or other product providers when providing recommendations to clients (Fernandez-Aviles & Davila 2012).

The second category, ‘restricted’ advisers or appointed representatives [RAR], Burke and Hung (2015) explained can only recommend certain products, product providers, or both. Fernandez-Aviles and Davila (2012) documented, ‘restricted’ advisers are like the traditional ‘aligned’ or ‘tied’ UK advisers. Therefore, performing ‘regulated activities’, effectively means ‘appointed representatives’ either acts as agents for authorised restricted institutions, such as product distributors, banks or insurance companies or authorised independent institutions69 (Financial Services Authority 2012a). As far as licensing is concerned, ‘restricted’ institutions, like their independent counterparts, must recruit, appoint and supervise one or more ‘appointed representatives’, who comply with the FCA’s ‘fit and proper’ test to deliver tied advice restricted by products or providers (Financial Services Authority 2012b; Financial Conduct Authority 2014c; Burke & Hung 2015). Like their counterparts, restricted ‘appointed representatives’ can either be institutions or ‘natural persons’ who perform regulated activities and acts as agents for the FCA authorised principals (Financial Conduct Authority 2015).

Both independent financial ‘appointed representatives’ and restricted ‘appointed representatives’ must register with the FCA (Burke & Hung 2015), paying them a levy (Financial Conduct Authority 2014c). This includes a written contract between the principals and the ‘appointed representatives’ documenting the arrangements. The principals of both IFA and RAR takes full responsibility for ensuring the ‘appointed representatives’ complies with

69 For more information, refer to <https://www.the-fca.org.uk/appointed-representatives-and-principals>.
FCA rules. For example, the ‘appointed representatives’ must comply with the Statements of Principle and Code of Practice (Financial Conduct Authority 2014c). These principles explain the behaviour FCA expected of ‘appointed representatives’ and together with a further requirement for advisers, the Statement of Professional Standing [SPS] (Financial Conduct Authority 2014c). ‘Appointed representatives’ are expected to understand and comply with the regulatory requirements of their affiliated institutions (whether independent or ‘restricted’)(Financial Conduct Authority 2015). If they conduct any ‘regulated activities’ outside this scope, they are expected to become authorised in their own right (Financial Conduct Authority 2015). If affiliated ‘appointed representatives’ wish to transfer and become ‘authorised’ they have to give notice to their principals as well as come to some agreement with their principals as to how they can have direct access to ex-client files in the event of client complaints (Financial Conduct Authority 2015). Once ‘appointed representatives’ leave their authorised institutions their agreement with their principals will determine whether they can continue dealing with existing clients, or not. All FCA authorised institutions or individuals are responsible for having systems in place to deal with, inter alia, professional indemnity insurance, compliance, and related business liabilities (Financial Conduct Authority 2015). The directly authorised institutions are responsible for ensuring their ARs, while carrying out ‘regulated activities’, also commonly referred to as controlled functions, meet the relevant selling standards, such as the independent advice rules (Financial Services Authority 2012b; Financial Conduct Authority 2014c). The principals have access to all employees, their premises and records to carry out regular audits to ensure they are financially stable and competent (Financial Conduct Authority 2015). They are obligated to report anything affecting the ongoing suitability of ‘appointed representatives’ to FCA and the authorised institutions (Financial Conduct Authority 2014c).

2.4.3 United Kingdom reform consequences and challenges

Reported in popular media, some institutions, such as for example Sanlam, created a hybrid advisory model, where their advisers offer Sanlam-only [‘restricted’] or whole of market investment recommendations [independent] (Trudeau 2012). Trudeau (2012) put forward the claim; this practice is permitted, if representatives of hybrid models call themselves ‘financial planners’ and not independent financial advisers. Although Brittain (2013) presented
the difference between financial advisers and financial planners in their paper, by stating the
former performs product transactions with a sales focus and the latter tends to charge separately
for advice and so is not reliant on securing a sale, this distinction is confusing.

Unlike the US, the UK has placed a widespread ban on commissions, except for commissions
72 on life insurance products and percentage assets-based fees set by the advisers to mirror the
clients’ service (Boynton & Mathieson 2009, p. 15; Bateman & Kingston 2014). Along similar
lines, depending on the product provider or the product type, it is alleged the fees charged
should not “vary inappropriately” (Boynton & Mathieson 2009, p. 15) nor be prejudiced by
facilities offered by product providers to, for example, recuperate the financial product charges.
Furthermore, in addition to the conditions on remuneration practices, RDR rules have also
included disclosure of remuneration and services (Financial Conduct Authority 2014a). Other
benefits of RDR, include the unlikelihood larger clients would subsidise smaller clients,
because technology helps meet the needs of smaller clients (Financial Conduct Authority
2014d; Burke & Hung 2015). At the time of this study and confirmed in a paper written by
Bateman and Kingston (2014), although an ongoing debate about the matter of best interests of
the retail client in the UK is ever present, they have still not imposed a statutory fiduciary duty
on advisers.

Traditionally, most IFAs carried out basic financial advisory services with the minimum of
educational competencies, whereas others sat the Certificate of Financial Planning with the
Chartered Insurance Institute or the CFP® exam with the Institute of Financial Planning [IFP],
which is affiliated with the US CFP® Standards Board (Brittain 2013). Cole and Salimath
(2013) contended, CFP® qualified advisers are generally more highly qualified with
backgrounds in accountancy or the law. As of 1 January 2013, to become ‘appointed
representatives’ in the United Kingdom requires meeting minimum specified professional
education requirements and experience (Financial Services Authority 2012a). In the works of
Burke and Hung (2015) clearly all existing and new ‘appointed representatives’ entrants have
to meet the same qualification requirements and educational standards. This, they mentioned
included the prerequisite to hold an approved Qualifications and Credit Framework [QCF]

COBS 6.1B.5 Retail investment product provider, operator of an electronic system in relation to lending, and
platform service provider requirements relating to adviser charging and remuneration
Level 4 qualification, namely Diplomas in Financial Planning, Investment Planning, Banking, Investment Advice, or Financial Advice, which is equivalent to one year of university study.

Benefits of better qualified UK advisers and advisers working for independent institutions free from product or provider bias (Reichman 2013) should increase their professionalism. By implication, their clients should then receive more appropriate, affordable and fair advisory services (Reichman 2013). However, although seemingly, RDR has initiated moves towards increased professionalism among advisers (Financial Conduct Authority 2014c), it is not without its critics. For instance, not everyone thinks all retail clients need independent professional advice (Harvey 2011). Ferran (2012) is unsure whether retail clients of financial advice approve of RDR or not. Reichman (2013) questioned whether the reforms introduced following RDR, de-risked the advice process. They offered compelling reasons arguing RDR may have created an advice gap where lower asset clients are unable to obtain advice, cost of advice has not necessarily decreased and, unless specifically identified, rogue advisers were still able to put retail clients at risk of loss. Coghill (2013) found professional bodies, such as the Law Society, Solicitors’ Regulation Authority and Institute of Chartered Accountants had opposing views on whether particularly ‘restricted’ institutions and their ‘appointed representatives’ are truly competent.

Therefore, since RDR implementation, before intervening, UK Policymakers and their Regulator require significant evidence-based data on any financial services issue (Pain 2013). From 2013 to 2017, Europe Economics, an independent external European consultant, was commissioned to undertake a three-stage thematic review looking at how financial institutions and their financial advisers were managing with the RDR requirements and to determine the extent RDR has delivered on its original objectives (Financial Conduct Authority 2014a, 2014b, 2014c; Burke et al. 2015). Burke and Hung (2015) summarised the Europe Economics latest research findings, considering the impacts of UK’s RDR since its implementation. The first stage review completed in July 2013 indicated, it was unclear whether independent and ‘restricted’ institutions were acting within their scope of independence or restrictions, respectively. Aside, problems were identified with regards to remuneration disclosures and transparency issues with ongoing services propositions (Financial Conduct Authority 2013b; Burke et al. 2015). Furthermore, despite the distinction between ‘restricted’ and ‘independent’ advisers, findings by Europe Economics indicated, confusion and uncertainty still reigned amongst UK retail clients about these designations (Financial Conduct Authority 2014b).
Although one of the initial impacts of RDR was adviser numbers declined, Europe Economics claimed they found these numbers were on the increase again as advisers became more confident about their futures (Financial Conduct Authority 2014c). To the contrary, Clare et al. (2013) argued the increase in the minimum education standards for advisers under RDR, the increased regulatory and compliance costs, downward pressure on revenues, the challenges of adjusting business models, declining business value and the decline in cross-subsidisation from larger to smaller clients did not bode well for the future numbers of advisers. Also Clare et al. (2013) claimed RDR led to some major UK banks withdrawing from providing wealth management advice to small investors, which impacted the number of appointed representatives to supply financial advisory services. Clare et al. (2013) also wrote RDR has taken the past role of advisers from product distributors and fund selectors to a new role of financial planner or a combination of both fund selector and financial planner. They claim computer literacy will lead the mass market of consumers in the future to rather do their own financial planning using technology.

Thus, like Australia, technology (Morgan Stanley 2018) is forcing UK financial advice business models to evolve. The second review concluded in March 2014 found, yet not compelling enough to be certain, institutions were describing themselves as independent, when perhaps it was questionable whether they were operating an independent practice (Financial Conduct Authority 2014e; Burke & Hung 2015). In this review they also found a significant number of institutions were not disclosing the cost of advice, nor how they were charging for the advice, types of services offered, and the nature of any ongoing services within a reasonable timeframe (Financial Conduct Authority 2014f; Burke & Hung 2015). However, the third and final review found the institutions became better at disclosing costs, scope and nature of services and were providing ongoing services to clients. However, inadequate ongoing service fee disclosures (Financial Conduct Authority 2014d; Burke & Hung 2015), including transparency of concealed costs and fees of underlying products (Salka 2015) still happens. Furthermore, their research indicated business models have adapted. A decline in sales of high commission paying products and increases in sales of low commission or no commission pre-RDR financial products (Salka 2015) now exists. However, Salka (2015) claimed the data appeared to prove evidence of an issue surrounding adviser reputations.

Increasingly, advances in technology, particularly the increasing availability of online services, mobile app services and blockchain (Morgan Stanley 2018) is leading changes in how people seek advice for their financial planning needs (Financial Conduct Authority 2014a). Therefore,
FCA is keen to remove unnecessary regulatory obstacles to affordability and accessibility standing in the way of innovations in advice models (Financial Conduct Authority 2014a). Therefore, jointly with Her Majesty’s Treasury, the FCA launched the Financial Advice Market Review in August 2015 (Treasury 2015). Their final report found despite post-RDR, trust, affordability and accessibility remain relatively low (Financial Conduct Authority 2016a). Thus, they make recommendations in their report to improve these. From the report it is clear the UK has moved away from deciding how to regulate advisers to looking at ways to protect consumers, improve access, affordability and quality of advice under the existing regulatory model (Financial Conduct Authority 2017b). While the next review by Europe Economics was planned for 2017, in July 2017 FCA decided to delay its review until 2019 to overlap with the review on the impact of Financial Advice Market Review [FAMR] Reforms. Although, several scholars, namely Walker (2012), Bateman and Kingston (2014) and Salka (2015) feel RDR may be a blueprint for not only policy reform discussions, but also regulatory reform deliberations and implementations of licensing, regulating and authorising financial advisers in other nations, this research considers a different blueprint for Australian advisers.

2.5 COMPARISONS BETWEEN THE THREE NATIONS

Australian regulators argued, the best protection for consumers is compliance by the financial services industry with a fair and transparent principles-based regulatory system (Pearson 2006b). Likewise the US has been moving from a rules-based approach with lower standards of care to a principles-based framework, which requires advisers to provide a higher standard of care to clients (Trone 2009). Whereas the UK is, wondering whether the principle-based approach is working for them and are apparently moving back to a rules-based approach. Kwon (2013) commented, it does not matter whether supervision and regulation of financial service is rule-based or principle-based, what matters is lowering the risk to the public dealing with financial services providers.

According to Deloitte and Financial Services Council (2014), Australia has higher standards of regulation encompassing narrow requirements than the US and UK. Reading articles presented at a symposium titled: Revolution in the regulation of financial advice: The U.S., the U.K. and Australia (Facciolo 2013) evidently regulating financial advisers in US, UK and Australia continues to be a controversial matter, polarising many with an interest in the financial advisory profession.

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industry. From the above discussion, plainly both similarities and differences between these three countries in the way they license regulate and authorise their financial advisers. UK and Australian models are closer in similarity than the US model (Deloitte & Financial Services Council 2014) exists. Licensing is at the institutional level for all three nations. All these nations have disclosure requirements of information found in the Australian FSGs. However, UK and Australia are more prescriptive in terms of disclosures (Deloitte & Financial Services Council 2014). The Australian statement of advice is more comprehensive compared to suitability letters in the UK (Deloitte & Financial Services Council 2014). With a few exceptions, Australia and the UK are the only countries having banned conflicted remuneration.

Similar to Australia (Valentine 2008; Hartnett 2010; Bruce 2012), both the UK (Bateman & Kingston 2014) and the US (Laby 2010; Kaissar 2016) financial services are undergoing regulatory reforms to protect retail clients, which are having significant impact on individual financial advisers. The underlying objectives of all these nations’ regulations is to promote managing, controlling, avoiding or eliminating conflicts of interest, ensuring statutory fiduciary duty [US and Australia only], aligning the institutions [principals] and their representatives’ interests with the clients’ interest, as well as encouraging competition between financial service providers.

In Australia, United Kingdom or the United States, all advisory or financial institutions74 and their appointed agents75 must register with their respective regulator76. Therefore, evident in all these countries, their financial advisers are agents of institutions or third-party affiliates when they provide financial advice and/or product sales. State regulators via third-party affiliates or principals effectively regulate them. Yet, insufficient compelling evidence is need to validate this as the most effective approach to achieve the objective of protecting the public. What has been overlooked in the empirical studies and scholarly literature, in contrast to other professions, such as accounting, law and medicine, once any of these agents [IARs, RRs, IFAs, ‘appointed representatives’ and ‘authorised representatives’] departs from or terminates their contractual arrangements with any of these principals [FAIs, BDs, ‘restricted’ advice institutions, independent advice institutions and Australian licensees], then they immediately

74 US financial advisory institutions, US broker-dealer institutions, ‘UK restricted’ advice institutions, UK independent advice institutions and Australian Financial Services licensees
75 US independent registered investment advisers, US broker-dealer registered representatives, UK independent appointed representatives, UK ‘restricted’ appointed representatives and Australian s923A independent authorised representatives and Australian product-aligned authorised representatives
76 US Securities and Exchange Commission, US Financial Industry Regulatory Authority, UK Financial Conduct Authority and Australian Securities and Investments Commission
are no longer legally allowed to offer advice. Generally, the representative’s possession of or use of any client information obtained, while at the principal, is prohibited without prior agreement to the contrary. In effect, these authorised financial institutions principals [FAIs, BDs, ‘restricted’ advice institutions, independent advice institutions and Australian licensees] generally owns the client, depending on the terms of the contract between principal and agent, irrespective of any relationship established between client and 'natural person’ adviser. Neglected in the literature is the potential consequences of severing this relationship between adviser and client, because of the departure of the adviser.

Observations by Bateman and Kingston (2014) and Burke and Hung (2015), indicated US and UK policymakers have put legal provisions in place to distinguish between two categories of financial advisory institutions and financial advisers. For them, a prominent feature of their regulations was the separation of ‘independent’ advice, from advice not independent, both in terminology and categories. Australian legal and accounting professionals both concurred, legislating and disclosing the difference between financial product sales and independent financial advice should resolve the best interest duty and APLs disputes (Certified Practicing Accountants 2014; Hewison 2014; Mitchell 2014). Trends in the UK (Brittain 2013), US (Frumento & Korenman 2013) and Australia (Arman & Shackman 2012) indicate the public struggle to clearly distinguish between two categories of advisers, namely conflicted [product advisory institutions] and non-conflicted advisers [independent advisory institutions]. US and Australia have tried to distinguish between sales and advice. In contrast to the US and Australia, the United Kingdom has dropped this idea by settling instead for independent advice and restricted advice (McMeel 2013). Aside, the impact of Brexit is yet unrealised as the United Kingdom negotiates with the European Union its exit (Deloitte 2016). Financial advisers in Australia have been restricted in practice and restricted in the use of occupational title of ‘independent financial adviser’. Interestingly, the Australian definition of independence is attached to product and remuneration independence, and dissimilar to the UK, cannot be overcome through an expansive product list (Money Marketing 2011). Therefore, the definition of independence in Australia is more rigorous and hence more difficult to achieve than the case of the UK definition (Money Marketing 2011).

In the US, the product advisory institutions are not legally obligated to follow a fiduciary standard nor disclose any conflicts of interest to their clients (Balasubramnian, Brisker & Gradisher 2014). Whereas their independent advisory institutions owes a statutory fiduciary duty and conflicts of interest are as specified in the Investment Advisors Act 1940.
States Department of The Treasury 2009). Although, at the time of writing clearly no uniformity in their fiduciary standards for IAs and their RRs is obvious, SEC is considering exercising its rulemaking authority to implement a uniform fiduciary standard of conduct for all of them (Burke & Hung 2015). In Australia, whether institutions are product-aligned or independent, they all have a statutory fiduciary duty obligation, as well as a legal obligation to disclose all conflicts of interest. Although under debate at the time of writing this thesis, the UK Government has disregarded a fiduciary duty requirement for UK financial advisers.

Unlike Australia and UK, who have generally banned commissions, because of conflicts of interest from remuneration, the US still allow commissions or regulated remuneration practices. Although the ban on commission in Australia is far more widespread than the position evident in the UK, on the grounds of ongoing scandals in Australia, such as the Commonwealth Bank (North 2015), banning commissions has not prevented clients suffering at the hands of advisers of large banking institutions. With conflicts of interest dealt with by the regulators, perhaps conflict of interest from association to product-aligned licensees need further scrutiny.

Currently, s923A of the Act permits receiving or charging asset-based fees for funds under management77 (Power 2016b). However, specified in s964D and s964E of the Act, the ban on asset-based fees on investments are limited to borrowed funds under management78. The available non-scholarly literature supposes permitting asset-based fees is a contentious matter. For Industry Super Australia (2014), and others, like the Accounting Professional and Ethical Standards Board (Brown 2011), receiving remuneration in the form of a percentage incentive payment for funds under management (asset-based fees) through a specific platform is technically a commission from platforms and product sales, which potentially leads to conflicts of interest. Whereas contrary views by the Financial Planning Association (2014) claimed asset-based fees are advice fees, not commissions, charged through the product under the direction of the client for ongoing services to obtain regular information on each investment in the client’s portfolio from respective platforms and product issuers.

Notably, platforms are not considered financial products under the present legislation79. Interestingly, the UK Financial Conduct Authority (previously Financial Standards Authority)

78 Regulatory Guide 246: Conflicted remuneration.
permits asset-based fees with the condition it fairly represents services provided to the client (International Financial Law Review 2009). Curiously, during this research a journalist reported ASIC was seeking independent legal guidance to establish whether those who claim independence, while charging asset-based fees are conflicted (Santacruz 2016b).

Disparate from the UK and Australia, the United States has not yet established minimum standards for advisers to improve the quality of advice (Valentine 2013) to retail clients by raising the professional and educational standards of advisers (Burke & Hung 2015). Debates in the US about professional standards, education and ethics are happening. Whereas, the UK has implemented professional standards and educational requirements for their advisers. Australia has just legislated and set up a body to implement standards, education and ethics.

From the above, shortcomings in licensing, regulating and authorising financial advisers’ post-regulatory reforms for all these nations is evident. So seemingly the policymakers in these nations are looking at developments in each other’s respective countries (McMeel 2013) to overcome these shortcomings. For example, the Financial System Inquiry panel has sought feedback on the push to more clearly distinguish between independent and restricted financial advice, looking to the UK model as a potential blueprint (Independent Financial Adviser News 2014b). Fernandez-Aviles and Davila (2012) claimed in their paper referring to the United Kingdom market, although the independent financial adviser is rarely evident in financial institutions, and hence misconstrued by clients, they are increasingly becoming relevant.

Evident in both popular and professional literature, the UK’s RDR (Money Marketing 2011; Independent Financial Adviser News 2014b; Burke & Hung 2015) and Australia’s FOFA (Burke & Hung 2015) developments are being watched by other nations as a possible blueprint. Compared to both the UK and US Australia is in a better position to take reforms further. Australia does not face a society as litigious as the US (Salka 2015), nor do they face the constraints imposed by Markets in Financial Instruments Directive (MiFID) to harmonise regulation in the financial markets across the European Union (Burke & Hung 2015)80 or arguably the ramifications of Brexit once implemented (Deloitte & Financial Services Council 2014). However, professional media mentioned, although RDR may go further than the Act, FOFA goes much further than RDR (Money Marketing 2011). Just as the United States, regulators are considering SROs should regulate investment advisers in the retail market.

80 For more information see <https://www.the-fca.org.uk/focus-areas/mifid-ii?field_fcasf_page_category=426 &field_fcasf_sector=unset>.
without any clues as to how to do so (Varriale 2012), so too does Australia and the UK need to consider where to next with their reforms.

In closing, if personal accountability is what RDR is promoting (McDermott 2016), and if lessons should be learnt from the UK by US and Australia (Bateman & Kingston 2014; Salka 2015), then questionable, how this personal accountability is achieved if advisers are licensed, regulated and authorised at the institutional level where accountabilities are indistinguishable, rather than at the individual level as true professionals.

2.6 CONCLUSION

Not only is licensing financial advisers problematic for Australian policymakers, but for the UK and the US too. The overriding collective goal financial services regulation pursues is the protection of the public from rogue financial advisers. Licensing plays a vital role in regulating and authorising commercially driven financial institutions. From the readings surrounding the licensing models of financial advisers in the US, UK and Australia, both similarities and significant differences as to how financial advisers are regulated, authorised and supervised occurs. Clearly, the legislative focus for all countries appears to remain on the macro-level rather than at the micro-level, at the institutional level rather than the individual level, particularly to solve the conflict of interest from association problem. Yet, their approach of licensing via multiple third parties is questionable, because the client does not receive financial recommendations from the institutional entities. Instead, retail clients trust ‘natural persons’ to provide them with recommendations in their best interests.

Undoubtedly, policymakers have been legislating the attributes of a professional financial adviser, such as meeting the fit and proper test, best interest duty, independence, professional standards, educational and training standards, as well as ethical standards, when reviewing licensing, regulating and authorising individual advisers, neglecting to consider conflict of interest from association by licensing advisers through commercially driven third-party licensees. Neglected is conflict of interest from association, where the focus has been on conflict of interest from remuneration. The main argument advanced in this study is the licensing of individual financial advisers via institutions prevents a clear separation between the institution and the individual provider of financial advice, leading to potential of conflict of interest from association.
 Totally ignored as a potential risk for all the Financial Services stakeholders is licensing individual financial advisers through conflicted third parties [IAs, BDs, ‘restricted’ advice institutions, independent advice institutions and Australian licensees]. Arguably, the current licensing model may be inconsistent with the objectives of any legislation aiming to protect the retail consumer of financial products and services.

Despite licensing’s wide acceptance to protect the public from being sold unsuitable financial products, this project considers whether it has limited application to regulate and authorised individual professional financial advisers through numerous third-party institutions, rather than a single professionals board like other true professions. In the last few years, a growing interest in individual licensing of financial advisers in Australia by an independent industry professional body has emerged. However, unless finding the current licensing model for Australian advisers illegitimate, then there is no basis to consider an independent industry professional body by Australian policymakers. Therefore, to provide a more evidence-based approach for policy makers considering changes to licensing, regulating and authorising individual financial advisers, specifically in Australia, the next chapter develops the conceptual framework to test with empirical research the extent of the legitimacy of the current AFSL-AR licensing model.
CHAPTER 3: LITERATURE REVIEW ON THE LEGITIMACY OF THE CURRENT LICENSEE-ADVISER LICENSING MODEL FOR AUSTRALIAN FINANCIAL ADVISERS

3.1 INTRODUCTION

Against the backdrop of the previous chapter on licensing, regulating and authorising individual financial advisers in Australia, the US and the UK; the stage is set for the literature review. The intent of this chapter is to embed into the literature review a thematic conceptual gestalt, illustrated in Figure 3.1 investigating the legitimacy of the Australian current AFSL-AR financial planning licensing model.

Accordingly, the theory is postulated on the grounds of assertions in the secondary sources (Beal & McKeown 2009; Evetts 2011; Banister et al. 2013; Taylor, Juchau & Houterman 2013; Kingston & Weng 2014) licensing advisers via third-party commercial product-aligned licensees, as specified in the Commonwealth Corporations Act 2001, creates a dual-agency [licensee-adviser-client] role, whereby advisers serve the licensees’ commercial interests and their clients’ best interests simultaneously. This licensee-adviser-client role leads to conflicts

Figure 3.1 Conceptualised theoretical model to examine licensee-adviser licensing legitimacy
of interest, specifically conflicts of interest from association, ownership or affiliation. Consequently, the author of this thesis considers this approach inconsistent with four of the objectives of the Act. This inconsistency, debatably results in potentially threatening the legitimacy of the current licensee-adviser licensing model, when assessed against the criteria of Suchman’s (1995) legitimacy theoretical framework extended and applied to financial planning theory. If the AFSL-AR licensing model is found illegitimate, then arguments for independent individual professional licensing (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Sanders & Roberts 2015), like other professions, is strengthened. As central argument, a discussion of this normative conceptual model with its theoretical underpinnings, illustrated in Figure 3.1, occurs in more detail next. This is done by relying on integrating principal-agent theory, the objectives of the Act, legitimacy theory and theory of professions into financial planning theory.

3.2 DUAL AGENCY ROLE OF ADVISERS

The first part of the model considers agency theory, particularly principal agent theory to understand the principles underlying the dual-agency role of individual advisers.

3.2.1 Agency theory integrated into financial planning theory

Early literature (Eisenhardt 1989; Leslie 2008) commonly identified an agency relationship exists whenever a principal engages an agent to complete their duties to create value for the principal. Dawson, Watson and Boudreau (2010) pointed out, agents and their principals hold symmetric knowledge, which is an assumption evident in agency theory encouraging them to, for instance, engage each other in formalised relationships of trust in the form of written contractual agreements. They proposed the difficulties of this assumption were the complications created by the reality of information asymmetry and moral hazard. Furthermore, Eisenhardt (1989) and Haigh (2006) drawing on a substantial body of agency theory literature, observed the problems of information asymmetry and moral hazard was due to the assumption: agents and principals put their personal interests first without regard for others. The information asymmetry problem, referred to as problems of adverse selection, operate ex ante where agents hide information about the true reality (Haigh 2006). These problems are pre-contractual information problems (Bergen, Dutta & Walker Jr 1992). For instance, Steen, McGrath and Wong (2016) explained licensees who manufacture and issue products have product knowledge superior to their agents’ [advisers] knowledge, who in in turn knows more about the products than their clients. According to them, this information asymmetry is evident between product
licensees-advisers-clients in all financial services markets, causing inefficiency in financial products or services in terms of prices and quantities. Consequently, they felt this meant clients end up with unsuitable financial products. Likewise, problems of moral hazard operate in a similar way to adverse selection, but *ex post* (Haigh 2006). These problems are post-contractual (Bergen, Dutta & Walker Jr 1992) concealed action issues (Aras & Crowther 2011) where the agents do not deliver what they should deliver. As illustration, representatives of licensees may be tempted to overrate the merits and viability of the financial services or products they sell on behalf of their licensees (Sandlant 2011). They do so to secure business from clients in order to achieve key performance indicators or gain positive recognition from their licensees for earning them revenues (Sandlant 2011). Also, clients of financial advisers, Schwarz (2014) wrote, have limited cognitive resources and background knowledge and time to devote to understanding complex and ever-changing financial products. In addition, principals spend time continually trying to discover the true intentions of their agents, albeit with varying success (Bolton, Freixas & Shapiro 2007; Bhattacharya et al. 2012; Carlin & Gervais 2012).

Thus, the two key agency problems come into play once a principal engages an agent to deliver services. The agency problem does not exist when the interests, goals, values, or expectations of the principal-agent are congruent (Eisenhardt, 1989). Arthurs and Busenitz (2003), were of the view, agency theory is inapplicable when no agency problem exists. This means if there are no misaligned interests then no agency costs, such as monitoring costs, bonding and residual losses occurs (Balasubramnian, Brisker & Gradisher 2014). Consequently, the greater the gap between agents’ and principals’ interest, the greater the agency problem, and hence the agency costs (Wasserman 2006; Leslie 2008; Balasubramnian, Brisker & Gradisher 2014). Leslie (2008) wrote further in his paper, most agency theory literature stated, the agency problem and related costs were undesirable and should be minimised, because it may lead to inefficiency in professional relationships. Eisenhardt (1989) and Leslie (2008) explained the solution to this principal-agent problem involves encouraging congruency of the principal-agent interests, which they argued will not only reduce agency costs, but would also result in increased trust and loyalty between them. By inference, restoring trust and confidence between clients and advisers is possible. Heath (2009) asserted the principal-agent theory is about managing how the inaptness of the goals between two or more people and institutions resulting in an agency problem occurs. For instance, agency costs can be minimised through monitoring (Wasserman 2006).
When it comes to preventing moral hazard issues with regards to licensing obligations, licensees are obligated by law to monitor the agent’s work in accordance with ASIC’s (2007) guidelines, standard procedures and compliance agreements with limitations of course. Some of these monitoring mechanisms include undertaking annual compliance audits on systems, standardised practices and compliant statements of advice documents, making use of metering control and overseeing the behaviour and training of agents (Dawson, Watson & Boudreau 2010) to prevent opportunism. Yet, Dawson, Watson and Boudreau (2010) described professional agents’ intellectual and expert knowledge was difficult for any principal to identify and monitor effectively.

Furthermore, according to Scott (2013,p. 61), agency theory highlights the cost and difficulty of monitoring the regulation through third-parties who may not necessarily be neutral. By implication, licensees may find it difficult to monitor the advisers’ skills, ethics and abilities when employing the services of representatives. Consequently, they cannot guarantee their representatives may refrain from unlawful practices, which was the case in a review by ASIC of how large institutions oversee their advisers (Australian Securities and Investments Commission 2017e). Interestingly, Carlin and Gervais (2012) established the focus of economic agency theory studies was to search for contractual arrangements realigning the incentives of agents with those of the principals. Therefore, incentives is another form of changing the agent’s behaviour (Wasserman 2006), such as ASIC’s compliance incentives (Chalmers & Godfrey 2004) and licensees’ soft dollar incentives (Australian Securities and Investments Commission 2016i, p. 14).

Also Inderst and Ottaviani (2009) claimed, information asymmetry is a strong reason for intervention by government to minimise harmful impact of agency costs. For instance, the underlying problem, policymakers tried to solve with the licensing legislation is the information asymmetry between retail financial product consumers and product-aligned institutions (Slattery & Nellis 2005). Pearson (2006a) argued information asymmetry is a justification licensing is appropriate, because it is a deterrent for unlawful undesirable practices. Therefore, this research considers the appropriateness of the type of licensing model, either the current AFSL-AR or a new individual professional licensing model to solve the information asymmetry problem. Whereas Carlin and Gervais (2012) observed, legal scholars studying agency law were more interested in determining who [the principal, agent, or both] is liable, when they wronged someone. They claimed the legal fraternity pursued methods to obtain redress for
damages done by the principal and/or agent, where it seems policymakers try to prevent principals and agents causing damages. Thus, Chapter 7 of the Act serves as intervention to protect the Australian public from suffering at the hands of unscrupulous financial advisers and/or their AFSL licensees by legislating to encourage congruency of licensee-adviser-client goals, values and expectations. In other words, attempts to reduce information asymmetry between product-aligned licensees, advisers and their clients has been minimised by licensing the appointment, regulation and cessation of individual advisers via third-party licensees.

More recently, by legislating education and training standards of advisers (Steen, McGrath & Wong 2016) via a professional standards, education and ethics standards body81 (O'Dwyer 2017) is another shot to reduce information asymmetry and moral hazards. Further efforts to reduce information asymmetry between advisers and clients, included implementation of literacy programs (Steen, McGrath & Wong 2016). Discussed in Chapter 2 amendments to specific compliance requirements of the Act and the ASIC Adviser Register are additional efforts to deal with moral hazards in the licensee-adviser-client relationship. The limited academic attention to principal-agent theory in financial planning is surprising. Zhou (2002) claimed the complexity of the mathematical models (see for example, Malcomson 2009) has resulted in restricting academic attention of the principal-agent theory to only a few disciplines, such as economics and industrial organisation. Just as Bergen, Dutta and Walker Jr (1992) reported deficiencies in agency-based research in marketing research, in the same manner financial planning research with regards to the principal–agent problem suffers similar deficiencies.

3.2.2 Licensee-adviser-client dual agency relationship

Rees (1985) contended, most principal-agent models assumed a single principal and a single agent, yet usually many principals for a single agent occurs, which essentially leads to challenges of reconciling the conflicts of interest among these principals. Consequently, the various agency associations in the emerging financial planning profession identified in the literature are twofold. Firstly, acknowledged by financial planning scholars (Beal & McKeown 2009; Banister et al. 2013; Taylor, Juchau & Houterman 2013) in financial planning literature nationally and internationally, is the client-adviser (Corones & Galloway 2013) relationship.

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Thus, an agency relationship between client [principal] and financial adviser [agent] arises (Moutsopoulos 2005; Finke, Huston & Waller 2009a).

The financial planning theory (Beal & McKeown 2009; Hartnett 2009; Banister et al. 2013; Taylor, Juchau & Houterman 2013) described the purpose of financial advisers is to provide strategic advice to ensure their clients achieve their financial and lifestyle goals by developing a strategic financial plan with recommendations and implementation of appropriate strategies to achieve financial health. The financial plan or statement of advice document signed by both adviser and client cements the legal agency relationship between them. Notably Boone (2000) argued, no widespread single definition of what financial advisers do [or not do] is apparent, except follow the six step financial planning process as criteria to define the purpose of financial advisers. Surprisingly, no mention is made of advisers providing financial products for this purpose, at least not within the definitions evident in the literature. However, in the Act, quite clearly authorised representatives recommend financial products and services to their clients on behalf of licensees. Whereas the financial planning literature emphasises the adviser-client agency relationship, while neglecting the licensee-adviser relationship. Intriguing, the client is defined in Section 761G as the person receiving the financial product advice. It is reasoned from the definitions in the literature (Beal & McKeown 2009; Hartnett 2010; Arman & Shackman 2012; Taylor, Juchau & Houterman 2013), the adviser should be client-focused when providing advice rather than product-focused. Hence, product does not feature in the definitions presented in scholarly financial planning literature. This contrasts with the definitions of financial adviser in the Act, where the legislation focuses on product advice definitions. Furthermore, no suggestion is evident the adviser works on behalf of the client in the relevant sections of the Act. However, Sitkoff (2014) asserted the fiduciary obligation implies the adviser operates as an agent for the client.

Secondly, leading from the foregoing statements, the Act, rather than scholarly literature, embeds the second competing agency relationship. The emphasis in the Act is more the licensee-adviser agency relationship, neglecting the adviser-client relationship. This is the relationship between licensee [the principal] and authorised representative [the agent or financial adviser] specified in Chapter 7 (Moran 2014). Expressed in s911B of the legislation “a person [the provider] must only provide a financial service in this jurisdiction on behalf of another person (the principal) who carries on a financial services business if ... the principal
holds an Australian financial services licence covering the provisions of the service ...”82. Evident from the legislation, an advisers’ occupational contractual duty to their licensees as authorised representatives, which is specified in s916A and s916B is “to provide a specified financial service or financial services on behalf of the licensee”83 (Tuch 2005; Australian Securities and Investments Commission 2012a). Section 761A of the Act defines the financial adviser as the agent providing the services on behalf of the licensee (Den-Toll 2001). For example, in practice apparently insurance authorised representatives are agents for the licensees (Clayton Utz Financial Services Reform Group 2002). Found in the writings of Beal and McKeown (2009) the purpose of licensees is to provide financial products, comply with the Act, and as specified in s912 of the Act - screen, appoint, monitor, train and supervise ARs for ASIC. On reflection, the literature review revealed neglect of the licensee-adviser relationship in the literature and neglect of the adviser-client relationship in the Act. Identified are some inconsistencies between the financial planning literatures’ understanding and the legislated interpretations of the licensee-adviser-client relationship. Thus, this thesis explores this issue further, by establishing how advisers view their licensee and client relationship in practice.

Facciolo (2011) and others (Smith & Walter 2001; Gor 2005; Hackethal, Haliassos & Jappelli 2012) found advisers have played a dual role as distributors of financial products for product providers and as advisers to the ultimate purchasers of these products. From agency theory perspectives, financial advisers serve at least two principals, the licensee and the client, simultaneously (Kingston & Weng 2014, p. 294) when complying with the Act. Kingston and Weng (2014, p. 294) argued, “an agent should not try to serve two principals simultaneously – they create the possibility of a conflict of interest between adviser and client.” As mentioned earlier, specifically examined here is the academic neglect of conflict of interest from association. Conflict of interest from association for purposes of this study is defined as the conflicts arising when the licensee is either directly or indirectly affiliated to financial product issuers, retail superannuation or aligned platforms. These include but are not limited to: financial product issuers [for example, Commonwealth Bank of Australia, National Australian Bank, Westpac and AMP aligned groups]; retail superannuation [Westpac’s BT Super (Westpac), National Australian Bank’s MLC, Commonwealth Bank’s Colonial First State and ANZ Bank’s OnePath]; aligned platforms [Westpac’s BT Wrap, Macquarie Wrap, Commonwealth Bank’s Colonial First State FirstChoice Wrap and AMP’s North® Wrap]. Thus,
if the corporates whose main business is funds management can control financial advisers, then conflicts are evident (Sampson 2010).

When products are sold through institutions’ distribution channels - as in the case of many retail banks, financial product issuers, superannuation funds and/or platforms - or whether sales or advice is reliant on third parties - as is often the case with insurance institutions; a trilateral agency problem arises between the client, the agent and the product providers (Inderst 2009). From the previous chapter evidently, not only do Australian regulators face this trilateral dilemma or a trilateral agency problem (Inderst & Ottaviani 2009, p. 885) as a result of a trilateral arrangement (Carlin & Gervais 2012, p. 69) between licensee, adviser and client. Inderst (2009) confirmed UK regulators also face policy decisions around the relationship between product providers-advisers-clients. In their paper, Inderst and Ottaviani (2009) focused on mis-selling in a mathematical model to highlight the internal agency problem between a financial institution and their agents. They claimed the risk of mis-selling is severe and complicated when an adviser faces a dual-agency role of canvassing for clients while also providing advice to clients to commit to a product. In a later paper, Inderst and Ottaviani (2012b) also demonstrated mathematically a conflict with the duty of supplying unbiased advice arises. This situation they found occurred when, instead of a single role of getting to know a customer’s personal circumstances and providing recommendations to clients, an adviser is faced with searching for clients, learning new products, and then finally recommending and providing product recommendations on behalf of the product providers (Inderst 2009). As a solution, Inderst and Ottaviani (2012b) recommended a dual-agency role with a trilateral agency problem required more stringent regulation than a single agency role would need.

From the above discussion, apparently agency theory, models and propositions found in textbooks of financial planning or personal finance in Australia (for example, Beal & McKeown 2009; Banister et al. 2013) were mainly incorporated into the client-adviser (Corones & Galloway 2013) relationship and neglecting mentioning the legislated licensee-adviser relationship, both conceptually and empirically. Contended in this study the agency relationship is not only a client-adviser (Corones & Galloway 2013) relationship, but also licensee-adviser relationship. Combined they form the trilateral (Inderst & Ottaviani 2009) licensee-adviser-client relationship, resulting in a dual-agency role for advisers. No hard-empirical evidence in scholarly literature about the dual-agency role leading to a trilateral agency problem is available, which is investigated as a conflict of interest (Kingston & Weng
Therefore, to address this gap, this study aims to establish if individual authorised representatives perceive a dual-agency role, where they serve the interests of both their licensees and clients simultaneously, leading to conflicts of interest, when subject to compliance with Chapter 7 of the Act.

3.3 OBJECTIVES OF THE CORPORATIONS ACT 2001 [CWTH]

Given Carlin and Gervais (2012) claimed two forces are at work between institutions [principals] and their agents [advisers], namely the contracts agreed between them, together with the legal environment imposed by the government, including the objectives of the Act. According to Hackethal, Haliassos and Jappelli (2012) the financial regulation policy debate and theoretical work centring around harmful adviser behaviours and conflicts of interest damages public trust. Recall from Chapter 2, similar to the regulators of the United States (Financial Planning Coalition 2014) and the United Kingdom (Inderst & Ottaviani 2012e), the main aim for ASIC is to protect retail financial consumers and to improve public trust and confidence in financial advisers (Australian Government The Treasury 2016). Underlying this main aim are four important objectives of the Act pertinent to this study. They include: 1) managing, controlling or avoiding conflicts of interest, 2) ensuring statutory fiduciary duty are implemented, 3) aligning the adviser’s interests with the client’s best interest, as well as 4) encouraging competitive behaviour between financial service providers (Bora & Lewis 1997; Corbett 1999; Mutton 2001; Collier 2003; Serpell 2008; Jones 2009; Alexander 2011; Ap 2011; Ireland & Gray 2011; Kell 2012). Conceptually, the argument suggest here the legitimacy of the AFSL-AR licensing model needs evaluation in terms of these four objectives to safeguard the integrity of professionalising the emerging financial planning profession, while ensuring the effective protection of retail financial consumers.

3.3.1 Conflicts of interest

Researchers have studied conflicts of interest extensively for decades with published articles prolific in the literature (See inter alia Vessenes 1997; Bearden 2002; Tuch 2005; Bolton, Freixas & Shapiro 2007; Palazzo & Rethel 2008; Felsenthal & Guttenberg 2009; Bird 2011; Loewenstein, Cain & Sah 2011; Inderst & Ottaviani 2012b; Angel & McCabe 2013; Burke et al. 2015; Calcagno & Monticone 2015). With regards to the first objective, managing, controlling or avoiding conflicts of interest is not only a difficulty for financial advisers, but also for other professionals in medicine, accounting and law (Bruce 2012; Burke et al. 2015).
Subsection 912A[1][a] [aa] of the Act states “adequate arrangements” should be put in place to manage, control or avoid any conflicts of interest “in relation to activities undertaken by the licensees or their representatives when providing financial advice” (Zammit 2004, p. 20; Tuch 2005). Licensees and their representatives are obligated to manage (Tuch 2005) actual, apparent or potential (Pearson 2006b) conflicts of interest where the interests of clients diverge from the interests of the licensee or its representatives.

Surprisingly, the government of the Commonwealth of Australia (2014a) conceded, although conflicts of interest are morally wrong, they are legally permitted as long as they are disclosed and clients consent to them. However, in accordance with ASIC’s Regulatory Guide 18184, it is insufficient to just disclose conflicts and obtain consent. Johnston (2014) claimed since 2005, post-FSR, it was no longer necessary for advisers from mostly vertically integrated institutionally aligned/owned licensees (Australian Securities and Investments Commission 2016i) to disclose on all marketing material their licensee’s institutional logos. They argued, with no reference the licensees of the many advisers, consumers were unable to recognise whom they were engaging. Consequently, clients were ending up with ‘in-house-products’ without realising it (Morris 2013; Johnston 2014; Australian Securities and Investments Commission 2017c). Thus, these different interpretations of disclosure rules are confusing. Journalist Vickovich (2014a) recommended additional amendments to the legislation should include full disclosure of licensee ownership on all marketing material as was the case pre-FSR. ASIC. In addition, government commentators have conceded, significant room is inevitable for improvement concerning inadequate disclosures to retail clients (Australian Securities and Investments Commission 2013a, 2014c; Sinodinos 2014; Australian Securities and Investments Commission 2016i).

Apparent during the literature review among the many other types of conflicts was the primary focus on specifically conflict of interest from remuneration. This inherent specific conflict has been the focus of many non-scholarly and scholarly authors (see, for example, Bailey 2000; Palazzo & Rethel 2008; Beal & McKeown 2009; Inderst & Ottaviani 2012d; Walton 2012; Banister et al. 2013; Kingston & Weng 2014). In addition, legislators in the US, UK and Australia have given remuneration much attention (Australian Securities and Investments Commission 2003; Collier 2003; Australian Securities and Investments Commission 2012c;

84 Regulatory guide 181. Licensing: Managing conflicts of interest. Chapter 7 - Financial services and markets outlines the ASIC’s approach to how conflicts should be controlled, avoided and disclosed
Inderst & Ottaviani 2012c, 2012e). Burke et al. (2015) confirmed, after reviewing and summarising their empirical research, conflicts were prevalent and affected the behaviour of financial advisers when remuneration schemes existed. Undoubtedly, to date conflicted remuneration is still the main reason cited for the loss of confidence by the public in financial advisers (Batten & Pearson 2013; Steen, McGrath & Wong 2016).

Thus, support for the banning of commissions [s961J of the Act] to eliminate this conflict of interest (Julian 2009) led to some of the FOFA legislative reforms discussed in Chapter 2. However, Inderst (2009), as well as Bateman and Kingston (2014) highlighted the unintended consequences of banning commissions. They concluded banning commissions has made the financial service uneconomic for people of humble means who seek advice. It also lowered social efficiency. Interestingly, Sinodinos (2013c) acknowledged, eliminating commissions has been proved problematic in the United Kingdom. Specifically advice has become unaffordable for many in the UK, making advice accessible to mainly high income investors (Financial Conduct Authority 2016a). On the plus side, independent research undertaken by Europe Economics (Financial Conduct Authority 2014b, 2014c) found in the UK, post-RDR implementation, after banning commissions, a decline in high commission paying product sales and product prices occurred. UK policymakers are presently in the process of working on solutions to address affordability, accessibility and quality of advice (Financial Conduct Authority 2017b).

Interestingly, the Australian Parliamentary Joint Committee on Corporations and Financial Services (2009b) found the conflicts between advisers and their clients arose not only from commission remuneration practices, but also from ownership, affiliations or association structures between particularly conflicted licensees and their ARs who distribute product. Also conflict of interest from association has received some comment in the media (Brown 2007; Beaman 2010a; Vickovich & Stewart 2014), those in favour independence (Brammall 2012) and government commentators (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Sinodinos 2013a, 2013c, 2014) and in trade publications (Kennedy, McCoy & Bernstein 2012; Pokrajac 2014). Evidence during this literature review, among them presented by Valentine (2008), demonstrated scholars and legislators have tended to ignore this issue of conflicts from association, resulting in a deficiency in scholarly research and literature about this matter. This is surprising, given numerous unconfirmed approximations estimated 80 per cent to 85 per cent (Bearden 2002; Parliamentary Joint Committee on Corporations and Financial Services 2009b; Kingston & Weng 2011, 2014; Steen, McGrath & Wong 2016) of
financial advisers are sponsored by product issuers to allegedly act as their product distribution pipeline (Starke 2013a). Therefore, this thesis addresses Valentine’s (2008) view, the corporate scandals within the financial planning sector emphasised the need to place conflict of interest from association at the forefront of further research. Especially if Perkins and Monahan (2011) are correct when they claim a primary responsibility of a professional adviser is to avoid conflicts with that of the client. Important to note: from an Australian Government commentator’s perspective (Sinodinos 2013c, 2013a) expressed at several conferences, the political agenda is about eliminating conflicts of interest within financial planning.

3.3.2 Best interest duty

Since FOFA reforms were designed to tackle conflicts of interest (Alexander 2011), it also included amending the Act to introduce an explicit statutory fiduciary duty obligation (Ireland & Gray 2011). Arguable from the Government and ASIC’s perspective, FOFA addressed conflicts of interest by introducing the principle of putting the priorities of clients first (Australian Securities and Investments Commission 2013a, 2014c; Sinodinos 2014). This fiduciary duty, defined in s961A of the Corporations Act, is a key obligation of Australian licensees and their representatives (Banister et al. 2013). The Australian regulator makes it clear in their Future of Financial Advice: Best interests duty and related obligations: Regulation Impact Statement (Australian Securities and Investments Commission 2012a) as to who, when and how a fiduciary owes another a best interest duty. A critical aspect of financial advice is the professional obligations and duties of the Australian financial adviser to put the interest of their clients first or above their own [and/or the licensee’s] interest when providing financial advice or services. This duty includes ‘safe harbour’ requirements set out in s961B[2] (Australian Securities and Investments Commission 2013a).

For Tuch (2005, p. 38), an inconsistency between the regulations of managing, controlling or avoiding conflicts of interest and the statutory obligations is occurring. In this regard, considering his views, despite statutory fiduciary duty obligations, retail clients may still receive personal advice persuading them to purchase unsuitable products of unacceptable quality, because of conflicts of interest. Moreover fiduciary duty is also influenced by advisers’ occupational contractual duty to their licensees as authorised representatives [s916A or 916B of the legislation] (Tuch 2005; Australian Securities and Investments Commission 2012a), while simultaneously they are legally obligated to serve the best interests of their clients.
Conceivably, fiduciary duty is of relevance in this study, because advisers’ statutory fiduciary duty to their Australian clients influences conflicted association, *vice versa*.

Most of the international and national literature emphasises the various legal interpretations of fiduciary duty in terms of case law formulated through the courts, common law of agency and from a corporate perspective under corporation legislation, such as the Act\(^85\) (Tuch 2005; Australian Securities and Investments Commission 2016h). Although, Tuch (2005) claimed the courts uphold the view that commercial banks owe a fiduciary duty to their customers when providing product advice, he claimed this best interest duty is unnecessary in the following cases. Namely, when banks provide general financial advice on a sales transaction or where the retail clients did not rely on the bank’s advice to transact, nor expect the transaction may not be in their best interest. A legal case during this project highlighted the interpretation and application of the fiduciary duty in this way may be problematic. On 22 December 2016, ASIC commenced civil penalty proceedings against Westpac Securities Administration Limited and BT Funds Management Limited in the Australian Federal Court for failing to comply with the best interest duty (Australian Securities and Investments Commission 2016c). Westpac allegedly claimed to deliver general advice [telephonically], which ASIC argued was personal advice (Australian Securities and Investments Commission 2016c). At the time of writing, the matter has yet unsettled in court.

Furthermore, Batten and Pearson (2013) argued, the best interest duty standard as defined in the Act, does not refer to the outcome of the advice, rather it refers to a process of automatic compliance. They claimed with outcomes likely to fail a common law test of financial adviser duty of care, the definition of conflicts of interest in the legislation is non-existent and the examples provided in the Explanatory Memorandum are insufficient to comply with the common law best interest duty. They further explained the licensee seemingly has the requirement to manage conflicts of interest, whereas the individual financial advice provider has the requirement to act in the client’s best interests. He finds this tricky, because the best interest requirement only occurs if the adviser is aware or should be aware of any conflicts. It is important to note, currently almost two-thirds of investors do not believe advice providers act in their best interests (Australian Securities and Investments Commission 2013a).

In this study, academic attention shifts from legal interpretations, to assess instead whether the objectives of the Act of protecting the client by placing their interest first is being achieved

\(^{85}\)Regulatory guide 181. Licensing: Managing conflicts of interest. Chapter 7 - Financial services and markets.
when advisers are legally licensed via third parties who are often conflicted by product or revenue.

3.3.3 Licensee-adviser-client interest alignment

To some extent, scholarly literature discussed alignment of institution-adviser interests (Bewley et al. 2008; Aschkenasy 2009) with client interests (Black 2005; Nyberg et al. 2010; Finke & Langdon 2012; Inderst & Ottaviani 2012d; Knutsen & Cameron 2012; Mazzola 2013; Starke 2013b). Also a recent Review on Retail Life Insurance Advice (Trowbridge 2015) indicated a problem of misaligned interests, especially in terms of remuneration models between licensees and insurers, and licensees and advisers. This misalignment is allegedly impacting the quality of advice negatively and contributing to the underinsurance in Australia (Trowbridge 2015). Yet, Goedecke (2001) claimed Australian banks and financial planning practices acknowledge investment and risk insurance products are often nonaligned to the client’s best interests. Moreover, many articles (see for example, Black 2005; Bowen 2010; Johnsen 2010; Australian Securities and Investments Commission 2012a; Inderst & Ottaviani 2012d; Kell 2012; Kingsford Smith 2012) focused on remuneration practices and incentives or lack of educational and ethical standards as reasons why mis-selling has led to adviser-clients’ interests to be nonaligned. In their report, the Parliamentary Joint Committee on Corporations and Financial Services (2009b) acknowledged, both remuneration practices and ownership structures serve as the reasons for the incongruence of interests between adviser-client.

Although much has been written about remuneration practices discussed earlier in this chapter, conceptually and empirically theorists have neglected the impact institutional financial advisory ownership structures may have had on aligning advisers’ interests with those of their client. This is surprising, when aligning the interests of advisers to those of their clients more closely [specified in Schedule 1, item 13, division 2, and section 961K of the Act] is also one of the broader FOFA objectives. Notably, the Australian Financial Systems Inquiry’s (Commonwealth of Australia 2014a) singled out aligning financial institutions, presumably licensees and consumers’ interests, rather than individual financial advisers’ and their clients’ interests. Perhaps it is so because; the legislation about licensing, regulating and authorising individual advisers is at the corporate commercial institutional licensee level, rather than at the individual professional adviser level. Recall from the discussion above, if no misaligned interests are present, then no agency costs, such as monitoring costs, bonding and residual losses are present (Balasubramnian, Brisker & Gradisher 2014). However, the broader the gap
between the interests of agents’ and principals’, the more the agency costs (Wasserman 2006; Leslie 2008; Balasubramnian, Brisker & Gradisher 2014). Furthermore, with an additional agency relationship between licensees and advisers, an actual and/or potential incongruence between the interests of the authorised representatives and their licensees may exist. This potentially leads to incongruence between the interests of advisers and their clients. Starke (2013b) drew attention to the fact that congruency between the interests of clients and individual professional advisers is essential to any profession. Thus, he claimed alignment of licensee-adviser-client interests should be an important part of any regulatory reforms. Therefore, this thesis addresses the lack of scholarly attention to aligning the interests of Australian financial advisers with their retail clients within the framework of the licensee-adviser licensing model.

3.3.4 Competitive financial advisory environment

The initial philosophy of FSR regulation was “free and competitive markets can produce an efficient allocation of resources and provide a strong foundation for economic growth and development” (Pearson 2006b, p. 103). Viable competition between financial services providers, according to Inderst and Ottaviani (2009), generally ensures protection for all consumers of financial products. They maintained further when faced with intense competition for retail customers, financial services sales force [advisers], while complying with specified standards, and require more incentives from their institutions. They argued convincingly using mathematics; these additional incentives make the regulation so costly for their institutions and advisers, and the opportunity to mis-sell financial products becomes increasingly attractive.

Evident in practice, product-aligned licensees and dealer groups enter vertically integrated or franchise type business models to improve their product distribution channels (Christie 2015). It is argued by Starke (2013b) this is resulting in anti-competitive consequences between various financial services providers within the financial planning sector. This anti-competitive behaviour was confirmed during the Murray (Commonwealth of Australia 2014a) and ASIC (Australian Securities and Investments Commission 2016i) review when they considered the increasingly high concentration of vertical integration in financial services. A consequence of the licensing provisions and regulatory framework they conceded potentially limits competition, contributes to conflicts of interest, lowers investor confidence and imposes barriers to the entry and growth for new entrants with business models ill fitting within the existing regulatory frameworks. Moreover, financial services in Australia are considered by
Steen, McGrath and Wong (2016) as less competitive than the US markets due to the highly concentrated and vertically integrated financial services sector. Furthermore, to build on the brief investigations conducted by for example, Simes, Harper and Green (2008), Bhati (2009), Milne (2007), Parliamentary Joint Committee on Corporations and Financial Services (2009b) and others (Commonwealth of Australia 2014a), this issue is addressed within the context of licensee-adviser licensing model.

3.4 LEGITIMACY INTEGRATED INTO FINANCIAL PLANNING THEORY

According to Kury (2007) legitimacy is complementary to agency theory. Thus when considering the legitimacy of an entity, attention should be given to agency (Clegg 2010) theory. Moreover, Bender (2011) claimed legitimacy is threatened by conflicts of interest. Therefore, if licensing advisers via third-party licensees creates a dual-agency role leading to conflict of interest from association for advisers, and if this conflict is inconsistent with the four objectives of the Act, then the legitimacy of the current licensee-adviser model is threatened. This threat to legitimacy is normatively assessed and verified in the next section of the discussion using criteria from the legitimacy framework of Suchman (1995) integrated into financial planning theory.

3.4.1 Overview of legitimacy theory

Researchers’ Díez-Martín, Prado-Roman and Blanco-González (2013), substantiated in their paper, secondary sources provide extensive studies in legitimacy theory since the middle of the 1990s. Empirical work in legitimacy theory internationally focused on organisational theory (Ellis 2006; Golant & Sillince 2007; Díez-Martín, Prado-Roman & Blanco-González 2013), management theory (Bitektine 2011), economic theory and political science (Gualini 2004; Ellis 2006). Some studies in legitimacy studies centred on specific industry fields, such as mining (Pellegrino & Lodhia 2012), telecommunications (Low 2010) and healthcare (Sonpar, Pazzaglia & Kornijenko 2010). Others focused research attention on specific professions, for example the accounting profession (Greenwood, Sudaby & Hinings 2002; Tilling 2004b; Fisher, Swanson & Schmidt 2007; Kury 2007; Andon, Free & Sivabalan 2014). Yet researchers in business schools in Australia neglected the topic of legitimacy within the context of financial planning theory.
As with any developing theory, Tilling (2004b) acknowledged in his paper, defining, understanding and suitably applying legitimacy is challenging. A challenge this research takes on. Accordingly, the most cited definition of legitimacy given by Suchman (1995, p. 574) stated:

“**Legitimacy** is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.”

Suchman’s (1995) theoretical definition of legitimacy was understood by Bitektine (2011) and Pellegrino and Lodhia (2012) as the perceptions, beliefs, values and judgements by various actors about the social acceptability of the goals, which entities pursue. However, according to Tilling (2004b), although legitimacy has concrete outcomes, it is an abstract concept based on the biased perceptions of the actors. As Suchman (1995, p. 583) stated, “legitimacy is possessed objectively, yet created subjectively.” Santana (2012) reaffirmed this statement in a later paper. Furthermore, a “socially constructed system” (Suchman 1995, p. 574), found within the definition, refers to the institutional frameworks, which consists of, for example, legal, moral or cognitive elements (Scott 2013). For purposes of this investigation, it is inferred the Act is the “socially constructed system” (Suchman 1995, p. 574), which arguably qualifies the current AFSL-AR licensing model, while simultaneously endorsing conflict of interest from association.

Hence, the rules and the requirements of the Act influences the perceptions, beliefs and considerations of the institutional constituents, including the public, government, the regulators, professional associations, media, licensees and the authorised representatives. Thus, according to Zimmerman and Zeitz (2002) and de Queiroz, de Vasconcelos and Goldszmidt (2007) legitimacy as a valuable resource for an institution. To the contrary Scott (2013, p. 72) reasoned “it is not a specific resource, but a fundamental condition of social existence.” Whether legitimacy is a “resource” Scott (2013, p. 72) or “condition of social existence” Scott (2013, p. 72), this study drew on Kury’s (2007) conviction that perception is the element, which determines through judgement the entity’s standing, survival and activities. Therefore, the legitimacy of the current licensing model, is an intangible (Bender 2011), dynamic, general societal perception (Santana 2012) or “assumption, that the actions of” (Suchman 1995, p. 574) licensing advisers through third-party, often commercially oriented product-conflicted
licensees, as specified presently in the Act “are desirable, proper, or appropriate” (Suchman 1995, p. 574). This perception should rise above the adverse financial scandals (Kury 2007).

Noteworthy, legitimacy affects not only how the actors understand, but also how they behave towards (de Queiroz, de Vasconcelos & Goldejimdt 2007) the licensee-adviser licensing model. Perceptions reflects the expectations of congruence (Zimmerman & Zeit 2002) between the behaviours and beliefs (Santana 2012) of the licensee, adviser and the shared, or assumedly shared, interests of their clients. According to Chen and Roberts (2010), with the purpose to create social order. Although Ellis (2006) argued, the legitimacy judged from outside audiences matters, it is contended by other scholars (see for example, Bitektine 2011; Rocha & Granerud 2011; Cole & Salimath 2013), so is judgements by inside audiences. Therefore, this research aims to obtain supportive evidence to investigate whether the current AFSL-AR licensing model for individual financial advisers is seen as socially legitimate as perceived and judged by the internal actors (Bitektine 2011), namely the authorised representatives registered on the ASIC Adviser Register.

Surprisingly, during the literature review, it became evident that legitimacy theory, including the broad societal-level definition of legitimacy itself does not provide the means as to how legitimacy achieves social expectations, social support or congruency. However, it hints at certain actions and events either increases or decreases legitimacy (Chua & Rahman 2011). As illustration, the scandals creating distrust among clients, advisers facing conflicts of interest, fiduciary duty obligations, misaligned interests between adviser and client and anti-competitive behaviour either intensifies or diminishes the legitimacy of the AFSL-AR licensing model.

The literature on legitimacy theory is indeed fragmented (Sonpar, Pazzaglia & Kornijenko 2010). Hence, legitimacy experts (Suchman 1995; Kury 2007; Chen & Roberts 2010) felt the division of legitimacy into institutional, or social legitimacy and organisational, or strategic, legitimacy was necessary, because then researchers have a practical and empirical means of examining legitimacy. Institutional [social] legitimacy asserts that external institutional pressures will be sufficient to achieve (Soin & Huber 2013) or to maintain legitimacy (Chelli, Durocher & Richard 2014). Looking at the roles of ASIC, licensees and their authorised representatives, the Act, although enforced by ASIC and their licensees, is present externally. In other words, it influences the internal authorised representatives from externally. In their paper, Wenzel and Jobling (2006) argued legitimacy is gained or lost depending on the level and consistency of the power used by the enforcers. Therefore, to achieve or maintain
legitimacy requires licensees and their authorised representatives to consistently conform to the legislation and ASIC’s compliance rules. A key legitimisation strategy is to keep the entity and legal surroundings closely aligned (Suchman 1995, p. 595; Chelli, Durocher & Richard 2014). Furthermore, institutional legitimacy investigates what and which institutional structures [for example for purposes of this study aligned or independent licensee business models], activities [stakeholder maximisation, shareholder wealth maximisation, aligning the interests of clients and advisers, managing conflicts of interest, competitive behaviour and fiduciary duty obligations] and procedures [licensing compliance sales procedures] are legitimate. Utilise these as the variables to evaluate legitimacy (Chen & Roberts 2010).

Sonpar, Pazzaglia and Kornijenko (2010) alleged, the institutional approach, although generally appealing, has been criticised in various studies. For instance, he mentioned a shortcoming, namely it downplays how different institutional powers may put pressure on entities to prioritise different sets of values. To further exemplify this criticism by Sonpar, Pazzaglia and Kornijenko (2010) within the context of this investigation the following issue is apparent. Who, should appoint, train, monitor and supervise individual financial advisers? Is it ASIC, licensees, an independent industry professional standards board or advisers themselves? How should financial advisers be appointed, trained, monitored and supervised? Should it be the current licensee-adviser licensing model or a new alternative licensing model? Finally, why should individual financial advisers be licensed in this manner? Is it to achieve the objectives of the Act? Furthermore, they reiterate that this view of legitimacy neglects the fact that legitimacy is temporary and dynamic in nature. In contrast to the institutional [social] view of legitimacy, Suchman’s (1995) strategic [organisational] perspective placed legitimacy under the control of the internal actors of the institution, instead of operating at the ‘macro-level’ as Tilling (2004b) expressed for the case of institutional legitimacy.

Thus, strategic legitimacy operates at the ‘micro-level’ of legitimacy. Thus, legitimacy is malleable like an operational resource or tool to meet the desires of the internal actors according to Suchman (1995, p. 576) to give them credibility (Kury 2007) and to gather societal support (Durocher, Fortin & Côté 2007). Kury (2007) maintained this legitimacy is actively sought and developed from the inside, rather than always simply received from outside. Consequently, institutions develop strategies affecting the external surroundings to achieve legitimacy. For instance, licensees may develop specific internal policies, procedures and practices to meet the compliance requirements of the legislation, while concurrently achieving their business goals. Legitimacy thus becomes an internal instrument or resource (Tilling 2004b) for licensees to
give integrity to their actions and those of their ARs. From Santana’s (2012) perspective entities self-construct through the actors’ perceptions. For instance, the self-construction of the current AFSL-AR licensing system by the internal actors determines its legitimacy.

In contrast to the institutional view of legitimacy, strategic legitimacy acknowledged, legitimacy is temporary and dynamic (Sonpar, Pazzaglia & Kornijenko 2010). Thus, it requires renegotiation periodically. According to Chelli, Durocher and Richard (2014), both the institutional and strategic legitimation cannot happen together. These two views of legitimacy assists with understanding how congruency is reached, the legitimacy gap closed (Pellegrino & Lodhia 2012) or how it is justified (Chen & Roberts 2010). Chelli, Durocher and Richard (2014) also wrote in their paper, when doing research in legitimacy, researchers should clearly determine whether institutional [or social] legitimacy and/or organisational [or strategic] legitimacy is of relevance in their research. Therefore, this thesis considers both divisions to understand the legitimacy of the current licensing model, because based on observations of Kostova and Zaheer (1999), legitimacy affects an entity [like the licensing model] from externally and internally. Licensing advisers via third parties is enforced from outside by ASIC while simultaneously influencing the perceptions and assumptions of the internal actors [advisers] from the inside through compliance. Bitektine (2011) maintained most research contributes to legitimacy theory from various evaluators’ outlooks on legitimacy, whether for purposes of this study they are the regulators, media, public, investors, advocacy groups and/or insiders. Consequently, this research tests the social judgements of financial advisers [insiders] in terms of whether the licensee-adviser licensing model [the entity under investigation] successfully achieves the objectives of the Act from an institutional legitimacy perspective and a strategic legitimacy perspective.

Legitimation is the process by which an institution builds, maintains or retains legitimacy (Díez-Martín, Prado-Roman & Blanco-González 2013) by continuously testing and redefining the entity operating within its surroundings (Kostova & Zaheer 1999). Significantly, Suchman (1995) reasoned, legitimation is purposeful, calculating, and often oppositional. Regulation, as viewed by Yeung (2009) and Santana (2012) is an attempt at legitimation to achieve the status of legitimacy. Therefore, the study surmises, the “tool of legitimation”, as defined by Chen and Roberts (2010, p. 654), is the current AFSL-AR licensing model.

Following the approach by Riaz, Buchanan and Bapuji (2011), this investigation framed the discussion further, into institutional fields. Greenwood, Suddaby and Hinings (2002) defined
institutional field as the social structure comprising collections of institutions, which are related in some way, and/or collectively organise to form a part of institutional life. Here the emerging financial planning profession’s institutional field is defined as the financial advisory sector operating within the financial services sector.

Central to the field are the sources of legitimacy (Díez-Martín, Prado-Roman & Blanco-González 2013). They include all the internal and external social actors (Chalmers & Godfrey 2004) who will all judge the licensee-adviser licensing model and confer legitimacy if observed and assessed valuable (Suchman 1995). Thus, the sources of legitimacy comprise policymakers, regulators, professional associations, licensees, authorised representatives, clients [or the public] and the media, which all confer legitimacy differently on the current licensing model. Institutional logics are the symbolic constructions used by these social actors to evaluate legitimacy (Bitektine 2011) within the institutional field (Soin & Huber 2013).

Using appropriate norms and logics is important when assessing legitimacy (Bitektine 2011), because Kury (2007) found logics to be both enduring and dynamic. Therefore, to evaluate the current AFSL-AR licensing model’s legitimacy, here conflicts of interest, financial adviser’s fiduciary duty obligations, aligned interests between adviser and client, and competitive behaviour between financial services providers, criteria of Suchman’s legitimacy model to assess legitimacy and the factors affecting the dual-agency role of advisers are some of the institutional logics specifically relevant in this thesis. Financial advisers, the internal actors, utilise these logics to guide them as to how effectively they operate within the rules of the current licensing model. Lounsbury (2007, p. 2), Herremans, Herschovis and Bertels (2009) plus Soin and Huber (2013) highlighted the influence of the coexistence of competing logics on legitimacy in their research. Thus, a major concern for this enquiry is the influence of the coexistence of these competing logics, such as for example, between statutory fiduciary duty, commercial interests and conflict of interest from association.

3.4.2 Suchman’s legitimacy theoretical framework extended and applied

Chua and Rahman (2011) pointed out; the basis of legitimacy is the concept of ‘social contract’. ‘Social contract’ is derived from political economic theory (Pellegrino & Lodhia 2012). It is central to legitimacy theory (Chelli, Durocher & Richard 2014), because it exemplifies the unspoken and obvious perceptions or expectations of society regarding how an entity is expected to be (Pellegrino & Lodhia 2012). Whether, or not the current licensing model is “desirable, proper, or appropriate” as Suchman (1995, p. 574) viewed it, depends upon the
perceptions, of the relevant social audience of actors shown in Table 3.1 of a breach of the social contract, in addition to how they influence three forms of legitimacy.

**Table 3.1 Institutional actors within financial planning adapted from the taxonomy of Kury (2007)**

<table>
<thead>
<tr>
<th>Pragmatic [Regulative] Legitimacy</th>
<th>Normative [Moral] Legitimacy</th>
<th>Cultural-cognitive Legitimacy</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Institutional actors who regulate the licensing of financial advisers</strong></td>
<td><strong>Institutional actors who offer normative or a professional platform for financial advisers</strong></td>
<td><strong>Institutional actors who have a shared understanding of the current licensing model</strong></td>
</tr>
<tr>
<td>• Australian Securities and Investments Commission</td>
<td>• Financial planning associations such as the Financial Planning Association and Australian Financial Advisers Association, etc.</td>
<td>• Individual financial advisers</td>
</tr>
<tr>
<td>• Financial Adviser Standards and Ethics Authority</td>
<td></td>
<td>• Clients of financial advisers</td>
</tr>
<tr>
<td></td>
<td>• AFS licensees</td>
<td>• Public</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Media</td>
</tr>
</tbody>
</table>

Legitimacy is threatened if violations of the ‘social contract’ occurs (Pellegrino & Lodhia 2012). This violation results in some of the actors intervening (Suchman 1995) and possibly rescinding on their contract stated Johnson and Holub (2003). Seemingly, the appropriation of scandals in financial services signalled severe contraventions by the emerging financial planning profession of their ‘social contract’. In the book *Institutions and Organizations* (Scott 2013), it is apparent rules, norms and meanings can be empirically accessed by inspecting events, beliefs [perceptions] and behaviours. This study inspects epistemological beliefs [perceptions] of advisers regarding the current licensing model, because how they perceive licensing via third parties is likely one of the determining factors as to how they may behave within their role.

Several legitimacy scholars have proposed various legitimacy typologies to evaluate and understand legitimacy (Bitektine 2011) of the licensee-adviser licensing model. Doh *et al.* (2010) claimed most research would only evaluate some of the criteria of legitimacy, instead of using a complete framework to evaluate it. In accordance with Zimmerman’s and Zeitz’s
(2002) view, the legitimacy criteria for evaluation should be all inclusive or should clearly identify the specific variables relevant for a more narrowly focused study.

Licensees’ commercial interests **do not** compromise advisers’ best interest duty

Licensees do not design sales procedures, standards and practices to reinforce product distribution, while giving the appearance (window dressing) of satisfying regulatory requirements

Evidence of no conflicts of interests from association with product-affiliated licensees

Contributions by individual licensee leaders to the debate surrounding the licensing of advisers are not aimed at protecting distribution channels

**Figure 3.2. Legitimacy of the current AFSL-AR licensing model**

Although, they advise legitimacy is difficult to measure, they claim by using proxy variables, quantitative analysis is achievable. On these grounds, this study explored, extended and applied to financial planning theory, Suchman’s (1995) complete theoretical framework. Particularly, because empirical research in legitimacy theory is a relatively new concept to financial planning. Also, his typology was useful to study the notion of legitimacy in both the accounting and non-accounting literature (see for example, Carnegie, Edwards & West 2003; Durocher, Fortin & Côté 2007; Kury 2007; Doh et al. 2010). Furthermore of concern in this research, and mentioned before, Suchman’s framework covers both institutional and strategic legitimacy
issues. Consequently, to conceptually understand the legitimacy of the AFSL-AR licensing model depends on the examination of Suchman’s (1995) three broad, yet specific, types of legitimacy: pragmatic, normative and cognitive. Importantly, Scott (2014) highlighted, entities exhibiting these three typologies of legitimacy increase their survival rates. Based on a study by Carnegie, Edwards and West (2003) these three forms of legitimacy - consisting of elements of rules, norms and meanings (Scott 2013) respectively - are inter-related, yet can also be mutually exclusive. Figure 3.2 illustrates the criteria of the legitimacy of the AFSL-AR licensing model, which this study explores next in more detail.

3.4.2.1 Pragmatic [regulative] legitimacy

Suchman (1995) defined pragmatic legitimacy as considering the perception of the social support for an entity’s intentions, objectives and activities operating within some socially acceptable system. Johnson and Holub (2003) claimed this social support depends on the expected benefit to the conferring body. Therefore, it is a form of legitimacy, which is both audience-based (Bitektine 2011) and self-interest-based (Scott 2013), because it captures the degree to which an entity represents its audiences’ self-interests (Díez-Martín, Prado-Roman & Blanco-González 2013).

Regulative legitimacy, derived from pragmatic legitimacy (Baum & Oliver 1991; Deephouse 1996; Zimmerman & Zeitz 2002; Rao 2004; Chen & Roberts 2010), occurs when regulatory entities use rules and laws to create trust, confidence, stability and order in society (Kostova & Zaheer 1999) by regulating and constraining certain types of behaviour (Scott 2013, p. 59). Yeung (2009) felt, regulative legitimacy is considered a form of political legitimacy, where researchers have tried to understand why or when actors comply with a country’s authorities. Carruthers (1995) made the point, traditional approaches of legislating, assumes the rules and compliance requirements are present to influence the choices actors make in response to or in compliance with their institutional surroundings. Thus, the legislation embodies a form of social control (Yeung 2009; Santana 2012). Translating this for the purposes of this enquiry, it means ASIC under the authority of the Act, authorised licensees to grant or withhold legitimacy (Bitektine 2011) by appointing or removing ARs from practising. From Table 3.1 discernibly, the immediate influential regulative actors who regulate the licensing of financial advisers, clearly with an institutional power base is the government with the assistance of its regulators, namely ASIC and FASEA. The Act guides how conducting the licensing of advisers occurs and in theory support regulative legitimacy.
Licensees do not have the “right to exist” (Bitektine 2011, p. 153) without an AFSL and authorised representatives do not have the “right to exist” (Bitektine 2011, p. 153) without an authorisation from a licensee with an AFSL. Therefore the current regulatory licensing system as authorised by the Act forms the basis of individual financial adviser’s regulative legitimacy or “right to exist” (Bitektine 2011, p. 153). Serpell (2008) asserted both the sources and legal form of legitimacy influence the trust actors have for any financial system. Also regulative legitimacy serves as a defence for the “right to exist” (Bitektine 2011, p. 153), which arguably is being tested by the loss in public confidence and trust (Kell 2013). Thus, to qualify as legitimate the licensing model’s “right to exist” (Chen & Roberts 2010, p. 654; Bitektine 2011, p. 153; Pellegrino & Lodhia 2012, p. 70) is achieved by obtaining approval or avoiding sanction from the public (Tilling 2004b) or other relevant stakeholders listed in Table 3.1.

Licensees are responsible for the actions of their representatives. Specifically, s917B and s917D of this Act regulate licensees responsibility for compliance contraventions by their advisers86, even if their advisers operate outside the scope of their licensees’ rules (Chen 2009). If a client is dealing with an AR, they are protected as though they are dealing with the licensee (Harvey 2002; Overland 2007; Serpell 2008; Sinodinos 2013d; Australian Securities and Investments Commission 2014a). From a legislator and licensees’ perspective, this is entirely appropriate; licensees must ensure compliance with ASIC rules and regulations to retain their licence by monitoring, supervising and training their authorised representatives. The rest is up to the adviser. However, Smith (2009, p. 326) found a focus group of financial advisers she interviewed during her study were frustrated, because they were of the opinion their AFS licensees are unable and do not have the desire to implement consistent behaviour and adviser conduct standards across their financial advisory groups. Furthermore, although compliance has not only become a liability, but also a repetitive mantra (Pearson 2006b), results from empirical studies by Smith (2009) established compliance officers of licensees were hindered in their ability to prevent compliance failure, especially in terms of disciplining rogue advisers for misconduct or related performance issues.

According to Bruce (2012) it is well-documented, the Australian Government’s regulation has a significant influence on the activities of financial advisers. ASIC considered the legal requirements in the Act to be sufficient to achieve legitimacy (Australian Securities and

Investments Commission 2013d). They have available various strategies as incentive to enforce compliance with the rules and principles. Legal coercion, repercussions of litigation, penalties, sanctions, the courts and police (Wenzel & Jobling 2006), provide additional compliance incentives (Chalmers & Godfrey 2004) for licensees and their ARs to comply. Yet it is argued by Wenzel and Jobling (2006), these forms of deterrence mechanisms are not necessarily the most efficient means to regulate, because of the need to constantly and unsuccessfully monitor. Empirical research by Melbourne Law School researchers (Bird & Gilligan 2015b; Gilligan et al. 2015a; Gilligan et al. 2015b; Bird et al. 2016; Bird, Gilligan & Ramsay 2016) considered the influence ASIC has to sanction and discipline the Financial Services sector. This view is confirmed in a paper by Gilligan et al. (2015a) that suggested that financial penalties are viewed by large corporates as an operational risk rather than a deterrence to prevent compliance offenses. Gilligan et al. (2017) advocated not only are ASIC’s enforcement powers and practices inadequate, inconsistent and ineffective, but ASIC is inadequately resourced from a personnel and surveillance perspective to regulate a large number and wide range of bodies to prevent misconduct. They are not the only ones with this viewpoint, because Kingsford Smith (2011) critiqued financial regulations as well as criticised ASIC in his paper as ineffective in their ability to investigate, enforce and prosecute, because they are not properly equipped with the necessary power, resources and a culture of regulatory relationships required in responsive financial regulation. Also, Gilligan et al. (2017) found, when ASIC does impose corporate finance law, then it is often too late. Black (2012) warned if inconsistencies were evident in the performance of any regulation, then this would lead to its failure and its unintentional consequences in terms of behaviour, risks or objectives. After all, Slattery and Nellis (2005) acknowledged, while regulators face political pressures and media attention when regulating financial services, their flexibility and certainty is limited when using legal rulemaking.

Although the penalty regime in Australia is consistent with those found in other overseas jurisdictions, such as the US, UK, Canada and Hong Kong, it seems, for instance, ASIC has less capacity and “scope to seek disgorgement of profits and other benefits gained” compared to these countries (Gilligan et al. 2015a, p. 4). According to Bird and Gilligan (2015b) ASIC is calling for more regulation and severe penalties for contraventions of the Act to encourage organisational cultural and normative change within the financial services sector. Bird and Gilligan (2015b) mentioned the David Murray’s Financial Systems Inquiry report recommended the government must provide ASIC with banning powers, substantially increase
civil and criminal penalties and permit ASIC to seek disgorgement of profits earned because of the infringements.

Empirical studies in legitimacy (for example, Bitektine 2011; Chelli, Durocher & Richard 2014) revealed, to gain desired legitimacy a perception of compliance with the legislation imposed by the external surroundings must exist (Carruthers 1995). Therefore, to determine empirically the licensing model’s regulative legitimacy involves examining the presence of the perception licensing advisers through third-party aligned licensees risks their advisers unintentionally breaching regulatory compliance duty (Degeling & Hudson 2014), because of their licensees’ affiliations to product issuers. If indeed, the authorised representatives of licensees comply with the Act, then arguably the current licensing model can be perceived as legitimate [Figure 3.2]. Verifying regulative legitimacy is imperative, because Australian regulators argued the best protection for consumers is compliance by the financial services industry with a fair and transparent principles-based regulatory system (Pearson 2006b). Any infringements may result in ASIC or even public class action (Pearson 2008; Australian Securities and Investments Commission 2016b), as well as legal liability consequences for licensees and/or their advisers under various regulations (Degeling & Hudson 2014; Bird & Gilligan 2015a). In addition, licensees and advisers will lose their reputations if or when breaches in compliance are discovered and make headline news. Furthermore, the financial losses suffered by clients results in the public choosing to avoid seeking financial advice when the ensuing distrust sets in (Carlin & Gervais 2012). Importantly, Bender (2011) made the claim compliance with the law does not necessarily mean legitimacy. Therefore, to reduce chances of opposition from critics (Bitektine 2011), this research includes other criteria to test for legitimacy of the licensing model.

**3.4.2.2 Normative [moral] legitimacy**

Normative [moral] legitimacy is considered by theorists as a feature-based (Suchman 1995) and a judgement-based (Scott 2013) typology. This definition of legitimacy focuses on the perceptions of specific morals, values or ethics (Chen & Roberts 2010; Chua & Rahman 2011) of an entity’s outcomes, goals, activities, and/or structure (Bitektine 2011), within some socially accepted (Johnson & Holub 2003) or socially constructed value system (Bitektine 2011).

Normative legitimacy provides the moral justification to support regulative legitimacy through social norms. While, regulative legitimacy shapes the legal surroundings with formal rules to
influence the structure, operation and responsibility of institutions (Thynne 2011). Moreover normative legitimacy shapes the moral or professional foundation through institutions (Scott 2013) [policymakers, regulators ASIC and FASEA, professional associations and AFS licensees as illustrated in Figure 3.1] applying the law. These normative actors interpret the regulative rules, implement the rules and perpetuate the institutional order (Carnegie & O’Connell 2012).

Thus, this legitimacy’s purpose is to provide a moral foundation, a basis to aid as a tool to foster positive images of the emerging profession amongst the public. It is about what is perceived and judged as the “right thing to do” (Yeung 2009, p. 286) morally to promote societal welfare. For instance, the Australian financial regulations aims to clean up the financial services sector (Hii & Su-King 2009). Owen (2003) noted, regulations drove the way institutions, within financial services, developed the manner in which financial products were structured and distributed. Suchman (1995) categorised normative legitimacy into consequential, procedural, structural and personal moral legitimacy. Understanding and assessing moral legitimacy of the current licensing model requires further scrutiny of these four variables.

3.4.2.3 Consequential moral legitimacy

Consequential moral legitimacy contemplates the moral assessment of an entity’s socially acceptable and socially valued deeds, outputs and outcomes, which includes a political element (Suchman 1995, p. 579). Lindorff and Peck (2010) wrote legitimacy requires institutions to manage their businesses for the benefit of all stakeholders, not just shareholders and employees. Observed during the literature review, legislating stakeholder wealth maximisation is challenging, because numerous effects are in play. Yun (2012, p. 66) wrote, within the US context: “Corporate executives have a fiduciary duty to act in the best interests of the corporation and its shareholders”. Likewise, Australian corporate law [s180 – s184] applies this principle to corporate executives of Australian corporations (Jones & Welsh 2012, p. 373). According to the writings of Jones and Welsh (2012, p. 373), this fiduciary duty included avoiding conflicts of interest between shareholders and management. They maintained further, in addition to their fiduciary duties, Australian directors, other officers and their employees, such as employee ARs, are legally expected not to work for self-interest or cause any detriment to the corporation [s182[1] and s183[1]] (Jones & Welsh 2012, p. 373) without disclosure to, and consent from the corporation (Hargovan 2011).
Agency theory works under the assumption: the principal’s main interest is profit maximisation and agents acting on behalf of their principals should advance the principal’s goals (Moran 2014). By implication then the adviser must advance the licensees goals who in turn according to Australian Corporate Law [s180 – s184] must advance the interests of the shareholders, including complying with the fiduciary duty to shareholders. Unsurprisingly, the Australian Corporations Act expects licensees and their ARs, when managing conflicts of interest to put the client’s best interests first [s961B], even if not in the licensees’ or the licensees’ shareholders’ interests (Australian Securities and Investments Commission 2016i). AFS licensees must always be able to prove they have given priority to the interests of clients over other interests (Australian Securities and Investments Commission 2016i). Yet, evidence collected in the UK exposed financial institutions, such as banks, focus on profitability rather than what is in the best interests of clients or treating them fairly (Pain 2013). Seemingly, the same holds true for the US, when Finke, Huston and Waller (2009b) reported commission-based investments sold through brokers sacrificed best interests in favour of profitability. Although, not empirically evaluated or verified in Australia, Bennett (2000) argued, it is indisputable licensees are in the business to make money. Fund managers or product issuers paid for licensees’ main source of revenue according to data gathered during two ASIC reviews in 201187 and 201488. In the literature, specifically aligned licensees are seen as “commercial businesses using advisers as a sales force” (Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24) to support shareholder theory89 (Griffiths 2007, p. 231; Lindorff & Peck 2010; Kofman & Murawski 2015) instead of stakeholders’ interests to develop social capital90 (Lindorff & Peck 2010).

Seemingly, the Act is encouraging conflicted commercially driven product-aligned licensees to exert legal control over their representatives (Carruthers 1995) to attend the best interests of their clients, while simultaneously expecting them to also meet shareholders’ wealth maximisation interests. Smith (2009) found a shift away by institutions from merely profit making [shareholders’ wealth maximisation] to ethics and social responsibility [stakeholders’ wealth maximisation]. Yet she concluded in her study when behaving ethically is perceived as financially lossmaking, then the question of what firms should do as opposed to what they actually do may in fact be two different things (Smith 2009, p. 62). Her quantitative findings

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88 Report 407: Review of the financial advice industry’s implementation of the FOFA reforms.
89 Shareholder wealth maximisation and/or profit maximisation.
90 Goodwill, reputation and/or sustainability.
confirmed employee financial advisers face conflicts between their professional obligations to deliver appropriate advice to clients and commercial obligations of business profit within their current advisory models. Furthermore, the Review of Retail Insurance Advice, it was recommended insurers remove misaligned financial incentives in their distribution channels being offered to advisers and licensees (Trowbridge 2015).

On the grounds of the aforementioned discussion tension between commercial interests and the best interest, duty is apparent. Maclean and Behnam (2010) maintained financial institutions struggle to manage regulatory compliance when the legal requirements appear to conflict with or compromise commercial activities. They maintained resolving this tension is critical to ensure legitimacy. According to several studies assessed by Carnegie and O’Connell (2012) consequential legitimacy appeared challenging to measure. They found especially testing perceptions objectively to obtain reliable evidence.

Despite these potential problems, this study assesses whether licensing advisers through third-party aligned licensees creates tension between the licensees’ commercial interests and their clients’ best interests to determine the existence of consequential moral legitimacy. The premise is if aligned licensees’ commercial interests are consistent with the clients’ best interests, perceived or otherwise, then licensing advisers through third-party aligned licensees is more difficult to challenge and the existing licensing model retains consequential moral legitimacy [Figure 3.2].

Establishing this legitimacy is important, because Smith (2009) maintained further, financial services firms owe economic, social, legal and ethical responsibilities to all stakeholders. Moreover, clarified by Griffiths (2007), focusing on immediate shareholders profits results in undesirable social costs to retail clients. Furthermore, Bearden (2002) pointed out financial interests can compromise advisers’ professional judgement, hence damaging the adviser-client professional relationship of trust notwithstanding the quality in the advisers’ work. Any incompatibility between the institutions’ values and the professional values of the adviser manifests into institutional-professional conflicts, which requires compromise (Bamber & Iyer 2002).
3.4.2.4 Procedural moral legitimacy

Procedural moral legitimacy studies the moral assessment of the entity’s socially acceptable and desired economic and non-economic (Meyer 2007) practices, techniques, systems, standards and procedures (Suchman 1995, p. 579; Carnegie & O’Connell 2012). According to Carruthers (1995) and Bender (2011) institutions emulate, reproduce and implement these to achieve legitimacy. Documented by Banister et al. (2013), professional financial planning associations support their member licensees and advisers to put in place socially desired best practices, standards, procedures, rules and structures such as codes of conduct, educational standards and programs. Furthermore, licensees reveal they deliver moral acceptability for the actions and behaviour of their ARs, both internally and externally, through a rigorous selection process (Bender 2011). This is followed by a strict compliance system of monitoring involving audits, supervision and training (Bennett 2000).

Yet some legitimacy theorists argued decoupling (Rocha & Granerud 2011; Cole & Salimath 2013) occurs when these formal codes of conduct, policies, processes and rules for legislative compliance differ from actual practice (Carruthers 1995) and behaviour (Scott 2014). Decoupling seems evident in financial services, based on several pieces of available evidence. For instance, scholarly evidence was produced by Smith (2009, p. 319) when she demonstrated licensee compliance officers, not only failed at influencing the ethical decision making of the financial advisers they supervise, but also failed to prevent contraventions and to protect consumers. She counted as some of the contraventions to include failure by some advisers and licensee compliance officers to follow internal procedures and policies, a failure to keep appropriate records of advice and ensure the integrity of records kept. In addition, the Australian Securities and Investments Commission (2017e)91 found in a review, the largest banking and financial institutions’ licensees were ineffective in overseeing their advisers. They reported the audit process of a sample of 160 client files audited by the licensees’ compliance manager were found ineffective in 25 per cent, partially effective in 57 per cent and only effective in 18 per cent of the cases (Australian Securities and Investments Commission 2017e; Graham 2017). Smith (2009, p. 316) identified, irrespective of whether it was in the clients’ best interest or not, practices, supporting financial product sales and recommendations associated with their AFS licensee, were evident among financial planners.

Apparent in practice, product-aligned licensees were found to employ business practice managers and compliance managers to monitor and supervise financial advisers to ensure they comply with the law (Australian Securities and Investments Commission 2007). Yet, the available evidence verified compliance officers of licensees were hindered in their ability to discipline advisers when their performance or conduct were inadequate or to prevent compliance failure occurring (Smith 2009).

Therefore, in this research the legislated practices, standards and procedures licensees implement to reinforce the advisers’ product distribution role is investigated (Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24). In addition, under investigation is the view held by Sampson (2010), namely the product distribution role is sometimes practiced without detection. Additionally, Smith (2009, p. 316-317) discovered, when she considered the ethical decision making of AFS licensee compliance managers, not only was deceptive behaviour linked to a failure of the compliance systems and procedures of AFSL licensees to specifically prevent the unethical behaviour surrounding product recommendations, but also an ineffective ethical climate and culture. Interesting used structural equation modelling and AMOS version 6 software Valentine and Hollingworth (2015) supported the hypothesis, employees make decisions around an institutions’ ethical values based on the verbal and non-verbal messages conveyed to them within a context, situation and around an issue. A more recent international case study (Brannan 2017) concur with these findings. Namely, the culture plays a significant role in influencing the conduct of those operating in financial services. Additionally, Carruthers (1995) theorised in his accounting research paper institutions decouple by developing relatively elaborate administrative systems so institutional rules appear technical in nature. Newnham (2012) and Valentine (2013) argued, licensees are adept at keeping in place actual distribution networks masquerading as sources of advice. For instance, product sales targets are set (Jones 2009; Smith 2009; Mennen 2014; Burke & Hung 2015) to ‘encourage’ their aligned financial planning practices and employees to achieve revenue benchmarks (Industry Super Australia 2014; Morris 2014), which results in their distribution networks promoting in-house products (Valentine 2013). Notably, Smith (2009), Starke (2013b) and Mennen (2014) confirmed the financial planning business of CBA, a bank financial product distributor controlled advice channels, set product sales targets for their salaried representatives and threatened them with dismissal to ignite a sales-driven culture of ‘cross selling’ and ‘up selling’.
Equally important, practices involving setting sales targets to reinforce product distribution are evident internationally too (United Kingdom House of Commons Treasury Committee 2011; Inderst & Ottaviani 2012b; Brannan 2017). For instance, Inderst and Ottaviani (2012b) explored how product providers can distort advice by means of promoting employees who achieve specific sales targets. Inderst (2009) argued, if combining the sale of financial products with the provision of financial advice then opportunities of mis-selling and unsuitable advice opens. Evidence from the high volume of Financial Ombudsman Services complaints, mystery shopping findings and sales file reviews in the United Kingdom between 2005 and 2011 demonstrated consumers were at high risk of suffering losses as a result of widespread flaws in sales practices [mis-selling of products] across much of the UK financial services industry (Ferran 2012; Pain 2013). Inderst and Ottaviani (2009) also proved when the agents face greater competition for clients, then compliance with a regulatory standard becomes costly for the institution, increasing the risk of potential mis-selling.

Secondary non-academic sources claimed Australian aligned licensees limited their ARs to recommendations of mainly products they select and assess for the APL (Australian Government The Treasury 2014; Sheehan 2016). Interestingly, the existence of APLs are justified by licensees as important for risk management purposes (Stewart 2013). Furthermore, Hutson and Vonnessen (2003) indicated, designing systems for risk management, dispute resolution, client compensation and general compliance may be beyond even proficient financial service providers. Achieving an acceptable standard of risk management is challenging. For instance, to lower their risks professional indemnity [PI] insurers, require licensees to make provisions for approved product lists to prevent advisers from selling just any product on the market (Stewart 2013). Thus, investment committees will assess products for the APL for all their advisers to use to ensure product is covered by the licensee’s professional indemnity insurance (Stewart 2013). Although, Regulatory Guide 175 (Australian Securities and Investments Commission 2017d) explicitly states advisers may need to go outside their licensee’s APL to serve their clients’ best interests, West (2009) and Stewart (2013) expected no reason why aligned licensees would want their representatives to retain, recommend or include a competitor’s financial products in their recommendations. This practice is confirmed in the literature (Collier 2003; Parliamentary Joint Committee on Corporations and Financial Services 2009b) whereby most product-aligned ARs are expected to recommend the product of the parent institutions. In practice, ASIC shadow shopping (Australian Securities and Investments Commission 2003, 2006, 2010a, 2012c) and reviews
(Australian Securities and Investments Commission 2016i) identified product-aligned ARs tend to favour recommending strategies linked to the specific branded products of their licensee.

Yet, advisers have the opportunity to apply for one-off approvals, where an investment committee of the licensee will evaluate products not on the APL to either reject or approve for use by that adviser only (Stewart 2013; Australian Securities and Investments Commission 2017d). Despite one-off approvals, Batten and Pearson (2013) claimed advisers are inclined to recommend only a few key products from approved product lists including those linked to platforms92 of a variety of investment choices. ASIC found in a review93 the statutory fiduciary duty obligations failed to impact most institutions’ APLs, except for a few amendments such as a reduction in the number or types of products on the list (Australian Securities and Investments Commission 2014f).

According to Maclean and Behnam (2010) these forms of decoupling produces formal compliance programs symbolising gestures of myth, ceremony and window dressing. While in the meantime, it is “business as usual” (Maclean and Behnam 2010) effectively manipulating back-stage to maintain appearances (Kury 2007). In other words, to achieve a better outcome institutions use their time and resources to create processes and rules for compliance purposes, instead of following them (Carruthers 1995). For example, ASIC found some evidence licensees adopted policies designed to meet compliance without adequate implementation into their business culture, systems and processes (Australian Securities and Investments Commission 2016i).

From the above, clearly achieving procedural legitimacy is not as straight forward as following rules and codes (Considine and Ali Afzal, 2011) nor having best practice procedures and processes (Maclean & Behnam 2010) in place as a defence against accusation of bias, imprudence or violations of the Act. Except for the inductive qualitative case study analysis by Maclean and Behnam (2010) of a US financial services organisation where widespread deceptive sales practices occurred, while a deficiency in Australian empirical research with regards to this matter of undetected sales compliance deception is apparent. Also an Australian study discovered an ethical culture promoting ethical behaviour within AFSL licensees, is

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92 Notable, platforms are not considered financial products under the present legislation.
93 Report 407: Review of the financial advice industry’s implementation of the FOFA reforms.
dependent on the presence of formal and informal systems and procedures (Smith 2009), yet unassessed for their legitimacy.

Thus, to verify the licensing model’s procedural moral legitimacy, requires examining declarations licensing advisers via third-party product-aligned licensees has resulted in deceptive sales procedures, standards and practices designed to give the appearance [window dressing] of satisfying regulatory requirements, while reinforcing product distribution. If this is not the case, then there is no question mark placed on its procedural legitimacy.

This information is significant, because Maclean and Behnam (2010) demonstrated decoupling the compliance program from practice, results in the loss of external legitimacy, because internal legitimacy of the formal compliance program is damaged, which then culminates in unethical practices becoming institutionalised. Furthermore, it is well documented (Senate Economics References Committee 2014; Ferguson 2015; Commonwealth of Australia 2016b; Steen, McGrath & Wong 2016) the Australian Government is concerned about the detriment of misconduct within financial services. Regulators internationally consider at the root of many conduct risks is the exploitation of conflicts of interest built into financial sector structures, processes and management over time (Australian Securities and Investments Commission 2016i). Moreover, Smith (2009) maintained, AFS Licensees do not have the breadth of systems and procedures in place necessary to ensure an effective ethical climate and culture.

3.4.2.5 Structural moral legitimacy

Structural moral legitimacy is defined by Suchman (1995), as the moral evaluation of the adoption of formal structures acceptable to society to make it the appropriate structure for the job. Thus this research considers whether the licensing system is “worthy of support because its structural characteristics locate it within a morally favoured taxonomic category”(Suchman 1995, p. 581). Applying this definition to financial planning theory within the context of the current licensing regime was challenging at first, because Suchman (1995) noticed similarity between procedural and structural legitimacy. However, he distinguished between them as follows: 1) procedural depends on “discrete routines viewed in isolation” (Suchman 1995, p. 581), namely do the product-aligned licensees control their affiliated advisers to distribute their in-house products? whereas 2) structural depends on whether “entire systems of activities recur consistently over time” (Suchman 1995, p. 581) such as do advisers structurally licensed via product-aligned licensees confront conflict of interest from association?
Extending the foregoing within the context of the current licensing regime, the Parliamentary Joint Committee on Corporations and Financial Services (2009b) confirmed conflicts between advisers and their clients arise from licensee ownership structures. Conflict of interest from association with the associated agency problems is a longstanding issue, because Davis (1995) claimed a conflict of interest from association is at odds with aligning financial adviser’s interest to that of the client interests. Additionally, Smith (2009, p. 317) wrote in her thesis Australian financial services ownership structures of institutions, together with the management of the conflicts of interest linked with these ownership structures contributed to financial advisers’ unethical behaviour. ASIC agreed, when a legal relationship between product manufacturers, distributors, licensees, financial planning practices and advisers were shared, this results in conflicts of interest (Money Management 2014). Valentine (2013) identified, more specifically, the conflict of interest where product providers, for example, banks and insurance institutions, owned financial advisory services businesses.

Bhattacharya et al. (2012) demonstrated with empirical findings, the multiple tasks of both searching for retail clients and facilitating transactions on behalf of the principal product-aligned institution may conflict with the task of providing unbiased advice. Controversial debate in the media has revolved around advisers being viewed as quasi-employees controlled by their licensees (Pokrajac 2014). This situation creates institutional-professional conflicts (Bamber & Iyer 2002). This conflict may be a problem, because Smith, Armstrong and Francis (2009) determined in their research licensees lack the breadth within their systems and procedures to ensure an effective ethical climate and culture for professional advisers. Smith (2009, p. 66) also questioned whether financial advisers can balance both their professional agency obligations to their clients with their agency responsibilities to their licensees. Especially in the presence of a moral hazard when the adviser faces weighing the importance of their agency relationship with third parties against their professional obligations to clients.

A willingness on the part of authorised representatives to observe professional obligations by avoiding competing with their clients or profiting at their expense is apparent, but this seems more challenging when affiliations to licensees who also distributes products arises (Collier 2003; Banister et al. 2013). The reason for this is that the Act is encouraging product-aligned licensees to exert legal control and discipline over their authorised representatives (Carruthers 1995), while at the same time expecting them to serve the best interests of their clients. Smith (2009, p. 324) found, financial advisers felt tension between their obligations around profit,
together with the pressure to sell financial products, which have led to unresolved conflicts of interest.

Pertinent, yet empirically unverified and invalidated, conflicts of interest is exacerbated if the licensees offered monetary or other soft dollar benefits\(^94\) (Australian Securities and Investments Commission 2004; Pearson 2006b; Professional Planner 2017b). Peretz and Schroedel (2009) mentioned, rather than product innovations, conflicting incentives for those participating in the financial field is the underlying the problem. ASIC acknowledged, “at the employee level, a conflict of interest could also arise when similar incentives or an inappropriate remuneration structure encourages the employee to promote group-manufactured products or platform products in priority to a third party’s products, which may not be in the best interests of the client.” (Australian Securities and Investments Commission 2016i, p. 14). Possibly, buyer-of-last-resort agreements\(^95\) depending on its terms and conditions, may also be an inducement for advisers to prefer recommending in-house products (Australian Securities and Investments Commission 2004; Pearson 2006b; Industry Super Network 2011; Australian Securities and Investments Commission 2016i). These arrangements can also be considered, according to Beal and McKeown (2009), motivation to trap authorised representatives to work with only one financial institution for most of their career. Moran (2014) and Kennedy (2012) asserted the legislation has encouraged advisers towards larger conflicted product-aligned licensees, rather than towards smaller business of advisers to protect business value, save cost, obtain subsidisation of support services and manage their uncertainty.

Many large licensees have adopted vertically integrated business sales models with platforms for competitive advantage (Valentine 2013) to develop financial products for distribution via their own financial planning advice channels through cross selling (Mennen 2016; Steen, McGrath & Wong 2016). Furthermore, Sampson (2010) asserted, the ownership of financial planning practices - which are concentrated among a handful of large licensees, with the purpose of an efficient structure and business environment for distribution - is structurally

\(^94\) For example, licensees offer financial support, invitations to overseas conferences or holidays, subsidised office equipment, offers of shares in financial services companies, fee rebates, subsidised dealer fees, subsidised professional indemnity insurance, paraplanning support, training and continuous professional development, marketing allowances, transition payments, and access to cheap capital and enhanced buy-back agreements.

\(^95\) Buyer of last resort agreements are prevalent among a third of AFS licensees (Australian Securities and Investments Commission 2011) who offers their advisers a guaranteed minimum sale value for their client base, usually when they retire or leave the licensee, and if they cannot find a buyer on the open market (Australian Securities and Investments Commission 2004). The sale value is based on a multiple of revenue, with a higher multiple offered for the licensees in-house products (Australian Securities and Investments Commission 2004).
corrupt. Steen, McGrath and Wong (2016, p. 3) argued the structural issue of the vertically integrated model contributes to the undesirable effects of information asymmetry, adverse selection and moral hazard consequences.

For instance, Suciu (2011) wrote moral hazard refers to an agent’s willingness to take excessive risks, because they can be bailed out during an adverse event. For instance, Pokrajac (2014) claimed authorised representatives are aware their institutionally owned licensee is large enough, has the means to pay for remedies, such as client compensation, out-of-court settlements, and other legal remedies imposed by the regulators should they fail in complying with the Act. Notable Egan, Matvos and Seru (2016) found in the United States misconduct is often more evident in some of the largest financial institutions, and lower in established older institutions managed by ethical executives with clean records of misconduct. Based on the actions taken against CBA and Westpac (Nehme 2010; Corones & Irving 2016) and the 50 per cent of 414 enforceable undertakings accepted by ASIC over 17.5 years [1 July 1998 until 31 December 2015] concerning financial services misconduct for financial planning and wealth management advice (Bird et al. 2016), perhaps the same can be concluded for Australian financial institutions.

Interestingly, Young and Thyil (2014) found during their qualitative study some financial institutions’ leaders hold the view individual’s behaviour cannot be regulated - only structures can be put in place for individuals to buy into. The premise here is the Australian financial advisory industry is buying into a formal structure without critical assessment or evaluation. Hence, to evaluate the licensing model’s structural moral legitimacy means examining the claim, licensing advisers through product-aligned licensees, results in conflict of interest from association. This conflict is an important issue, because policymakers are trying to professionalise financial planning with legislation (Parliamentary Joint Committee on Corporations and Financial Services 2015) within an existing system plagued by conflict of interest from financial product association, ownership or affiliation. This trilateral agency structure qualified by the Act places the licensee in control, rather than the client, which puts the client at risk of conflict of interest from association.

According to Pearson (2006b) risks to the financial product retail consumer with regard to the regulation of financial services has not been sufficiently articulated. Specifically, the legal scholar Walton (2012) claimed, what is often neglected in regulation is a discussion on the real risks to individual members of the public when third parties are involved in a relationship.
Along similar lines, professionalisation of financial advisers will likely be illusive so long as clients’ interests are secondary in practice to that of the institutions (Rubin 2015). For instance, buyer of last resort agreements severs adviser-client relationships when an adviser leaves a licensee for another licensee. Severed adviser-client associations is a problem, because NMG Consulting (2014) found in the UK once client-adviser relationships are established, clients are often loath to switch advisers, even for the opportunity of making small financial gains, because trusted associations under pin ongoing service arrangements (Financial Conduct Authority 2014c). Therefore, BOLR is not in the best interest of the client, because no continuity for the client is present (Kendell 2017). In addition, qualified competent advisers lose their accreditation to provide financial advice when they leave a licensee. Although they may be highly qualified, competent and ethical, unlike other professionals, they cannot practise their craft unless another licensee institution employs them or become self-licensed. Furthermore, advisers licensed through a third-party commercial conflicted rather than a professional independent institution may act as a disincentive for potential new entrants to pursue a career in financial planning. Further contributing to the shortage of financial advisers as baby boomers start retiring.

3.4.2.6 Personal moral legitimacy

The fourth and largely uncommon form of moral legitimacy identified in *Legitimacy: Strategic and Institutional Approaches* (Suchman 1995) is personal moral legitimacy. According to the few collected works, personal moral legitimacy is achieved through the moral and social evaluations of the roles of charismatic individuals (Carnegie & O’Connell 2012; Goretzki, Strauss & Weber 2013) who exert their personal influence to dismantle or create new entities depending on their vested interests (Suchman 1995). Mainly the role changes of influential individuals and their impact on legitimacy is discussed in the literature (Goretzki, Strauss & Weber 2013). For instance, when the Australian Government uses its democratic consultative approach when considering policy changes to augment the legitimacy of policy, they face the issue of who to include in the consultation (Catt & Murphy 2003).

Non-scholarly literature makes allegations about certain key people as members of seniority of multiple diversified licensees (Vickovich 2014d) and financial planning professional bodies (Vickovich 2014c) with varying stakes (Commonwealth of Australia 2014d) presenting as committee members on panels to respond as lobby groups at roundtables (Vickovich 2014d), private and public hearings making submissions (Australian Bankers’ Association Inc 2014) to
persuade or dissuade the government to increase or decrease the amount of legislation. These are allegedly men [and women] of power who as a whole continue to work in the background and foreground (Carruthers 1995) politically lobbying the government, legislators and regulators of the day to protect their vested interests. Sampson (2010) claimed some financial services industry participants lobby government to water down elements of the reforms to protect the relationship between financial advisers and companies offering financial products. Campo (2014) confirmed this, when she posted a blog explaining the FOFA reforms are being stymied by financial institutions who control around 80 per cent of all advisers through their lobby efforts. For example, mentioned in popular media reports, Senator David Fawcett [Chair of the PJC of Corporations and Financial Services from 9 December 2013 to 9 May 2016], initially focused on the issue of alternative licensing models for advisers during the Murray Inquiry (Vickovich 2014c; Vickovich & Garber 2014). However, seemingly due to submissions and direct lobbying shifted the focus to other issues (Commonwealth of Australia 2014c, 2014b; Perri 2014; North 2015).

Historically, ASIC (2003) and Collier (2003) conceded product-aligned licensees employ representatives to distribute their products. These writings support earlier findings during ASIC investigations into the National Australia Bank Limited, and Australia and New Zealand Banking Group Limited over their sales practices on separate occasions (Bailey 2000). Although not empirically assessed and substantiated, each contribute different, sometimes opposing recommendations to the debate surrounding regulating individual advisers, while simultaneously implement competing training, accreditation and professional recognition programs (Reese 2011). In addition, the Financial Planning Association allows their members to be affiliated to product providers. This affiliation makes it very difficult for Australians to identify financial advisers not torn between their client’s interests and that of their licensees’ (Moisand 2008). Yet no empirical research searching secondary scholarly literature has considered the influence of these influential men [and women] in this emerging profession, particularly pertaining to the licensing of financial advisers.

Therefore, empirical evidence examining the licensing model’s personal moral legitimacy may be substantiated by considering whether [or not] the contributions made by individual leaders of product-aligned licensees to the debate surrounding the licensing of advisers is mainly protection of their product distribution channels. If it is found not to be the case, then the licensing model displays personal legitimacy.
Consideration of this legitimacy is important, because Young and Thyil (2014) determined, financial institutional leaders’ duty and moral obligation are to all stakeholders, not only shareholders, to be doing the right thing to obtain their implicit or explicit consent to operate. The extent stakeholders provide this consent to operate, they claimed, provides these institutions the legitimacy to operate.

3.4.2.7 Cultural-cognitive legitimacy

Cultural-cognitive legitimacy, also referred to as cognitive legitimacy in the literature, is about an entity pursuing goals that ensures shared understanding, shared norms, common beliefs and common knowledge systems (Santana 2012) to perpetuate an institutional order (Kury 2007) based on cognition or awareness (Meyer 2007). Cognitive legitimacy considers the “taken-for-granted” (Kury 2007, p. 373) identity, roles, rules and performance of taking certain actions (Scott 2013). In other words, cognitive legitimacy is about “this is how we do things” (Kury 2007, p. 373) where elements of inevitability, necessity, and replication or “mimicking” (Kury 2007, p. 378) of the status quo within such a belief system is present (Suchman 1995, p. 582; Durocher, Fortin & Côté 2007; Kury 2007; Carnegie & O’Connell 2012). Unlike the self-interest-based and judgment-based regulative and normative legitimacy, the source of this form of legitimacy is communal-based (Kury 2007).

The cultural-cognitive actors tabled in Table 3.1, include the media [external actors], the clients of financial advisers [external actors] and the individual financial advisers [internal actors]. The literature review on this topic shows that the media stories and general rhetoric exposed, manipulated and/or shifted logics by which legitimacy is assessed (Suddaby & Greenwood 2005). Rhetoric per Suddaby and Greenwood (2005, p. 39), is a critical ingredient to intentionally influence cognitive legitimacy. The media serves to expose the lack, or existence, of cultural-cognitive legitimacy. The reaction of the external actors, namely the public in terms of having trust and confidence in financial advisers further reinforces this lack of cognitive legitimacy. Notably, although the media, media professionals and their audiences (Pellegrino & Lodhia 2012) are considered as hostile and unfair (Harvey & Schaefer 2001), Bird (2011) is of the opinion that the role of the media in increasing accountability of the regulators, licensees and advisers should be recognised. Therefore, the news media coverage (Hoyle 2016; Vickovich 2017a) informs the public of aspects of deeds within the financial advice industry that might have been previously unknown or requires some attention. The media, thus creates legitimacy gaps or crisis that run against the values and beliefs (Chelli, Durocher & Richard
2014) of the public. Noteworthy, many of the gaps identified in this research come from media reports, albeit much of the news was damaging.

For instance, with regards to the shared understanding of the identity, role and performance of financial advisers, a press release about the main research findings of a Roy Morgan study (Morris 2013) reported, the public were generally unsure as to whether financial advisers were product-aligned or s923A independent. They reported the majority incorrectly perceived and claimed, for example, Financial Wisdom [owned by Commonwealth Bank of Australia] or Godfrey Pembroke [National Australian Bank/MLC Australia] or RetireInvest [ANZ Bank] provide independent financial advice (Morris 2013; Vickovich 2013). Questionable, Sampson (2009) maintained in earlier years, is the common practice for the licensee to own or have an interest in the financial planning group, to rebrand its aligned advisers so that the link is not immediately apparent to clients seeking independent advice. He maintained, and noted earlier when discussing conflicts of interest, further disclosure is often inconspicuous. Notably, this problem is not limited to the Australian financial advisory sector. Interestingly, Inderst and Ottaviani (2012e) mentioned a survey undertaken in Europe among 6,000 purchasers of retail investment products, where findings in this report (Chater, Huck & Inderst 2010) indicated, participants were ill-informed on conflicts of interest; believing aligned financial advisers provided completely independent advice.

Although elements of this cognitive concept have been researched, Scott (2013) and Yeung (2009) claimed this form of legitimacy is also problematic to determine, because all the other forms of legitimacy mentioned above have an influence on it. Despite their views, an attempt is made to determine cognitive legitimacy, by starting with the concept cognitive legitimacy is judged by placing an entity into a category or classification using identifiable variables, such as the observable structural properties, technical and procedural features of the entity (Bitektine 2011). Therefore, if the legitimacy to financial planning theory is extended and applied, then clients and their advisers should have, as Scott (2013) notably theorised, a shared understanding as to ‘who advisers are’ [identity] (Zimmerman & Zeitz 2002, p. 420), ‘what is expected of advisers’ [role] (Zimmerman & Zeitz 2002, p. 420) and ‘how effective advisers are’ [performance] (Zimmerman & Zeitz 2002, p. 420). In this regard, the perceptions of the internal actors, namely advisers, are the main concern in this study, because, operationally they enact the rules, while sharing, or assumedly sharing, common beliefs with their clients and the media (Kury 2007).
Although Faherty (2010) and my discussion in Chapter 2 pointed out two categories of advisers, namely advisers who provide advice and those who sell product, Moisand (2008b) wrote in an earlier paper, the lines between sales and advice is blurred. Recall, from Chapter 2, to protect clients from being misled, fairly restrictive requirements of section 923A of the Act specifies when financial services providers can describe themselves or market their services as ‘independent’ to existing or potential clients (Elliott 2006). Although authorised representatives are registered on the ASIC Financial Advisers Register since 31 March 2015, Power (2016b) reported it does not disclose the independent or aligned status of the client. Making matters more complicated and leading to further public confusion is this register includes people who are not financial advisers, such as for example time-share holiday sales representatives, foreign currency brokers, stockbrokers, industry funds advisers, credit union brokers, mortgage brokers and accountants. Consequently, despite the legislated definition of s923A, it is not clear who is independent and who is not.

Apparent during the literature survey, several scholarly writings from UK and US reflected on the issue of ‘independent advisers’ and ‘independent advice’ (Gough 2005; Zabel 2010; Bender 2011; Chaston 2013; Bateman & Kingston 2014; Burke & Hung 2015). However, a hole in the existing literature dealing with this issue within the Australian context exists (McInnes & Ahmed 2016). Bateman and Kingston (2014) and Burke and Hung (2015), observed US and UK policymakers have included legal provisions in their laws to distinguish between two categories of financial advisory institutions and financial advisers. A prominent feature of their regulations was the separation of ‘independent’ advisers, from those who are not, both in terminology and categories. S923A attempts to do so for Australian policymakers as discussed in Chapter 2. Australian legal and accounting professionals both concurred, legislating and disclosing the difference between financial product sales and independent financial advice should resolve the best interest duty, APLs disputes (Certified Practicing Accountants 2014; Hewison 2014; Mitchell 2014) and misunderstandings by the public.

Therefore, to empirically assess cultural-cognitive legitimacy depends on establishing whether licensing authorised representatives through third-party product-aligned licensees provides clients with a clear distinction between independence [identity] and conflicted association to product-aligned licensees [identity]; hence independent advice [role] and conflicted advice

to achieve the objectives of the Act [performance]. If the distinction between independent financial advice and conflicted product advice is clear, then the author concludes here licensing advisers via licensees displays cognitive legitimacy.

Clearly defining and differentiating advisers who provide s923A independent advice\(^{97}\) from those who may provide conflicted advice (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Boutique Financial Planners 2014) is important to avoid clients being misled. As was mentioned earlier, a Roy Morgan study (Morris 2013) provided some evidence licensees who do not use or display their affiliated institutional brand are placing clients under the misconception they are dealing with an independent financial adviser, when they are not (Vickovich 2013). Arguably misleading clients in this way contravenes the Act, potentially leading to civil and criminal legal action and/or penalties against licensees and their advisers (Bird & Gilligan 2015a). Therefore, visibly defining and differentiating advisers who comply with s923A from those who do not (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Boutique Financial Planners 2014) is important to avoid clients being misled. Furthermore, an article in *Money Management* (2012) stated financial planning is unable to be recognised as a true profession until the public understands the clear division between financial planning and product distribution. In addition to this important view, North (2015) claimed for Australians to receive high quality reasonable priced financial advice, the advice industry needs more independent advisers.

### 3.5 ALTERNATIVE ADVISER LICENSING MODEL IN THE DEBATE

A crisis, exposed by the media according to Riaz, Buchanan and Bapuji (2011), forces actors to recognise the end and inevitability of change in practice. In agreement with the reasoning of Scott (2013), if the existing set of rules, norms and beliefs are under siege, hence undergoing delegitimation, then it inevitably should be superseded by new rules, norms and scripts. Various researchers (see, Suchman 1995; Zimmerman & Zeitz 2002; Chelli, Durocher & Richard 2014) have proposed various legitimation strategies in the company of a legitimacy crisis. Low (2010) theorised, once one makes a branding of ‘illegitimacy’, it is difficult to defend or repair the legitimacy. Accordingly, if advisers themselves upon reflection think they face a dual-agency role, the objectives of the Act are unachieved and/or Suchman’s legitimacy criteria extended

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and applied to the current licensing model above are unmet, then arguments are strengthened for alternative options of licensing.

While a myriad of alternative solutions is available, this section specifically focuses on individual licensing of financial advisers through an independent professional body, coined here as an independent financial planning professional standards board. Addressed in the next section are the many reasons for this focus on individual licensing, namely promoting public trust and confidence, independent individual advisers versus conflicted institutional advisers, other professions licensing regimes, a single [independent professional financial planning standards board] rather than multiple licensing entity/ies [AFS licensees] with the purpose of eliminating conflict of interest from association.

### 3.5.1 Client trust and confidence

Recall from Chapter 2, one of the purposes of FOFA reforms was to build trust and confidence in financial advisers (Ap 2011; Gray & Ireland 2011; Kell 2012; Moran 2014). Balasubramnian, Brisker and Gradisher (2014) found, trust is one of two most important determining factors to influence whether a person seeks financial advice or not. The other is cost, which is a matter for future research, because it is outside the scope of this study. The legal fraternity also refers to trust and confidence relationships as fiduciary relationships (Himstreet 2012; Lazaro 2013; Campbell 2014; Corones & Irving 2016).

Unsurprisingly, Hely (2012) mentioned an ANZ Bank financial literacy survey (The Social Research Centre 2011) found approximately 42 per cent of Australians distrust what advisers recommended. Nearly 67 per cent of investors, according to findings by Australian Securities and Investments Commission (2013a) distrust financial advisers to take their fiduciary best interest duty seriously. In the annual Roy Morgan ‘Image of Professions’ survey of 2015 only 24 per cent [down by 4 per cent since the previous year] of Australians over the age of 14 rated financial advisers very high or high for ‘ethics and honesty’ (Morgan & Levine 2015). A year later, the annual Roy Morgan ‘Image of Professions’ survey found only 27 per cent [up by 3 per cent since the previous year] rated financial advisers very high or high for the same variables (Independent Financial Adviser News 2016b). Accountants were up by 6 per cent from the previous year, rating 51 per cent (Independent Financial Adviser News 2016b). These statistics are important to consider, because underlying elements of trust and confidence is ethical behaviour (Chua & Rahman 2011). Another underlying element of trust and confidence is best interest duty (Himstreet 2012; Lazaro 2013; Campbell 2014; Corones & Irving 2016).
Trust and confidence issues are not only a difficulty for financial advisers, but also for medical professionals, accountants and lawyers (Bruce 2012; Burke et al. 2015). Given the continuing low level of financial literacy (The Social Research Centre 2015) among the public means clients need to trust professional advisers’ intentions (Worthington 2006; Evetts 2011). US legal scholars agree; trust and confidence favour a long-term personal relationship considering the personal circumstances of a person (Black 2005; Kay 2012; Frumento & Korenman 2013). It is not, or should not be, simply a short-term arms-length financial product sales transaction between strangers (Black 2005; Kay 2012; Frumento & Korenman 2013). Therefore, trust and confidence between principal and agent is imperative in professionalism (Evetts 2011, 2014).

Thus the use of legal rules to create legal trust relationships (Haigh 2006), such as the current licensing model should be investigated as a potential source of distrust among the public. Especially, if Kay (2012) is correct in believing information asymmetry and misalignment of incentives can be addressed by an ethos of trust and confidence generated from long-term personal relationships and low-volume personal sales. Additionally, Calcagno and Monticone (2015) showed non-independent advisers cannot solve the low financial literacy problem. Hence, the researchers examines extent advisers think individual licensing would improve trust and confidence. This legitimacy criteria is important to investigate, because the Professional Standards Councils (2014) found in research they undertook, some financial services sector stakeholders, mainly licensees, believed improvement in trust and confidence was one of the many benefits of professionalism.

3.5.2 Independent professional versus conflicted institutional licensing

Although the numbers are unconfirmed, probable from the discussion so far, only a few financial advisers work for s923A independent Australian Financial Services licensees. Most advisers are associated with various product issuers with numerous financial services business models, including financial advisory services (Steen, McGrath & Wong 2016) offering differing roles for them (Sanders & Roberts 2015). Even advisers who represent themselves as IFAs follow the institutional model, whereby conflicted recommendations involve indirect investments and platform options, ignoring direct investments and ‘off platform’ options for clients (Vickovich 2017a). Explained in detail above, when product manufacturers, distributors and advisers are co-workers this leads to conflicts of interest as a consequence of this cohabitation (Money Management 2014).
Sanders and Roberts (2015, p. 18) highlighted in a white paper, the licensee-adviser licensing model within the financial advisory sector together with the Act favours the institutional commercial licensee over the individual professional adviser. They acknowledged despite the “legitimate legislative basis for this” (Sanders & Roberts 2015, p. 18), it is contrary to the approach of professions where the individual professional advisers’ duties and obligations overrides those of the licensee as employer and/or principal. Consistent with this view, research by Hackethal, Haliassos and Jappelli (2012) indicated, both multitasking and effective monitoring agency costs lead to institutions with employed agents, such as bank financial advisers, choosing lower standards of product recommendations to both unsophisticated and inattentive experienced sophisticated clients, than the more entrepreneurial independent financial advisers. Thus private profit-seeking institutions are untrustworthy to regulate their own activities in the best interests of the public (Omarova 2010). Even as far back as 2003 (Bakir), institutional regulation in financial services was suggested to becoming obsolete where institutional, sectoral, and product boundaries were being eroded by technological and technical innovations in finance.

Additionally, recall from Chapter 2, Haigh (2006) interpreted, the introduction of the legislation through FSR has produced incommensurate levels of accountability in financial services nor tangible benefits to the public. Rogue financial advisers (Valentine 2008; Beal & McKeown 2009; Cull 2009; Chua & Rahman 2011; Fitzpatrick 2011; Kingsford Smith 2011; Taylor 2011; Walton 2012), for example Don Nguyen and Anthony Awkar of Commonwealth Bank Financial Planning, (Staff Reporter 2011; Independent Financial Adviser News 2014a; Mennen 2014) could easily hide within large institutions. According to Starke (2013a), large institutions make monitoring and supervising individual advisers for compliance contraventions problematic. Prior to statutory fiduciary duty obligation, Gor (2005) claimed the burden of accountability rested entirely on the licensee to authorise the representative to offer financial services. However, post-statutory best interest duty has made individuals personally accountable to some extent, because current licensing makes the licensee responsible for the actions of their agents (Smith, Clarke & Rogers 2017). Carlin and Gervais (2012) argued, when a retail client is financially hurt, then in theory two parties are liable, namely the product provider [licensee] and their agent [adviser]. Yet evidently, in practice, despite licensees auditing their authorised representatives to ensure they comply with the requirements of the licence, large licensees are ineffective in making individual advisers accountable when things go wrong (Australian Securities and Investments Commission 2017e).
Carlin and Gervais (2012) proposed the legislation must take into consideration compliance by both the product provider regarding product quality, in terms of transparency and cost effectiveness. Important to note, is compliance concerning the behaviour of the advisers in placing clients into financial instruments and the contractual agreements between these parties. Yet, the current licensing model does not reinforce their best interest duty to clients, because evidence (Australian Securities and Investments Commission 2017e) demonstrate it makes identifying the rogue advisers within large institutions challenging.

From the standpoint of Considnine and Ali Afzal (2011), effective accountability necessitates the ability to determine the contributions of each actor, before apportioning responsibility to the true actors. Furthermore, important is the extent these writers view how the accountability is shared in indistinguishable proportions between two actors with overlapping vertical and horizontal domains and responsibilities. Certainly from the above discussion on legitimacy, both vertical [for example managing conflict of interest from association] and horizontal [putting the interest of the client first](Valentine 2013) domains and responsibilities between Australian licensees and their representatives under the current licensing regime occurs. No scholarly research, measuring the extent advisers and licensees share accountability for breaches, is evident. The reason may be, because Considnine and Ali Afzal (2011) contended, identifying each one’s contribution to the violation, as well as identifying individuals responsible for infringements within entities is difficult.

Transgressions in Australia were also at the institutional level in the case of Great Southern Limited, TimberCorp Group and Commonwealth Bank of Australia, who encouraged their agents to deliver narrow sales focused recommendations to their clients (Australian Government Corporations and Markets Advisory Committee 2012; Australian Securities and Investments Commission 2017e). Thus, identifying whether licensee, adviser or both are responsible for violations under the current licensing regime is difficult. This difficulty is confirmed by Doctor George Gilligan during his submission to the Murray Review (O'Brien & Gilligan 2014, p. 7) claiming “…there is a certain imbalance between the privileged position that participation in the financial sector allows through the mechanism of the licence—which is a gift of the state—and what might be termed the civic duties and obligations that potential carries with it. We think the balance has shifted too far towards an almost automatic expectation of assuming a licence. This has been compounded because of the organisational context—many of the financial planners and advisers in Australia are employed by large organisations, so there is a diminution of accountability and transparency in relation to the
activities of individuals who are selling products or recommending products to consumers.”

With this issue being problematic, individual accountability affords strong incentive for agents to align their actions with the principals’ preferences (Considnine & Ali Afzal 2011), namely the client as opposed to institutional-individual [licensee-adviser] accountability. Thus, questionable under the current licensing regime is how individual financial advisers can be accountable to their clients under statutory fiduciary duty, when they are not independently licensed from institutional licensees.

Well-documented in academic works is independence is considered one of the attributes of a professional (Riaz, Buchanan & Bapuji 2011). Independent financial advice and how it is applied is also recognised in practice by the leaders of financial planning professional associations (Slattery 2014) and the Professional Standards Authority (Power 2016a) as a critical ingredient in ensuring the professionalism of the financial advisory industry. Both corporation [institutional licensees] (Australian Government Corporations and Markets Advisory Committee 2012) and natural persons [individual financial advisers, including those who self-license] are subject to the same licensing regime when clients do not receive financial recommendations from the institutional entities. Instead, retail clients develop a supposedly long-term relationship (Knie-Andersen 2002; Johnsen 2010; Siddiqui & Sharma 2010; Bruce 2012, p. 86) of trust with ‘natural persons’ to provide them with recommendations that are supposedly in their best interests. Moreover, Considnine and Ali Afzal (2011) cautioned individual accountability is determined retrospectively when an assessment of the agent’s actions by principals is made after the fact.

Recent developments in behavioural theory, notably Dolan et al. (2012) showed making even subtle changes to contexts, environment or choice architecture can have a powerful effect on behaviour. Therefore, in this study advisers are asked to reflect on the recommendation by Steen, McGrath and Wong (2016) of removing the connection between product issuers, because it may lead to a culture shift the financial adviser sector needs to minimise financial scandals.

What is questioned here is whether advisers should be disconnected from being licensed, regulated and authorised by multiple AFSL institutions by reconsidering recommendations during the Ripoll Inquiry (Parliamentary Joint Committee on Corporations and Financial Services 2009b) and consultations during the Murray Review. Both put individual licensing for financial advisers on the table (Parliamentary Joint Committee on Corporations and Financial Services 2014). Also, individual licensing was supported by both Professor Justin O’ Brien and
Doctor George Gilligan, who proposed framing the professional obligation required considering empirical evidence around the failure of the prevalent codes of conduct, together with the risks associated with the existing institutional licensing regime over individual licensing (O'Brien & Gilligan 2014).

Providing an alternative licensing solution is important, because although the current licensing model may have made significant inroads to protect clients, it has neglected to adequately define and categorise the different services authorised representatives offer in a manner to assist the public to clearly differentiate (Australian Government 2016) between advisers who are s923A independent from those who are not. Furthermore, the structure of the current licensing system needs a review, as this is one of the determining factors of how licensees and their advisers define and develop their business models. From observations made by Sanders and Roberts (2015, p. 11) as financial planning professionalises, one of the challenges the financial advisory sector faces is identifying and defining the professional and seemingly non-professional roles.

Furthermore, Evetts (2011) discovered, when investigating professionals [specifically, doctors and academics] employed in public services organisations [hospitals and universities], he found professionals are closed to being controlled through managerial interventions and institutional controls. His research established, accompanied by high status, these professional groups have autonomy over their work practices, providing them with both power and authority. Furthermore, for him it is difficult to measure and standardise these professionals’ outputs nor their work. In other words, they cannot be controlled using institutions nor the market. His findings showed the state-employee medical practitioner use their cultural authority and legitimacy to maintain dominance to retain occupational control of work processes and relations with their patients. According to him, what is detrimental to professionalism are institutional audits, targets and key performance indicators, because they lead to distorting not only work processes, procedures and priorities, but also cause ‘unintended’ consequences for the doctors and their patients. Arguably, professionalising advisers will lead to similar detriments, albeit absent under the current institutional licensing model. Evetts (2011) recommended, a practitioner’s identity, work culture, opportunity to engage with peers to form and maintain knowledge and expertise all contribute to improving professionalism benefiting both practitioner and patient.
Questionable and a matter of contention is whether institutions and ‘natural persons’ should be subject to the same regulations. Many authors agreed (see for example, North 2015; Australian Securities and Investments Commission 2017a; Smith, Clarke & Rogers 2017; Vickovich 2017a), professional independence is a key controversial issue facing the advisory sector. From the discussion so far, the focus of previous studies, but with scant attention, has been on corporate licensing of financial advisers. Serpell (2008) supports the view of individual financial advisers having a separate standalone licensing or registration system, separate from financial product and service institutions. Financial planning is a multidisciplinary profession, which can support a standalone regulatory system (Macey 2002b). Especially as the financial planning discipline specialises more and more, the need to develop standards for comprehensive advice separate from specialities along similar lines to medical boards responsible for reviewing medical specialities is inevitable (Macey 2002a). Thus, it is time to consider individual licensing of ‘natural persons’, like other professions. Especially when principally this system of institutional licensing is absent in other true professions.

### 3.5.3 Individual licensing in line with other Australian professions

Troubling in practice and the media (see, Macey 2002b; Horsley & Thomas 2003; Moisand 2008a; Valentine 2008; Australian Government Treasury 2009; Parliamentary Joint Committee on Corporations and Financial Services 2009b; Smith 2009; Financial Services Authority 2010; Laby 2010; Ap 2011; Bruce 2012, p. 303; Inderst & Ottaviani 2012a; Knutsen & Cameron 2012; Frumento & Korenman 2013; Australian Securities and Investments Commission 2014f; Campo 2014; Financial Planning Coalition 2014; McInnes, Ahmed & Delpachitra 2014; Burke et al. 2015; fi360 FiduciaryPath 2015; North 2015; Rubin 2015), the Australian financial planning emerging profession is often compared to being similar in professionalism to other professions. Financial advisers have been likened to other professionals, including doctors, lawyers and accountants (Ap 2011; Bruce 2012; Knutsen & Cameron 2012; Australian Securities and Investments Commission 2014f; Burke et al. 2015). For example, just as doctors manage their patients’ health needs following a logical process, so financial advisers do the same for their clients’ regarding their future financial needs following a financial planning process.

Yet upon closer inspection, these proclamations of similarity are misleading. Medical practitioners may work for corporations (Breakey & Sampford 2017, p. 262) and/or prescribe pharmaceutical products from preferred suppliers (Everingham 2014), but they are not licensed
by these third parties. Similarly, lawyers and accountants may work for large corporate commercial institutions, yet they hold professional autonomy and control within their employment roles (Rubin 2015; Breakey & Sampford 2017). Once accountants, (Bamber & Iyer 2002; Institute of Chartered Accountants of Australia 2012) lawyers (Arteta 2016; Australian Bar Association 2016) and doctors (Medical Board of Australia 2012) leave their workplace they may retain their professional status (Evetts 2011), plus their licence to practise and are permitted to continue working without needing to transfer to any licensee.

Therefore, upon closer examination, the way individual financial advisers are licensed through the ASIC licensees as specified in the Act, makes this claim of similarity deceptive for several reasons. Despite this comparative likeness, Cull (2009) reported in her paper, some accountants do not see financial planning as meeting all the requirements of a profession in light of their historical and current embedded sales culture. What is missing in the FOFA legislation is the part that begs the question whether financial advisers are indeed able to become a true profession, in substance, like doctors, accountants and lawyers when not licensed in a similar manner as these professionals (Sanders, 2015).

Furthermore, among others, Bearden (2002) and Cheetham and Chivers (2005) set out numerous characteristics of traditional professions, which they believed provides professions their legitimacy. A substantial body of literature (see for example, Watts & Murphy 2009; Frumento & Korenman 2013) supports this perspective. Key attributes to being a profession include it is self-regulatory, collegial and client-focused (Bearden 2002). Bearden (2002) stated all of this adds up to a profession with status within a society operating within a recognised professional body. These characteristics gives the profession its legitimacy (Cheetham & Chivers 2005). Initially it was the legal profession adopting a self-regulatory model where its ethical standards are managed through legal professional associations, within law firms and by barristers using the rules of the court (Parker 2004). Accountants drew on the experience of lawyers in their efforts to professionalise according to Cooper and Robson (2006) by working together on an independence model (Carnegie & O'Connell 2012).

Surprisingly, Cull (2009) observed based on her research results no amount of legislation has led the emerging financial planning profession to pursue self-regulation in their efforts to professionalise. This is surprising, given the advice sector can draw on the history, experiences and model of these other professions to develop their own professional licensing model. Bruce
observed, historically advisers have not formally belonged to a profession or were formally classified as professionals. Notably, a wide variety of academic research define these professions as altruistic in nature whereby they are oriented towards service rather than profit operating with autonomy within their job role (Rubin 2015). This has not been the case with financial advisers who face conflict of interest from association. Distinct from the financial advice profession, the medical, legal and accounting professions are independent, structured and hierarchical (Riaz, Buchanan & Bapuji 2011). In 2011, noted by several authors (Riaz, Buchanan & Bapuji) was, in contrast to other professions, Australian advisers were not self-regulatory, collegial, independent, structured, hierarchical and client-focused. Nor do even highly qualified and professional advisers have professional autonomy (Smith, Armstrong & Francis 2009). Nor do they operate within a recognised single independent professional body with status within a society, as observed in other professionals (Riaz, Buchanan & Bapuji 2011). Unlike financial advisers, other true professionals who are personally and individually licensed or registered either with a national licence and/or with a state-based licence to practise their profession in Australia via a professional standards board, which is usually a single enforcement body. Through their independent bodies such as the Medical Board of Australia, Law Societies of each state, Australian Bar Association, Institute of Chartered Accountants Australian Board and the CPA Board, Tom (1995, p. 3) noted, each new entrant into the profession must meet their specific requirements, including specific entrance and ongoing membership requirements and standards of ethics, education and performance on a continual basis (Breakey & Sampford 2017). Similar to doctors (Medical Board of Australia 2012) and lawyers (Arteta 2016; Australian Bar Association 2016), when accountants leave public practice they can retain their registration with their professional association (Bamber & Iyer 2002; Institute of Chartered Accountants of Australia 2012; Certified Practicing Accountant 2016). Therefore, once medical, accounting and legal professionals acquire a license or become registered, they never lose their licence to practise their profession unless barred by their independent professional bodies. This contrasts with what happens to Australian financial advisers. According to Clayton Utz Financial Services Reform Group (2002) financial advisers lose their ability to earn a living once they leave a licensee. They either must join another licensee or apply for their own licence. Although empirically unconfirmed, this could act as a disincentive for potential new entrants to pursue a career as a financial adviser.
Despite competent advisers investing in degree qualifications, unless affiliated to a licensee they are no longer legally or technically ‘authorised’ to provide financial advice. This contributes to the shortages of professional financial advisers, and more so the independents. The professional associations of other professions, such as the CPA Australia, Institute of Chartered Accountants Australia and Law Society of NSW are formally recognised as professions under the Professional Standards legislation and schemes (Sanders & Roberts 2015). The entrants are required to meet entry prerequisites, formalised education, ongoing training and work experience.

Doctors, lawyers and accountants possess independence, knowledge and skills based on theoretical knowledge gained at a university or tertiary educational institution or a training provider where entry is on a selective basis in contrast to occupations of a more manual nature such as the trades and sales. They meet the five key elements of 40 separate units of a profession and professionalism (Sanders & Roberts 2015). Within this framework, they can work in different sectors of their profession with different competencies and specialisations. Unsurprising, financial advisers also work with varying competencies and specialisations, *inter alia*, estate planning, SMSF, age-care and retirement planning, as well as in different sectors of the financial services industry. Unlike other professionals, Schuchardt *et al.* (2007) confirmed financial advisers do not control their specialised knowledge and skills. Nor do they have any autonomy when operating under the licence conditions and engagement contractual arrangements of their AFSL licensees.

Reinforced by a substantial body of literature (see for example, Rogers 2004; Watts & Murphy 2009; Frumento & Korenman 2013; Rogers, Smith & Chellew 2017) contemporary professions are constantly evolving to address new challenges. Especially around professional ethics (Breakey 2017) autonomy, power and authority as a result of corporatisation of professions and professionals (Evetts 2011; Breakey & Sampford 2017; Rogers, Smith & Chellew 2017), notwithstanding technological consequences (Greenleaf 2017). This includes problems created by large corporate professional services institutions employing them [corporatisation of professions and professionals] (Breakey & Sampford 2017) and of course, technology (Rogers, Smith & Chellew 2017; Smith, Clarke & Rogers 2017), specifically FinTech disruptions (Morgan Stanley 2018). Like other professions, seemingly advisers face a struggle for autonomy, power and authority around professional ethics too (Smith, Armstrong & Francis 2009).
Importantly, Arman and Shackman (2012) argued, the Australian general public can distinguish between the different designations in the medical, legal and accounting professions, by their title, qualification and competencies [specialisations]. However, allegedly with no compelling empirical evidence in Australia, they cannot readily identify the different designations for financial advisers (Australian Government Treasury 2009; Parliamentary Joint Committee on Corporations and Financial Services 2009b; Ap 2011). Financial adviser regulation covers various titles, are subject to different, and arguably inconsistent (Laby 2010), educational, regulatory and ethical standards. North (2015) was of the view lawyers, doctors and accountants of a range of skills and experience charging varying fees operate via both regional and non-regional large and small practices across Australia with services provided to a broad spectrum of people. Along these lines, what sets true professions apart from the emerging financial advice profession is all professionals observe both a code of practice and ethics. They also have the characteristic of being non-commercial, which is a key difficulty for financial advisers working for commercially oriented licensees. Professionally qualified doctors, lawyers and accountants are subject to discipline should they infringe the profession’s code of practice or ethics (see for example, Australian Medical Association (AMA) 2009; Accounting Professional and Ethical Standards Board Ltd 2011; Law Council of Australia (LCA) 2011).

As was discussed in Chapter 2, to promote financial planning to be more in line with the other professions, and following the footsteps of UK’s RDR, new legislation - the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2017 was passed on 9 February 2017 with the aim to raise the existing professional, educational and ethical standards of Australian financial advisers wanting to enter the emerging profession. To operate within the emerging profession, this legislation effective from 1 July 2017, all new entrants will require an undergraduate degree, completion of a professional year and pass an exam, in addition to complying with a code of ethics and ongoing professional training.

Particularly important in this research setting is the view of Rubin (2015) about confusion around titles and designations undermining the trust society requires to justify granting individuals professional autonomy, which is needed to qualify as true professionals. Bearden (2006) was adamant, uncompromised professional judgement without conflicts of interest is the most valuable service a financial adviser can give to their clients. Unlike other professions, Schuchardt et al. (2007) confirmed financial advisers do not have a monopoly over the use of their expert knowledge and skills to practise their craft. North (2015) claimed if financial advice industry is to be competitive and innovative while transitioning into profession then similar
features to other professions will be important. If advisers want to be trusted professionals, then Kaissar (2016) recommended they must first become a profession.

### 3.5.4 Single independent monopoly self-regulatory adviser licensing body

While much has been done by the policymakers, according to Steen, McGrath and Wong (2016) financial planning has some way to go before it will be considered a true profession. However, it is argued here this maybe not so, because government support was present during the Ripoll Inquiry (Parliamentary Joint Committee on Corporations and Financial Services 2009b), Murray Review (Commonwealth of Australia 2014a; Vickovich & Garber 2014), and more recently support by the Professional Standards Authority (Sanders & Roberts 2015) for encouraging financial planning to professionalise by, for instance, considering self-regulatory approaches. Yet to date, no clear decisive commitment by the government to self-regulation has been evident, except perhaps setting up FASEA. Yet, professional associations such as the SMSF Professionals’ Association of Australia has called for a new licensing system to encourage a proliferation of independent financial advisers, akin to the Registered Independent Advisor regime in the United States (Vickovich 2014b). Efforts by the FPA of Australia is focusing on encouraging Commonwealth policy to accept a so-called SRO (Taylor 2014). Therefore, of interest in this study is self-regulation in the form of a single independent professional financial planning self-regulatory body to license or accredit individual advisers as true professionals.

From the literature review evidently, the debate surrounding self-regulation is nothing new in Australia (Carroll & McGregor-Lowndes 2001), nor abroad (Omarova 2010). Numerous government inquiries and public comment has spanned many years into the nature of self-regulation in Financial Services in Australia (Bell 1975; Carroll & McGregor-Lowndes 2001; Pearson 2006a) and the United States (Gillis 1986; ICFP 1999; On Wall Street 2003; Powell 2008). Various speeches by regulators wondering about self-regulatory approaches (Pearson 2006b) complemented these inquiries and commentaries. Professional media in Australia has also made anecdotal reference to self-regulation (Vickovich & Stewart 2014).

Omarova (2010) observed neither the US reform legislation nor the Australian FOFA considered the role of self-regulation. The researcher in this enquiry concurs with them. Any long-term regulatory reform in the financial services sector must consider the potential role of self-regulation (Omarova 2010). Notably, an independent professional standards board was mooted in the UK when feedback to FSA surmised this would potentially incur duplicative
operating costs, roles and responsibility, as well as potentially lead to contradictory decision making between a professional standards board and the FSA (Complinet – Thomson Reuters – Governance Risk & Compliance 2010; Financial Services Authority 2010). The UK Government also believed, unlike the legal services profession, which has recently separated the approved regulators’ representative functions from their regulatory functions, the financial services sector already has that separation (Financial Services Authority 2010). Instead, FSA [now FCA] decided to focus on supervising the competence and ethical conduct of advisers within the regulated financial institutions as well as development of standards for advisers (Complinet – Thomson Reuters – Governance Risk & Compliance 2010; Financial Services Authority 2010). Yet, US financial planner groups supported a single SRO as a means to restrict anyone else from offering financial planning services unless registered with the SRO and maintaining fiduciary standards (Thompson 2001). The merits of a self-regulatory organisation were considered by the SEC in the US, because SEC examiners are spread too thin trying to perform their regulatory duties overseeing advisers (Schapiro 2009). Specifically FINRA believed, self-regulation is the most effective and efficient solution (Bhargava 2009) to ensure consumer protection and market integrity for an efficient and effective securities market (Balasubramnian, Brisker & Gradisher 2014).

Yet not all authors agreed (Hansen 2008; Powell 2008) on the basis any regulation by the SRO would be too excessive. Powell (2008) found from an FPA survey, US financial advisers prefer regulation by a professional regulatory organisation such as the CFP® board, rather than self-regulation as investment advisers under a SRO boards administered by the Financial Industry Regulatory Authority. For the main reason advisers viewed the CFP® board better understands the difference between financial advisers and RIAs or registered representatives than FINRA or SEC. Unlike the SEC and FINRA, ASIC believes self-regulation, self-licensing at the individual level or a professional standards board is not an appropriate solution, rather opting for retention of co-regulation with licensee institutions (Tyson-Chan 2006; Australian Securities and Investments Commission 2012a). ASIC argued, self-licensing of individuals is difficult to achieve, given presently financial advice providers of varying competencies work in different sectors of financial services (Australian Securities and Investments Commission 2012a). Whereas FPA called for self-regulation through professional association membership (Spits 2013). The same arguments prevailed in the United States since 1999 (ICFP 1999), when the Institute of Certified Financial Planner® and life insurers (Thompson 2001) opposed efforts by the United States government to establish a self-regulatory organisation. The prevailing
argument centred around the financial service community to be considered too diverse for this type of regulatory structure, as well as adding another layer of supervision, which has been empirically unsupported.

Corbett (1999) contended self-regulation is an indirect form of regulation also known as deregulation. To the contrary, Omarova (2010) proposed it is not identical to deregulation at all, but a far more complex and flexible system combining direct government regulation with participation by private industry participants. For purposes of this study Omarova (2010, p. 700) defined “...self-regulation as a regime of collective rule-making, a regulatory process whereby an industry-level [as opposed to a governmental or firm-level] organization sets rules and standards.” In this way, they oversee, monitor and enforce compliance of the rules, while governing the behaviour of the members of that industry. Omarova (2010) theorised, self-regulation is a move away from policing the conduct of financial institutions to a more comprehensive idea.

The literature review revealed numerous advantages and disadvantages of industry self-regulation. For example, compared to regulators regulating financial service sector-wide conduct, industry self-regulation supplements the law with more effective governance setting, customer service or technical standards in the presence of the potential for commercial interests to undermine standards (Commonwealth of Australia 2014a). Ojo (2011) construed, contribution to the advantages of self-regulation included proximity, flexibility, compliance and resources. Also supported by the writings of Omarova (2010), Ojo (2011) claimed, in contrast to government regulators, a self-regulatory institution can identify, assess and resolve problems and obtain information quicker, because of their closer access to the industry. However, he warned, proximity to the industry can also be a disadvantage of self-regulation, especially when conflicts of interest are present. For the reason of political limitations and processes faced by regulators, especially during times of unpopular or difficult decisions, makes self-regulation much more flexible. In addition to articulating the theoretical basis for a self-regulatory body, Overton (2008) believed this body is also more likely to commit to greater compliance. However, he does caution, this will depend on whether adequate disciplining of serious perpetrators who breach the rules, the strength of enforcement and monitoring rules for compliance and accountability are in place. Pearson (2006b) claimed self-regulation might reduce the costs for both government and business, if targeted and needs specific. From a funding point of view, Overton (2008) felt it is easier to procure resources through a self-regulatory private institution as opposed to through the government. Yet not everyone agrees
costs will decrease, because for some stakeholders in Australia (Sanders & Roberts 2015) and in the US (Tittworthy, 2013) it is likely to send many businesses into insolvency. Notwithstanding, increase to advice costs for financial planning clients due to regulatory reforms and changing the licensing model (Mennen, 2014). Although accountants of Chartered Accountants Australia and New Zealand and Certified Practicing Accountants Australia supported individual licensing for financial advisers, they felt the individual compliance costs may act as a disincentive for individual licensees (Parliamentary Joint Committee on Corporations and Financial Services 2014). Yet, based on a qualitative study to establish some of the challenges the public, government and industry face, together with the drivers and barriers with regards to professionalism (Sanders & Roberts 2015), some financial services stakeholders interviewed, felt the costs of compliance and regulation should reduce by 38 per cent by professionalising (Sanders & Roberts 2015).

Despite the barriers identified, importantly the interviewees claimed professionalisation should outweigh the costs (Sanders & Roberts 2015). Furthermore, Pearson (2006b) cautioned, to achieve the regulatory objectives, self-regulation depends not only on the cost, but also how responsive to rule-making the body may be, and the extent the regulatees engage in the process. Especially if Omarova (2010) is correct in trusting the ability of private industry participants to better monitor and regulate themselves within a dynamic global context, than government regulators would be able to. Furthermore, Omarova (2010) argued, self-regulation, similar to professional self-regulation evident in law and medicine, is critical to the proper functioning of the financial services industry. Although papers written on self-regulation for professions such as for legal (Parker 1999, 2004) and accounting (Cooper & Robson 2006; Raar 2008) is around, this has been more the case in the United States, with less research evident in Australian financial planning literature. This is surprising, because a white paper (Sanders & Roberts 2015) and several legal journal articles (Tuch 2005; Tuffin 2009; Sanders 2014) considers self-regulation as a viable option for the emerging financial planning profession.

It is well-documented there is the need to put in place appropriate, properly working systems to maintain the integrity (Thynne 2011), acceptability, credibility, approval and support (Considnine & Ali Afzal 2011) among all the participants within the emerging financial planning profession of self-regulation. If the government is serious about professionalising financial planning, then independent financial planning professional education, registration, competence, conduct and disciplinary standards board is the proposed model for individual licensing of financial advisers to ensure financial planning moves towards a recognised
profession operating in a similar manner to those of other professions. By linking into the government regulatory purpose, this professional body would then enforce their own conditions of membership, formulate their own rules, carry out their own discipline and impose their own conditions of dismissal (Black 1996). For instance, according to the white paper by Sanders and Roberts (2015), for a profession to exist requires a self-regulatory entity, regulated by the Professional Standards Board as qualified by the professional standards regulation. Accordingly, on behalf of the Australian public, this entity oversees and administers professional entry, professional standards of educational and ethics, a professional year requirement as well as registration examination requirements, notwithstanding the compliance expectations (Sanders & Roberts 2015). Included in its list of requirements, the professional must be a member of a professional body operating under a Professional Standards Scheme approved by the Professional Standards Councils. If financial advisers were to become true professionals, they would need to observe the regulations governing professions, namely the state-based Professional Standards Act98 (Power 2016a). Applied to individual licensing of financial advisers, effectively means regulating advisers at the individual financial planning professional level, not regulator ASIC or institutional licensee level.

Thus, this research considers a single independent professional financial planning body to set the rules and standards to govern the entry, behaviour and exit of the members of the emerging profession, while monitoring and enforcing compliance rules specific to financial advisers. ASIC lacks confidence one industry body can effectively be disciplined enough to enforce a self-regulatory code across the different industry sectors (Australian Securities and Investments Commission 2012a). Yet Sanders and Roberts (2015, p. 20) agreed, if the rules and “regulations are specified, administered and enforced by a combination of the state and the regulated organisations” it will lead to a principle-based, rather than rules-based approach. In other words, the government identifies and legislates the principles and the profession regulates the detail to regulation (Sanders & Roberts 2015).

Recently the government has made a concerted move towards a single professional body to set rules and standards to govern behaviour of financial advisers with the passing of the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2017 and setting up of the Financial Adviser Standards and Ethics Authority (FASEA) (Newnham 2017).

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98 This legislation specifies for Australian professions rules around being a professional, with independence requirements being prominent. To gain access to the legislation that governs the Professional Standards Scheme covering every Australian jurisdiction please go to <http://www.psc.gov.au/legislation>. 
FASEA will be responsible for governing the conduct of financial advice professionals whereby all advisers will complete mandatory educational and training requirements, an industry exam, and will adhere to a Code of Ethics commencing 1 January 2019 (O’Dwyer 2017). Kohler (2017) is raising some important points in popular media so that everyone starts thinking about this new body. Specifically, he claimed it is unclear how FASEA and the licensing powers of the Australian Securities and Investments Commission will work together. For instance, he noted advisers must now comply with both ASIC and FASEA requirements. ASIC can cancel advisers’ authority to practise their craft for specific infringements of the Act and FASEA for breaching educational and ethical standards. Thus, he wonders if this an opportunity for FASEA to eventually be fully responsible for the licensing of individual financial advisers or not. In this research a key consideration is whether FASEA is key to removing the connection between product issuers, resulting in the culture shift the financial advisor sector needs to minimise ongoing financial services advisory scandals (Steen, McGrath & Wong 2016). Thus, a question emerges: should this body evolve and take on the entry, appointment, regulation and cessation of advisers to disconnect individual advisers from institutional licensees?

Importantly, previous legitimacy literature warned, according to Suddaby and Greenwood (2005), any proposed and implemented new institution must attain legitimacy too. If a change to a legitimate new system occurs, then a significant difference between the old and the new system is required (Rao, Morrill & Zald 2000). For instance, by eliminating conflict of interest from association by disconnecting advisers from product-aligned licensees.

3.5.5 Eliminate conflict of interest from association

Walker (2006) and West (2009), claimed the public in reality seek advice free of all conflicts of interest. In light of Australian policymakers’ push for professional standards advice to ensure higher standards of protection for the public (Parliamentary Joint Committee on Corporations and Financial Services 2015), conflict of interest from association should be eliminated. Applying behavioural research to the licensee-adviser relationship, evidently advisers face institutional-professional conflict within the institutional licensing model. To illustrate how advisers face institutional-professional conflict, this study briefly draws on social identity theory, whereby Bamber and Iyer (2002) proposed, individuals put themselves into either compatible or competing categories, social groups or identities, such as for instance occupation and institution. Apply this to the current project, by licensing individual financial advisers
through product-aligned licensees allegedly has resulted in advisers having to choose between serving their clients as a ‘professional’, where conflicts of interest should matter (Bearden 2002), while simultaneously being regulated by conflicted licensee institutions who often manufacture and distribute product. This identification impacts their decision making and behaviour (Smith 2009). For instance, employee financial advisers face conflicts between their professional obligations to deliver appropriate advice to clients and commercial obligations of business profit and time pressures within their current advisory models (Smith 2009).

Abernethy and Wai Fong (1996) made the claim; institutions tend to mimic the behavioural expectations, or rules of those institutions within their field or outside their fields similar in complexity to themselves. Therefore, whatever the norm, irrespective of whether explicitly stated or implicitly observed, it will be imitated (Dolan et al. 2012). The manner in which advisers communicate, reason or understand information, has meant they have been faced with choosing between internalising the norms and values of either the occupation, institutions (Bamber & Iyer 2002), or both.

Smith (2009, p. 324) found unethical behaviour because of remuneration sources is unrelated to the cognitive ethical reasoning of a decision maker. Instead, her findings provided evidenced those contextual factors, such as for example the financial services institutions’ ethical climate and culture influenced unethical patterns of conduct associated with remuneration structures. By implication, the product-aligned licensees’ ethical climate and culture should therefore influence the ethical behaviour of their representatives. Thus, the corporate personality of the licensee may possibly interfere with the operation of the professional obligation of the adviser employed by the licensee. When institutions’ values are incompatible with individuals’ professional values, then it manifests into institutional-professional conflicts (Bamber & Iyer 2002). Bamber and Iyer (2002) noted when studying auditors, a conflict exists between the institutions’ wish for control, expectations of institutional loyalty, compliance with rules and regulations and professional employees’ [agents’] wish for professional autonomy to maintain high standards when serving their clients. Within the current licensing regime, a similar incompatibility occurs between licensees and their representatives. Arguably, licensees subject to their licensing conditions and commercial interests, dictate advisers’ use of knowledge and skills to provide unbiased professional financial advice to clients. Accordingly, he surmised, this conflict between meeting institutional demands, while acting in accordance with professional values and judgements needs some form of compromise. He added further, the
greater the compromise, the greater the institutional-professional tension and hence the greater the incompatibility between institutional and professional demands. English (2008) indicated professionals who work in institutions sharing the same values and goals as the profession, are less likely to experience the tension between their commitment and loyalty to their institution and their occupation.

Although conflicts of interest can be managed, controlled and avoided through disclosures according to Bruhn and Miller (2014), they have their limitations. Disclosure to minimise bias in advice (Inderst 2009) is not always the best way to protect clients (Commonwealth of Australia 2014a; Demina 2014). For instance, more than a handful of international scholars (see, for example, the papers by Inderst & Ottaviani 2009; Loewenstein, Cain & Sah 2011; Inderst & Ottaviani 2012a) held the view mandatory disclosure could be publicly harmful. Inderst and Ottaviani (2012a) found previous experimental studies predicted disclosed commissions might prevent clients overloaded with facts from effectively digesting all the relevant information. More recently, an empirical study conducted by Egan, Matvos and Seru (2016) on US retail clients showed unsophisticated clients are often unaware disclosures exists, do not know where to source the disclosures nor interpret them adequately. In addition, Inderst and Ottaviani (2012a) and others (including, Loewenstein, Cain & Sah 2011; Walton 2012) found previous experimental studies predicted any disclosures may lead advisers to be incentivised or morally justified to deviate from observing their professional standards. Specifically, Rubin (2015) generalised, disclosure and client consent could be used as reasons for advisers to dismiss their statutory fiduciary duty. Schwarcz (2014) provided an interesting discussion on the limitations and ineffectiveness of disclosure surrounding financial products, especially in terms of their design and implementation. Rubin (2015) reasoned clients trust their advisers so much, they will agree to disclosures in error or out of ignorance, unaware of the full extent of any unintended future consequences.

Considerable evidence is available, which has led to the emergence of behavioural finance theory, demonstrating the risk averse public are irrational in making investment choices (Valentine 2013). Especially when irrelevant attributes of the financial products they invest in distract them from fully appreciating the risk of potential losses (Valentine 2013). Evidence reported by the Commonwealth of Australia (2014a) highlighted financial institutions and their representatives should consider their clients’ behavioural prejudices and information
asymmetry. Arguably, disclosure to minimise bias in advice (Inderst 2009) is not always the best way to protect clients (Commonwealth of Australia 2014a; Demina 2014).

Although Angel and McCabe (2013) asserted, society tolerates conflicts of interest as inescapable, (Tuch 2005, p. 38) maintained complying by managing the conflict, not necessarily avoiding or eliminating it, may leave an institution in breach of their fiduciary duty. This fact infers not only are advisers at risk of unintended non-compliance of their fiduciary duty, but their licensees too. Schwarcz (2009) says this is an example of unintended, adverse consequences created by the regulation. Especially, if Australian Government commentators (Sinodinos 2013c, 2013a) claimed at various conferences in 2013, the political agenda is about eliminating conflicts of interest within financial planning. Therefore, with this lack of consensus on some of the issues around conflicts of interest, this study considers the extent it licensing advisers with an individual licence via a single independent professional body eliminates this. This is important because Bearden (2002) noted a defining characteristic of a profession is conflicts of interest matter. He stated further, professional bodies expect avoidance of conflicts of interest, because they theoretically damage both the professional relationship of trust between adviser and client, plus the quality of work provided by the adviser.

**3.6 CONCLUSION**

Whether the appointment, authorisation and regulation of advisers through third-party licensees as specified in the Commonwealth Corporations Act 2001 is a significant problem is unclear. Therefore, questioned in this inquiry is the support for the legitimacy of the current licensee-adviser licensing model for individual financial advisers. Mainly, because predominantly negative mixed messages from various stakeholders confronts this matter without any compelling scientific-based evidence of what is appropriate for this emerging profession. Until empirical research based on a conceptualised theoretic construct is undertaken, a vacuum in financial planning scholarly theory, empirical research literature, as well as the myths and unsubstantiated arguments surrounding licensing advisers through third-party licensees will remain.

From the above discussion the lack of academic attention to define, model and measure legitimacy of the licensing model was seemingly due to the difficulty to define and quantify the conceptual construct. In addition, financial planning literature on this topic is inconclusive
and under-researched. Thus, this document addresses the deficiencies in financial planning theory on the matter of licensing with a conceptual model built on various established theories. Therefore, the proposed rectification of these deficiencies to obtain a balanced view, is applying agency theory, legislation, Suchman’s theoretical legitimacy framework and theory of the professions and/or professionals integrated with financial planning theory. This serves as a theoretical foundation to obtain conclusive evidence to validate the extent of the legitimacy of the current AFSL-AR licensing model.

By applying these theories, licensing advisers via third-party licensees as specified in the Commonwealth Corporations Act 2001 creates a dual-agency role. Advisers serving the commercial interests of licensees and the best interests of clients simultaneously leads to conflict of interest from association.

Debatably, this conflict is inconsistent with four objectives of the Act, namely aligning adviser-client interests, avoiding conflicts of interest, promoting best interest duty and encouraging competitive behaviour.

Consequently, threatening the legitimacy of the current licensing model based on criteria in Suchman’s legitimacy framework extended and applied to financial planning theory. Therefore, arguably here if by ASIC outsourcing the licensing to product-aligned licensees leads to regulative, consequential normative, procedural normative, structural normative, personal normative and/or cultural-cognitive legitimacy, then the current AFSL-AR licensing model is legitimate. Apparent from journal articles and related secondary sources financial advisers will enjoy regulative legitimacy by following the formal legal rules of the Act as enforced by ASIC. Normative or moral legitimacy is evident when the licensing model is perceived to display socially acceptable outcomes [commercial interests does not compromise best interests], procedures [not window-dressed for compliance purposes], structure [no conflict of interest from product-affiliations] and/or values [product-aligned leaders’ do not lobby legislators to protect their product distribution channels]. The licensing model faces cultural-cognitive legitimacy if, as framed by the media and accepted by the public, the Australian public can clearly distinguish between s923A independent financial advice and conflicted financial advice. Thus, contraventions of any of these criteria means the current licensing model has lost its legitimacy.
Fundamentally if the claim, the current licensing model is illegitimate, then proposals for individual professional licensing model like other professions over the institutional licensee licensing model is strengthened. This thesis considers whether financial advisers should operate at the same level of professionalism with the same status, independent self-regulatory standards, governance and structures as lawyers, accountants, doctors or other professionals. In the last few years, interest in individual licensing of financial advisers in Australia by an independent professional body has emerged.

This epistemologically conceptual framework will serve as an important theoretical contribution to empirically evaluate and verify the legitimacy of the current licensing model for individual financial advisers. Will this enquiry not only advance financial planning theory but will also raise questions and provide a scholarly platform for further investigation. Furthermore, empirical data collected using this framework will provide policymakers concrete evidence to make decisions around licensing individual advisers without having to rely on unconfirmed claims. In closing, evaluating the legitimacy of the current licensing model is important in achieving the FOFA aim of protecting the clients of advisers and creating trust and confidence in the advisory sector by professionalising financial advisers into a recognised and accredited profession.
CHAPTER 4: RESEARCH PARADIGM, METHODOLOGY
AND SEM DESIGN

4.1 INTRODUCTION

Previous chapters indicated unsubstantiated controversial public debate and incomplete scholarly literature about licensing financial advisers. Recommended by Black (2012) eventually any public debate should move to peer-reviewed academic works. To achieve this, the study tested existing assumptions underlying the desirability, propriety and appropriateness of current adviser licensing to come up with suitable policy recommendations to serve the Australian public interests. This chapter builds on the previous theoretical discussion with the development of the hypothetical empirical model to test the legitimacy of current AFSL-AR licensing regime.

The plan of the chapter begins with stating the main research question, investigative questions and hypotheses. Although lacking in many Australian Financial Planning higher degrees by research theses, this chapter starts with a brief discussion on the researcher’s selected paradigm or research philosophy. Then the mixed methods methodology of choice for the empirical research is recognised. Towards the end of the chapter, a discussion follows on the research design, together with aspects of the sampling procedure and research analysis techniques.

4.2 RESEARCH QUESTIONS WITH HYPOTHESES

To evaluate the legitimacy of the current AFSL-AR licensing model the research started with the ensuing complex primary research question.

To what extent do financial advisers agree the current AFSL-AR licensing model, as specified in the Commonwealth Corporations Act 2001, creates a dual-agency role, leading to conflict of interest from association, which is considered inconsistent with four objectives of the Act, resulting in potentially delegitimising the current licensee-adviser licensing model, based on Suchman’s legitimacy theoretical framework, and therefore strengthening arguments for an independent individual licensing model, like other professions?

Put simply, to what extent do advisers agree the current AFSL-AR licensing is legitimate?

Accordingly, to find answers to this main research question, this chapter provides four proposed secondary investigative questions and hypotheses in Figure 4.1 below.
**Main research question**

To what extent do financial advisers agree the current AFSL-AR licensing model is legitimate?

**Four investigative research questions**

To what extent do financial advisers agree licensing advisers via third-party licensees:

1. creates a dual-agency role (licensee-adviser-client), as specified in the Act, where they serve the interests of both the licensee and client simultaneously, leading to conflict of interest from association?

2. is inconsistent with four objectives of the Act?

3. threatens the legitimacy of the current AFSL-AR licensing model using Suchman’s (1995) legitimacy criteria?

4. strengthens arguments for independent professional individual licensing, evident in other professions?

**Main research hypothesis:**

Financial advisers registered on the ASIC Adviser Register agree the current licensing model is illegitimate.

**Four sub-hypotheses:**

Thus, financial advisers significantly agree licensing advisers via third-party AFS licensees:

- H1: creates a dual-agency role, which leads to conflict of interest from association

- H2: does not achieve four (4) identified objectives of the Act

- H3: is illegitimate based on the criteria of Suchman’s (1995) theoretical legitimacy

- H4: should be replaced with independent individual licensing, like other professions

Figure 4.1 Main research question, investigative questions and their hypotheses
### Sub-hypotheses to test the four investigative hypotheses of the respecified model

<table>
<thead>
<tr>
<th>Hypothesis (H)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>H1 [a]</td>
<td>creates a dual-agency role comprising adviser-licensee and adviser-client relationship.</td>
</tr>
<tr>
<td>H1 [b]</td>
<td>results in advisers serving the interests of their clients and licensees, simultaneously.</td>
</tr>
<tr>
<td>H1 [c]</td>
<td>generates revenue for their licensees, while they serve the best interests of their clients.</td>
</tr>
<tr>
<td>H2 [a]</td>
<td>achieve alignment of adviser and clients’ interests.</td>
</tr>
<tr>
<td>H2 [b]</td>
<td>achieve avoidance of conflicts of interest.</td>
</tr>
<tr>
<td>H2 [c]</td>
<td>achieve compliance with the statutory fiduciary duty obligations.</td>
</tr>
<tr>
<td>H2 [d]</td>
<td>encourage fair competition within the financial advisory sector.</td>
</tr>
<tr>
<td>H3 [a]</td>
<td>regulative legitimacy.</td>
</tr>
<tr>
<td>H3 [b]</td>
<td>consequential normative legitimacy.</td>
</tr>
<tr>
<td>H3 [c]</td>
<td>procedural normative legitimacy.</td>
</tr>
<tr>
<td>H3 [d]</td>
<td>structural normative legitimacy.</td>
</tr>
<tr>
<td>H3 [e]</td>
<td>personal normative legitimacy.</td>
</tr>
<tr>
<td>H3 [f]</td>
<td>cultural-cognitive legitimacy.</td>
</tr>
<tr>
<td>H4 [a]</td>
<td>will improve the publics’ trust and confidence in financial advisers.</td>
</tr>
<tr>
<td>H4 [b]</td>
<td>will promote independence from commercial product conflicted licensees.</td>
</tr>
<tr>
<td>H4 [c]</td>
<td>should be modelled on other professions, namely accounting, legal and medical.</td>
</tr>
<tr>
<td>H4 [d]</td>
<td>regulation via a single independent body is preferred by them.</td>
</tr>
<tr>
<td>H4 [e]</td>
<td>will eliminate conflict of interest from association.</td>
</tr>
</tbody>
</table>

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**Figure 4.2 Sub-hypotheses to test the four investigative hypotheses of the respecified model**
Above the textboxes of Figure 4.2, highlight the formulated investigative research questions and hypotheses.

The first key point under investigation was framed hypothesis H1 [Figure 4.1], namely the advisers’ dual-agency role devised by financial planning scholars (Banister et al., 2013, Taylor et al., 2013, Beal and McKeown, 2009) as the adviser-client and the legislated licensee-adviser agency relationships (Finke, Huston and Waller, 2009, Kingston and Weng, 2014). However, the licensee-adviser relationship is vague in the financial planning literature. Whereas in the legislation the adviser-client relationship is insufficiently addressed. Thus, with hypothesis H1 [a] [Figure 4.2] it is investigated how advisers see, and hence, portray their dual-agency role in practice.

Recall Kingston and Weng (2014, p. 294) asserted advisers who allegedly serve the licensees’ and the clients’ interest simultaneously lead to conflicts of interest in the adviser-client relationship. Therefore, hypothesis H1 [b] may provide valuable insights into how advisers understand their roles under the current licensing regime.

Not only is evidence obtainable in the UK attesting financial institutions, such as banks, focus on profitability rather than what is in the best interests of clients or treating them fairly (Pain 2013). Previous research (Smith 2009) and investigative journalism (Starke 2013b) indicated Australian licensees’ salaried representatives were often threatened with dismissal or poor performance reviews if product revenue targets were unachieved. Apparent, fund managers or product issuers paid licensees’ main source of revenue according to findings of two ASIC reviews in 2011\(^99\) and 2014\(^100\). In the literature, specifically aligned licensees are seen as “commercial businesses using advisers as a sales force” (Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24), while meeting best interest duty compliance requirements. The study, specifically, addresses conflict of interest from association, whereby advisers are generally structurally licensed via third-party licensees to earn revenue by distributing financial products from approved financial product lists. With remuneration from licensee to adviser dealt with by legislators, revenues from client to licensees via advisers remains a neglected and unresolved topic. Thus, hypothesis H1 [c] tentatively aims to address this neglected matter.

\(^{100}\) Report 407: Review of the financial advice industry’s implementation of the FOFA reforms (Australian Securities and Investments Commission 2014f).
Next, the objectives of the Act [Figure 4.1] is the second key issue [H2] examined in this study by considering four sub-hypotheses. Not only does the Act specify the importance of aligning the interests of financial advisers with those of their clients (Bora & Lewis 1997; Corbett 1999; Mutton 2001; Collier 2003; Serpell 2008; Jones 2009; Alexander 2011; Ap 2011; Ireland & Gray 2011; Kell 2012), so does financial planning theory (Black 2005; Nyberg et al. 2010; Finke & Langdon 2012; Inderst & Ottaviani 2012d; Knutsen & Cameron 2012; Mazzola 2013; Starke 2013b). Davis (1995) postulated conflict of interest from association was at odds with aligning financial adviser’s interest to the client interests. Moreover, many articles (see for example, Black 2005; Bowen 2010; Johnsen 2010; Australian Securities and Investments Commission 2012a; Inderst & Ottaviani 2012d; Kell 2012; Kingsford Smith 2012) indicated, cultural practices within financial planning leading to misalignment of adviser-client interest happens.

An important unexplored licensing issue pursued here is the acknowledgment of the Parliamentary Joint Committee on Corporations and Financial Services (2009b) that ownership structures also serve as the reasons for the incongruence of interests between adviser-client. Hence, the reasons for hypothesis H2 [a] [Figure 4.2].

Although conflicted remuneration appears to be well-researched (see, for example, Bailey 2000; Palazzo & Rethel 2008; Beal & McKeown 2009; Inderst & Ottaviani 2012d; Walton 2012; Banister et al. 2013; Kingston & Weng 2014), conflict of interest from association debated in public domain (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Kennedy, McCoy & Bernstein 2012; Sinodinos 2013a, 2013c, 2014), is neglected by scholars. Persuaded by Valentine's (2008) belief the corporate scandals within the financial planning industry emphasised the need to place conflict of interest from association at the forefront of further research, the research considered hypothesis H2 [b] [Figure 4.2] of importance within the context of adviser licensing.

Recall from Chapter 3, Tuch (2005, p. 38) concluded, clearly an inconsistency between the regulations of managing conflict of interest and the statutory obligation occurs, requiring the institutions to manage, control or avoid the conflict of interest. He maintained, by merely complying through managing the conflict, not necessarily avoiding or eliminating it, may leave institutions and their representatives in breach of their fiduciary duty. Therefore, hypothesis H2 [c] [Figure 4.2] serves to highlight the potential danger; the current licensing model may threaten unintentional compliance contraventions of the fiduciary duty.
With the exception of brief discussions in papers by Simes, Harper and Green (2008), Bhati (2009), Milne (2007), Parliamentary Joint Committee on Corporations and Financial Services (2009b) and more recently the Commonwealth of Australia (2014a) report on *Future of Financial Advice Amendments—Details-stage regulation Impact Statement*, the secondary study revealed a deficiency in compelling empirical data addressing competitive behaviour between financial services providers within the context of the current authorised representative licensing model. However, Steen, McGrath and Wong (2016) claimed financial services in Australia are less competitive than the US markets due to the highly concentrated and vertically integrated financial services sector. Therefore, hypothesis H2 [d] [Figure 4.2] will test the validity of these claims from the advisers’ perspective.

The third key issue in Figure 4.1 is assessing the legitimacy of licensee-adviser licensing by considering Suchman’s (1995) legitimacy criteria [H3] formulated into six sub-hypotheses. Addressing the lack of theoretical models to define, measure and assess the legitimacy of the current AFSL-AR licensing was the rationale for interpreting, extending and applying Suchman’s (1995) criteria of legitimacy to financial planning theory. Empirical studies in legitimacy (for example, Bitektine, 2011, Chelli et al., 2014); indicated entities maintain regulative legitimacy if a perception of compliance with the legislation occurs. Consequently, the licensing will not enjoy regulative legitimacy as specified in hypothesis H3 [a] [Figure 4.2] should advisers agree the licensing advisers via third-parties can lead to unintentional compliance contraventions of the Act (Degeling & Hudson 2014).

The literature pointed out, the Act qualifies commercially driven conflicted licensees to exert legal control over their representatives (Carruthers 1995) with the objective to achieve profitability\(^\text{101}\), while simultaneously (Kingston & Weng, 2014) expecting their agents to serve the best interests of their clients. Although Smith (2009) found in her study a shift away from merely profit making [shareholders’ wealth maximisation] to ethics and social responsibility [stakeholders’ wealth maximisation]. She concluded only when behaving ethically is perceived as profitable does stakeholder wealth maximisation come into play (Smith 2009, p. 62). Her quantitative findings confirmed employee financial advisers face conflicts between their professional obligations to deliver appropriate advice to clients and commercial obligations of business profit within their current advisory models. Maclean and Behnam (2010) maintained financial institutions struggle to manage their regulatory compliance, when the legal

\(^{101}\) Regulatory guide 181. Licensing: Managing conflicts of interest. Chapter 7 - Financial services and markets.
requirements appear to conflict with or compromise commercial activities. Moreover, they maintained resolving this tension is critical to ensure legitimacy. Hence, H3 [b] [figure 4.2] validates consequential moral legitimacy will be deficient with regards to the AFSL-AR licensing model if a perception product-aligned licensees’ commercial interests compromises the clients’ best interest is found.

It has been alleged licensees implemented legislated deceptive practices, standards and procedures to reinforce the product distribution role of advisers (Collier 2003; Lee 2007; West 2009), and sometimes without detection (Sampson 2010). Newnham (2012) and Valentine (2013) reasoned, licensees are adept at keeping in place distribution channels masquerading as sources of advice. Therefore, it is surmised with hypothesis H3 [c] [Figure 4.2], if the current licensing model is prone to encourage deceptive sales procedures, standards and practices designed to give the appearance [window dressing] of satisfying regulatory requirements, then it fails the procedural moral legitimacy criteria.

Parliamentary Joint Committee on Corporations and Financial Services (2009b) and ASIC (Money Management 2014) reported, conflicts between advisers and their clients arise from ownership structures, namely a sharing of a legal relationship between product manufacturers, distributors, licensees, financial planning practices and advisers. Additionally, Smith (2009, p. 317) established in her study, a contributory factor to financial advisers’ unethical behaviour was Australian financial services ownership structures of institutions, together with the management of conflicts of interest linked with these ownership structures. Valentine (2013) identified, more specifically, the conflict of interest where product providers [for example, banks and insurance institutions] own financial advisory services businesses. Thus, hypothesis H3 [d] [figure 4.2] considers, if a perception exists suggesting actors do not support the structure (Suchman 1995, p. 581) of licensing advisers via third-party licensees, because it creates a conflict of interest from association; This which the literature has indicated questionable on ethical grounds (Davis 1995; Smith 2009; Valentine 2013), then AFSL-AR licensing model displays a shortfall in structural moral legitimacy.

To assess personal moral legitimacy the theory infers, requires the moral assessment of the influence of key people who are members of seniority (Carnegie & O'Connell 2012; Goretzki, Strauss & Weber 2013) of multiple diversified licensees (Vickovich 2014d) and financial planning professional bodies (Vickovich 2014c) with their own vested interests (Suchman 1995; Commonwealth of Australia 2014d). They present as committee members on panels or
make submissions (Australian Bankers’ Association Inc 2014) to respond as lobby groups to persuade or dissuade the Government to increase or decrease the amount of legislation affecting advisers. Each contribute different, sometimes opposing recommendations to the licensing regulation debate, while simultaneously implementing competing training, accreditation and professional recognition programs (Reese, 2011). Yet no empirical research was obtainable, after searching secondary scholarly literature, which has considered the influence of these influential men [and women] in this emerging profession, particularly pertaining to the licensing of financial advisers. In this regard, hypothesis H3 [e] [Figure 4.2] tested, if advisers perceive the contributions by specifically individual leaders of product-aligned licensees to the licensing regulation, only have the regard of protecting their product distribution channels, then it can be argued the licensing model will not have personal moral legitimacy.

With cultural-cognitive legitimacy, it is taken for granted (Carnegie and O’Connell, 2012, Kury, 2007, Suchman, 1995, Durocher et al., 2007), “this is how we do things” (Kury 2007, p. 373). In terms of financial planning, clients and their advisers have a shared understanding as to “who they are” (Zimmerman & Zeitz 2002, p. 420) [advisers’ identity], “what is expected of them” (Zimmerman & Zeitz 2002, p. 420) [advisers’ role] and “how effective they are” [advisers’ performance] (Scott, 2013). Therefore, hypothesis H3 [f] [Figure 4.2] verifies if the public cannot clearly distinguish between independent and conflicted advisers [identity], thus between independent financial advice and conflicted financial advice [role] to achieve the identified four (4) objectives of the Act [performance], then cultural-cognitive illegitimacy is apparent.

Finally, the conceptualised theoretical framework finishes with the epistemological fourth key issue and hypothesis [Figure 4.1], namely should a single independent individual professional licence replace the existing conflicted multiple AFS licence. This question required consideration of five sub-hypotheses. Balasubramnian, Brisker and Gradisher (2014) found, trust is one of two most important determining factors influencing whether a person seeks financial advice or not. The use of legal rules to create legal trust relationships (Haigh 2006), namely the Act, to licensing individual financial advisers through third-party, often conflicted licensees, may have over the past few years contributed to the levels of distrust among the public (Hely 2012; Australian Securities and Investments Commission 2013a). The same can be said for using legal licensee compliance deterrence mechanisms (Tucker 2009). Therefore, by implication, hypothesis H4 [a] [Figure 4.2 above] wonders whether advisers think individual licensing would improve trust and confidence in financial advisers.
Presently most financial advisers are licensed under a conflicted institutional licensee licensing model endorsing conflict of interest from association, rather than an individual professional adviser licensing model (Sanders & Roberts 2015), which is free of this conflict. Sanders and Roberts (2015) also acknowledged licensing advisers in this way is contrary to the approach of professions where the individual professional advisers’ duties and obligations overrides those of the licensee. Unlike other true professionals, not all advisers are independent. Independence is one of the key attributes of a professional (Carnegie & O'Connell 2012). It is clear from statements by the leaders of financial planning professional associations (Slattery 2014) and the Professional Standards Authority (Power 2016a), independent financial advice and how it is applied is a critical ingredient in ensuring the professionalism of the financial advisory industry. Hence, the justifying hypothesis H4 [b] [Figure 4.2] in this study.

Advisers have been likened to other professionals, including doctors, lawyers and accountants, within a prolific number of papers (Macey 2002b; Horsley & Thomas 2003; Moisand 2008a; Valentine 2008; Parliamentary Joint Committee on Corporations and Financial Services 2009a, 2009b; Smith 2009; Financial Services Authority 2010; Laby 2010; Ap 2011; Bruce 2012, p. 303; Inderst & Ottaviani 2012a; Knutsen & Cameron 2012; Frumento & Korenman 2013; Australian Securities and Investments Commission 2014f; Campo 2014; Financial Planning Coalition 2014; McInnes, Ahmed & Delpachitra 2014; Burke et al. 2015; fi360 FiduciaryPath 2015; North 2015; Rubin 2015). Yet these are misleading statements, because advisers are not accredited to practise their craft like other professionals as evidenced in the literature review in Chapter 3. What is missing in the FOFA legislation is the part that begs the question whether financial advisers are indeed able to, or should become, a true profession, in substance, like doctors, accountants and lawyers when they are not licensed in a similar manner as these professionals (Sanders, 2015). Leading from the foregoing, this research therefore tried to establish with hypothesis H4 [c] [Figure 4.2] the extent of adviser support for individual licensing like other professions.

Initially a professional industry standards board was recommended by Parliamentary Joint Committee on Corporations and Financial Services (2009b), but mooted after consultations with the financial services industry, without substantive empirical research backed evidence. Subsequently, nearly two decades later, as mentioned in Chapter 2 and 3, in a bid to raise professional, educational, training and ethical standards of financial advisers (Parliamentary
Joint Committee on Corporations and Financial Services 2015), legislation\textsuperscript{102} passed in 2017 included an independent financial planning standard setting body, namely FASEA (Newnham 2017). This body is only presently tasked with setting professional standards, education and ethics. In light of the views expressed by Kingsford Smith (2014), namely a single monopoly body is the most effective way to regulate professionals, an important question with regards to individual licensing, is advisers’ attitudes regarding whether a single body should also be tasked with registration, conduct and disciplinary standards like other professions’ standards boards. Arguably disconnecting adviser registration and control from conflicted or product-aligned licensees to eliminate conflict of interest from association. Moreover, a single body may be more suited to deal with some of the new problems that profession and professional corporatisation through employment causes (Breakey & Sampford 2017; Rogers, Smith & Chellew 2017). Not forgetting the significant technological changes influencing professions and professionals too (Greenleaf 2017; Rogers, Smith & Chellew 2017; Smith, Clarke & Rogers 2017). Therefore, hypothesis H4 [d] [Figure 4.2] considers adviser support for a single independent body.

Although regulator ASIC is against a self-regulatory model (Australian Securities and Investments Commission 2012a), they acknowledged the potential benefit of individual licensing making employee advisers more visible to everyone (see, Vickovich 2014c). Unsurprisingly, the Professional Standards Authority supports self-regulation designed for the advice sector (Professional Standards Councils 2014; Sanders & Roberts 2015). Omarova (2010) argued self-regulation is critical to ensure the proper functioning of financial services. He reasoned private profit-seeking institutions are unreliable to regulate their own activities in the public’s best interests. This reasoning is supported by evidence reported in report number 515 by Australian Securities and Investments Commission (2017e). Furthermore, Tuch (2005, p. 515) maintained, complying through only managing conflicts using disclosures, may still leave parties in breach of their fiduciary duty. In rebuttal, Angel and McCabe (2013) asserted, society endures conflicts of interest, because it is unavoidable. With consensus absent on issues around conflict of interest from association, hypothesis H4 [e] considers the extent licensing advisers with an individual licence via a single independent professional body will eliminate conflicted association.

4.3 RESEARCH PARADIGM

Post-positivist paradigm
Mixed methods
Parallel convergent design

Population: ASIC Adviser Register authorised representatives
Modified continuous ruler/option scale (Yusoff & Mohd Janor 2014)

RMIT BCHEAN ethics approval: 23 Feb 2016 to 7 May 2018

Data collection

Pilot study
Stratified probability random sampling
n = 40 [♂ : ♀ split 80:20]

Extended study
Stratified probability random sample
n = 4,000 [♂ : ♀ split 80:20]

Quantitative Data Analysis:
Structural equation modelling
[IBM SPSS & AMOS v24, Microsoft Excel 2016]

Qualitative Data Analysis:
Constant comparative method
Content analysis of respondents written words
[Microsoft Word & Excel 2016]

Reporting results and findings

Figure 4.3 Research process for this study
To find answers to the research questions in this thesis, the researcher measured and tested eighteen sub-hypotheses [Figure 4.2 above] by engaging in the scientific research process illustrated in Figure 4.3 below. This process is defined by Mackenzie and Knipe (2006) as scientifically investigating a phenomena, by collecting, analysing and interpreting data using quantitative and/or qualitative methodologies, in order to verify hypotheses to come up with new conclusions and solutions. The definition they claimed is influenced by the researchers’ theoretical framework [paradigm]. As well as the methodology, they may use to learn or understand new knowledge. Gioia and Pitre (1990) defined paradigm as a philosophical theoretical framework, perception or belief consisting of ontology [realism or relativism about a phenomenon]. This explanation includes epistemology [the nature of the knowledge about the phenomenon], whether subjective or objective, and methodology [whether the line of attack is quantitative or qualitative or both to investigate the phenomenon]. Mackenzie and Knipe (2006) anticipated, this theoretical framework is different to theory, because it forms the basis for the choice of research strategies, methodology, and hence the research design to achieve the research objectives (Al-Shirawi 2012).

Therefore, before going on to looking at a specific methodology, the researcher felt it important to consider the various research paradigms to start the empirical research journey. From the proliferation of the number of [scientific] research paradigms in the applied, social and behavioural science literature (Gioia & Pitre 1990; Willmott 1993; Creswell 2003; Mertens 2005; Kakkuri-Knuutila, Lukka & Kuorikoski 2008; Caginalp & Desantis 2011; Taneja, Taneja & Gupta 2011; Venable 2013; Aliyu Ahmad et al. 2014) it was evident, the theory of the various research paradigms was still evolving (Willmott 1993) and changing over time (Taneja, Taneja & Gupta 2011; Venable 2013). Hence, the researcher concurred with Mackenzie and Knipe (2006) who claimed, this proliferation of new research paradigms is confusing to a first time or early career researcher making it difficult to pinpoint one specific research paradigm. In the literature on research paradigms, criticisms were levelled at their assumptions for conducting research. For example, assumptions of mutual exclusivity (Willmott 1993; Kakkuri-Knuutila, Lukka & Kuorikoski 2008) clarified in some research comprised overlapping multi-paradigms (Onwuegbuzie, Johnson & Collins 2009) with blurred boundaries (Gioia & Pitre 1990). Hence, perhaps the foregoing highlighted some of the reasons some researchers may neglect to address it specifically in their research projects, which seemed evident in many applied, social and behavioural science disciplines when reviewing doctoral
theses in Australia. Aliyu Ahmad et al. (2014) warned researchers should critically assess any paradigm they intend to use in their research activity. While Laughlin (2004) recommended, it was necessary to choose a paradigm, before conducting any type of research, many ways are present to understand the world. Having a research paradigm adds rigour, transparency and perspective to the research project, which is important in scientific research. He explained further, once one made the ontological and theoretical choice, then this had consequences for the roles of both the researcher and participants during the data collection phase. Important to note, research in financial planning is still in infancy in Australia with no sanctioned conceptual or methodical framework (Wiseman & Anderson 2013) adequately developed. Therefore, to ensure sufficient acceptable standards for research (Willmott 1993) the multitude of available research paradigms have yet to be applied, tried, or tested, and reported in Australian financial planning literature. Consequently, here this research attempted some alternative ways used in other disciplines to incorporate paradigms into financial planning research.

Reflecting upon the writings of research philosophy by Lowe (2004) and Laughlin (2004), it became apparent selecting an appropriate research paradigm meant focusing on the main research question from a specific paradigmatic perspective. Even though other appropriate paradigmatic viewpoints are available. Therefore in light of these recommendations, to determine a suitable research paradigm for this research a framework classifying research paradigms developed by Venable (2013), colourfully tabled in Table 4.1 was used. This framework was combined with the writings of Onwuegbuzie, Johnson and Collins (2009), which assisted to determine whether or how the paradigms may apply to this investigation, while demystifying how the numerous research paradigms differ in terms of their underlying philosophical assumptions [ontology, epistemology and methodology].

Table 4.1 Applied classification framework of Venable (2013) - post-positivist paradigm

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Value-Naïve</th>
<th>Value-Aware</th>
<th>Value-Critical</th>
<th>Dimension</th>
</tr>
</thead>
<tbody>
<tr>
<td>Empirical</td>
<td></td>
<td>Realism/Post-Positivist Paradigm</td>
<td></td>
<td>Descriptive</td>
</tr>
<tr>
<td>Non-Empirical</td>
<td></td>
<td></td>
<td></td>
<td>Evaluative or Normative</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Descriptive</td>
</tr>
</tbody>
</table>
In this thesis the philosophical view of the post-positivist paradigm was adopted, because the specified hypothesised *a priori* conceptual framework was built with the intention to test hypotheses about associations through deductive reasoning (Arghode 2012). Moreover, these hypotheses were based on a conceptual framework originally developed inductively from extant theories from numerous disciplines [namely, legislative, agency, financial planning, legitimacy theories and theories of true professionals] to investigate the licensing of individual Australian advisers. Consequently, a post-positivist [realism] paradigm was determined an appropriate approach. Thus, the study represented multiple and differing attributes; comprising one [1] main research hypothesis, four [4] investigative hypotheses and eighteen [18] measurement sub-hypotheses about a single independent reality [the legitimacy of the current licensing model], which can also differ from the reality (Krauss 2005). Therefore, in an attempt to find out the truth of the legitimacy of the licensing model, it was appropriate to test these multiple relationships empirically in a linear scientific manner (Onwuegbuzie, Johnson & Collins 2009). However, on the grounds of the sensitive and controversial nature of the topic, it was clearly not completely a positivist study. Necessary was some qualitative interpretation of the quantitative data, resulting in entering the realms of post-positivist research.

To illustrate, by referring to Table 4.1, Venable’s (2013) framework positioned post-positivist within three dimensions, where according to the literature it is empirical, rather than non-empirical [coloured yellow in Table 4.1]. As far as the second dimension [green in Table 4.1] was concerned this study involved descriptive knowledge to predict the way the world works without the researcher being completely value-laden. Philosophically, this research appeared both descriptive and evaluative, because the literature review explained and predicted a qualitatively determined conceptualised framework for assessing the legitimacy of the current conflicted licensing model, with some value judgements and interpretations of the literature.

Furthermore, it was important researcher bias was acknowledged throughout the research process (Wiseman & Anderson 2013). Therefore, the third dimension in Venable’s (2013) framework included value-naïve versus value-aware versus value-critical dimensions [pink in Table 4.1]. Here the researcher considered what the different value perspectives she may carry during the research. Therefore, illustrated in Table 4.1, this project is post-positivist, because a conceptualised theory needed revising by theoretical reasoning as well as some experimentation. This makes this paradigm value aware (Krauss 2005). After reading the works of Kline (2010), Krauss (2005) and Borsboom, Mellenbergh and Van Heerden (2003) it was evident for this research, one did not need to rely solely on the research objectives and the
quantitative data collected, but also on knowledge about the choice of variables to analyse during data analysis. The researcher also needed to rely on the interpretation of the theory, specifically the conceptualised framework. Thus, the researcher’s prior and current research experience, beliefs, intuition, notwithstanding the circumstances in which the data was collected, influenced the development of the conceptualised framework. Therefore, it was expected this model would need adjustment if in anticipation it misfit the initial raw data. It was important for the data to fit the model, because then there is a valid model to interpret the theory and results. In other words based on the findings of the research, the theoretical model may need revision by controlling the variables to better predict the reality (Krauss 2005), because it is acknowledged, the conceptual model of Chapter 3 is not infallible. Thus, these examples of potential researcher’s bias in the way they may objectively perceive the real world is another reason why post-positivism [realism] and positivist paradigm views differ (Onwuegbuzie, Johnson & Collins 2009). Although it was not ascertained and critically examined [axiology] (Venable 2013), and hence not value-critical, the researcher was conscious her values may have formed part of the research (Venable 2013). Every effort was made to minimise this.

In summary, this study is not fully quantitative, because the researcher and participants may bias the interpretations of the research observations. In other words, this research is not completely positivist, but post-positivist. Furthermore this project is value-naïve, because values are completely ignored during quantitative analysis in the research (Venable 2013). Thus, to encourage reliability (Carr 1994), objectivity (Carroll & McGregor-Lowndes 2001) and control (Arghode 2012) to this enquiry, the researcher wanted to be isolated from the randomly selected participants during data collection (Arghode 2012) and during data analysis, to avoid biasing the data.

4.4 RESEARCH METHODOLOGY

Mackenzie and Knipe (2006) asserted, the research paradigm is the theoretical approach, whereas quantitative and qualitative data determines the data collection methods, analysis and reporting modes. Thus, during the literature review, previous research revealed, many scholars claimed measuring legitimacy challenging (Suchman 1995; Zimmerman & Zeit 2002; Carnegie, Edwards & West 2003; Kline 2010). Most research evaluated legitimacy qualitatively (Low 2010; Maclean & Behnam 2010; Sonpar, Pazzaglia & Kornijenko 2010; Pellegrino & Lodhia 2012; Díez-Martín, Prado-Roman & Blanco-González 2013; Andon, Free
& Sivabalan 2014) using mainly the case study approach. Tilling (2004a) warned research in legitimacy is a subjective activity potentially partial to the researcher’s biases. On the other hand, Wimmel (2009) maintained, it is possible to measure legitimacy empirically, using structured survey questionnaires to measure perceptions of whether societal support for a particular system occurs. There is little evidence available relating to quantitative research measuring legitimacy, and particularly in financial planning theory. Van der Stede, Young and Chen (2005) clearly explained acceptable evidence is not dependent on the method, but dependent on how well the method is used.

Caginalp and Desantis (2011) claimed if no quantitative procedure for determining whether a hypothesised effect has statistical validity is attainable, then the theory remains a philosophy, rather than becoming a science. The same for qualitative procedures. Although, all methods (Clark & Creswell 2008) are suitable to research this project’s reality (Krauss 2005). The decision to pursue mixed methods, was based on the strengths and weaknesses (Carr 1994; Al-Dossary 2008) as well as the similarities and differences (Jean Lee 1992; Arghode 2012) between quantitative, qualitative and mixed methods (Clark & Creswell 2008). Furthermore, mixed methods approach is valid under any of the research paradigms (Clark & Creswell 2008). The mixed methods design the researcher applied was the convergent parallel design (Creswell & Plano Clark 2011), whereby the quantitative and qualitative data collection occurred simultaneously in a single phase from the same participants using one source of collection [a single survey]. By integrating both data forms into the overall interpretation of the results (Baran & Jones 2016), resulted in the numerical and non-numerical data complementing each other to provide a more comprehensive analysis than if done on their own (Classen et al. 2007). I also chose mixed methods methodology (Creswell & Plano Clark 2011; Baran & Jones 2016), because this research integrated several theories for the first time.

4.5 SEM RESEARCH DESIGN

To obtain a comprehensive quantitative picture regarding the legitimacy of adviser licensing the investigator measured, collected and analysed the data following the research process already shown in Figure 4.3 above.

Structural equation modelling was my statistical technique of choice. SEM is a useful tool for the post-positivist researcher, because it comprises both quantitative and qualitative components. Qualitative contextual information can be used within a post-positivist paradigm
SEM is arguably a procedure conducive to mixed analysis procedures, because it is a tool to describe, control, estimate, explain, interpret data while allowing for recommendations, particularly around relationships (Arghode 2012). Furthermore, before this study, SEM had been used in a variety of disciplines (Kirby & Bollen 2009), such as for example accounting (Herda 2013), psychology (Anderson & Gerbing 1988; MacCallum & Austin 2000; McDonald 2011), behavioural studies (Hox & Bechger 1998), operations management, management information systems (Shah & Goldstein 2006), educational, medical, marketing (McNally & Griffin 2005) (Siddiqui & Sharma 2010; Al-Shirawi, El-Hajjar & Charles 2014), organisational research (Shah & Goldstein 2006), psychometric, biostatistics, and education (Rovine & Molenaar 2001), other social sciences (Chiu 2014) and so the list goes on. Al-Shirawi, El-Hajjar and Charles (2014) used SEM in a study of the financial services sector in Bahrain, (Al Qeisi & Al Zagheer 2015) to investigate determinants of knowledge sharing behaviour among Jordanian banking staff. Although attitudes (Jackson, Gillaspy & Purc-Stephenson 2009) or perceptions (Chiandotto & Masserini 2011) of subjects were evaluated using SEM, only a few studies used it in previous financial planning theory studies in Australia, but not to study perceptions of financial advisers relating to the licensing model. Consequently, based on empirical studies of other researchers (Bacon 1997; Chin 1998; Akhtar 2011), the researchers identified structural equation modelling appropriate.

By specifying a priori hypotheses about relations between variables as already discussed, methodologically hypotheses testing meant an element of objectivity is required. Priority was given to the quantitative data in this research, because it involved variable-oriented analyses identifying relationships [Figures 4.1 and 4.2], which involved mainly quantitative research and analysis (Onwuegbuzie, Johnson & Collins 2009). In this way researcher’s biases found evident in purely qualitative research are minimised for both non-experimental, (MacCallum & Austin 2000) as well as experimental observation and measurement (Lee 2011) when measuring abstract concepts. Tabachnick and Fidell (2007); Hair et al. (2010), explained SEM can be used to simultaneously measure subjective abstract concepts as specified by the four investigative questions above with concrete consequences. It is a research methodology which represents a series of hypotheses about how the variables in the analysis are generated and related (Hu & Bentler 1999).

Given the researcher was new to SEM, the traditional SEM methodology for non-experimental research requiring several equations (Blunch 2008). This focus involved multiple regression analyses of factors of many interrelated dependence associations (Herda 2013) of complex
hypotheses with a network of paths (Grace 2008) estimated simultaneously while taking into account the measurement error (McFadyen, Maclaren & Webster 2007). Maximum likelihood estimation [MLE] was the method of estimation, because according to Hu and Bentler (1999), it is the most widely used estimation technique for large sample sizes. In SEM, large sample sizes are samples greater than 250 (Hu & Bentler 1999). Measurement error is also a special feature of SEM, whereas, for multiple regression the predictor latent factors are estimated without any errors (McCoach, Black & O'Connell 2007; Kline 2010). Though, SEM corrects for measurement errors, which may bias parameter estimates (Kim, Pratt & Wallace 2014). Thus, this technique is useful in separating ‘true variance’ [variance common among indicators of a single construct] from ‘error variance’ or ‘disturbance’ [variance due to other factors, including error in measurement] (McCoach, Black & O'Connell 2007).

Techniques such as analysis of variance and multiple regression only analyses means of observed variables, and certainly not simultaneously for both observed and latent variables (Kline 2010). Thus, they were considered inappropriate. Shortcomings of SEM as a data analytic technique according to McCoach, Black and O'Connell (2007) include: it cannot solve problems in theory, nor researcher errors of inference. They warned, any misconceptions and misinterpretations during statistical hypothesis testing, model equivalence, model modification, model fit versus model prediction, and causality is important to note. Insight and judgement were critical to applying SEM involving covariance structure analysis and latent variable analysis (Hair et al. 2010; Nebojsa 2014) correctly (Shook et al. 2004).

By interpreting the quantitative data and results to make sense of it, Marsh, Hau and Wen (2004) theorised, was a subjective activity. Therefore, it was critical the scientist collected qualitative data to further appreciate the results of the associations between the variables, while obtaining a richer understanding of the quantitative results (Onwuegbuzie, Johnson & Collins 2009) from the participants point of view. It also served to describe and validate the quantitative estimates where qualitative views overlapped while collecting additional contradictory information (Feldon & Kafai 2008; Creswell & Plano Clark 2011). Especially, when Marsh, Hau and Wen (2004) felt despite the quantitative statistical results; two or more researchers may come to different factor solutions where the researcher served as research instrument as well. Post-positivist researchers should acknowledge and try to eliminate the possibility of this happening (Onwuegbuzie, Johnson & Collins 2009). According to Lichterman (2015), by incorporating interpretative explanation is an acknowledgement the quantitative data collected is incomplete and needs interpretation of qualitative data to show what the participants meant.
in their responses. Consequently, the researchers integrated both data alongside each other at the interpretation and discussion stage (Creswell & Plano Clark 2011; Baran & Jones 2016).

4.5.1 Preliminary *a priori* confirmatory factor analysis measurement model

Using symbols from the McArdle-McDonald reticular action model (Kline 2010, p. 95), the conceptualised normative model and hypothesis were graphically visualised (Herda 2013) in an *a priori* empirical model with the assistance of the IBM SPSS AMOS Graphic version 24 software [Figure 4.3]. An important aspect of this *a priori* empirical model is the initial theoretical model highlighted in Chapter 3 and illustrated in Figure 3.1 was based on well-grounded substantive theory (Blunch 2008). Accordingly, the structural equation model in this study incorporated both a set of observed variables and unobserved variables (McCoach, Black & O’Connell 2007). The abstract constructs in Figure 3.1 were all difficult to measure directly, thus some working definitions of the latent factors were designed. These were also referred to in the literature as construct or predictor or exogenous or dependent variables of the structural part of the model, which is unobserved. Illustrated in the form of ellipses in Figure 4.4 below, they were defined as:

- Dual-agency role \( b_1 \): representing the extent licensing advisers via third parties creates a dual agency, whereby advisers serve the interests of both the licensees and clients simultaneously, leading to conflict of interest from association.

- Objectives of the Act \( b_2 \): representing the extent licensing advisers via third-party licensees achieves four identified objectives of the Commonwealth Corporations Act 2001.

- Legitimacy of the current AFSL-AR licensing of individual Financial Advisers \( b_3 \): representing the extent licensing advisers via third parties meets the criteria of Suchman’s (1995) legitimacy theoretical framework.

- Individual licensing as an alternative option \( b_4 \): representing individual licensing via a single independent professional self-regulatory body as an alternative licensing option for individual financial advisers.

No known measures to understand the above latent constructs were available. Therefore, the preliminary endogenous, observed parameters, manifest, indicator variables or factor loadings
captured, estimated or observed the different aspects of the factors. They represented as squares in Figure 4.4 as follows:

- \( a_1 \) to \( a_4 \) [four endogenous indicators]: representing functions of financial adviser’s dual-agency role \([b_1]\)
- \( a_5 \) to \( a_8 \) [four endogenous indicators]: representing functions of objectives of Commonwealth Corporations Act 2001 \([b_2]\)
- \( a_9 \) to \( a_{15} \) [seven endogenous indicators]: representing functions of legitimacy of the current AFSL-AR licensing model \([b_3]\)
- \( a_{16} \) to \( a_{21} \) [six endogenous variables]: representing functions of the individual licensing option for individual professional financial advisers \([b_4]\).

The causal paths or hypothesised directional effects or direct linear effects (Kline 2010) of the model in Figure 4.4 are represented by one-headed arrows running from the exogenous predictor unobserved latent construct or factors to the endogenous measured observed outcome variables in the form of squares (Ullman & Bentler 2012). Mathematically, these associations are represented as \( \lambda \) [lambda]. They represent regression coefficients [path, factor loadings or pattern coefficients] in the unstandardised or the standardised model between exogenous factors and endogenous variables (Kline 2010).

Evident in the literature, when considering the relationship between observed measures and unobserved latent constructs, it is important to specify the direction of the regression weights (Edwards & Bagozzi 2000). They are either formative or reflective (Bagozzi 2007; Howell, Breivik & Wilcox 2007; Nebojsa 2014). However, when reading the journal articles, published in academic journals on the matter, disagreement in some of the social science writings (Bagozzi 2007; Howell, Breivik & Wilcox 2007; Nebojsa 2014) about whether a social science study should be reflective or formative was present. In other words, whether a construct causes, or is caused by, its observed measures (Edwards & Bagozzi 2000). An underlying assumption for my SEM analysis is the items or indicators used to measure a factor are reflective (Shah & Goldstein 2006). This means the observed variables depend on the latent variables or are the reflections of the construct (Schmitt 2011). Thus in this research the focus is on measuring the latent construct and not predicting them, which are two different concepts McDonald (2011) explained.
Interestingly, Diamantopoulos and Siguaw (2006) cautioned that type one errors are more likely when a model is erroneously reflective. Therefore, decision rules for assessing whether the SEM should be reflective rather than formative (Chin 1998; Edwards & Bagozzi 2000; Howell, Breivik & Wilcox 2007; Bollen & Bauldry 2011) were established using a process developed by Coltman et al. (2008, p. 5). Their process is helpful in clarifying the similarities and differences between reflective and formative features (Bollen & Bauldry 2011). Furthermore, recommendations made by Borsboom, Mellenbergh and Van Heerden (2003) made it clear to us the importance of carefully defining the latent constructs (Rossiter 2002) in the preliminary a priori model in this enquiry. They must also be independent of the observations. Simply, a reflective model shows any variation in the construct causes variation in the observed measures. Whereas, it is expected observed measures do not cause variation to the latent construct (Bollen & Lennox 1991; Rossiter 2002; Coltman et al. 2008). To explain, if the current licensing model is changed, then effectively this should change the measurement of the indicators. For instance, the indicators: licensee-adviser-client relationship \( [\alpha_1] \) and serving two principles simultaneously \( [\alpha_2] \) are caused by the dual-agency role of financial advisers \( [\text{latent variable } b_1] \). Another example, aligning adviser-client interests \( [\alpha_5] \), conflict of interest \( [\alpha_6] \), best interest duty \( [\alpha_7] \), and competition \( [\alpha_8] \) are surmised to be instigated by objectives of the Act \( [\text{latent variable } b_2] \). Regulative \( [\alpha_9] \), normative \( [\alpha_{10,11,12&13}] \) and cultural-cognitive \( [\alpha_{14}] \) legitimacies are triggered by the legitimacy \( [\text{latent variable } b_3] \) of licensing advisers via third-party licensees. Similarly, individual licensing \( [\text{latent variable } b_4] \) influences elimination of conflict of interest \( [\text{indicator variable } a_{21}] \) or promotion of public trust and confidence \( [\text{indicator variable } a_{16}] \). Thus, this study is unconcerned with indicators \( a_1 \) to \( a_{21} \) predicting the latent variables \( b_1 \) to \( b_4 \). Instead it is concerned the direction of causality runs from the latent construct to the measured items.

Furthermore, the endogenous variables, which are interchangeable, share a common theme, vis-à-vis, and the legitimacy of the licensing model (Rossiter 2002; Coltman et al. 2008). Thus, by adding or dropping any indicators does not change the constructs’ conceptual theory (Rossiter 2002; Coltman et al. 2008). For this a priori confirmatory factor analysis model, evident from the above evaluation, theoretically a choice of a reflective measurement over a formative model is appropriate. Finally, the variable error ‘\( \epsilon \)’ [epsilon], represented as a circle \( [\epsilon] \) in Figure 4.4, are the unexplained variance or unmeasured causes of the corresponding endogenous variables and latent constructs.
Figure 4.4 Preliminary a priori recursive acyclic confirmatory factor analysis model

They are initially set to a scaling constant or unstandardised residual path coefficient of one, to give the latent factor an interpretable value, before the software can estimate it and not result in an undetermined result too (Kline 2010, p. 105).
This study is mainly concerned with the regression coefficients (Hox & Bechger 1998) between the endogenous \([a_1 \text{ to } a_{21}]\) and exogenous variables \([b_1, b_2, b_3 \text{ and } b_4]\). Thus, in this way the study estimates the unstructured population covariance matrix compared to the observed sample covariance matrix [the data set] (Schreiber et al. 2006; Ullman 2006). In other words, covariance tests the relationships among a set of variables to determine the existence of a match between hypothesised model and the sample data. Thus, this SEM research tested the extent four exogenous factors explained the 21 endogenous indicators under the assumption the SEM model was true. It also tested the extent the latent factors, which assumedly co-vary, affect each other. According to Kline (2010, p. 252), any SEM empirical study detects a false theoretical model, rather than claim the retained theoretical model is true and correct.

Important to note from Figure 4.4, the researchers fixed one of the path coefficients of each of the covariates to one, while allowing the rest to run freely during the analysis phase. Effectively, this fixing ensured the factor variance is the same as the measured variance and assigns a scale to the factor (Ullman & Bentler 2012). Thus creating, what Chiu (2014) refers to as, an anchor variable. An anchor or reference variable enables statistically testing of the differences in the path coefficient estimates (Ullman & Bentler 2012; Chiu 2014). Otherwise, without an anchor variable the software cannot estimate the model, which leads to an undetermined result (Kline 2010, p. 105). These parameters are either unknown (Chiu 2014) and estimated free [unconstrained] (Al-Dossary 2008), or is fixed [constrained] to a known specific value of zero or one (Al-Dossary 2008). To choose an anchor variable for Figure 4.4, Chiu (2014) endorsed to find the observed variable of each latent variable with the highest coefficient of determination or squared multiple correlation \([r^2]\) with respect to the covariate. Thus, for the first estimation, the initial reference variable with unit loading identification constraint were allocated to \(a_1, a_5, a_9 \text{ and } a_{16}\) endogenous variables to assign a scale to latent factors \(b_1, b_2, b_3 \text{ and } b_4\) respectively, until an indicator with a more reliable score was identified.

Quantitative structural equation modelling is a technique evaluating models of linear relationships whereby the sample data is assumed to follow a multivariate normal distribution and the means and covariance matrix contain all the information (Shah & Goldstein 2006). Therefore, in the foregoing, both the preliminary indicators and predictors, together with the preliminary inter-relationships between the constructs (Nebojsa 2014) are translated into a series of mathematical covariance matrices and regression Equations 4.1, 4.2, 4.3 and 4.4. These equations and matrices were adaptions of the basic model common in most statistical
textbooks, vis-à-vis data equals model plus error (Hox & Bechger 1998, p. 8; Field 2014), including equations and matrix models of Doctor Charles Hofacker (2007) and Wei et al. (2010).

Equation 4.1

\[ a_p = \lambda_{p,q} b_1 + \lambda_{p,q} b_2 + \lambda_{p,q} b_3 + \lambda_{p,q} b_4 + \epsilon_p \]

For example,

\[ a_1 = \lambda_{1,1} b_1 + \lambda_{1,2} b_2 + \lambda_{1,3} b_3 + \lambda_{1,4} b_4 + \epsilon_1; \]
\[ a_2 = \lambda_{2,1} b_2 + \lambda_{2,2} b_2 + \lambda_{2,3} b_3 + \lambda_{2,4} b_4 + \epsilon_2; \]
\[ a_3 = \lambda_{3,1} b_3 + \lambda_{3,2} b_3 + \lambda_{3,3} b_3 + \lambda_{3,4} b_4 + \epsilon_3; \]

Et cetera

Equation 4.2

\[ a_p = \lambda_{p,q} b_q + \lambda_{p,q} b_q + \lambda_{p,q} b_q + \lambda_{p,q} b_q + \epsilon_p \]

Equation 4.3

\[ a_p = \beta_{p,q} a_p + \lambda_{p,q} b_q + \epsilon_p \]

Equation 4.4

\[ a = \beta a + \lambda b + \epsilon \]

The key latent constructs and endogenous indicators of the covariance structure assuming the mean is equal to zero is mathematically represented in Equation 4.4 and illustrated in Figure 4.4. The initial reflective model in matrix terms:

\[
\begin{bmatrix}
A \\
B \\
C
\end{bmatrix}
\begin{bmatrix}
a_1 \\
a_2 \\
\vdots \\
a_{21}
\end{bmatrix}
= 
\begin{bmatrix}
0_{1,1} & 0_{1,2} & \ldots & 0_{1,21} \\
\beta_{2,1} & 0_{2,2} & \ldots & 0_{2,21} \\
\vdots & \vdots & \ddots & \vdots \\
\beta_{21,1} & \beta_{21,2} & \ldots & 0_{p,p}
\end{bmatrix}
\begin{bmatrix}
a_1 \\
a_2 \\
\vdots \\
a_{21}
\end{bmatrix}
+ 
\begin{bmatrix}
\lambda_{1,1} & \lambda_{1,2} & \ldots & \lambda_{1,4} \\
\lambda_{2,1} & \lambda_{2,2} & \ldots & \lambda_{2,4} \\
\vdots & \vdots & \ddots & \vdots \\
\lambda_{p,1} & \lambda_{p,2} & \ldots & \lambda_{p,q}
\end{bmatrix}
\begin{bmatrix}
b_1 \\
b_2 \\
\vdots \\
b_{21}
\end{bmatrix}
+ 
\begin{bmatrix}
\epsilon_1 \\
\epsilon_2 \\
\vdots \\
\epsilon_{21}
\end{bmatrix}
\]

The above matrix and Equations 4.1, 4.2, 4.3 and 4.4 illustrate initially p equals 21 simultaneous equations were set. The column vector A, contains p endogenous observed measured variables and the column vector E, contains q exogenous unobserved factors. Therefore, the observations are found in the rows [p] and the latent variables in the columns [q]. The measured variables serve as response variables (Chiu 2014). The regression coefficients \( \lambda \) [lambda] denotes the amount of effect the latent variables have on the observed variables (Chiu 2014). The standardised or unstandardised regression coefficients \( \lambda \) is found in column vector D and variance \( \epsilon \) [epsilon] is found in column vector F. The 21 endogenous variables \([a]\) are demonstrated as a function of the four exogenous covariates \([b]\). Noteworthy,
the sum of $\lambda$ plus the error variance for each variable is equal to one (Streiner 2006). In column vector $B$, $\beta$ [beta] the unknown element represents the regression slopes estimated using maximum likelihood estimates, which according to Kline (2010, p. 154) is the method used to derive the parameter estimates. Beta $[\beta]$ represents the non-directional hypothesised correlation relationships between the constructs and illustrated by double-headed arrows in Figure 4.4. In column vector $F$, $\epsilon$ [epsilon] are the errors-in-variables or measurement errors for endogenous variables or disturbances. They account for the uncommon variance unique to each $a$ endogenous variable (Bacon 1997; Hofacker 2007) under a few assumptions (Chiu 2014).

The factor loadings between the measured variables are assumed random and uncorrelated with each other and the latent variables (Cole, Ciesla & Steiger 2007a; Chiu 2014). Namely they are initially assumed identical and constrained to expected values equal to zero (Chiu 2014) and so no arrows between them (Hox & Bechger 1998). Commonality between the endogenous variables is measured by their variance (Bacon 1997; Hofacker 2007). In the $\beta$ matrix [column vector $B$ above], the $p$ by $p$ contains the coefficients of the regressions of covariates $a$ on other covariates of $a$ with 0’s on the diagonal, because a variable cannot cause itself. All factors in the confirmatory factor analysis model are assumed to covary and are unanalysed (Kline 2010). In these regression equations the latent variable serve as a covariate (Chiu 2014). The $p$ by $q$ $\lambda$ contains the regression coefficients of the $a$’s on the $b$’s in column vector $D$. The error vector or unique factors, $\epsilon$ [epsilon], are $p$ by one in column vector $F$. These errors are not factor analysis errors, but errors-in-equations or specification errors. Hence all the measurement errors are assumed independent of each other (Chiu 2014) and the factors.

Consequently, considering the linear equation $a_p = \beta_{p,q}a_p + \lambda_{p,q}b_q + \epsilon_p$ [Equation 4.4 above] it represents the perceived dependent endogenous value $a$, for case $p$, is the sum of the exogenous variable $a$, for case $p$, multiplied by the coefficient $\beta$, for the case $pq$, the exogenous variable $b$, for case $q$, multiplied by coefficient $\lambda$, for the case $pq$, plus an estimated error term or variance $\epsilon_p$ [epsilon] for the endogenous observed variables $a$ for case $p$. This model allows for the endogenous variable $a$ to estimate other endogenous variables (Ullman & Bentler 2012).

The first subscript $p$ in the equation refers to the equation and the second subscript $q$ refers to the cause. The error term is the difference between the observed and predicted values for each of the cases $pq$. Thus, this model includes more than one linear equation to describe how the variables depend on each other with path coefficients describing how the exogenous variables
b affects the endogenous variables of a covariates. Precisely, the matrix algebra is explained further as follows:

**Equation 4.5** 
\[ a_p = \beta_{pq}a_p + \lambda_{pq} \text{ dual agency role}_q + \varepsilon_p \]

**Equation 4.6** 
\[ a_p = \beta_{pq}a_p + \lambda_{pq} \text{ objectives of the Act}_q + \varepsilon_p \]

**Equation 4.7** 
\[ a_p = \beta_{pq}a_p + \lambda_{pq} \text{ legitimacy of the current licensing}_q + \varepsilon_p \]

**Equation 4.8** 
\[ a_p = \beta_{pq}a_p + \lambda_{pq} \text{ individual licensing}_q + \varepsilon_p \]

To assess the model, the expected a and b are assumed equal to zero. The goal is to estimate how much variation or loadings, represented as \( \lambda \) in Equations 4.1 to 4.4 and Figure 4.4, namely the observed endogenous covariates \([a_1 \text{ to } a_{21}]\) can be attributed to the latent unobserved exogenous constructs \([b_1, b_2, b_3 \text{ and } b_4]\). Although the four exogenous constructs will be correlated with each other, all the measured indicator variables are consigned to only one construct each and endogenous. The latent constructs were assumed measurable with a test of positively correlated items. The error terms shown in Figure 4.4 were initially unrelated to any other measured variable making the initial measurement model co-generic. This was further confirmed by the measurement model’s initial degrees of freedom using Jöreskog congeneric model (Rigdon 1994). In SEM, the initial degrees of freedom are calculated based on the size of the covariance matrix, not on the sample size (Yusoff & Mohd Janor 2014). Degrees of freedom is the difference between the number of endogenous observed manifest variables \([m]\), and the exogenous latent constructs \([\varphi]\) (Blunch 2008). This value should be greater or equal to zero for amenable empirical analyses (Byrne 2013). This CFA’s degrees of freedom based on equation 4.9 below where \( m \) is 21 and \( \varphi \) is four equates to 21 \((21+1)/2\) - 2\((21) – 4(4-1)/2 = 183\) degrees of freedom.

**Equation 4.9** 
\[ \text{Degree of freedom formula} = m (m +1)/2 – 2m – \varphi (\varphi – 1)/2 \]

Another important attribute of the measurement model is making sure a unique set of parameters consistent with the sample data, commonly known as model identification is present (Al-Dossary 2008; Bollen & Noble 2011). Model identification determines whether the model fits the data (Al-Dossary 2008; Bollen & Noble 2011). Identification problems, especially under-identification issues, lead to admissible or spurious solutions and a waste of research resources (Kline 2010). The issue is whether the parameters estimated are unique. Software, such as IBM AMOS v24 is able to detect and notify across a range of identifications and
provide recommended remedies (Arbuckle 2014), such as using more constraints (Bacon 1997). Although, only once data has been collected and estimated, could the investigator determine if a problem with the data about under-identification is happening. Thus, the researcher followed additional recommendations of Blunch (2008) during model development. For instance, he proposed starting with four manifest variables per latent factor when developing an *a priori* measurement model. However, later literature indicated the standard measurement model is identified, because each factor has more than two [2] indicators per factor, meeting both the two and three indicator rule (Kline 2010, p. 138). Both these writers advanced this should ensure the model is initially identified before any data collection and analysis, because Brito and Pearl (2002) reasoned, models tend to change during research analysis, which impacts the identification status of the model. Thus, for this study, the measurement portion of the model in Figure 4.4 was identified, because each factor had more than three indicators. The complexity of the model also affects the identification according to claims in the literature. Complexity is determined by the number of parameters, hence number of observations or data points \(v\) the scientist estimate (Kline 2010). To estimate the model in different ways, the initial measurement model in Figure 4.5 was designed to be over-identified with 2,352 data points \(v\) to 48 parameters \(r\) [21 regression coefficients \(\lambda\), 6 covariance \(\beta\) and 21 variance \(\varepsilon\)] as calculated by equation 4.10.

**Equation 4.10** \[\text{Number of data points formula } (v) = r (r +1)/2\]

Having more data points than parameters is necessary to test the hypotheses using a statistical test such as the chi-square statistic and fit indices (Ullman & Bentler 2012). Thus, this initial SEM model was designed with degrees of freedom of 183. Additionally, this preliminary *a priori* model is a recursive model, because its equations are acyclic, where the variance errors and error covariance are uncorrelated (Brito & Pearl 2002; Shah & Goldstein 2006; Blunch 2008). It is also uni-dimensional, because each manifest variable is predicted only by its respective factor (Brito & Pearl 2002; Shah & Goldstein 2006; Blunch 2008).

In closing, in the four-factor *a priori* measurement model above [Figure 4.4] started with six paths among the constructs with non-directional covariance. Therefore, they represent all possible unanalysed associations. In contrast, the investigator took one-step further and designed the *a priori* structural path between the factors, illustrated in Figure 4.5 below, to have three paths among the factors to indicate the direct effects of the measured relationships in the normative model as specified in Figure 3.1 and discussed in Chapter 3. Thus, not only
are causal assumptions made about the endogenous observed variables, but also assumptions are made concerning the covariance between the latent factors. Therefore, based on the CFA correlation \([\beta]\) results, the researcher confirmed the structural model depicted in Figure 4.5 below. Thus, the researcher used \(\beta\) results of the hypothesised respecified model depicting the relationships between dual-agency role, legitimacy of the licensing model to achieve the objectives of the Act and individual licensing to determine if the posited model structure and their hypotheses [relationship between latent variables and manifest variables and among latent variables] was reasonable (Chiu 2014).

![Figure 4.5 Conceptualised a priori structural model](image)

### 4.5.2 Population and sample

Defining the population and sample was critical, because Van der Stede, Young and Chen (2005) claimed it is a key determining factor when making valid inferences. Given it is the first time this topic has been addressed by scholars, the main concern were the views of financial advisers. Especially given the issues about licensing influenced them directly as already noted
in previous chapters. Thus, the population was drawn from the list of authorised representatives registered on the ASIC Adviser Register [referred to in Figure 4.2].

Prior to sourcing contact details of potential participants to collect the data, the principal researcher, emailed the Information Services Team of ASIC on 20 March 2016 requesting them to complete a customised search of the ASIC Adviser Register to produce a full list of authorised representatives’ names and email addresses for use in this research. ASIC responded by email with a link\(^{103}\) to this register, explaining they do not hold email addresses of authorised representatives. Subsequently, a population of 15,623 authorised representatives listed in the ASIC Adviser Register was downloaded on 21 March 2016 as indicated in the time line of Figure 4.8 below. Since publications claimed the Adviser Register comprised a population of 23,309 financial planners/advisers registered on the ASIC Adviser Register (Financial Service Council & UBS Asset Management 2016), this number of only 15,623 was surprising. Therefore, a second file was downloaded in case an irregularity occurred in the download. However, the researcher met with the same result. Evident from an initial examination and analysis of this adviser register, the gender distribution based on an examination of first names was approximately 81 per cent males and 19 per cent females. However, note during this analysis of the population, unisex names were allocated to males, because according to media reports (Chaplin 2015) significantly fewer female advisers than males work in the financial advisory industry, with a ratio comprising 80 per cent male and 20 per cent female reported. By implication, if a different gender split ratio was selected for this study, then collecting a suitable representative number of female respondents may be problematic. Therefore, a gender split of 80 per cent males and 20 per cent females was considered appropriate for this project. Accordingly, the downloaded database was split into male and female genders, based on the first names, with unisex names allocated to the list of males.

Then the investigator selected a probability random sample (Cooper & Schindler 2003; Garner 2005; Black et al. 2010; Swift & Piff 2010; Argyrous 2011; Yusoff & Mohd Janor 2014) of 4,040 [80 per cent male and 20 per cent females] using the <Rand> function in Microsoft\(^{\circledR}\) Excel. The sample of 40 were allocated to the pilot study and 4,000 to the extended main study. For the main study, the sample comprised 3,200 males and 800 females. Four thousand was not only considered cost effective, but also sufficient to ensure maximum likelihood estimation...

procedures were possible. This sample size was also selected to avoid sampling error in SEM due to sample size (Kline 2010).

As already noted, the list of prospective participants’ email addresses was unavailable on the ASIC Adviser Register. Therefore, prior to commencing the study’s data collection, the investigator performed a search via Google search engine for valid email addresses of this selected sample from 2 April 2016 to 29 May 2016. Not only did searching email addresses take weeks, it was unclear whether the 4,040 emails collected were valid addresses. Qualtrics did not provide a verification service to check emails before distribution. Thus, before distribution an email verification service\(^{104}\) was paid to check validity of emails prior to including them in the final sample on 28 August 2016. Several email addresses were invalid and replaced with additional probability randomly sampled prospects to make up the sample of 4,040.

Although a more difficult approach to source prospective participants in this way, according to literature (Niemierko & Goitein 1990; Cooper & Schindler 2003; Garner 2005; Black \textit{et al.} 2010; Swift & Piff 2010; Argyrous 2011; Yusoff & Mohd Janor 2014) a probability simple random sampling method was considered far more scientific. Particularly, when this method allows for the calculation of sampling error (Niemierko & Goitein 1990; Cooper & Schindler 2003; Garner 2005; Black \textit{et al.} 2010; Swift & Piff 2010; Argyrous 2011; Yusoff & Mohd Janor 2014). It is also professed to keep sampling bias to a minimum more effectively than other approaches (Field 2014). Moreover, McCoach, Black and O’Connell (2007) claimed applications of SEM using non-probability samples in numerous studies places generalisability of research results in doubt. Although Niemierko and Goitein (1990) found random sampling significantly reduces estimation errors, they do concede it does have a few disadvantages, such as the possibility of low response rates.

Therefore, in the uncertain event, of a too low response rate for the structural equation modelling technique, the investigators made the decision to revert to convenience sampling to increase the number in the collection sample. To do so required the plan to approach the professional associations for help to recruit more respondents from their membership lists. Fortunately, the data collection sample size was sufficient, and this plan B did not eventuate. Therefore, recruiting from the membership lists of professional associations was unnecessary, because a major drawback would have been the compromised independence of this sensitive

and controversial research. Note, instead of providing participants a financial or other incentive for participation, the investigators offered a summary of the results if they sent their email addresses to the researcher once the research findings were concluded.

**4.5.3 Research instrument, measurement items and measurement scale**

Data collection occurred electronically in a single snapshot, cross-sectional, newly developed self-administered, web-based semi-structured survey questionnaire. Some researchers (Al-Debei, Akroush & Ashouri 2015; Al Qeisi & Al Zagheer 2015) claimed this is a common approach in many other social studies involving structural equation modelling. According to Yanamandram and White (2010) previous research showed, online surveys produce quicker responses, were more cost effective to reach the target group located in different geographical states of Australia, while producing the same accuracy and completeness as mail surveys. Furthermore, the survey was easily accessible by mobile smartphones, tablets and computers. However, Akbulut (2015) highlighted some of the limitations of online questionnaires. Typically, e-mail invitations can be perceived as junk mail, unclear instructions may reduce the quality of responses; the lack of human contact may limit the ability of the researchers to obtain in-depth details, and privacy and security concerns of respondents needs proper consideration.

The questionnaire was designed to connect the structural equation model [Figures 4.4 and 4.5] developed from the underlying theory [Figure 3.1] to the data collected to test the hypotheses [Figures 4.1 and 4.2] from which the scientist deduce the inferences (Nebojsa 2014). The questionnaire was designed to take about 35 minutes to complete. Furthermore, given the *a priori* model was solely constructed based on theoretical principles and no evidence of similar empirical studies was obtainable, the C-OAR-SE [Construct definition, Object classification, Attribute classification, Rater identification, Scale formation, and Enumeration] theory offered useful guidelines to develop the measurement variables (Rigdon *et al.* 2011) for this study. Additionally, each endogenous variable was estimated using one question for reasons as specified in C-OAR-SE theory (Rossiter 2002; Dolnicar, Grün & Leisch 2011). The questionnaire consisted of closed questions, to collect quantitative data, and open-ended questions, to collect qualitative data. This research was mainly concerned with measuring levels of perceptions commonly found in other social science research (for example, Yanamandram & White 2010; Bendixen & Yurova 2011). The questionnaire was divided in two parts. The first part of the survey asked respondents to reflect on their current perceptions
as the operational procedure and indicated their approximate percentage level of agreement to 21 statements.

For this enquiry the continuous numerical scale developed by Yusoff and Mohd Janor (2014) for measuring perceptions, namely the ruler-option [RO] scale, was modified. According to Yusoff and Mohd Janor (2012), RO is consistent with operational measurement theory. The Qualtrics Survey Software technical support specifically customise their existing scale option, and create the Yusoff and Mohd Janor (2014) ruler-option scale to collect the data measuring attitudes, feelings or opinions. Mainly, because it was unavailable in their options of scales. Operational measurement theory contended intangible qualitative attributes such as perceptions are quantifiable for measurement if there is the understanding a concept can only be understood once a method to estimate it is found. This makes the RO measurement scale appropriate for this social science research project, because it involves measuring perceptions, which is a qualitative attribute, quantitatively. Furthermore, there is agreement here with the views of Yusoff and Mohd Janor (2014), namely human thinking and feeling are continuous concepts by definition with little evidence it can be broken down into minute discrete amounts of thinking and feeling. When Yusoff and Mohd Janor (2014) tested their newly-developed scale they found for respondents it was easy to use and for researchers easy to administer. They also found, which was confirmed in a later study by Akbulut (2015), RO scale compared to the Likert scale resulted in a stronger relationship between indicator and its associated construct. Furthermore, they all found the RO scale compared to the Likert scale measurement model data produced higher internal reliability, internal consistency of the observations, and percentage of variance explained by the observations, and ratio of degrees of freedom to number of parameters. The former providing more mathematical information to estimate model parameters. In terms of validity of the regression coefficients, they confirmed the measurement model for data using RO scale had higher convergent validity. However, they confirmed both models attained almost the same level of discriminant and construct validity. Thus this scale is ideally suited to SEM, because compared to conventional ordinal Likert-scale (Beal & Dawson 2007; Yanamandram & White 2010) it is less likely to distort or miss information, which could lead to adversely impact the measurement errors (Beal & Dawson 2007) and lead to problems with interpretation (Rossiter 2002). It is also well-known although Likert scale response categories have a rank order, the intervals between the categories are unequal (Jamieson 2004).

Given a scale measuring perceptions should have a number of characteristics (Yusoff & Mohd Janor 2014), modified RO scale of this study reflects these characteristics. For example, it is
continuous and metric, vis-à-vis scaled from zero to 100 percent level of agreement. Thus, with its measurement unit of a percentage provided options to respondents to avoid ambiguity of the status of respondents who rate the middle point. This scale also included a zero point for no agreement, with a clearly defined operational procedure as the basis for measurement. Additionally, a clear description of the operations involved was included.

Figure 4.6 Ruler-option scale for the pilot study

Figure 4.7 Ruler-option scale for the extended main study
Figures 4.6 and 4.7 shows the proposed scale developed by Yusoff and Mohd Janor (2014), which Qualtrics support team customised for this study. Here, the RO scale consisted of a continuous straight line with 100 points and three options, ‘I don’t know’, ‘I don’t care’, and ‘Not applicable’ for the pilot study. For the main study illustrated in Figure 4.7 the options were changed to ‘I don’t understand the question’, ‘I don’t know’, and ‘Not applicable’. The second part of the survey asked respondents for their unidentifiable demographic information. This formed the nominal data of this research providing information about the context in which these advisers have answered the questions.

The researcher wanted to determine the representativeness of the sample, because the respondents to the survey may differ from the population they are supposed to represent. The researcher avoided using any audio nor video nor photographic resources during the data collection phase of the research project. Therefore, anonymity, privacy and confidentiality of all personal information during and after completion of the project to protect respondents was strictly enforced.

4.5.4 Method of data collection

To ensure the data on adviser licensing is collected systematically, data collection happened in two phases: a pre-test pilot study and then the extended main study. The timeline of the data collection is illustrated in Figure 4.8 below.

4.5.4.1 Ethics approval

Flinders University’s Social and Behavioural Sciences Ethics Committee’s Low Risk Sub-Committee granted conditional ethics approval on 4 July 2014 [Project number 6459]. Submission of a full ethics application to the Business College Human Ethics Advisory Network [BCHEAN] transpired from 25 August 2015. Subsequently, the final approval was granted through ethics approval number 19784 where the main window for data collection was run from 23 February 2016 to 7 May 2018. Note details in a letter of ethics approval granted by the RMIT’s [BCHEAN] is in Appendix 4.1. Please refer to the data analysis flowchart in Figure 4.9 summarising the data analysis process of the study.

4.5.4.2 Pre-test pilot study

To increase the main study’s probability of success, a pre-test pilot study was conducted (Leon, Davis & Kraemer 2011). A ‘pilot study’ was defined by van Teijlingen and Hundley (2002) as
a feasibility study or mini-version of the main study. They discussed the reasons for its importance, such as for example to increase the likelihood of research success and to convince funding agencies to fund the research project. As part of the thesis, the pre-test pilot study was part of a bigger project examining the legitimacy of the current authorised representative licensing model, which followed a sequential approach. It identified problems with the quantitative research design, particularly biases in the questions (van Teijlingen & Hundley 2002; Van der Stede, Young & Chen 2005; Fain 2010), weaknesses in the sampling techniques (Fain, 2010), as well as issues in the preliminary data collection and analysis. Janghorban, Roudsari and Taghipour (2014) claimed pre-test pilot studies improve a novice researcher’s data collection, analytical skills, research competence and knowledge. Thus, the pilot study helped improve the data collection process, data entry by respondents and coding of the items for analysis (Dolnicar, Grün & Leisch 2011; Dolnicar 2013).

The construction, ease of use, access, language, wording, comprehension, adequacy, appropriateness of the questions and content (Dolnicar, Grün & Leisch 2011; Dolnicar 2013) of the survey questionnaire, including its content and scale was tested for suitability of purpose, reliability and validity, specifically content validity (Rossiter 2008). This face and content validity of the study design was especially important, because the current financial adviser-licensing model is a relatively unexplored area in financial planning research. Thus, in this way minimal misleading empirical results is assured, notwithstanding decreasing the risk of incorrect theories or hypotheses (Rossiter 2008). This is particularly important, because the survey questionnaire was newly designed. Its content was based on the theory discussed in Chapter 3.

The pre-test pilot study comprised two stages: namely survey questionnaire stage, followed by an interview phase of 15 minutes to 30 minutes in total. Pilot data collection commenced on 31 March 2016. For the survey questionnaire stage, the researchers selected 40 prospective participants comprising 32 males and eight females, to represent the gender distribution. During this stage, the pilot web-based semi-structured survey questionnaire [copy in Appendix 4.1], together with supporting documents with embedded URL links105 to the secure Qualtrics website hosting the survey, were emailed to initially 30 authorised representatives. The supporting documentation comprised a letter of introduction, semi-structured telephonic

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interview consent form, interview questions and the participant information sheet [copy in Appendix B]. Note respondents accessed the questionnaire using their mobile smart phones, notepads or computers. Two reminder emails were sent to the unresponsive participants to increase the survey response rate. The reminders were sent in case the respondents deleted, missed or forgot about the survey. Although the survey was initially meant to close on 29 April 2016, the second phase of the pilot study was at risk of failing. Only one respondent consented to participate in the second telephonic interview phase of the pilot study. Subsequently, to improve the success of the pilot study, an additional 10 potential participants were randomly selected from the ASIC Adviser Register. Thus, it increased the total pilot sample to 40. Therefore, on 13 May 2016, as before, these 10 were emailed same survey questionnaire and supporting documents following the same process as explained before. Data collection concluded 31 May 2016.

For the second stage, the additional 10 participants were contacted telephonically, by email and LinkedIn to determine their willingness to participate in the second half-an-hour semi-structured telephonic interview phase. This avoided raising any ethical concerns about using more follow-up or reminder emails. Those interviewees who volunteered were emailed the confirmed personal interview dates and times, an interview consent form, an interview protocol form with open-ended questions, as well as a copy of the pilot survey questionnaire they had completed. This was to ensure a reliable process of data collection across all interviews occurred (Janghorban, Roudsari & Taghipour 2014). To ensure compliance with BCHEAN ethics requirements and privacy the ‘Show my Caller ID’ was disabled on the mobile phone used. Moreover, instead of using an audio recorder, to maintain anonymity, privacy and confidentiality of the interviewees, their telephonic feedback was transcribed manually by the researcher as they spoke. Their names were excluded in the transcriptions.

4.5.4.3 Extended main study

After the pre-test pilot study was finalised 30 June 2016, the extended main study phase commenced on 1 July 2016. This stage included preparation, data collection, data analysis, and the write-up of the findings as scheduled in the timeline in Figure 4.8. Given Van der Stede, Young and Chen (2005) claimed to obtain valid inferences using structural equation modelling technique depended on the sample size of useable data, the investigator began with considering the minimum sample size and response rate needed for this study. Although arguably, the pilot study may anticipate some idea of the probable response rate likely in the main full-scale
1. RMIT BCHEAN ethics approval 19784 23 February 2016 - 7 May 2018
2. Downloaded ASIC Adviser Register 21 March 2016
3. Pilot study survey data collection commenced 31 March 2016
4. Pilot survey first reminder, emailed 14 April 2016
5. Pilot survey second reminder on 22 April 2016
6. Recruited pilot interviewees 11-25 May 2016
7. Pilot interviews 11 May-8 June 2016
8. Pilot survey data collection closed 31 May 2016
9. Pilot data analysis commenced 3 May 2016 after downloading responses from Qualtrics server
10. Pilot data analysis finalised 30 June 2016
11. Emails verification 28 August 2016
12. BCHEAN Amendment Approval form 30 August 2016
13. Main study survey data collection commenced 30 August 2016
15. Failed main survey second reminder emailed 13 September 2016
17. Main survey data collection closed 1 October 2016
18. Data analysis commenced on 10 October 2016 with first Qualtrics download
19. Second Qualtrics downloaded 13 December 2016 to restart data after corrupt SPSS data files were discovered
20. Third Qualtrics downloaded 13 January 2017 to repeat & double check data analysis
21. Data analysis and results finalised 30 June 2017
22. Reviewing, writing & finalising research thesis manuscript 1 July 2017 – May 2018

Figure 4.8 Timeline of the data collection and analysis phase
survey, the investigators made the decision to avoid using the pilot study to determine the sample size for the main study. This is based on Leon, Davis and Kraemer (2011) recommendation that pilot studies do not have a statistical foundation nor is a small sample size with a small data set sufficient to determine the sample size of the main study.

Furthermore, Teo (2010) and Schmitt (2011) noted when determining the sample size for any SEM study, one should consider model size in terms of indicators per factor, estimation procedures, the possibility of model misspecification, as well as departures from a normal distribution with regards to degree of multivariate normality. Additionally, Shah and Goldstein (2006) contended that sample size has a major impact on reliability of parameter estimates, model fit and statistical power. According to them the larger, the size of the model when using maximum likelihood estimation procedures, together with the likelihood of misspecification or departures from normality, requires larger sample sizes. Thus, determining an appropriate sample size for a SEM study can be challenging. The size of the sample for the main study and performing power analysis for SEM is important to obtain enough data so where relationships exist they can be estimated (Bacon 1997). Past literature mistakenly recommend rules of thumb, which could lead to incorrect conclusions about the defensibility of a model (Jackson, Voth & Frey 2013). Also overestimations are a waste of research resources (Jackson, Voth & Frey 2013). Therefore, instead of using rules of thumb, a more acceptable scientific approach was used, vis-à-vis, an online sample size and power (MacCallum & Hong 1997; Chin 1998; Shah & Goldstein 2006) analysis software calculator developed by Soper (2016) based on the works of Cohen (1988) and Westland (2010). This mathematical approach is also documented in a manuscript by Schumacker and Lomax (2010). Consequently, given an initial a priori model of 21 observed and four latent constructs [Figure 4.4 above] in my empirical model, with a desired probability of 0.05 and statistical power level of 0.8, Soper’s (2016), online calculator, calculated a recommended minimum sample of 137 participants for anticipated effect sizes above the acceptable minimum for this study of .300. When increasing the effect size to .700, the sample size required went down to 116.

Note, a factor loading of .300 according to Harrington (2009) is interpretable. Van der Stede, Young and Chen (2005) regarded a response rate of 80 to 90 per cent increased the representativeness and generalisability of the survey results. Thus, it makes for better inferences about the population. However, a paper by Aguinis and Edwards (2014) predicted it is a mistake to think increasing response rates or findings from a large sample were always generalisable. Furthermore, the Akaike information criterion and Bayesian information
criterion, which are measures of fit for models in SEM, adjusts with sample size and number of parameters to evaluate generalisability (Pitt & Myung 2002; Lubke & Muthen 2005). To clarify, generalisability is the ability of Figure 4.4 “to fit all data samples, not just the observed sample” (Pitt & Myung 2002, p. 422). Although, ideally a high response rate is desirable in any study (Van der Stede, Young & Chen 2005), a response rate of at least 3.5 per cent [137 participants] of the sample size of 4,000 would be sufficient to perform estimation procedures in this enquiry. Consequently, with some idea of the minimum sample size required for this SEM study the data collection phase proceeded.

On 30 August 2016, an invitation letter of introduction was emailed to 4,000 potential respondents. The email invitation provided the research background and objectives. The letter of introduction invited the selected participants to click on an embedded URL link\(^\text{106}\) to Qualtrics securely hosting the survey instrument for the main study [Appendix 4.3]. Once they accessed the survey form, they could download the participant information sheet as well as provide their electronic consent. Unsurprisingly, the response rate was initially below the required 137 respondents. Therefore, implementation of follow-up procedures included a reminder emailed on 6 September 2016 to those who had not completed the survey. To provide potential participants with a third opportunity to participate in the survey, on 20 September 2016 as illustrated on the timeline in Figure 4.8 a second reminder invitation was successfully emailed to the respondents who were unresponsive, in case they deleted, missed or forgot about the survey. The survey closed on 1 October 2016.

4.5.5 Data transfer, preliminary analysis and storage

After collection, importation of the data occurred electronically into password protected csv files onto both the researcher’s laptop and RMIT server from the Qualtrics server. Conversion of these files into Microsoft\textsuperscript{®} Excel [Microsoft\textsuperscript{®} Office 365 ProPlus suite] ready for data screening as per timeline in Figure 4.8 for both the pre-test pilot and extended main study occurred. Three downloads were made for the extended study, so the data could be crosschecked and cross validated to ensure it had not been corrupted at any stage during the analysis. All files relating to the data analysis for this study were secured with password protection throughout the analysis.

The statistical software of choice for the analysis was IBM SPSS v24, IBM AMOS for SPSS v24, Microsoft® Excel [Microsoft® Office 365 ProPlus suite] and G*Power 3.1.9.2 software. These are relatively simple software to use for a beginner SEM researcher compared to other SEM software (Al-Shirawi, El-Hajjar & Charles 2014). The researchers selected IBM SPSS AMOS version 24, because it was also available as an additional module within IBM SPSS Statistics for Windows version 24. For both the pilot and extended main study, data was reported in non-identifiable format in associated publications. For instance, pseudonyms by referring to participants as respondent, participant or informant A, B, C, etcetera, were used in place of actual names for the respondents’ qualitative commentary. Once the project was finalised, apart from any personal identifiable information, all data collected, data analysis and supporting files were securely stored for the required period of five years on the RMIT server. After five years, RMIT will obliterate the data. All other copies of data on the Qualtrics Server and supplementary hardware used by the student researcher was deleted and expunged after examination of the thesis and publication of the results. The final research paper/s will remain online indefinitely.

4.6 QUANTITATIVE METHODS OF DATA ANALYSIS

The analyses for both the pilot and main study were initially pre-planned prior to data collection with the purpose of making amendments as required as the data analyses, interpretation and reporting stage progressed. The timeline of the data analysis depicted in Figure 4.8, indicated downloading the pilot data from Qualtrics occurred once and three times for the main study.

4.6.1 Pre-test pilot phase

The purpose of the pilot study was mainly to try a few data screening techniques and use a descriptive exploratory study (Cooper & Emory 1995), rather than to assess the proposed structural equation modelling techniques to test hypothesis with statistical significance [p-values] to make inferences (Leon et al., 2011). Not only is little known about the problem, but also the sample size was considered too small [n=40] to test hypotheses. However, the pilot study attempted to test the viability of the methodology, identify any adjustments needed in the design of the larger extended study (Leon, Davis & Kraemer 2011) as well as to test feasibility of doing a full-scale study (Fain, 2010). This was achieved by using quantitative descriptive data analysis and the qualitative (Cooper & Emory 1995) interviewees responses to test for the non-significant effects for internal validity and reliability of the questionnaire’s content to ensure it measured what it actually intended to measure (Al-Shirawi, El-Hajjar & Charles
Data analysis for this part of the study was concluded at the end of June 2016 [Figure 4.8]. The pilot study qualitative data collected was analysed using descriptive exploratory analysis techniques (Cooper & Emory 1995) to identify problems in survey questionnaire design, collection, content and process (Van der Stede, Young & Chen 2005; Dolnicar 2013). This was done to test for the non-significant effects in internal validity and reliability of the questionnaire content to ensure it measured what it intended to measure (Al-Shirawi, El-Hajjar & Charles 2014) and the interviewees understood the questions. This was particularly important, because the survey questionnaire was newly designed, and the content was based on multiple disciplines integrated within a financial planning context for the first time as discussed in Chapter 3.

4.6.2 Extended main study phase

As recommended by Leon, Davis and Kraemer (2011), to avoid any corruption of data during the main study, none of the data from the pilot study nor any of the pilot participants was included in the main study. New data was collected from a new randomly selected list of potential participants (Leon, Davis & Kraemer 2011). The data analysis process illustrated in Figure 4.9 below started with data screening. Before going onto empirically testing the model for goodness of fit, the cases were examined for electronic consent, invalid responses, unengaged responses, any data needing recoding into appropriate format for analysis, missing data for cases and outliers on the continuous data. Unfortunately, it was impossible to follow Cooper and Schindler’s (2014) recommendations to contact the respondents to obtain the missing information, because both surveys in this study were completed anonymously. Dropping any outliers was not an option either, because it will affect the generalisability of the findings (Harrington, 2009). With regards to missing data for each variable, Harrington (2009) wrote it can cause problems in SEM. For example, it can result in insufficient data points to run the analyses and compute the estimates, or it might reflect bias common to the respondents. The pattern of missing data was examined, because Harrington (2009) claimed this was more important than the amount of missing data. In the event reviewers or examiners questioned the methods used, several approaches offered by Lynch (2003) were considered to deal with the missing data in this research. The variables were also screened for skewness and kurtosis. Multivariate normality is more restrictive than univariate normality (Tomarken & Waller 2005). In addition, the ‘Other’ option in RO Scale was addressed using an imputation method (Lynch 2006; Tabachnick & Fidell 2007).
Data screening

Descriptive Statistical analysis

Exploratory factor analysis within a confirmatory factor analysis framework

Confirmatory factor analysis

Maximum likelihood estimation

Data fits the CFA model?

Yes

Cross-validation $\chi^2$ square difference

No

Respecify the model

Final model fit

Invariance tests

Validity & reliability

Common method bias

Qualitative constant comparative content analysis

Plot correlational structural paths

Figure 4.9 Flowchart of the data analysis phase
“Nonlinearity occurs when the change in the dependent variable associated with a one-unit change in the independent variable depends on the value of the independent variable” (Menard 2002, p. 72). “Non-additivity occurs when the change in the dependent variable associated with a one-unit change in the independent variable depends on the value of one of the other independent variables” (Menard 2002, p. 72). To ensure the outcome variable is linearly related to the predictor variable and the data does not violate this assumption (Field 2014), the ANOVA test in SPSS was applied (Field 2014, p. 43; Gaskin 2016c). To determine the extent of the non-linearity an ordinal least square regression and curve-linear regression [‘curve estimation’] was performed to see if the relationship is more linear than non-linear (Gaskin 2016c). Violations of additivity and linearity means the model will be invalid, therefore the researcher used robust methods, specifically bootstrapping (Field 2014).

Homoscedasticity tests were also completed, because it tests whether the residual values of the variables are consistent across different levels of the variable (Hair et al. 2010). With heteroscedasticity, standard errors are overstated making statistical significance inaccurate (Menard 2002). Thus high standard errors is a symptom of non-additivity or non-linearity (Hair et al. 2010). Heteroscedasticity can lead to serious distortion of findings and gravely weaken the analysis, thus increasing the possibility of a Type one error (Tabachnick & Fidell 2007). So, to determine the homogeneity and heteroscedasticity of the variances, the ratio of the range to standard deviations was calculated. The range of the variables fell between a minimum value of zero per cent and a maximum of 100 per cent level of agreement. Notable, Gaskin (2016d) claimed he does not test for heteroscedasticity, unless specifically asked for by a reviewer, because the debate on the matter is still inconclusive. On the grounds of possible inconclusive results and in case a reviewer wants this test it was also conducted.

Well-documented, multicollinearity, where the variance of the independent variable to explain the variance in the dependent variable overlap each other (Gaskin 2016d), is undesirable. In this case the dependent variable’s variance is thus common (Gaskin 2016d). In addition, the independent variables are highly correlated with each other. Multicollinearity of the i\textsuperscript{th} independent variable with the other independent variables in the model is checked using the variable inflation factor [VIF] and tolerance value for each independent variable after running a multivariate regression (O’Brien 2007; Gaskin 2016d). “The VIF [hence tolerance] is based on the proportion of variance the i\textsuperscript{th} independent variable shares with the other independent
variables in the model” (O’Brien 2007, p. 684). Perfect multicollinearity is indicated by the coefficient of multiple determination for multiple regression \( r^2 \) equals one for each of the independent variables (Menard 2002). Using SPSS regression collinearity was checked where the tolerance statistic is \( 1 - r^2 \) [independent variable], where \( r^2 \) [independent variable] is the variance in each independent variable explained by all of the other independent variables (Menard 2002). Menard (2002) claimed a tolerance of less than .20 is a concern, but a tolerance of less than .10 is more concerning, because it indicates serious collinearity issues. Whereas O’Brien (2007) claimed greater than four to 10 shows potential problems. Prominent, this study is disinterested in the effect of multicollinearity on the \( i^{th} \) regression coefficient, but instead whether the regression coefficient is statistically significant despite the limitation of multicollinearity issues (O’Brien 2007). Consequently, no attempt was made to delete any variables and risk changing the theory. Instead bootstrapping was applied, because it is a common approach to correct standard errors for multivariate non-normality in MLE (Hancock & Nevitt 1999). Bootstrapping is a method estimating the parameters of a model and their standard errors from the sample, without reference to a theoretical sampling distribution (Aguinis, Gottfredson & Joo 2013). In other words, the estimates of the expected value and the variability of the statistics from an empirical sampling distribution was planned. This technique is particularly useful, especially if the sample is large (Menard 2002). Large sample sizes are defined as sample sizes greater than or equal to 250 (Hu & Bentler 1999). Also, the results of the central limit theorem in large sample sizes is considered inconsequential given the distribution of the regression coefficients in repeated sampling for large enough samples will approach a normal distribution with known mean [equal to the population mean] and variance (Menard 2002). However, it is argued in the literatures the normally distributed error assumption is ignored by bootstrapping the confidence intervals (Field 2014). Notable, a limitation of bootstrapping is some cost to power (Nevitt & Hancock 2001). For bootstrapping the 95 per cent, confidence interval for both percentile and bias corrected confidence interval was applied. Based on the pre-test pilot study findings, as well as recommendations by Kline (2010), no questions were phrased in the opposite direction or in reverse order to the other questions. Kline (2010) viewed reverse coded items as an unnecessary additional problem for researchers. Therefore, unlike the pre-test pilot study, no reverse coding was necessary prior to handling the data for analysis.
Once the data was screened and the sample of useable cases established, descriptive data analysis proceeded as planned. This included analysing the response rate, nomenclature and biographical details of the respondents.

4.6.2.1 Exploratory/confirmatory factor analysis tests

Although the preliminary indicator-factor relationships modelled in Figure 4.5 was specified, based on the normative theory discussed in Chapter 3, Menard (2002) wrote the most important assumption in linear regression analysis is the model is correctly specified. This he explained was vital to ensure unbiased regression coefficients are not systematically overestimated or underestimated. Although, the initial plan at the beginning of this project was to move straight into a CFA framework, to do so was premature. Kline (2010) recommended when one is developing a theory for the first time using a new data set, an exploratory factor analysis [EFA] should be done first. Besides, most studies are to some extent both exploratory and confirmatory (Joreskog 1978). The a priori model, shown in Figure 4.4, was based on an untested conceptualised model developed by combining numerous disciplines for the first time. Well-documented in this thesis, the measures in this research were newly-developed with no evidence of any existing measures (Harrington 2009) available to test legitimacy of the licensee-adviser licensing model. Thus, EFA made sense because the associations, as conceptualised theoretically within the model, was unknown. The model in Figure 4.4 seasoned SEM researchers, such as Bentler (2006), would likely consider incomplete, rather than biased, because only a normative sense of the number of common factors and the hypothesised pattern of item-factor relationships, based on investigative theory-driven development was evident (Brown 2006). Consequently, validation of the appropriateness of the observed variables and factors for the population took place before making inferences from the data.

Keeping the integrity of theory in mind and taking into consideration the theories’ content (Anderson & Gerbing 1988), EFA was used to explore the possible underlying factor structure to test for construct validity of the priori model within the CFA framework to obtain preliminary valid model fit. Before examining the associations among variables within the model, the correct and appropriate number of common factors and pattern of indicator-factor relationships to minimise any gross misspecifications was established (Brown 2006). Thus, the scope during data analysis was extended to include exploratory factor analysis incorporated within the CFA framework [E/CFA] (Brown and Brown, 2006) prior to the main CFA analysis (Mulaik & Millsap 2000; Maslowsky, Jager & Hemken 2015) as illustrated in Figure 4.9.
Starting with EFA dimension reduction in IBM SPSS the investigator considered the size and differential magnitude of the factor loadings, to produce a refined conceptualised model. The researcher used pattern matrices and Cronbach alpha estimates to indicate removal of the appropriate measurement variables from further analysis where they did not meet EFA’s statistical criteria or to determine if substitution made more statistical and theoretical sense (Brown 2006; Yanamandram & White 2010; Al-Shirawi, El-Hajjar & Charles 2014). EFA was implemented only to determine the appropriate number of common factors, and appropriate pattern of indicator-factor relationships, by the size and differential magnitude of the factor loadings, to minimise gross misspecifications (Brown 2006). Poorly behaved items were identified and gross misspecifications were respecified before the model was re-estimated (Anderson & Gerbing 1988). This led to revisions of the model, which provided a more realistic confirmatory solution (Brown and Brown, 2006) in line with the theory. During EFA, the scientist did preliminary tests, goodness of fit, convergent validity, discriminant validity and scale reliability.

### 4.6.2.2 Confirmatory factor analysis maximum likelihood estimation

After E/CFA, simple confirmatory factor analysis technique (Kline 2010), which is common in many structural equation modelling studies (Anderson & Gerbing 1988; Yanamandram & White 2010; Chiandotto & Masserini 2011; Awasthi & Sangle 2013; Al-Shirawi, El-Hajjar & Charles 2014) was applied. During this phase the associations were evaluated using MLE to determine if they were consistent, supported the theoretical expectations, and hence ensuring the measurement model was valid (Al-Shirawi, El-Hajjar & Charles 2014). The aim was to have a model producing an estimated population covariance matrix fitting as closely as possible the sample [observed] covariance matrix. Then the parameters, including path coefficient, variance, and covariance, of the model were used to assess the population covariance matrix (Ullman & Bentler 2012). To address violation of the assumptions, such as linearity and multivariate normality violations, which may invalidate the model (Aguinis, Gottfredson & Joo 2013), bootstrapping MLE at the 95 per cent bias corrected confidence interval was the most feasible choice (Brown 2006; Kline 2010; Byrne 2013; Brown & Moore 2016). Kline (2010) and Bryne (2013) recommended using bootstrapping as a nonparametric distribution free technique where no normality assumption is present. However, Bryne (2013) warned it assumes the sample and the population distributions have the same shape. To check the correctness of the model the estimated parameters using Bollen-Stine bootstrapping (Bryne, 2013) was calculated. Other methods proposed by Bryne (2013) were considered, but found
impractical. For instance, asymptotically distribution free [ADF] could not be used, because it requires a minimum sample (Byrne 2013) of at least 480. Another solution was to correct the test statistic rather than change the mode of estimation (Chou, Bentler & Satorra 1991; Hu, Bentler & Kano 1992). Byrne (2013) indicated the Satorra-Bentler $\chi^2$-square is such a test. However, this correction procedure for non-normal samples is unavailable in AMOS. Furthermore, both AMOS bootstrapping and the Satorra-Bentler scaled $\chi^2$-square tests produce the same p-value for large sample sizes. Simulation results (see, Fouliadi 1998; Nevitt & Hancock 1998) found bootstrapping may be better than the Satorra-Bentler scaled $\chi^2$-square. Bootstrapping was used, because $\chi^2$-square is sensitive to linearity, additivity, multicollinearity and normality (Joreskog 1978).

### 4.6.2.3 Face validity, model fit and specification searches

After every application of MLE, the goodness of fit statistics was checked first, followed by checking the data for non-convergence (Chen et al. 2001), Heywood cases (Bryne, 2013), any missing constraint errors and indications the estimation was unable to reach its iteration limit (Gaskin 2016e). Also checked was evidence of inadmissible solutions, such as non-positive factor variance estimates and/or non-positive-definite sample or model-implied and covariance matrices [correlations smaller than one or larger than negative one] (Raykov 2004). This included evidence values greater than one for factor correlations, or evidence of negative factor loadings [regression weights] (Blunch 2008), any identification issues (Harrington, 2009) and model misspecification errors (Brown 2006). Factor loadings were scrutinized to determine if they were greater than 0.30, because these values are interpretable if sample size is ignored (Tabachnick & Fidell 2007; Harrington 2009). Then the standard errors of the parameter estimates, which measures how much sampling error is operating in the model’s parameter estimates or how closely the model’s parameter estimates approximate the true population parameters (Brown 2006) was checked. Next the investigator examined the squared multiple correlations, which provides the proportion of explained variance in the indicators and hence information about whether the measures are meaningfully related to their purported latent dimension (Brown 2006), were examined. Squared multiple correlations is an indicator’s reliability (Brown 2006). The variance-covariance matrix and the model-implied variance-covariance matrix was checked to ensure they were positive definite, which is indicated by eigenvalues all greater than zero (Brown and Brown, 2006). Then the goodness of fit indices of MLE of the raw data, which represented the average discrepancy between the sample observed and hypothesised correlation matrices (Byrne 2013) were scrutinised.
Undoubtedly well-documented (Anderson & Gerbing 1988; Hox & Bechger 1998; Herda 2013) an initial model never fits the data well when solving a set of structural or regression equations. Good fit was vital before the researcher proceeded with interpreting the results (Tabachnick & Fidell 2007; Jackson, Gillaspy & Purc-Stephenson 2009; Hair et al. 2010; Yanamandram & White 2010; Hair, Ringle & Sarstedt 2013). In other words, if the data did not fit the model adequately, no inferences and accurate testing of the hypotheses was possible, because misspecified models produce biased parameter estimates. Therefore, model fit was addressed to increase the chance of replication of the findings by following some of the best practice recommendations of Aguinis, Gottfredson and Joo (2013). Thus, resulting in more accurate interpretation and conclusions. Given all the regression lines between latent and observed variables were already in place [Figure 4.4], they were unfeasible to correct model fit (Hermida 2015, p. 6).

Instead, the model’s misspecifications were corrected by using modification indices to covary the measurement errors forming part of the same factor. Data driven modification indices (Raykov 2004) provide specific information for how the fit of the model can be improved (Hermida 2015). When measurement errors, which are estimates of the “other unique sources of variance” (Hermida 2015, p. 6) or referred to in the literature as “a true score unique variance” (Hermida 2015, p. 6) and “unsystematic error variance” (Hermida 2015, p. 6) are present, then correlation or regression analysis might lead to biased parameter estimates (Yuan & Bentler 2004). Although Hermida (2015) cautioned against specification searches using modification indices, based on current practice modification indices [MI] with cut-off threshold greater than 4.0 (Raykov 2004; Brown 2006) was used to sequentially modify the model post hoc until adequate fit was achieved, seemed appropriate (Maccallum & Necowitz 1992). Furthermore, no clear guidelines as to what are and what are appropriate error correlation practices were found in the literature. If you recall, initially in the hypothesised model [Figure 4.4] the covariance’s among measurement errors were fixed to zero, because measurement errors were considered unique to each indicator (Hermida 2015, p. 6). By correlating the unique variance, the observed relationship between any two indicators loading on the same factor is then not only due to shared influence of the latent variable, but other external factors (Brown & Moore 2016). Correlated errors demonstrate the indicators are related, because of something other than the shared influence of the latent factor. Correlated errors could result from method effects, such as using a common measurement method, such as the case of this research self-report survey. Alternatively, similar wording of items and positive or negative phrasing can
also cause correlated errors. MI can also indicate systematic error based on respondent characteristics such as the nay-saying respondents who may have been stressed answering the questions and/or answering in ways considered socially desirable (Byrne 2013). Given the sensitive and controversial nature of the topic, as well as the overlapping central theme of the questions (Byrne 2013), modification indices greater than four were expected during this study’s data analysis. Hermida (2015) claimed other authors have demonstrated if indicator variables share components, then it is appropriate to covary the error terms. Furthermore, Cole, Ciesla and Steiger (2007b) claimed leaving out MI driven correlated residuals can result in not detecting model misspecifications. This they claimed resulted in latent variables misrepresenting the constructs being examined. Therefore, the scientist continued to retest and respecify the measurement model [Figure 4.4] using modification indices several times until achieving adequate model fit.

Note though, model respecification is a controversial issue in the literature (Shook et al. 2004; McCoach, Black & O’Connell 2007). For instance, Maccallum (1986) warned, the process of examining and modifying must be conducted very judiciously, with the outcome viewed with great caution. Thus, respecification was only pursued if they were justified on empirical and conceptual grounds (Maccallum & Necowitz 1992) and they were significant at p<.05 level (Harrington, 2009). It is dangerous to correlate measurement errors after post-hoc specification searches without theoretical justification, Hermida (2015) cautioned, results in model fit improvement due to capitalisation of chance. Theoretical specification searches, namely revising the model solely based on large statistical standardised residuals or modification indices, could result in further model misspecification and overfitting. Overfitting occurs when parameter estimates are superfluous or due to chance associations in the sample data (Hermida 2015). Therefore, no additional paths were added to improve fit, because this would compromise the theory and reduce replication of the parameter estimates, notwithstanding theoretically unjustifiable (Hermida 2015). Thus, the modifications were only made to represent the true model producing the data (Raykov 2004).

The standardised residual covariance [SRCs], much like modification indices, pointed out where the discrepancies between the proposed and estimated models were evident. Thus, these values were inspected to determine whether the developed model is a good model with small residuals on average with thresholds no greater than 1.96 [for \( p < 0.05 \)] or 2.58 [for \( p < 0.01 \)] (Bentler 2006). The SRCs greater than 2.5 (Matsunaga 2010) to 4.0 with one degree of freedom at alpha level of .05 (Brown 2006) were investigated, because they indicated whether or not
those discrepancies were significant enough to delete to improve model fit (Brown 2006). The investigator also looked for positive standardised residuals, which indicated the model’s parameters underestimated the relationship, whereas negative standardised residuals indicated the model’s parameters overestimated the relationship. If the fit statistics indicated the data fitted the model adequately, the SRC estimates were merely noted, rather than used to produce better-fit statistics by deleting violators of the SRC thresholds. Mainly, for the reason, deleting variables would threaten the integrity of the data to solve the statistical problems of explaining the factors (Clark & Watson 1995; Osborne & Costello 2005). Therefore, specification searches were performed using modification indices only, because it provided recommendations to correct discrepancies or differences between the proposed and estimated model (Hermida 2015, p. 6). Respecifying the model did not rely entirely on the modification statistics, but also using the relevant theory and research findings as recommended in SEM literature to justify the respecification (Brown & Moore 2016).

Acknowledged, SEM goodness of fit [GOF] is a confusing and contentious issue (Refer to (Ke-Hai 2005; Bentler 2006; Hayduk et al. 2006; Barrett 2007)). For instance, Byrne (2013) claimed the plausibility of a model cannot be determined merely by chi-square fit indices, namely CMIN, CMIN p-value and relative or normed CMIN [CMIN/DF], which measures discrepancy between the population’s true covariance structure and the target model (Ke-Hai 2005; Bentler 2006; Hayduk et al. 2006; Barrett 2007; Byrne 2013). CMIN is criticised for generally being unreliable for large sample sizes greater than 250 (Matsunaga 2010). Consequently, as recommended by many SEM researchers (Marsh, Kit-Tai & Zhonglin 2004; Markland 2007; Byrne 2013) other fit statistics, tabled in Table 4.1, were considered important in for this enquiry to overcome the limitations of each one (Kline 2010).

Specifically, the root mean square error of approximation [RMSEA] measures the extent the population matrix is the same as the sample matrix within the bounds of a 90 per cent confidence interval (Byrne 2013). If PCLOSE [closeness of fit] is less than the .05, then RMSEA fails the test of minimal discrepancy between the observed and predicted covariance matrix. The GFI [goodness of fit index] measures the relative amount of variance and covariance in the sample matrices jointly explained by the population matrices (Byrne 2013). Whereas AGFI is the adjusted GFI for the degrees of freedom value (Byrne 2013). Both GFI, AGFI, Normed fit index [NFI], and Tucker-Lewis fit index [TFI] or non-normed fit index [NNFI] compares the hypothesised model with null [no] model (Byrne 2013). TFI is usually lower than the GFI (Hu & Bentler 1999).
<table>
<thead>
<tr>
<th>Measure</th>
<th>Meaning</th>
<th>Thresholds for good fit</th>
</tr>
</thead>
<tbody>
<tr>
<td>CMIN</td>
<td>Sample matrix and estimated matrix are the same</td>
<td>Compare obtained $\chi^2$-square value with tabled chi-square value for given degrees of freedom [DF]</td>
</tr>
<tr>
<td>DF</td>
<td></td>
<td>p&gt;.05 or p&gt;.01</td>
</tr>
<tr>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CMIN/DF</td>
<td></td>
<td>&lt;3</td>
</tr>
<tr>
<td>GFI</td>
<td></td>
<td>&gt;.95; &gt;.90 permissible; 0 [no fit] to 1 [perfect fit]</td>
</tr>
<tr>
<td>AGFI</td>
<td></td>
<td>&gt;.95 to&gt;.80 [adjusted for DF]; 0 [no fit] to 1 [perfect fit]</td>
</tr>
<tr>
<td>CFI</td>
<td>Over identification condition is met</td>
<td>&gt;.95 good; &gt;.90 permissible; 0 [no fit] to 1 [perfect fit]</td>
</tr>
<tr>
<td>TLI/NNFI</td>
<td>Over identification condition is met</td>
<td>value close to .95 reflects good fit; 0 [no fit] to 1 [perfect fit]</td>
</tr>
<tr>
<td>NFI</td>
<td></td>
<td>value close to .95 reflects good fit; 0 [no fit] to 1 [perfect fit]</td>
</tr>
<tr>
<td>PCFI</td>
<td>Estimated parameter is robust against other samples (Mulaik 1998)</td>
<td>Compare alternative models; 0 [no fit] to 1 [perfect fit]</td>
</tr>
<tr>
<td>AIC</td>
<td>A value as low as possible</td>
<td>Compare alternative models and should be smaller than the saturated and independence model, smaller the better</td>
</tr>
<tr>
<td>BIC</td>
<td>A value as low as possible</td>
<td>Should be smaller than the saturated or independence model for the model to be more generalisable, Smaller the better (Myung, Tang &amp; Pitt 2009)</td>
</tr>
<tr>
<td>SRMR</td>
<td>Average error in the model is minimal</td>
<td>&lt;.09; 1 [poor fit] to 0 [perfect fit]</td>
</tr>
<tr>
<td>RMSEA</td>
<td>Population matrix and estimated matrix are the same.</td>
<td>&lt;.05; .05-.10 moderate; &gt;.10 poor</td>
</tr>
<tr>
<td>PCLOSE</td>
<td></td>
<td>&gt;.05</td>
</tr>
</tbody>
</table>

Adapted from various sources: (Hu & Bentler 1999; Hair et al. 2010; Kline 2010; Byrne 2013; Pittayachawan 2013)
Comparative fit index [CFI], is an incremental fit index that compares the hypothesised model against some standard baseline [independence and null] model (Byrne 2013). In independent models, the variables are uncorrelated. Thus the value of the index is the amount the target model improves the fit relative to the null or independence models (Byrne 2013). Of interest in this research were models approaching the value of one to indicate they are better than the independence models. Now the information theory indices are the Akaike information criterion [AIC] and consistent Akaike information criterion [CAIC], Bayesian Information Criterion [BIC] and sample size-adjusted BIC [aBIC] (Byrne 2013). They explain the extent the observed covariance matrices differs from the predicted covariance matrices by comparing the target model to the saturated and independence models (Byrne 2013). Therefore, smaller or lower values for AIC and CAIC, BIC and aBIC (Lubke & Muthen 2005) are preferred. Also their values should be less than either the independence or saturated models (Byrne 2013). Byrne (2013) recommended current practice incorporates GOF thresholds, but cautions these thresholds are an unnecessary and insufficient basis to establish validity of a model. Especially given GOF is inversely related to sample size (Byrne 2013). They recommended the researcher’s judgement around adequacy and interpretability of parameter estimates, model complexity and a priori theory should be considered when looking at the fit indices. So, together with the latter recommendations, for this study the various GOF indices guidelines [see Table 4.1] proposed by various scholars were used to help evaluate the extent to which the model is supported by the data (Blunch 2008). Namely, how far the GOF indices of this investigation’s model deviated from the implied model before making a judgement call as scientifically as possible.

### 4.6.2.4 Cross-validation test

Once respecification of the model led to acceptable goodness of fit results of MLE (Kline 2010) in AMOS for the respecified model’s parameter estimates could be interpreted. To confirm the improved model fit was not due to capitalisation of chance and the results were generalisable (Hermida 2015), the next step was cross-validation [Figure 4.9] using another sample drawn from the same population. Therefore, to cross-validate the model, multigroup confirmatory factor analysis [MCGFA] was used, because it is the most widely used methodology (Cheung & Rensvold 2009; Steinmetz et al. 2009) involving constrained models nested within less constrained models (Harrington 2009). The multiple group gender [male and female] formed the new sample from the same population to estimate freely measurement parameters and compared these results to constrained measurement parameter estimates.
The $\chi^2$ difference test was used to cross-validate the data of these two samples. Seemingly, it is the difference in $\chi^2$ values rather than the absolute $\chi^2$ values themselves determining whether the model in the empirical study is realistic, because chi-square is sensitive to linearity, additivity, multicollinearity and normality (Joreskog 1978). Recommended by Byrne (2013), the $\chi^2$ difference test can be used to test whether adding constraints significantly worsens the fit of the model. In other words, the $\chi^2$ statistic and associated degrees of freedom of the constrained models were subtracted from the base unconstrained model (Byrne 2013). Evidence of cross-validation was claimed if $\chi^2$ difference was statistically non-significant (Byrne 2013). In other words, a non-significant $\chi^2$ difference value indicated the unconstrained model fits the data better than the constrained model in which the parameters were fixed. If the $\chi^2$ difference value was significant, then the improvement in chi-square was significantly larger, and hence the constrained model fails the cross-validation test (Byrne 2013). Put another way, if the null hypothesis of equal distributions could not be rejected, namely the results were non-significant, the chi-square increase was also not significant compared to its degrees of freedom, the groups had equivalent covariance structures (Byrne 2013) and have been cross-validated.

### 4.6.2.5 Invariance tests

Invariance tests [Figure 4.9] followed cross-validation. Raykov (2004) claimed a scale can only be accepted if it assessed the same latent variable in different populations as well as the scale’s factorial structure is invariant in all groups [configural invariance] “and the baseline-level performance on each of its components is on average equal in the groups” (Raykov 2004, p. 308). Like cross-validation, to test for invariance MCGFA was used (Cheung & Rensvold 2009; Steinmetz et al. 2009) involving constrained models nested within less constrained models (Harrington, 2009). Seven models were tested comprising configural, metric, latent factor mean differences test for scalar and equality of uniqueness [residual variance] associated with observed variables invariance to determine measurement invariance. For structural invariance, the researcher tested for equivalence of factor means, equivalence of factor covariance and variance (Brown 2006, pp. 269-270; Schmitt & Kuljanin 2008). In the MGCFA framework, invariance of parameter matrices was tested by constraining cross-group equality of these matrices. Then the models were compared statistically using the difference in the $\chi^2$ statistics and degrees of freedom (Steinmetz et al. 2009). Evidence of invariance was claimed if $\chi^2$ difference was statistically non-significant (Byrne 2013). In other words, a non-significant $\chi^2$ difference value indicated the unconstrained model fits the data better than the constrained...
model in which the parameters were fixed. If the $\chi^2$ difference value was significant, then the improvement in chi-square was significantly larger and hence the constrained model failed the invariance test (Byrne 2013). Put another way, if the null hypothesis of equal distributions could be accepted, namely the results were non-significant, the chi-square increase was also not significant compared to its degrees of freedom, the groups had equivalent covariance structures and were invariant (Byrne 2013). Consequently, if the chi-square value for each model was much larger than the degrees of freedom, the baseline model adequately explained the observed data on statistical grounds [$p > .10, .05 \text{ or } 01$] (Reise, Widaman & Pugh 1993). Another practical approach to test for invariances was to report the difference in CFI [CFI difference tests] (Byrne 2013), rather than $\chi^2$ difference values only (Cheung & Rensvold 2002; Steinmetz et al. 2009; Locander et al. 2015). Cheung and Rensvold (2002) proposed evidence of invariance was based on difference in CFI values exhibiting probability greater than 0.01 cut off. Although Locander et al. (2015) made use of this approach in their research, Byrne (2013) claimed the change in CFI was still unsanctioned. Hence, both methods were thus implemented. Notable, where the two disagreed the $\chi^2$ statistic value decision in the first instance was followed, because this method permit testing for invariance easily by setting cross-group constraints and comparing more restricted with less restricted models. The $\chi^2$ statistic difference test argues for non-invariance if significant and the CFI indifference tests argues for invariance if changes in CFI is less than .01 and significant (Bryne, 2013).

The first step in invariance assessment involved establishing configural invariance by computing covariance among the observed variables for each group without any constraints. The three conditions for factorial structure invariance to be met included each population measured the same number of factors, the same predictors load onto the same factors, and factor loadings were identical in each group (Raykov 2004). Here no constraints were present, meaning the same pattern of fixed and non-fixed parameters and thus the model is the same across groups (Steinmetz et al. 2009). This is the baseline model to aid as a benchmark against which fit of more restricted models is compared (Reise, Widaman & Pugh 1993). To ensure comparability of factor loadings across groups, the variance of the latent variable is fixed at unity rather than using one observed variable per construct as a marker variable (Reise, Widaman & Pugh 1993). To measure configural invariance data was split along gender [male and female] lines in this study to determine whether the factor structure achieve reasonable fit when two groups are tested together and freely, namely no cross-group path constraints were evident. Although Schmitt and Kuljanin (2008) confirmed in the literature, if configural
invariance is establish then no further need to carry on with additional tests is necessary. However, to see how restricting the model more affects the results, additional tests of invariance were applied too.

Measurement invariance was added to the well-established criteria of reliability, homogeneity and validity (Bryne, 2013). Measurement invariance determines whether the questionnaire assesses identical or different latent variables in more than one group or both the indicator loadings and manifest variable intercepts are equal across groups (Raykov 2004). Testing measurement invariance assume the numerical values under consideration are on the same measurement scale. Thus they are assumed comparable across groups for the purpose to uncover population heterogeneity (Steinmetz et al. 2009). It is an important aspect of scale development, as this determines whether the study’s testing instrument was appropriate for use in various groups. In multigroup application, invariance of a single measurement instrument (Bryne, 2013) across gender was tested, because it determined whether the questionnaire assessed identical or different latent variables in more than one group (Raykov 2004). Thus, it determined whether both the indicator loadings and manifest variable intercepts are equal across groups (Raykov 2004). Thus, measurement invariance examines the similarities and differences in covariance patterns of item-factor relations (Reise, Widaman & Pugh 1993) and variance-covariance matrices across gender. Thus, predictors must be adequately equivalent and measure the identical underlying latent construct of the two groups (Schmitt & Kuljanin 2008). By validating whether the factor structure and loadings were equivalent across groups ensured, the composite variables measured the same underlying latent constructs for different groups within the same sample. Therefore, it validates the generalisability of the model across population (Vandenberg & Lance 2000). The construct scales should demonstrate full invariance to prevent biased and potentially misleading indicators of individual and group difference of a common set of factor loadings used to estimate factor scores within each group (Reise, Widaman & Pugh 1993). Only then can the researcher make meaningful comparisons across populations or measurement cases (Raykov 2004). Metric invariance is a stronger form of measurement invariance, whereby values of factor loadings of each variable on each factor are fixed to be the same across groups (Schmitt & Kuljanin 2008). The loadings for factors are constrained to equality for each of the groups compared (Byrne 2013). Thus the factor structure and loadings are equivalent across groups, which means the composite variables measure the same underlying latent constructs for different groups within the sample, and hence are generalisable across population (Vandenberg & Lance 2000).
Structural covariance invariance tests for factor covariance equivalence (Bryne, 2013) or the factor covariance are equivalent across groups and hence displays invariance (Byrne, Shavelson & Muthen 1989). Strict invariance tests the equality of indicator residual variances by computing the equality of reliability of an assessment scale across groups (Bryne, 2013). Thus, the equality of uniqueness associated with each observed variable is tested when the residuals of the regression equations are equivalent across groups (Schmitt & Kuljanin 2008). Notable, testing the equality of indicator residual variances is optional because it rarely holds in real data and is highly restrictive according to Brown (2006). If the restricted, nested model results in a non-significant increase in chi-square over that for the less restricted model, then the hypothesis of full measurement invariance is tenable. (Brown 2006)

Structural invariance is divided into three tests of equality, namely latent means, factor variances and tests of equality of covariance. Structural invariance tests for population heterogeneity (Brown 2006). To assess population heterogeneity, the invariance of the measurement and structural part of the MGCFA across two gender groups was tested. Differences between measurement errors, factor loadings and latent means among gender groups given measurement invariance is expected. Equivalence of factor means [scalar invariance] differences test for scalar invariance is done when the intercepts of regression equations of observed variables on latent factors are equivalent across groups (Schmitt & Kuljanin 2008). In other words, it tests the equality of indicator intercepts (Byrne 2013). By equally constraining vector with item intercepts, results in the same systematic response bias in the groups prerequisite for latent mean comparison. Scalar invariance refers to invariance of the item intercepts in the regression equations linking the indicators’ item intercepts to interpret systematic biases in the responses of a group to an item. As a result, the manifest mean can be systematically higher or lower [upward or downward biased] than one would expect due to the groups’ latent mean and the factor loading. Scalar invariance is present if the degree of up- or downward bias of the manifest variable is equal across groups. To test for scalar invariance, one constrains the tau-vectors to be equal across groups ($\tau_A = \tau_B = \ldots = \tau_G$). This check involves equally constraining vector with latent means invariance of the latent means if equal intercepts with the same latent means in the groups (Brown 2006). Equivalence of factor covariance test evaluates a further constraint, namely the equality of the factor covariance (Schmitt & Kuljanin 2008). This examination determines whether equivalence of factor covariance occurs and whether all items are related in the same way across groups (Schmitt & Kuljanin 2008). Equivalence of factor variance test of invariance of the error variances is less
important in SEM, because relationships between latent variables are corrected for measurement error (Steinmetz et al. 2009). In this case one mean is set to zero and the significance of the other model parameters represents a test of differences of latent means (Byrne 2013). Therefore, equivalence of factor variance across groups is present.

4.6.2.6 Validity and reliability tests

Next the convergent, discriminant and scale reliability were evaluated using the appropriate tests such as Cronbach alphas, composite reliability [CR], average variance extracted [AVE], average shared variance extracted [ASV], factor correlations, tau- and parallel equivalent tests (Brown 2006; Harrington 2009). Although CFA does assess convergent and discriminant validity (Curran, West & Finch 1996), EFA is the better technique to assess validity, especially discriminant validity (Farrell & Rudd 2009). So, both methods were used to test for validity.

Convergent validity evaluated whether the variables in the model correlate well with their latent factor (Hair et al. 2010). To reliably interpret the estimates (Campbell & Fiske 1959) acceptable estimates of a given indicator loaded onto an underlying latent variable had to be above threshold of 0.35, which is based on a sample size greater than 250 (Gaskin 2016b). Although Harrington (2009) claimed a threshold of .30 is interpretable. A model achieves convergent validity if for all items in the measurement model, AVE is greater than .5 for all the factors (Harrington 2009). Furthermore, if MLE parameter estimates in AMOS are statistically significant p < .001 or p< .05, then the indicator has a large degree of true score common variance (Harrington 2009).

Discriminant validity is the degree concepts, which should have no theoretical relationship, show they were not interrelated (Campbell & Fiske 1959; Gaskin 2016b). In other words, discriminant validity considers the degree variables should relate more strongly to their own factor than to another factor. This is important to avoid the possibility of a Type two error, namely accepting a poor model, because this error could result in the incorrect interpretations and conclusions of the factor analysis (Farrell & Rudd 2009). Type two error occurs when it is believed there is no effect in the population, when there is (Field, 2014). Gaskin (2016b) proposed numerous methods to determine discriminant validity during an EFA. The first method was to examine the EFA pattern matrix (Table 5.29) and check for cross loadings where indicator variables load on multiple factors (Gaskin 2016b). No cross-loadings should occur and they must not differ by less than 0.2, or else shared variance occurs (Gaskin 2016b). The second method is to examine the factor correlation matrix (Gaskin 2016b). In the factor EFA
correlation matrix, correlations between factors should be less than 0.7 to ensure discriminant validity (Gaskin 2016b). A third method proposed in the literature (Fornell & Larcker 1981; Hair et al. 2010) is to use CFA by calculating average variance extracted, which is the average amount of variance in measured variables explained by a latent construct. Also examining average shared variance [ASV], representing the amount of variance in measured variables relating to another construct explained by a latent construct. Finally, to determine discriminant validity the maximum shared variance [MSV] values were calculated and assessed. Each structural equation model represents only one possible fit to the data; therefore, the AVE of each construct is compared with the ASV between constructs. If the AVE for each construct is greater than its ASV with any other construct, discriminant validity is supported (de Almeida et al. 2014). A fourth method proposed by Harrington (2009) to establish discriminant validity is to assess whether the CFA correlations between latent factors is less than .85. In other words, the indicators of the theoretical distinct constructs are not highly intercorrelated (Harrington 2009).

Before the results of the respecified model can be trusted, reliability tests are critical to any research, because the presence of errors in the scores and inconsistency in the measurement or proportion of true individual differences of the observed variables can lead to incorrect conclusions (Harrington 2009). Consequently, three methods were used in this study. Cronbach alpha (Field 2014) was the first test. Field (2014) confirmed when dealing with psychological constructs values, Cronbach alphas of 0.8 is appropriate and in the early stages of research, which is evident of this thesis. Furthermore, values as low as 0.5 will suffice and values greater than 0.7 is usually expected. Interestingly, Raykov (2004) showed Cronbach alpha underestimates reliability in a multicomponent measuring instrument like a multiple item questionnaire. Therefore, interpreting Cronbach’s alpha should be done with caution (Field 2014), Consequently, the composite reliability for congeneric measures model [CRCMM] (Raykov 1997, 2004) was a useful online statistics tool (Colwell 2016) based on the works of Raykov (1997) to test reliability further. Composite reliability was considered an appropriate test for this investigation, because it is more reliable for large samples (Raykov 1997). To pass the reliability test CR should be greater than 0.7 (Hair et al. 2010; Malhotra & Dash 2011). Further tests for reliability in this project included congeneric, tau equivalent and parallel equivalent (Kline 2010). Tau-equivalent tests have equal true score variances [\( \hat{\epsilon}_1 = \hat{\epsilon}_2 \), etc.], but possibly different error variances [\( \epsilon_1 \neq \epsilon_1 \)] (Brown & Moore 2016). It assumes the components of an instrument [scale] are measures of the same latent constructs in the same units of
measurements with different precision [tau-equivalent] (Raykov 1997, 2004). Indicators have equivalent relationships with the underlying factor they measure. Thus, a one-unit change in the latent variable is associated with a one-unit change in each indicator loading on that factor. In other words, indicators measure the same units of measurement (Harrington, 2009). More restrictive is parallel where observed measures have equal factor loadings [$\hat{\epsilon}_1 = \hat{\epsilon}_2$, etc.] and equal error variances [$\epsilon_1 = \epsilon_2$, etc.]. They measure the latent construct with the same level of precision (Harrington, 2009), namely equivalent error variances. It is also assumed to measure the latent construct with the same level of precision [equivalent error variance $\epsilon$] this study used the $\chi^2$-square difference test to evaluate nested model comparisons for tau and parallel equivalents (Yuan & Bentler 2004).

4.6.2.7 Common methods bias tests

On the recommendation of Gaskin (2013) the researcher then tested the responses for common method bias. Common method bias refers to a bias in the dataset when something external to the question or measure may have resulted in influencing the responses given (Podsakoff, MacKenzie & Podsakoff 2012). As was mentioned before, measurement error threatens the validity of the interpretations about the relationships between measures, which can lead to potentially misleading conclusions (Campbell & Fiske 1959). Also mentioned earlier when discussing specification searches, the specification of correlated errors may be justified based on method effects. For instance, additional indicator covariation may have resulted from common assessment methods, for example participant ratings and survey questionnaires. Reversed or similarly worded test items; differential susceptibility to other influences; and response bias effects such as: the response set; demand characteristics; acquiescence; reading difficulty; sensitive or emotional topic; or social desirability can cause common method bias.

Method effects, which is a common research problem, creates a correlation between two measures which cannot easily be identified - as either the result of a true relationship or the result of shared methods. Thus, different methods, wording or the type of response options available, may result in a lower than expected correlation between constructs or may result in two or more constructs when there is only one (Harrington, 2009). This is a problem, because it affects hypothesis tests, can lead to Type one or Type two errors, result in incorrect conclusions about how much variance is accounted for by a latent construct and provide incorrect discriminant validity findings (Podsakoff, MacKenzie & Podsakoff 2012).
On the recommendations in the literature (Gaskin 2013) three tests were identified as most suitable for this study. They included the Harman test (Nebojsa 2014; Choi, Ullah & Kwak 2015), common latent factor test (Podsakoff et al. 2003; Podsakoff, MacKenzie & Podsakoff 2012) and common latent factor marker test (Podsakoff, MacKenzie & Podsakoff 2012; Williams & O’Boyle 2015). When measuring perceptions, Podsakoff, MacKenzie and Podsakoff (2012) recommended researchers should make sure a subset of all the measures do not measure a single latent factor. This is the Harman’s single factor test. Although this test has been shown to display inconsistent reliability, it is still allegedly used in current research (Nebojsa 2014; Choi, Ullah & Kwak 2015); while allegedly, many reviewers still publish it (Nebojsa 2014; Kang & Jindal 2015). To see if most of the variance can be explained by a single factor, and hence the model has significant common method bias (Gaskin 2016a), all the variables in the study were loaded into EFA (Gaskin 2013). The number of factors extracted in the model in SPSS were constrained to equal one in an unrotated solution, rather than extracting via eigenvalues (Gaskin 2013).

Another method used by various researchers (Groza, Locander & Howlett 2016; Kuzucu 2016) to assess the common method bias in the measurement and structural model the investigator also implemented, namely common latent factor [CLF] method (Podsakoff et al. 2003; Podsakoff, MacKenzie & Podsakoff 2012). When the specific source of the common method bias cannot be identified, the CLF serve as a solution. In this method, a common latent factor to capture the common variance among all observed variables in the model was used. To do this, a single latent factor was simply added to the respecified CFA model, and then connect it to all observed items in the model. Then the standardised regression weights from this model was compared to the standardised regression weights of a model without the CLF. If the results of the latent methods model are consistent with the structural model, then this indicates the relationships are unaffected by common method bias (Groza, Locander & Howlett 2016). If large differences [like greater than 0.200] occurs, then the CLF must be retained after the regression weights were estimated (Podsakoff et al. 2003).

Another widely used technique is the common latent factor marker technique, zero-constrained test or the CFA marker technique (Podsakoff, MacKenzie & Podsakoff 2012; Williams & O’Boyle 2015). Here one includes a marker variable, such as a common latent factor as the previous method. The difference this time is all the factor loadings loading onto the CLF are firstly unconstrained and then constrained to zero (Podsakoff, MacKenzie & Podsakoff 2012). This approach controls for the portion of the variance attributable to gathering all the measures
with the same method (Podsakoff, MacKenzie & Podsakoff 2012). Then after performing maximum likelihood estimation for both the constrained and unconstrained models, a chi-square difference test between the unconstrained model and the zero-constrained model is undertaken (Podsakoff, MacKenzie & Podsakoff 2012; Williams & O’Boyle 2015). This approach tests whether the amount of shared variance across all variables was significantly different from zero based on chi-square difference test (Podsakoff, MacKenzie & Podsakoff 2012; Williams & O’Boyle 2015). If the chi-square is significant, then it was concluded method bias does exist in my measures. Strengths of this approach included, it modelled the effects of method biases at the indicator level, rather than at the construct level. It also provided a statistical test of method bias based on model comparisons. Furthermore, it is a test determining whether method biases affect all measures equally or differently (Podsakoff, MacKenzie & Podsakoff 2012; Williams & O’Boyle 2015).

Common method bias was solved by retaining the CLF, namely the unmeasured common latent method factor to estimate the model parameters (Podsakoff et al. 2003). Mainly for the reason, it was the most common, simplest and most feasible solution, to control all systematic sources of bias during hypotheses testing of relationships between constructs (Podsakoff, MacKenzie & Podsakoff 2012). Other statistical remedies were considered, such as correlation-based and/or regression-based marker variable technique. However, they were considered inappropriate, because a suitable marker variable completely unrelated to the indicators could not be identified, notwithstanding they came with several other limitations (Podsakoff, MacKenzie & Podsakoff 2012). Furthermore, the instrumental variable technique was also inappropriate, because the researcher could not identify the possible sources of method bias potentially affecting the indicators and latent variables.

The common factor analysis marker technique is too complex. It was overlooked, because it may include steps required to fix parameters, which has the shortcoming of providing incorrect standard errors and goodness of fit statistics. Furthermore, notable are the findings by Meade, Watson and Kroustalis (2007), who claimed common method bias may be in many cases inconsequential. They claimed common method bias does not necessarily threaten the validity of study conclusions in every project. Consequently, to confirm or deny this claim, this thesis reported both results in Chapter 5 by retaining and excluding the common latent factor.
4.6.2.8 Structural path model

CFA in this study was the main component of this SEM analysis. To close the data analysis for interpretation and discussion of the results, the structural model was finalised using the correlation results to confirm the relationship and hypotheses $\beta_1$ to $\beta_6$ between the factors $b_1$, $b_2$, $b_3$ and $b_4$. Qualitative analysis proceeded after the hypotheses were tested.

4.7 QUALITATIVE PHASE OF DATA ANALYSIS

Given the quantitative data was given priority; analysis of the qualitative data was kept minimal and relatively simple. Therefore, for the qualitative data, a constant comparative technique (Glaser 1965; Maykut & Morehouse 1994; Kolb 2012) with a focus on content analysis (Smith 2009; Steen, McGrath & Wong 2016) of the specific respondents’ written words only was applied. To generate common concepts, dimensions and categories, as well as emerging patterns and themes, frequency, meanings, together with relationships of words the survey informants quoted were inspected, sorted and analysed (Webb, Sweet & Pretty 2002; Sonpar, Pazzaglia & Kornijenko 2010). These commonalities were integrated into the overall interpretation of the quantitative results using insight and judgement by following some of the approaches used by Maykut and Morehouse (1994). Following the guidelines offered by Baran and Jones (2016), the collected data was organised. Thoughtfully, the transcript of each case was read in isolation of the quantitative data several times to obtain a general sense of the qualitative responses. This led to the emergence of themes or categories for each quantitative survey question. Then the data was coded into a list of themes for each question using the words emerging from the data. Coding took place manually, utilising Microsoft® Word and Excel to sort, organise, code and create the categories. Thus, the rate of recurrence, connotations and associations of the words (Webb, Sweet & Pretty 2002) respondents used to express themselves were analysed. This analysis was followed by categorising several overall themes, which is supported by the repetitive words and themes of each question. According to Baran and Jones (2016) themes create categories, which in turn summarises the findings for presentation making sense. Next, each quantitative result in conjunction with the qualitative findings considering interesting, yet important phrases or categories was analysed. Furthermore, other meanings, ideas or interpretations associated with the data were also considered. Thus, the constant comparative method was purposely used with the main aim to understand the phenomenon under investigation with minimum of interpretation (Maykut & Morehouse 1994). Consequently, respondents’ actual words quoted were used, which included
how they felt about an issue to validate the themes emerging from their responses. This form of content analysis has the main purpose to find specific words, concepts or categories within the text, which allowed us to make interpretations with regards to the quantitative results (Webb, Sweet & Pretty 2002).

4.8 CONCLUSION

The project was approached from a post-positivist [realism] paradigm using a quantitative research methodology. Structural equation modelling was the quantitative methodology used, because this project was about validating a theoretical perspective by means of exploratory factor analysis within a confirmatory factor analysis framework. This analysis was followed by confirmatory factor analysis to calculate structural relationships simultaneously between the above-mentioned four constructs. A sample of 4,000, with an 80/20 split between male and females, was drawn from the ASIC Adviser Register using probability random sampling. The study used a Qualtrics, web-based, cross-sectional designed, semi-structured survey questionnaire during both the pre-test pilot and extended main study using a continuous data Ruler/Option scale. During the pilot study, personal telephonic interviews were also conducted with participants, who consented, to make improvements to the scale of the instrument.
APPENDICES FOR CHAPTER 4

Appendix 4.1 Extended main study survey questionnaire

Main Study | Legitimacy of Current 'AR' Licensing Model - Final

LEGITIMACY OF THE CURRENT 'AUTHORISED REPRESENTATIVE' LICENSING MODEL FOR INDIVIDUAL AUSTRALIAN FINANCIAL ADVISERS

PURPOSE OF THIS RESEARCH

The purpose of this project is to examine your views on the legitimacy of the current 'authorised representative' licensing model for individual financial advisers.

This research is important because there has been much hype, myths, disagreements, overlaps, gaps and shortcomings regarding the Australian Securities and Investments Commission (ASIC) regulating the appointment, authorization, regulation and cessation (henceforth, licensing) of individual financial advisers through third-party licensees.

YOUR PARTICIPATION IS IMPORTANT

By participating in this survey, you make your voice heard to debunk or confirm some of the literature and media myths exposed to the Australian public. This study may also help shape the future of the financial planning emerging profession.

We invite you to participate in this full-scale study by completing an 'anonymous' structured survey questionnaire by 1st October 2016 to help us understand your personal thoughts and opinions regarding some of the media statements and literature commentary on ASIC licensing individual financial advisers through third-party licensees.

It requires you to check or drag a few radio buttons, answer a few open-ended questions and complete biographic details that will not identify you in your web browser or on your mobile phone.

TIME TO COMPLETE THE SURVEY

It will take you no more than thirty-five (35) minutes to complete. You do not have to complete the survey in one sitting. Your answers are saved automatically as you progress through the survey. You can come back where you left off at any time until the 1st October 2016. After this expiration date your responses will be lost.

Navigating the survey:
SECURITY OF THE DATA

This project will use an external site to create, collect, store and analyze data collected in a survey format. The site we are using is on the Qualtrics website.

No personal identifiable information will be collected in the survey, so none will be stored as data. In other words, the Qualtrics web-based survey software we use for this study allows your IP address to be masked from the researcher and others.

Once we have completed our data collection and analysis, we will import the data we collect to the RMIT server where it will be stored securely for a period of five (5) years.

The data on the Qualtrics host server will then be deleted and expunged.

PARTICIPANT COMPLAINTS

If you have any concerns about your participation in this project, which you do not wish to discuss with the researchers, then you can contact the Ethics Officer, Research Integrity, Governance and Systems, RMIT University, GPO Box 2476V VIC 3001. Tel: (03) 9925 2251 or email human.ethics@rmit.edu.au

HOW DO I COMPLETE THIS SURVEY?

This research comprises two main sections.

Section A addresses the licensing of financial advisers through third-party licensees.

Section B obtains biographic information that does not identify you.
All questions in Section A are single choice asking you to indicate your level of agreement anywhere on a scale from 0% (zero percent agreement) to 100% (hundred percent agreement) using the measurement scale called a Ruler & Option scale. See the illustration below.

For each question in Section A you can EITHER click your mouse pointer anywhere on the ruler to indicate your level of agreement OR check the 'Other' radio button. A mark on the ruler indicates your percentage of agreement to the sentences based on your level of agreement with the statement.

For example, the mark on the ruler below indicates your level of agreement is at 63% agreement.

A mark on 0% indicates no agreement at all based on your current perception, namely you totally disagree with the statement.

Please click on 50% if you neither agree or disagree.

100% indicates full agreement, this means that based on your current perception, you fully agree with the statement.

If you don’t know, don’t understand the question or the statement is not applicable to you, please click on radio button ‘Other’.

You are able to change your selection by clicking in another position on the scale or dragging the indicator to a different position or going back. After your selection, there is an optional comment box if you wish to add any further comments. There are spaces provided for the open-ended questions.

*Just make your selection on the Ruler Option scale that looks like this example:*

EXAMPLE 1) 'Authorised representatives' face an uncertain future.

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EXAMPLE 2) If you click on radio button ‘Other’, a pop-up will appear looking like this:
You have selected ‘Other’. Please indicate which **ONE** of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

---

**EXAMPLE 3)** Please state any comments in the space below (optional and limited to 100 words)

__________________________________________________________________________
__________________________________________________________________________

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**Section B** comprising biographic information are a combination of multiple and single choice questions. Please select the appropriate radio button for the single choice questions. Where applicable there are spaces provided to type in your answers. Scroll down to the next question until the end.

**Please check all the boxes that apply for the multiple-choice questions that looks like this example:**

**EXAMPLE 4)** Describe your licensee

- Aligned licensee (1)
- Independent licensee (as defined by the Act) (2)
- Other (Please enter details in the space below) (3)

---

It is important to note that there are no right or wrong answers to any of the questions.

If you wish, you may skip any questions that you do not feel comfortable answering.

**PLEASE NOTE:** Once you have completed the survey and you have come to the end of it, before closing your browser and in order for all your answers to be sent, please click the (>>) to finish.
ELECTRONIC CONSENT

In order to participate in this survey clicking on the ‘Agree’ button below confirms that you:

- have read and understood the information provided
- are an ‘authorised representative’ currently registered on the ASIC Adviser Register
- are at least 18 years of age
- are completing this survey individually
- voluntarily agree to participate in this research
- have not completed this particular survey before
- consent to the publication and dissemination of the results in a student thesis, paper for publication, conference, the RMIT Repository (a publicly accessible online library of research papers) and any other specific websites
- understand the results will be re-produced in hard copy format and/or digitally online via the internet with the understanding that anonymity, privacy and confidentiality will be preserved
- understand that at any time you may withdraw from the research, including withdrawing any information that you have provided, prior to the publication of the project report and/or examination of the thesis
- understand that the data will be retained for five (5) years after publication of the thesis/project: Legitimacy of the Current ‘Authorised Representative’ Licensing Model
- understand the project is for the purpose of PhD research
- understand it may not be of direct benefit to you
- understand the security of the research data will be protected during and after completion of the study

If you do not wish to participate in this research, please decline participation by clicking on the ‘Disagree’ button.

☐ Agree (1)

☐ Disagree (2)

Once you have made your selection, please click the (>>) to proceed ...
SECTION A

AUSTRALIAN ADVISER LICENSING

The following questions will give us an opportunity to examine the legitimacy of the current 'authorised representative' licensing model from your perspective.

Thank you for agreeing to participate. Your opinion is important.

To start Section A of the survey, please click the (>>) button ...

Q1. Advisers authorised through third party licensees face a dual agency relationship, namely an adviser-licensee relationship and an adviser-client relationship.

Please state any comments in the space below (optional and limited to 50 words).

You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Q2. Licensing advisers through third party licensees results in advisers serving the interests of their clients and licensees, simultaneously.
Q3. While serving the best interest of their clients, advisers also generate revenue for their licensees.
You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Q4. Licensing advisers through aligned licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) results in conflicts of interest from association.

For purposes of this survey:

Conflicts of interest from association is defined as the conflicts that arise when the licensee is either directly or indirectly affiliated to financial product issuers, retail superannuation or aligned platforms. These include, but are not limited to, for example,

- Financial product issuers: Commonwealth Bank (CBA), National Australian Bank (NAB), Westpac and AMP aligned groups;
- Retail superannuation: BT Super (Westpac), MLC (NAB), Colonial First State (Commonwealth Bank) and OnePath (ANZ Bank);
- Aligned Platforms: BT Wrap (Westpac) or Macquarie Wrap (Macquarie), Colonial First State FirstChoice Wrap (CBA) and North® (AMP).

Your level of Agreement (1)

Please state any comments in the space below (optional and limited to 50 words).

__________________________________________________________________________________________________________________________

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You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Page Break

**Q5.** Licensing advisers through **aligned** licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) sometimes makes it difficult for these advisers to align their interests with the best interests of their clients.

Your level of Agreement (1)

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Please state any comments in the space below (optional and limited to 50 words).

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You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Page Break

**Q6.** Advisers authorised through **aligned** licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) face unavoidable conflicts of interest from association by being affiliated to
product issuers.

For purposes of this survey:

*Conflicts of interest from association* is defined as the conflicts that arise when the licensee is either directly or indirectly affiliated to financial product issuers, retail superannuation or aligned platforms. These include, but are not limited to, for example,

- Financial product issuers: Commonwealth Bank (CBA), National Australian Bank (NAB), Westpac and AMP aligned groups;
- Retail superannuation: BT Super (Westpac), MLC (NAB), Colonial First State (Commonwealth Bank) and OnePath (ANZ Bank);
- Aligned Platforms: BT Wrap (Westpac) or Macquarie Wrap (Macquarie), Colonial First State FirstChoice Wrap (CBA) and North® (AMP).

---

Your level of Agreement (1)

![Slider](image)

---

Please state any comments in the space below (optional and limited to 50 words).

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You have selected *Other*. Please indicate which of the following applies.

- [ ] I don't understand the question (1)
- [ ] I don't know (2)
- [ ] Not applicable (3)
Q7. Licensing advisers through **aligned** licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) puts their advisers at greater risk of unintentionally breaching their best interest duty obligations to clients due to their close affiliation to product issuers.

Please state any comments in the space below (optional and limited to 50 words).

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You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Q8. Licensing advisers through **aligned** licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) limits advisers from competing on a level playing field within the industry.

Please state any comments in the space below (optional and limited to 50 words).
You have selected ‘Other’. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Q9. Licensing advisers through aligned licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) can lead to unintentional compliance breaches by their advisers as a consequence of their affiliation to product issuers.

Your level of Agreement (1)

Please state any comments in the space below (optional and limited to 50 words).

________________________________________________________________
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You have selected ‘Other’. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)
Q10. Licensing advisers through aligned licensees can lead to the commercial interests of these aligned licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) sometimes compromising their advisers' best interests duty obligations.

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Please state any comments in the space below (optional and limited to 50 words).

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You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Page Break

Q11. Licensing advisers through aligned licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) sometimes results in sales policies, procedures, and practices designed by licensees to give the appearance (window dressing) of complying with the regulatory requirements.

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Q12. Licensing professionally qualified advisers through third party licensees means that when they leave their licensee, unless they sign up with another licensee, they lose their right to work as a professional financial adviser.

![Your level of Agreement (1)](image)

Please state any comments in the space below (optional and limited to 50 words):

________________________________________________________________
________________________________________________________________
You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

---

Q13. Contributions by specific individual leaders of aligned licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) to the debate with government surrounding the licensing of advisers are aimed to protect their product distribution channels.

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*Please state any comments in the space below (optional and limited to 50 words).*

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You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

---

Q14. Licensing advisers through third party licensees is one of the reasons why the Australian public cannot clearly distinguish between advisers who provide independent advice (as defined by s923A of the Commonwealth Corporations Act 2001) and those who provide advice that may be conflicted by product bias.
Q15. Since the media has exposed the financial planning scandals, financial advisers have had to defend their relationship/association/affiliation with their licensee to clients.

Please state any comments in the space below (optional and limited to 50 words).

________________________________________________________________
________________________________________________________________
Q16. Clients would have more confidence and trust in financial advisers if advisers were licensed under a single individual license with professional standards of education, appointment, registration, regulation, discipline and cessation.

Page Break

Your level of Agreement (1)

Page Break

Please state any comments in the space below (optional and limited to 50 words).

You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)
Q17. A single individual license for individual advisers will promote independence from those licensees who may be conflicted by product bias.

Please state any comments in the space below (optional and limited to 50 words).

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________________________________________________________________

You have selected 'Other'. Please indicate which of the following applies.

☐ I don't understand the question (1)

☐ I don't know (2)

☐ Not applicable (3)

Page Break

Q18. It is 'appropriate' to license advisers with an individual license in line with other professions, such as the accounting, legal and medical professions.

Please state any comments in the space below (optional and limited to 50 words).
You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Q19. You would prefer an individual license that is regulated through a single independent registration, competency, education, conduct, standards and disciplinary board.

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Please state any comments in the space below (optional and limited to 50 words).

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________________________________________________________________________

You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)
Q20. Strategic independent advice is being taken over by the accounting profession as accountants redefine and re-position financial planning within their self-regulatory model.

Your level of Agreement (1)

0 25 50 75 100 Other

Please state any comments in the space below (optional and limited to 50 words).

________________________________________________________________
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You have selected 'Other'. Please indicate which of the following applies.

- I don't understand the question (1)
- I don't know (2)
- Not applicable (3)

Page Break

Q21. Individual licensing of advisers through a single independent professional standards board will eliminate conflicts of interest from association.

For purposes of this survey:

Conflicts of interest from association is defined as the conflicts that arise when the licensee is either directly or indirectly affiliated to financial product issuers, retail superannuation or aligned platforms. These include, but are not limited to, for example,

- Financial product issuers: Commonwealth Bank (CBA), National Australian Bank (NAB), Westpac and AMP aligned groups;
- Retail superannuation: BT Super (Westpac), MLC (NAB), Colonial First State (Commonwealth Bank) and OnePath (ANZ Bank);
- Aligned Platforms: BT Wrap (Westpac) or Macquarie Wrap (Macquarie), Colonial First State FirstChoice Wrap (CBA) and North® (AMP).
Your level of Agreement (1)

* Please state any comments in the space below (optional and limited to 50 words).

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You have selected 'Other'. Please indicate which of the following applies.

- I don't care (1)
- I don't know (2)
- Not applicable (3)

Q22. What is the difference in advice provided by aligned advisers, non-aligned advisers and independent advisers as defined by s923A of the Commonwealth Corporations Act 2001? (Limited to 100 words).

________________________________________________________________
________________________________________________________________

Q23. What are the benefits to licensees appointing, authorizing and regulating ‘authorised representatives’? (Limited to 100 words).

________________________________________________________________
________________________________________________________________
Q24. Have you ever prepared a SOA (Statement of Advice) without any product recommendations?

- Yes (1)
- No (2)

Why or why not? Please state your answer in the space below (Limited to 50 words).

________________________________________________________________

________________________________________________________________

Page Break

Q25. Have you ever applied for one-off approvals for financial products or investments not on your licensees’ approved product list?

- Yes (1)
- No (2)

Why or why not? Please state your answer in the space below (Limited to 50 words).

________________________________________________________________

SECTION B
BIOGRAPHIC INFORMATION

We are nearly there.

In order for us to breakdown the overall survey response data into meaningful results that has a context, please complete this section.

To start Section B of the survey, please follow the (>>) button and scroll down through the questions ...

Page Break
Your gender

- Male (1)
- Female (2)

Your age group

- Gen Y/Millennial (Born 1981-2001) (1)
- Gen X (Born 1965-1980) (2)
- Baby Boomers (Born 1946-1964) (3)
- Traditionalists (Born prior to 1946) (4)

Your state in which you are based to work from

- New South Wales (1)
- Queensland (2)
- Tasmania (3)
- Western Australia (4)
- South Australia (5)
- Victoria (6)
- Australian Capital Territory (7)
- Northern Territory (8)

Total number of years you have been an 'authorised representative'
Your highest level of education achieved no matter in what field

- Certificate I: Some high school, no diploma or equivalent (1)
- Certificate II: High school graduate, diploma or the equivalent (2)
- Certificate III: Some college credit, no degree or equivalent (3)
- Certificate IV: Trade/technical/vocational training or equivalent (4)
- Diploma (5)
- Advanced Diploma, Associate Degree (6)
- Bachelor Degree (7)
- Bachelor Honors Degree, Graduate Certificate, Graduate Diploma (8)
- Master Degree (9)
- Doctoral Degree (10)
Your highest level of financial planning qualification achieved

- Certificate I: Some high school, no diploma or equivalent (1)
- Certificate II: High school graduate, diploma or the equivalent (2)
- Certificate III: Some college credit, no degree or equivalent (3)
- Certificate IV: Trade/technical/vocational training or equivalent (4)
- Diploma (5)
- Advanced Diploma, Associate Degree (6)
- Bachelor Degree (7)
- Bachelor Honors Degree, Graduate Certificate, Graduate Diploma (8)
- Master Degree (9)
- Doctoral Degree (10)
- None of the above (12)

Your professional accreditation or qualifications (Check all that apply)

- Certified Financial Planning (CFP®) (1)
- Certified Financial Analyst (CFA®) (2)
- Chartered Accountant (CA®) (3)
- Chartered Life Practitioner (ChLP®) (7)
- Certified Practicing Accountant (CPA®) (4)
- Fellow Chartered Financial Practitioner (FChFP®) (5)
- SMSF Association SMSF Specialist Advisor (SSA®) (8)
- Life Risk Specialist (LRS®) (12)
- None (10)
Your membership of Professional Associations include: (Check all that apply)

○ Financial Planning Association (FPA) (1)
○ Association of Financial Advisers (AFA) (2)
○ Self-Managed Super Fund Association (SMSF) (3)
○ Independent Financial Advisers Association of Australia (IFAAA) (4)
○ Financial Services Institute of Australasia (FINSIA) (5)
○ Chartered Accountants Australia and New Zealand (ICAA) (6)
○ Certified Practicing Accountants (CPA) (7)
○ Not a member of any professional body (10)
○ Other (Please enter details in the space) (8)

Your authorised representative (AR) status is

○ Employee ‘AR’ employed by an Australian Financial Services License licensee (1)
○ Self-employed ‘AR’ under the licensee’s Australian Financial Services License (2)
○ Other (Please enter details in the space below) (3)
Describe your licensee:

- Aligned licensee (1)
- Non-aligned licensee (4)
- Independent licensee (as defined by the Commonwealth Corporations Act 2001) (2)
- Other (Please enter details in the space below) (3)

________________________________________________________________________________________

Page Break

*Before closing your browser, please click (>>) in order for your response to be recorded and to close this survey.*

Thank you for participating and for sharing your valuable knowledge.

If you want a copy of a summary of the main findings, please email s3567385@student.rmit.edu.au your contact details.

Have a nice day. This is the end of the survey.

Page Break

**ELECTRONIC CONSENT DECLINED**

As you have selected the 'Disagree' button for the Electronic Consent you cannot proceed with the survey.

If you have changed your mind and wish to participate, please click (<<) in order to go back to the Electronic Consent.

*Otherwise, before closing your browser, please click (>>) in order for your response to be recorded, to avoid any future reminder emails and to close this survey.*

Thank you and have a nice day. This is the end of the survey.
CHAPTER 5: CONTEXTUALISING THE CURRENT LICENSING MODEL OF FINANCIAL ADVISERS: PRELIMINARY ANALYSIS USING CONFIRMATORY FACTOR ANALYSIS

5.1 INTRODUCTION

After the development of an empirical model in Chapter 4 based on the theoretical construct of the legitimacy of the current AFSL-AR licensing model in Chapter 3, this chapter reports the empirical results of the pilot study. Next, a dialogue is provided on the main difficulties encountered when developing the theory, as well as when collecting and analysing the data during the extended main study. Thereafter, the results of screening the data are presented, while performing exploratory factor analysis applied within a confirmatory factor analysis framework. Subsequently, the results are offered before and during confirmatory factor analysis. Then after respecification, the model is tested for contraventions of any statistical assumptions, so that the data can be interpreted accurately in the next chapter.

5.2 PRELIMINARY PRE-TEST PILOT STUDY RESULTS

By examining the pre-test pilot study results, it was clear some internal validity issues required modifications to the research instrument. The pilot study also revealed when advisers considered the licensee-adviser-client relationship their perceptions indicated some significant differences between financial planning scholarly theory, the intent of the legislation and financial planning practice. Further exploration of this issue occurred in the interviews to improve the main survey instrument to obtain a better understanding of the underlying challenges the financial planning discipline faces.

5.2.1 Pilot data collection, response rate and data screening results

Problems with response rates for the pre-test pilot study were evident. By 14 April 2016, response rate was below the desired 30 per cent [6.67 per cent], whereby a reminder email with a link was sent out to the selected 30 prospective respondents, providing them with a second opportunity to complete the survey to participate. A week before the survey closed the response rate was sitting at 10 per cent and below the desired 30 per cent. Consequently, on 22 April 2016, a third email was sent out to the selected sample providing them with a third opportunity to participate in the survey. Recall that during the pre-test pilot phase an additional 10
respondents were surveyed. Initially, this survey was to close on the 20 May 2016 [see timeline in Figure 4.8], but this date was extended to 31 May 2016, because despite testing the survey prior to emailing it from Qualtrics, a respondent notified the researcher by email on 13 May 2016 the survey was inaccessible. In addition, the webpage gave the error message the survey had expired. After discovering the expiry date settings within Qualtrics were incorrect, this problem was rectified by changing the date settings to 31 May 2016. Then another problem was identified while this pilot data collection was underway. On 26 May 2016, a technical coding problem was discovered with the ruler-option scale, which, as mentioned in Chapter 4, Qualtrics had customised specifically for this research. Qualtrics Technical Support Team rectified this problem by 27 May 2016 when they discovered a software update affected the coding of this customisation. Fortunately, this incident occurred during the pre-test to avoid this issue in the extended main study.

Although a more time-consuming and difficult approach, it was evident from the pilot study, the probability random sampling technique was effective, but at the cost of low response rates. The overall response rate during phase one [survey questionnaire] was 32.5 per cent [13/40]. Two or 15.38 per cent of the 13 survey recruits gave up in the early stages of the survey and were discarded. Except for Cognitive [a13] and Defend [a14], 18 out of the 20 questions had no missing data. Six questions elicited ‘I don’t know’ responses, while four chose ‘not applicable’. No adviser indicated they did not care. Adjustments to the coding of the data was needed for three questions, namely Align [a4], Competition [a7] and Cognitive [a13]. Their scores were reversed to void negative factor loadings, which will hence affect alpha when testing the reliability of the measurement scale (Field, 2014). In contrast to the other questions, they were phrased in the opposite direction or in reverse order.

Of the 10 contacted for the interview phase, connections were made with eight prospective participants by phone, while two remained uncontactable. Of the eight, one declined to participate due to a heavy workload. Therefore, with a response rate of 17.5 per cent, seven semi-structured open-ended telephonic interviews were conducted over 29 days from 11 May 2016 to 8 June 2016 with two females and five male volunteers. Although the pilot study interview volunteers agreed telephonically to participate in the interview phase, sending them a follow-up email to arrange consent forms for their signatures and return by email prior to the interviews being conducted took a few attempts. In some instances, encouraging them to complete the consent forms required a telephone call. Some were unaware the written consent for the pilot study was important and others apologetically claimed to be too busy.
5.2.2 Quantitative pilot findings

Noteworthy, given the small survey sample size \([n = 11]\), representativeness could not be established with certainty. Nonetheless, the pilot study indicated recruiting participants by direct email might not produce the required response rate for a study of this nature. Consequently, as a back-up plan to ensure an appropriate sample for the extended main study, if a low response rate should potentially occur, consideration was given to recruit survey participants from the member list of financial planning professional associations with their consent.

When considering outliers, it was clear from Graph 5.1 evidence of outliers are present on variables Association \([a_2]\), Personal \([a_{12}]\) and Professions \([a_{17}]\). These outliers were retained, especially given reasons behind them all were difficult to establish.

Graph 5.1 Boxplot of the effect of outliers on the pilot data in terms of level of agreement
Table 5.1, below, indicate Cognitive \([a_{13}]\) had the highest mean value of 79.45 per cent with a standard deviation [SD] equal to 30.24 and 95 per cent confidence interval [CI] of 59.14 to 99.77 for the survey sample of 11. While Takeover \([a_{19}]\) had the lowest mean [M] value of 41.64 per cent with SD = 45.61 and 95 per cent CI of 10.99 to 72.28. For variables Association \([a_2]\) M = 78.18 with SD = 34.67 and 95 per cent CI from 54.89 to 101.47. While for Professions \([a_{17}]\) M = 77.00 with SD = 35.91 and 95 per cent CI from 52.87 to 101.13 where the upper boundary for the CI exceeded 100. From Graph 5.1, the mean scores of most estimates fell within the centre of the confidence interval boundary of the population. The standard deviations and standard errors [refer to Table 5.1] were small relative to the mean. Therefore, not a cause for concern for the future extended study.

Using z-scores, PP-plots, Kolmogorov-Smirnov and Shapiro-Wilk tests, the data showed some violations of normality. Except for Personal \([a_{12}]\), Cognitive \([a_{13}]\) and Professions \([a_{17}]\) negative kurtosis indicated a flat and light-tailed distribution. Although expected in a small sample size, except for Takeover \([a_{19}]\), they were within the acceptable range between negative and positive two. Low scores in the distribution was evident in the negative skewness statistics with the exceptions of Takeover \([a_{19}]\) and Unconflicted \([a_{20}]\). Further evidence suggested most variable distributions were moderately symmetrical with skewness values between negative one and negative a half or positive a half and positive one. Highly skewed values less than negative one or greater than positive one were also evident. These violations of the assumptions of normality led to considering the robust method of bootstrapping to reduce bias (Field 2014) in the extended main study.

Using the Levene’s test for a small sample size to determine whether the distribution may show potential heteroscedasticity [or homogeneity of variance], it was evident for both males and females the variances were unequal and significant at the \(p < 0.05\) for variables Fiduciary \([a_6]\) where variance ratio for Levene’s test F with degrees of freedom \([df_i, df_z]\) one and nine \([1, 9]\) equals 12.64 where \(p = 0.006\), Regulative \([a_8]\) F \([1, 9]\) = 12.686 \(p = 0.006\), Consequential \([a_9]\) F \([1, 9]\) = 51.104 \(p = 0.000\), Procedural \([a_{10}]\) F \([1, 9]\) = 21.86 \(p = 0.001\), Structural \([a_{11}]\) F \([1, 9]\) = 48.765 \(p = 0.000\) and Defend \([a_{14}]\) F\([1, 9]\) = 7.387 \(p = 0.024\). On the whole, the survey responses produced a Cronbach alpha (Field 2014) value of 0.945, which was greater than the threshold of .70 (Field 2014). Thus, overall scale reliability is questionable. However, overall the quantitative results of the pilot were positive, with the bias of data not too serious.
Table 5.1 Pre-test pilot descriptive statistics

<table>
<thead>
<tr>
<th></th>
<th>N</th>
<th>95% CI Lower</th>
<th>95% CI Upper</th>
<th>Mean</th>
<th>Std. Error</th>
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<tr>
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<td>28.83</td>
<td>79.54</td>
<td>54.18</td>
<td>11.379</td>
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<tr>
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<td>54.89</td>
<td>101.47</td>
<td>78.18</td>
<td>10.454</td>
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<td>Eliminated</td>
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<td>89.26</td>
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<tr>
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<td>53.88</td>
<td>96.31</td>
<td>75.09</td>
<td>9.522</td>
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<tr>
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<td>75.21</td>
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<tr>
<td>Competition</td>
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<td>97.51</td>
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<tr>
<td>Regulative</td>
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</tbody>
</table>

The quantitative exploratory descriptive analysis indicated globally the estimates for most variables were acceptable. Whereas Cognitive \([a_{13}]\) measuring whether ASIC outsourcing adviser licensing to product-aligned licensees provides the Australian public a clear distinction between those advisers who provide independent advice [as defined by the Act] and those advisers who provide conflicted-product advice produced problematic results. This issue seemingly posed the most problems of potential bias based on evidence of missing data, outliers and violations of the normality assumptions necessary for parametric testing using CFA. Despite this one problematic variable, overall, the pilot study found most variables measured what they intended to measure to answer the main research question.
5.2.3 Qualitative pilot findings

The interviewees comprised three aligned advisers, including an ex-bank employee, and four who claimed to be non-aligned despite not meeting s923A of the Act. Two advisers were in the process of changing licensees. Although no independent advisers were interviewed, one interviewee was in advanced stages of self-licensing with the objective to market their services in the future as an s923A ‘independent’. The full transcripts of the interviews, in de-identifiable format, totalled 15,750 words of transcription. On the grounds of an initial emotive email and first interviewee’s responses, the interview times increased from the planned fifteen to thirty minutes to an average of one hour and forty-five minutes’ duration, where each survey question was explored in-depth with the interviewees.

Distributing and collecting the questionnaires online was the most preferred method for many pilot study interviewees. After evaluating the success of data collection and retention of participants, it was evident the questionnaire content needed some further refinement. Specifically, the preamble of the questionnaire was shortened for the extended study to ensure it was clear to advisers their perceptions were being measured. Participants claimed they did not like the negatively worded questions, because they were difficult to understand. Therefore, these were removed for the extended study. Although two interviewees wanted to see some changes to the structure, sequence and organisation of the questionnaire, this suggestion was not implemented because, per the research findings by Dunn, Jordan and Croft (2003, p. 14) “chronologically structured questionnaire had significantly quicker returns and higher response than a traditionally structured questionnaire.” Thus, the survey questions for the extended study were numbered and continued to follow the sequence of the literature review.

Although the order of the questions was maintained, amendments included adding additional questions [hence, variables] to the variable Dual, increasing it from three to four variables. Two irrelevant questions were also deleted after amendments were made to the literature review chapter. These deletions aimed to mitigate the probability of respondents not responding to any of the questions, leading to more missing data. Attempts were made to make the objective of the questions clearer by re-phrasing questions. The additional questions are discussed in more detail below. To the majority of interviewees, barring Interviewees C and E, the overall personal impressions of the ease of use of the ruler-option scale developed by Yusoff and Mohd Janor (2014) and custom-designed and coded by Qualtrics Technology Support team for this study were favourable. It was found appropriate and provided an adequate range of responses for the closed-ended questions. Hence, it was retained in the full-scale extensive study, with
one modification. The option ‘I don’t care’ was replaced with ‘I don’t understand’, because none of the pilot participants used this option.

In the foregoing section, the actual words of the interviewees are reported in double quotation marks. Two aligned advisers [Interviewees A and G] felt all the questions appeared biased. Interviewee A, who wanted to give up part way through the survey, claimed: “to me, an aligned adviser, it came across as biased”107. Interviewee G concurred: “As I went through the questionnaire, I found it to be very biased towards advisers doing the wrong thing.” Accordingly, where possible, some of the questions were reworded to be more neutral for the extended study. Interviewees B and C wanted to see definitions of certain terms. Based on the feedback from interviewees, the content of most of the questions were reworded into simpler language, with definitions. For example, the term ‘Statutory Fiduciary’ [\(a_e\)] duty is not a word most interviewees were familiar with or generally used in practice. Therefore, as requested by the interviewees, it was replaced with the term ‘best interest duty.’

Interestingly, during the pilot interviews and data analysis of the interview transcriptions, unexpected themes emerged (Polukhina 2015) around the licensing of advisers and how they viewed their identity, role and performance. Identifying these themes resulted in further amendments to the survey questionnaire. One interesting emergent theme mirrored in media reports (Vickovich 2015; Santacruz 2016c), which was surmised would affect the extended main study, included the misunderstanding, misinterpretation and consequently misapplication of the legal terms of s923A of the Act. For instance, the terms “independent as defined by Act”, “independent”, “product-aligned” and “non-aligned” were specifically mentioned by the interviewees but not within the context as s923A intended. At the time of the pre-test pilot study, the terms “non-aligned”, “non-institutionally owned” and “independently-owned” were used in circumstances when advisers did not meet s923A. Participant B asked, “In the study make it clearer are you dealing as an independent as defined by the Act, or an independent licensee that has affiliations with product distributors. Make the definition much more clear. Not clear whether the study is aiming for advisers to meet the Corp Act definition of the study. Product-aligned can be conflicted (banks and industry super funds) and non-conflicted (AMP, MLC), independent, non-aligned.” In practice at the time of the pilot, it was clear advisers had various permutations of the term independent, not just the one s923A version. These variations

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107 Please note about the qualitative results, the thesis reports the actual words of the participants in italics within double quotation marks when combining the qualitative results with the quantitative results. In addition, to maintain the integrity of the comments, correction to the respondents’ typographical and grammatical errors did not occur.
made it difficult for five of the seven interviewees to understand and interpret some of the survey questions within the context of the current licensing model of financial advisers. Indication of the misunderstandings were reflected in Respondent C’s commentary: “When I first entered the industry the biggest challenge was the terminology and acronyms. Get your head around all of that and definitions?” Aligned Respondent G claimed “Independent versus aligned? No difference.” Whereas non-aligned adviser F, who claimed to deliver independent advice without meeting all the requirements of s923A: “We operate as independent, but reason we cannot be... there are advisers of Dover who still receive commission.” Then as the interview progressed s[he] explained: “Australians don’t differentiate (independent from aligned).” Nevertheless, as already noted in Chapter 2, after obtaining legal advice, the Australian Securities and Investments Commission (2017b) confirmed any terms related to the words ‘independent’, ‘impartial’ or ‘unbiased’ cannot be used to describe the services offered by advisers. The respondents were clearly sensitive to the issue of product affiliations and ownership of licensees and advisers. Noteworthy, were the unexpected emotional responses from three interviewees [A, D, F] when reflecting on each question and discussing how they understood these terms. Non-aligned advisers’ A and D who claimed non-alignment while indirectly affiliated to product issuers, were especially sensitive around advisers who they referred to as “so-called independents.” For aligned adviser A: “So-called independents call themselves independent…ASIC have not made these independents accountable for being aligned & conflicted.” Unlike non-aligned Interviewee E, non-aligned Interviewee D was aware of only a handful of independents meeting s923A’s definition. S[he] provided the following examples of “…so-called independents…non-aligned…PIS, Synchron & Patron…” when they were aligned. This respondent thinks non-aligned cannot be independent unless “they widen their APL and go through the process of due diligence of all products.”

Evidence of misapplications came from comments by for example aligned C: “…with product-aligned, use examples…AMP & Westpac…in my mind independent advisers are advisers who work for AMP…product-aligned advisers are the banks”. Interviewee E explained, “…product-aligned advisers are bank advisers & AMP. PIS advisers are non-aligned and IFAs.” Interviewee E verbally reflected on the matter demonstrating further confusion: “AMP and banks are product-aligned, because the APL is narrow and they only have the one FLS platform with the majority of AMP products on it. PIS is a badge of BT-wrap, a product-aligned situation, but not paid more than a Macquarie-wrap or Colonial or whoever. We can use any admin platform with many investment options…PIS is a badge of BT-wrap, a product-aligned
situation”. With a play on words, services were being referred to as independent, even though the requirements of s923A of the Act were not being met. A disgruntled non-aligned adviser D stated, “whether product-aligned or ‘so-called independent’…receiving kick-backs for their so called ‘white label’ products.” This confusion seems to lead to perceptions as expressed by non-aligned adviser F, “…so we show value of being different…reasons why Dover, they are independent financial planners to the client”. Some advisers indicated two, others three and participant B identified four categories of licensees and advisers, namely (1) conflicted product aligned, (2) non-conflicted product aligned, (3) independent and (4) non-aligned. A respondent of an aligned licensee as non-conflicted product-aligned viewed even aligned advisers.

Possible reasons for the misunderstanding, misinterpretation and misapplication, it seems, may be because non-aligned B claimed, “Many advisers do not know what is required to meet the independence rule of the Act. Conflicted product-aligned are advisers who cannot recommend other products on the APL that are not bank products. Then there are product-aligned who can recommend other sponsors products.” Respondent non-aligned E confirmed Participant B’s aforementioned commentary about s923A when they admitted despite using Google search engine they did not really get a simple explanation for “independent as defined by the Act and found it difficult to understand.” After their admission s[he] asked, “What’s the right interpretation of the laws?” Interviewee aligned A felt it was “difficult to understand the legislation”. Respondent aligned C commented: “It’s not the advisers, it is the legislated stuff that caused the complications.” Upon further reflection, Interviewee C claimed: “…Government involvement, make it complicated.” From these findings, clearly this topic was more complex than the literature review revealed. Thus, from the foregoing, the quantitative results in the extended main study would have been difficult to interpret if additional information was not obtained. Especially information about how survey respondents understood the question within the context of the above definitions of independence. All the interviewees felt the closed ended “survey questions are restrictive” [Interviewee A] and they wanted a “comment section that is not mandatory [optional]” [Interviewee G] to explain their answers. Subsequently, interviewees’ recommendations of including optional open-ended questions was implemented to provide some of this detail. Therefore, the range of answers on each multiple-choice question in the survey was increased to include an optional open-ended comments option for the extended study. Especially when it is well-known closed-ended questions in surveys are conducive to bias and may be confining (Sekaran 2000).
The pilot’s preliminary interview phase findings, and recommendations from experts attending presentations at various conferences on this topic, highlighted the need to explore the extent of the misunderstanding, misinterpretation and misapplication of the Corporations Act within the context of licensing further in the main full-scale study. Thus, the following four additional open-ended questions were included:

Question 1: What is the difference in advice provided by aligned advisers, non-aligned advisers and independent advisers as defined by s923A of the Commonwealth Corporations Act 2001?

Question 2: What are the benefits to institutional licensees appointing, authorising and regulating authorised representatives?

Question 3: Have you ever prepared a SOA [Statement of Advice] without any product recommendations? [Why or why not?]

Question 4: Have you ever applied for one-off approvals for financial products or investments not on you licensees’ approved product list? Why or why not?

Despite Interviewees expressing each question did not have the correct level of detail, specifically definitions and examples for the terms used in the survey, it was decided only the definition for conflict of interest from association would be included. Advisers needed to be clear on the type of conflicts of interest of concern in this study, to avoid them focussing on the already well-documented conflicts from remuneration or other types of conflicts. How advisers understood other terminology within the survey form will reveal the extent theory and practice differ. Thus, the following statement was added to three questions in the survey:

‘For purposes of this survey: Conflict of interest from association is defined as the conflicts arising when the licensee is either directly or indirectly affiliated to financial product issuers, retail superannuation or aligned platforms. These include, but are not limited to, for example,

- Financial product issuers: Commonwealth Bank [CBA], National Australian Bank [NAB], Westpac and AMP aligned groups;

- Retail superannuation: BT Super [Westpac], MLC [NAB], Colonial First State [Commonwealth Bank] and OnePath [ANZ Bank];

- Aligned Platforms: BT Wrap [Westpac] or Macquarie Wrap [Macquarie], Colonial First State FirstChoice Wrap [CBA] and North® [AMP].’
All the above amendments lengthened the questionnaire substantially. Even though the survey form was revised, it was not piloted again. In conclusion, it was important based on the findings of the pilot study, the extended main study, on an increasingly topically delicate issue, should be conducted.

5.2.4. Pilot limitations

A major limitation in the pilot stage of the analysis was the issue of restricting the pre-test pilot study to only twenty closed-ended questions in the survey questionnaire, limiting the interpretation of the findings. This constrained a thorough analysis of the results. Thus, open-ended questions were included in the extended main study to obtain a richer understanding of the quantitative results.

In retrospect, in terms of recruiting participants for interviews, the survey questionnaire could have been administered better. Nonetheless, for the main study it was a non-issue, because no interviews were included in its research design.

During the interview phase of data collection of this pilot study, the researcher telephonically collected self-reported qualitative data from interviewees. This was a limitation, because it was difficult to validate and verify the data independently (Brutus, Aguinis & Wassmer 2013). According to Brutus, Aguinis and Wassmer (2013) the biases of this self-reported data could potentially include selective memory bias, telescoping bias, attribution and exaggeration. No evidence of any qualified accountants among the authorised representative respondents recruited was found. Thus a limitation of this pilot study is it did not cover the full spectrum of qualifications and experts evident in the financial planning advice population. Furthermore, other financial planning stakeholders were excluded from the population; because of concern in this study is advisers’ views on the current and proposed future licensing. The study also only included potential respondents with publicly available email addresses. Thus, authorised representatives who did not have an online presence with searchable emails addresses available on the first page of the Google search results were excluded from the study.

The presence of outliers, plus the violations of the normality, linearity or additivity and homoscedasticity assumptions for some of variables made any preliminary non-significant confirmatory factor analysis and interpretations impossible. Given the sample size was small \( n = 40 \) with a response of 11 cases of useable survey questionnaires, the pilot study could not assess the proposed structural equation modelling techniques to uncover potential problems using IBM AMOS v24. Even so, the aim of this pilot study was not to test hypotheses with
statistical significance [p-values] and make inferences (Leon et al., 2011), because the sample size was too small. With the small size of the sample, an acceptable caveat was some significant relationships, representative distribution of the population and generalisability [whether the model provides a good predictor of future observations] (Myung, Tang & Pitt 2009) could not be established from the pre-test data. However, the pilot study attempted to test the viability of the methodology, identify any adjustments needed in the design of the larger extended study (Leon, Davis & Kraemer 2011) as well as to test feasibility of doing a full-scale study (Fain, 2010). By switching on the functions ‘Allow non-positive definite covariance matrices’ and ‘try to fit unidentified models’ in AMOS the a priori model ran. Therefore, it confirmed with a large enough sample size structural equation modelling was a feasible approach to use in this enquiry. This was important to increase the main study’s probability of success (Leon, Davis & Kraemer 2011). By making the necessary changes to the extended main study survey questionnaire, it assisted in improving its success. The interviewees comments helped improved the questions (Dolnicar, Grün & Leisch 2011) with the intention of minimising misleading empirical results and erroneous hypothesis decisions or theories (Rossiter 2008) in the main survey questionnaire. Still, it was impossible to solve all the participants’ problems.

5.2.5. Pilot summary

In closing, the pre-test pilot study survey and interviewees’ feedback were both frustrating and time-consuming. For instance, the collection process produced some trying challenges and unforeseen problems during the research process. Even so, some of the research processes and outcomes from it were useful, especially in terms of making the necessary adjustments to the research instruments structure, content and wording. Notwithstanding administering the survey questionnaire and ensuring the survey, variables and the content were realistic and workable. Encouraging was the finding most interviewees reported the survey made them think about licensing in a way they had not really thought about before. A surprising discovery was how emotive some of the interviewees felt about conflicts of interest within the context of the present licensing regime. The constructive and harmful comments of the interviewees were useful indicating the survey is not only topical, but also controversial. Despite the above limitations, this pilot study was intended to lay the groundwork for the future extensive main research project, as well as to generate initial critical discussion on the issue of licensing financial advisers in Australia. Critical discussion was achieved based on media reports (Hoyle 2016, 2017g, 2017a, 2017c, 2017b, 2017e; Professional Planner 2017b) at the time the main full-scale study was being conducted. Hence, the pilot study demonstrated this was a viable
and worthwhile area to explore in further extensive research using a representative sample size with more detailed empirical analysis to guide the future of financial planning.

5.3 MAIN STUDY RESULT ANALYSIS

Of the respondents who satisfied the eligibility criteria of the questionnaire, a total of 608/4,000 [15.2 per cent] authorised representatives responded. Longstanding, it is typical for survey response rates to be generally low (Sekaran 2000). Next, these cases were screened to determine the useable and valid data suitable for SEM technique.

The survey was closed on 1 October 2016. Prior to downloading the data from Qualtrics, the researcher deleted all the preview tests prior to the main study going live. About 10 responses downloaded, with dates and times falling outside of the start date of 30 August 2016 and time of 1.00pm when the survey was emailed. Therefore, any surveys completed prior to 1.00pm were deleted. When electronic consent and invalid responses were considered, among the incomplete responses were those who provided their consent to participate. Yet, they did not proceed with the survey, were answering dropouts or lurkers (Cooper & Schindler 2014). These, together with the four who declined to participate, were all dropped from the dataset.

Before proceeding with handling the missing data, some cases of respondent answers to open-ended questions’, especially in Section B of the survey, were recoded in line with the format for the variable specified in SPSS. For example, when asked to offer details of the number of years the respondent was an authorised representative, some would respond with “In practice since 1987, DFP 1993, licenced under FSR since 2004”, “Thirty years” or “Twenty”. These responses were converted into a number.

Turning to questions on Professional Qualifications, Professional Associations, AR and Licensee Status, as well as the open-ended ‘Other’ options, were also recoded into appropriate formats. Only 17.94 per cent [47/262] in 98 instances [Table 1 in Appendix 5.1] claimed the questions in Section A of the survey were irrelevant to them or they misunderstood the question. Even so, it only involved a negligible 1.78 per cent [98/5,502] of all the possible data points for modelling in AMOS. Without a doubt, 68 per cent [67/98] of the other responses making up 1.22 per cent [67/5502] of the data points for section A answered did not know, with only 16 per cent [16/98] and 15 per cent [15/98] finding the question inapplicable or difficult to understanding, respectively. So, with these small percentage, plus applying solutions by Tabachnick and Fidell (2007) and Lynch (2003, 2006) to missing data where less than five per cent of the data points were missing for large samples, the best approach was to
impute the neutral value of 50 per cent on the ruler-option scale. This neutral value is most suitable compared to other remedies proposed in the literature, and hence should not bias the findings in terms of responses. Especially given the respondents were uncommitted to either agreeing or disagreeing. Some respondents provided the following explanation for this uncertainty: “Cant score this one either, it would be misleading.” “I have never worked in that environment so I do not know.” “Unsure as I am not in, nor ever been in that situation.” “I have no experience of this personally…” “I don’t understand the question.” “I find this difficult to answer.” “I have no way to substantiate this.” For reasons explained in Chapter 4, using a value of 50 per cent adjustment to the empty fields for \( a_1 \) to \( a_{21} \) who selected ‘Other’ was considered more appropriate substantively. Especially given, alternative methods have the disadvantage of providing a value that commits the respondent to agree or disagree, when they were undecided, non-committal or unsure or had no experience, were indifferent, nor had an opinion about the matter. Additionally, given a neutral value of 50 per cent is available on the ruler-option scale. Especially if one of the main aims of this study is to answer the research question of the extent or level of agreement of the legitimacy of the current AR model, which should include those who neither agree or disagree, which is not a useless response.

![Figure 5.1](image-url)

**Figure 5.1 Overall summary of missing values for Section A of the questionnaire**

The missing data in the survey questionnaire was also negligible [Figure 5.1 above]. Section A of the survey produced evidence of five [1.90 per cent] cases out of 262 cases with missing data and about half [47.62 per cent] of the number of variables with missing data. Only 0.2 per cent [11] missing values in the entire sample as illustrated in Figure 5.1. When data was examined in terms of the pattern of missing data in the Table 2 in Appendix 5.2 at the end of the chapter, case 171 had missing data of less than five per cent. Although Lynch (2003) proposed to just list wise delete the missing observations if less than five per cent missing, and
AMOS automatically addresses missing data for list wise deletion when using MLE, this remedy was not implemented to avoid losing efficiency. Furthermore, Harrington (2009) claimed any list wise deletion can result in a loss of power by reducing the sample size leading to inefficiency in estimating SE of a parameter. Cases 165 and 108 in Table 2 in Appendix 5.2 had missing values greater than five per cent, but less than 10 per cent. A method recommended for these cases is a regression-based imputation method whereby the missing data is replaced with regression means for missing values between five per cent and 10 per cent (Lynch 2003). This remedy was also rejected, because Lynch (2003) claimed a limitation of this approach found during their simulation it produces mean imputation or correction biases. Cases 198 and 261 had missing data greater than 10 per cent, but less than 20 per cent. Thus, Lynch (2003) endorsed using a selection model or sophisticated technique for handling the missing data for data clearly not missing at random [MAR]. If MAR, then one can then either list wise delete or use some method of imputation, for example, multiple, hot decking and expectation-maximization. Although, all these proposed solutions seem reasonable, the dummy variable adjustment method was used, whereby the missing values on a variable are replaced with the neutral value of 50 per cent, signifying undecided or unsure [neither agree or disagree], non-committal, inapplicable, or misunderstanding the question. This remedy was considered more appropriate for this research than other methods, because it will least likely bias the findings.

![Figure 5.2 Overall summary of missing values for Section B of the questionnaire](image)

Figure 5.2 Overall summary of missing values for Section B of the questionnaire

Figure 5.1 and the pattern of missing data [Table 2 in Appendix 5.2] shows, combined with a negligible 11 out of 5,502 [.2 per cent] data p identified as missing overall, the dummy variable imputation method should not bias the parameters, nor importantly, the standard errors (Lynch 2003). As Tabachnick and Fidell (2007) recommended if five per cent or less of the data points were missing at random for large samples, then any method to handle missing data can be used.
The small percentage [and number] of ignorable missing data in Section B of the questionnaire [see Figure 5.2 above], were only reported without any modification (Cooper & Schindler 2014). This approach of tolerating the missing data was appropriate, because they form a small percentage of the total data points, did not exist in critical areas and were not worth the time, cost and effort to correct (Cooper & Schindler 2014, p. 378). Furthermore, the survey’s Section B questions were not used in the modelling of the data, except during multi-group analysis for cross-validation and invariance testing. This data provided the context and to assist with some of the interpretation of the results to answer the research question (Cooper & Schindler 2014).

Graph 5.2 Boxplots of univariate normality and outliers

When the data for outliers were inspected, 21 or 0.382 per cent [21/5,502] univariate outliers for model fit and prediction (Aguinis, Gottfredson & Joo 2013) were detected in the box plots in Graph 5.2. These box plots generated in SPSS indicated just a small number of responses were away from the mean and heavily weighted toward the upper half of the ruler-option scale. Three variables, namely Dual [9 outliers], BestRev [6 outliers] and Personal [6 outliers] show
outliers [Graph 5.2] in SPSS analysis. The responses collected did not fall into a normal distribution. Violations of univariate normality is confirmed by the SPSS generated histograms and PP-plots which was clearly indicated by s-shape skewness, resulting in the distributions being significantly different from a normal distribution.

To detect model fit outliers in the space of the predictors that stands distinctly apart from all the other, Mahalanobis d-squared (Stevens 1984; Gaskin 2011; Byrne 2013) was used. A review of Table 3 in the Appendix 5.3 shows in p1 column\textsuperscript{108} and p2 column\textsuperscript{109} the correlations between the variables for these responses are abnormal or significantly different to the rest of the data set for this model (Byrne 2013). However, there was no theoretical or empirical justification to remove these records just because they did not fit the theory or to achieve more accurate beta or regression weights, and hence a better fitting model. Therefore, they were retained for further analysis and interpretation.

Furthermore, the multivariate kurtosis value of 87.028 in Table 5.2 referred to the Mardia’s coefficient (Byrne 2013) confirmed non-normality of the data. In this table, negative skewness statistics for all variables, except for Regulative \([a_9]\), was evident. Evidence of highly skewed distributions [values less than minus one or greater than plus one] occurred for variables Dual \([a_1]\), BestIRevenue \([a_3]\), CoIAssociation \([a_4]\) and Personal \([a_{13}]\). Evidence of distributions moderately symmetrical [skewness values between minus one to minus a half and plus a half to plus one] include CoIAct \([a_6]\), Consequential \([a_{10}]\), Procedural \([a_{11}]\) Structural \([a_{12}]\), Cognitive \([a_{14}]\), Trust\([a_{16}]\), Independent \([a_{17}]\), Professions \([a_{18}]\), and IPFPSB \([a_{19}]\). Likewise, negative kurtosis scores seem evident for most variables, apart from Dual \([a_1]\), BestIRevenue \([a_3]\) and Personal \([a_{13}]\). Nonetheless, the kurtosis values, which indicated a fairly flat and light-tailed distribution were within the acceptable range of minus two and plus two (Sposito, Hand & Skarpness 1983). Although no clear consensus in the literature as to how large the values should be, only variables with skew index absolute values greater than three (Kline 2010) and kurtosis index absolute values greater than seven (Byrne 2013) or 10 were considered troublesome (Kline 2010). Therefore, visibly none of the reported skewness and kurtosis indicated problematic levels of concern.

\textsuperscript{108} p1 is the probability of any observation exceeding the squared Mahalanobis distance of that observation. Problematic is when the Mahalanobis distance is high or shows a larger difference compared to any of the other variables in the same table. Small numbers of p1 less than 0.05 are generally expected.

\textsuperscript{109} p2 shows the probability that the largest squared distance of any observation would exceed the Mahalanobis distance computed. However, small numbers of less than 0.01 in the p2 column, on the other hand, indicate observations that are improbably far from the centroid under the hypothesis of normality (Arbuckle 1997).
Table 5.2 Assessment of normality [Group number 1]

<table>
<thead>
<tr>
<th>Variable</th>
<th>Min</th>
<th>Max</th>
<th>Skewness</th>
<th>C.r.</th>
<th>Kurtosis</th>
<th>C.r.</th>
</tr>
</thead>
<tbody>
<tr>
<td>a1</td>
<td>0</td>
<td>100</td>
<td>-1.381</td>
<td>-9.126</td>
<td>0.728</td>
<td>2.405</td>
</tr>
<tr>
<td>a2</td>
<td>0</td>
<td>100</td>
<td>-0.453</td>
<td>-2.996</td>
<td>-1.237</td>
<td>-4.086</td>
</tr>
<tr>
<td>a3</td>
<td>0</td>
<td>100</td>
<td>-1.329</td>
<td>-8.779</td>
<td>0.808</td>
<td>2.669</td>
</tr>
<tr>
<td>a4</td>
<td>0</td>
<td>100</td>
<td>-1.130</td>
<td>-7.467</td>
<td>-0.093</td>
<td>-0.307</td>
</tr>
<tr>
<td>a5</td>
<td>0</td>
<td>100</td>
<td>-0.413</td>
<td>-2.728</td>
<td>-1.421</td>
<td>-4.696</td>
</tr>
<tr>
<td>a6</td>
<td>0</td>
<td>100</td>
<td>-0.673</td>
<td>-4.450</td>
<td>-1.100</td>
<td>-3.634</td>
</tr>
<tr>
<td>a7</td>
<td>0</td>
<td>100</td>
<td>-0.406</td>
<td>-2.680</td>
<td>-1.312</td>
<td>-4.334</td>
</tr>
<tr>
<td>a8</td>
<td>0</td>
<td>100</td>
<td>-0.062</td>
<td>-0.406</td>
<td>-1.465</td>
<td>-4.841</td>
</tr>
<tr>
<td>a9</td>
<td>0</td>
<td>100</td>
<td>0.091</td>
<td>0.600</td>
<td>-1.485</td>
<td>-4.905</td>
</tr>
<tr>
<td>a10</td>
<td>0</td>
<td>100</td>
<td>-0.635</td>
<td>-4.193</td>
<td>-1.081</td>
<td>-3.573</td>
</tr>
<tr>
<td>a11</td>
<td>0</td>
<td>100</td>
<td>-0.508</td>
<td>-3.357</td>
<td>-1.278</td>
<td>-4.224</td>
</tr>
<tr>
<td>a13</td>
<td>0</td>
<td>100</td>
<td>-1.294</td>
<td>-8.550</td>
<td>0.641</td>
<td>2.118</td>
</tr>
<tr>
<td>a14</td>
<td>0</td>
<td>100</td>
<td>-0.567</td>
<td>-3.749</td>
<td>-1.140</td>
<td>-3.768</td>
</tr>
<tr>
<td>a16</td>
<td>0</td>
<td>100</td>
<td>-0.587</td>
<td>-3.882</td>
<td>-1.203</td>
<td>-3.976</td>
</tr>
<tr>
<td>a17</td>
<td>0</td>
<td>100</td>
<td>-0.687</td>
<td>-4.538</td>
<td>-0.975</td>
<td>-3.221</td>
</tr>
<tr>
<td>a18</td>
<td>0</td>
<td>100</td>
<td>-0.818</td>
<td>-5.404</td>
<td>-0.812</td>
<td>-2.683</td>
</tr>
<tr>
<td>a19</td>
<td>0</td>
<td>100</td>
<td>-0.779</td>
<td>-5.145</td>
<td>-0.815</td>
<td>-2.692</td>
</tr>
<tr>
<td>a21</td>
<td>0</td>
<td>100</td>
<td>-0.118</td>
<td>-0.778</td>
<td>-1.318</td>
<td>-4.354</td>
</tr>
</tbody>
</table>

Multivariate  
87.028  26.249

Additionally to guard against overall Type one errors, whereby an effect in the population is statistically mistakenly identified, when none was present (Field 2014), Cook’s direction [D] (Stevens 1984) was plotted on a scatter plot (Gaskin 2012) to identify the outliers. From Cook’s D clearly the outliers were neither errors nor influential. Instead, they were consider interesting outliers (Aguinis, Gottfredson & Joo 2013), because each individual outlier case appeared engaged based on the amount of time spent on the survey. They also attempted to complete the optional comments box. These comments are tabled in Tables 4a, b and c in the Appendix 5.4. Furthermore, the Cook’s distance for each case [and their variables too] were less than the highest value of 0.26143 as illustrated in the scatterplot in Graph 5.3 above. Hence, all the Cook’s D were less than the threshold of one and thus not influential on the regression of the variable (Stevens 1984; Gaskin 2012).
Graph 5.3 Scatterplot of highest Cook’s difference on variable Procedural [a11]

From advisers’ comments, the main reasons behind the outliers were how they understood or interpreted the survey questions about their role within the licensee-adviser-client relationship, as well as their perceptions of leaders’ influence when lobbying government during consultation phases of proposed legislative changes. According to Aguinis, Gottfredson and Joo (2013) interpretations and understandings of survey questions will change the model fit and the substantive parameter estimates. Despite this, there was no need to remove these global prediction outliers (Stevens 1984), because they formed part of the population of interest (Chan & Bishop 2013). This is further supported in a paper by Aguinis, Gottfredson and Joo (2013) who argued to exercise caution before deleting outliers, because in doing so ends up potentially supporting the hypothesis being tested. According to them, when researchers define, identify and handle outliers that may impact the parameter relationships, effect sizes, directions and existence, this has significant implications and conclusions for a project.
Based on the multivariate kurtosis value [87.028] in Table 5.2 above and their critical value [referred to as the “normalised estimate of multivariate kurtosis” (Byrne 2013, p. 123)] of 26.249, which was greater than five, the data in the sample was clearly non-normally distributed (Byrne 2013). Notable, the critical ratio can be interpreted as a z score (Harrington 2009). Therefore, evidence of multivariate non-normality was found, because critical ratio [c.r.] value of 23.763 is greater than the z statistic threshold of 1.96 (Byrne 2013). Although the multivariate assumption is violated, using the criteria provided by some authors (Harrington 2009), skewness and kurtosis do not appear problematic in this study.

Especially when Wang and Wang (2012) explained maximum likelihood parameter estimates are less likely to be biased in the presence of non-normality. However, they cautioned to be aware, standard errors of maximum likelihood parameter estimates and model fit indices were underestimated when non-normality was evident. They claimed non-normality inflates the model $\chi^2$ statistics. As solutions they endorsed adjusting the normal theory ML $\chi^2$ and standard errors using rescaling methods or to use the bootstrap method. A technique they claimed provide robust standard errors and mean-adjusted $\chi^2$ test statistic equivalent to Satorra & Bentler [SB] $\chi^2$. During this analysis, the bootstrap method was applied, because of its accessibility in AMOS.

With regards to linearity the values in the ANOVA Table 5.3 below were significant for CoIAss * FiducAct [p=.002] and for Professions * IPFPSB [p=.029], which indicated these relationships deviated from linearity (Gaskin 2016c). Whereas the rest of the relationships had desired significance values greater than 0.05.

Next the values of heteroscedasticity were considered, which occurs when residuals at each predictor variable level have unequal variance or where the distribution of residuals is different at each point along a predictor variable. Fortunately the assumption of homogeneity of variance, which is the opposite of heteroscedasticity was not violated, because estimates of the data range divided by their standard deviations all fell between acceptable thresholds two and six (Field 2014) with all estimates less than 3.496. See Appendix 5.5 Table 5 for the estimates for all the variables in the model. If these values were greater than six, then heterogeneity issues would have been present. Therefore there was no need to reduce this particular bias using the robust method of bootstrapping (Field 2014). This outcome was also confirmed by a second test to assess homogeneity.
Table 5.3 ANOVA table to test deviation from linearity

<table>
<thead>
<tr>
<th></th>
<th>Sum of Squares</th>
<th>df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structural * FiducAct</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Between Groups</td>
<td>[Combined]</td>
<td>56</td>
<td>3287.856</td>
<td>6.629</td>
<td>0</td>
</tr>
<tr>
<td>Linearity</td>
<td>136020.5</td>
<td>1</td>
<td>136020.5</td>
<td>274.226</td>
<td>0</td>
</tr>
<tr>
<td>Deviation from Linearity</td>
<td>48099.41</td>
<td>55</td>
<td>874.535</td>
<td>1.763</td>
<td>0.002</td>
</tr>
<tr>
<td>Within Groups</td>
<td>101683.5</td>
<td>205</td>
<td>496.017</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>285803.4</td>
<td>261</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professions * IPFPSB</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Between Groups</td>
<td>[Combined]</td>
<td>52</td>
<td>3918.383</td>
<td>5.821</td>
<td>0</td>
</tr>
<tr>
<td>Linearity</td>
<td>152887.2</td>
<td>1</td>
<td>152887.2</td>
<td>227.114</td>
<td>0</td>
</tr>
<tr>
<td>Deviation from Linearity</td>
<td>50868.74</td>
<td>51</td>
<td>997.426</td>
<td>1.482</td>
<td>0.029</td>
</tr>
<tr>
<td>Within Groups</td>
<td>140693.2</td>
<td>209</td>
<td>673.173</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>344449.1</td>
<td>261</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Using SPSS regression linear graph scatterplot function [see an example of variable Structural variable $a_4$ in Graph 5.4 below] for each relationship the researcher plotted the variables’ regression standardised error residual value on the y-axis against the regression standardised independent or predictor variables on the x-axis and added a fit line (Gaskin 2015). In all the variables cases there is homoscedasticity, because the fit line appeared relatively flat and the data was roughly consistent around the fit line (Gaskin 2015). Given the sample size was large the Levene’s test to determine whether the variance is potentially heteroscedastic or there is homogeneity, was considered inappropriate (Field 2014).

Next, multicollinearity errors test was performed by running a multivariate regression. Here it was found all variables’ tolerance statistic of $1 - r^2$, where $r^2$ is the variance in each independent variable explained by all of the other independent variables, were greater than the threshold of .1 and .2 (Menard 2002) in Table 6 in Appendix 5.6. Additionally, from evidence in Table 6 in the Appendix 5.6, no serious multicollinearity problems occurred (Gaskin 2016d), because for most of the independent variables the VIF is below three, with only a handful of variables with VIFs greater than 5.206. Thus the statistics verifies VIFs were not violated to a great extent,
but were tolerable, and hence, should not invalidate the confidence intervals and significance
tests (Field 2014). It was concluded the variables did not correlate too highly and there were
non-zero variances, thus the confidence intervals or boundaries within which the population
values of estimates are likely to fall are reliable and valid. Thus, the model can be generalised
to the population and the significance tests accepted as valid (Field 2014).

Graph 5.4 Scatterplot to test homogeneity of variable Structural \([a_4]\)

Despite the limitation of multicollinearity issues, this research is disinterested in the effect of
multi-collinearity on the \(i^{th}\) regression coefficient, but instead whether the regression
coefficient is statistically significant (O’Brien 2007). Therefore, there was no specific need to
solve for multicollinearity and independent errors. Furthermore, the literature on this issue
authenticated it safe to focus on the combined effects of all of the variables in the model
(Menard 2002). Furthermore for large samples, as is the case of this study, the lack of normality
of distributed errors [not predictors] will not invalidate confidence intervals and significance
tests, because of the central limit theorem (Field 2014).
In closing, to address additivity and linearity violation by CoIAss * FiducAct \( [p=.002] \) and for Professions * IPFPSB \( [p=.029] \) evident in Table 5.3 above, and multivariate non-normality, as proposed in the literature (Aguinis, Gottfredson & Joo 2013) the analysis utilised bootstrapping in AMOS at a 95 per cent confidence interval for bias corrected confidence interval, rather than some of the numerous approaches evident in research practice (Byrne 2013).

In summary, overall, the quantitative screening statistical results of this investigation were positive, with the bias of data and any assumption violations defensible and hence manageable. Consequently, the main study research methodology of using structural equation modelling was proven feasible.

5.3.1 Descriptive statistical analysis results

Disappointingly, after data screening only 6.55 per cent \( [262/4,000 \text{ respondents}] \) of the responses on the legitimacy of the current licensing model contained useful data for analysis, as illustrated in Table 5.4 below. This level of participation was disappointing, because it was evident, from discussions held with professional media, academics, senior members of the emerging financial planning profession, some financial planning practitioners, attendees at three (2014, 2015 and 2016) Annual Personal Finance and Investment Symposiums and a representative of the Professional Standards Authority, this controversial matter of the current adviser licensing model is [or should] be important to all financial planning stakeholders.

Although not everyone expressed joy with the study’s topic and survey, evidently during these discussions, as well as during the survey itself, the study’s survey was timely given government’s attempt at driving for professionalising financial planning.

Despite the low useable data response rate, recruiting more participants was sidestepped. Recruiting more, would have potentially caused additional sampling bias. It was also unnecessary, because there were more than enough cases and data to perform maximum likelihood estimation in AMOS\(^{110} \).

\(^{110} \) Recall in Chapter 4 we mentioned using an online SEM sampling calculator (Soper 2016) to calculate a minimum sample size of 137 cases with anticipated effect size .3, statistical power .8 and probability level .05 as sufficient to perform MLE analysis given the a priori model in Figure 4.4 [page 161 of this thesis].
Table 5.4 Types of responses

<table>
<thead>
<tr>
<th>Types of Responses</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualtrics email failed to send</td>
<td>1</td>
<td>0.03%</td>
</tr>
<tr>
<td>Opt out [Unsubscribed]</td>
<td>272</td>
<td>6.80%</td>
</tr>
<tr>
<td>Consents declined</td>
<td>4</td>
<td>0.10%</td>
</tr>
<tr>
<td>Non-responses</td>
<td>3,391</td>
<td>84.78%</td>
</tr>
<tr>
<td>Incomplete responses</td>
<td>70</td>
<td>1.75%</td>
</tr>
<tr>
<td>Complete responses (Data analysis useable responses)</td>
<td>262</td>
<td>6.55%</td>
</tr>
<tr>
<td>Total probability random sample selected</td>
<td>4,000</td>
<td>100.00%</td>
</tr>
</tbody>
</table>

Graph 5.5 below and Table 7 in Appendix 5.7 indicate the gender split. Two respondents failed to offer details of their gender.

<table>
<thead>
<tr>
<th>Gender</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Missing</td>
<td>0.8%</td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>16.8%</td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>82.4%</td>
<td></td>
</tr>
</tbody>
</table>

Percent [n = 262]

Graph 5.5 Frequency of gender split of respondents

From the bar chart in Graph 5.6 below and Table 8 in Appendix 5.8 most survey respondents were unsurprisingly Baby Boomers [approximately 55.7 per cent] born between 1946 and 1964 followed by Gen X, then GenY or Millennials and finally a handful of Traditionalists. Only one respondents evaded providing details of their age.
Graph 5.6 Frequency of age of survey respondents [n = 262]

From Table 9 in the Appendix 5.9 and Figure 5.3 below it is apparent the recruits covered the whole of Australia, with the majority [nearly a third] from NSW, followed by Queensland, Victoria, South Australia, Western Australia, Tasmania, Act and then Northern Territory. Everyone offered their locations of work.

Figure 5.3 Frequency of the location of respondents [n = 262]
From the histogram in Graph 5.7 below and Table 10 in Appendix 5.10, it was evident the frequency of the number of years’ respondents have been ARs followed a normal distribution reasonably closely. Only, four [1.5 per cent] respondents failed to provide details of the length they have been ARs.

Graph 5.7 Histogram of number of years holding AR status

As far as the highest Australian Qualifications Framework [AQF] of qualifications are concerned, no matter in which field, and illustrated in Graph 5.8 [Table 11 in Appendix 5.11], no doctorates among the recruits was evident. In addition, 27.1 per cent [70] had a financial planning degree and postgraduate financial planning qualifications, with 69.7 per cent [180] claiming they held other forms of financial planning qualifications. Most [63.7 per cent] had degrees covering various disciplines with only 26.7 per cent with specifically financial planning degrees. Interestingly, six recruits held no AQF recognized financial planning
qualifications. Four respondents evaded providing any details of their financial planning qualifications.

Graph 5.8 Frequency of the highest and financial planning AQF qualifications [n = 262]

When advisers were asked about their professional association membership, evident from Table 12 in the Appendix 5.12, survey respondents claimed membership of a diverse range of professional associations. Unsurprisingly, the majority were members of the Financial Planning Association, followed by the Self-Managed Super Find Association and Association of Financial Advisers. Interestingly, 8.8 per cent represented those advisers who were not members of any association. One participant indicated they were a member of six associations, with five claiming membership of three professional associations and 50 claiming membership of two associations listed in Table 12 in the Appendix 5.12. Although 53.8 per cent of survey respondents claimed to hold a CFP® qualification, 25.6 per cent of the recruits held no professional qualifications [see Table 13 in Appendix 5.13]. Just as interestingly, of the 67 who held no formal professional qualifications, four claimed they were studying towards a CFP®.
One AFA adviser claimed they were completing the FChFP® professional qualifications. About 16.4 per cent indicated they were professionally qualified accountants.

Table 14 in Appendix 5.14 and Graph 5.10 illustrated, 47.7 per cent of cases perceived themselves to be aligned. Most striking a smaller proportion, 14.9 per cent, considered themselves affiliated to s923A independent licensees. The non-aligned, nearly made up 37 per cent of respondents, yet were not s923A independent, because at this stage the use of the term ‘non-aligned’ was not limited to s923A independent licensees and advisers. One respondent who used the other option, without specifying what the ‘Other’ might be happened. Many
respondents referred to themselves as CARs [Corporate Authorised Representatives], which surprisingly indicated they viewed this as a licensee category too.

The biographic details indicate the survey covered a broad range of advisers of various ages, from a diverse range of backgrounds, operating across Australia and included s923A independents. On these grounds, this research is important to advisers based on their willingness to participate in a lengthy survey regarding licensing financial advisers.

5.3.2 Structural equation modelling results

5.3.2.1 Exploratory/confirmatory factor analysis results

Evident from the initial results of maximum likelihood estimation, the researcher realised there may have been a theoretical conceptual basis for the *a priori* model illustrated in Figure 4.4 in Chapter 4, but initially not an empirical one. Furthermore, from the goodness of fit results in Column 1 of Table 5.7 below, noticeably this *a priori* model is misspecified. It is well-documented, any initial specified measurement models almost invariably fail to deliver acceptable fit (Anderson & Gerbing 1988). Acceptable fit meaning the most variance is accounted for by the best fit (Myung, Tang & Pitt 2009). Consequently a data-driven EFA approach within a CFA MLE method (Brown & Moore 2016) disclosed the first initial source of misspecification was too many factors, because the inter-item correlations were greater than .85 (Clark & Watson 1995). This over-factoring confirmed further evidence of multicollinearity (Byrne 2013). The higher the correlations between two factors, the greater the discrepancy between the pattern loadings and the structure loadings on some variables (Matsunaga 2010). Consequently, factors $b_2$ and $b_3$ were collapsed into one factor $[b_3]$. Thus indicators, AlignAct $[a_5]$, CoIAct $[a_6]$, CompAct $[a_7]$ and FiducAct $[a_8]$, were merged into the Legitimacy factor $[b_3]$. This merge was also confirmed appropriate per the initial pattern matrix during EFA analysis in SPSS [see Table 16, Appendix 5.16]. Coefficients of the pattern matrix are the unique loads of the given factor into variables, namely regression coefficients (Gaskin, 2016b). To simplify and clarify the data and confirm the above conclusions Promax rotation, an oblique rotation, using SPSS’s default kappa 4, was performed, because it allowed the factors to correlate (Osborne & Costello 2005). It also produced a more accurate reproducible solution with more information compared to other methods (Osborne & Costello 2005). Employing an oblique-rotation approach assists with conceptual consistency across the EFA and CFA analysis (Matsunaga 2010). EFA using oblique rotation helps identify unrelated factors and irrelevant indicators (Matsunaga 2010). The higher the kappa the higher the
correlations (Matsunaga 2010). Therefore, it was decided to use the default low kappa value of four.

The EFA structure matrix was used to determine which variables to drop and which to select. Matsunaga (2010) claimed this was a better method to use than pattern matrix. Although the initial structure matrix analysis [see Appendix 5.17, Table 17] indicated most items on each question adequately represented the constructs to which they were associated, three variables were identified problematic and needed attention. Firstly, EFA structure matrix in Table 17 [Appendix 5.17] indicated CoIAss \( a_4 \) loaded significantly better onto construct legitimacy \( b_3 \) compared to latent factor dual \( b_1 \). After careful re-evaluation of its theoretical explanation and content, it was concluded substantively the definition of Structural legitimacy \( a_{12} \) was better explained by the variable CoIAss \( a_4 \) is based on reconsidering the theoretical conceptualisation of the theory. Instead of conflict of interest from association being explained by the agent-principal relationship, it arguably made more sense to apply it as a structural issue within the current licensing model regime, because by being licensed via third-party licensees is structurally debase if it leads to conflict of interest from association. Subsequently, based on EFA pattern matrix, the financial planning theory for structural legitimacy was normatively and empirically re-evaluated and replaced with a more appropriate theoretical underpinning, sourced from the secondary theory, concurrent with an appropriate measure. Thus, the measure CoIAss \( a_4 \) which initially loaded onto the factor dual \( b_1 \) in the \textit{a priori} model \( a_4 \) with its financial planning theoretical underpinnings, was renamed Structural \( a_4 \) and replaced Structural \( a_{12} \). After careful thought and consideration, this the new measure for structural legitimacy was better explained, both theoretically and empirically, by the latent factor legitimacy \( b_3 \). Furthermore, comments made by some respondents for the Structural variable \( a_{12} \) indicated their interpretation and understanding of the question was not as it was intended in the survey, thus invalidating the responses. For example, one respondent, which reflect other’s views, claimed for the statement, meant, this excluded self-licensed advisers, “Surely the option is there to apply for your own licence?”; “They can get their own license”. The intention of this statement was to include self-licensed advisers. The objective of this account was to find out whether it was structurally legitimate for advisers to lose their right to work when they have been no longer an authorised representative. Thus from the above analysis, it was confirmed in this study the view of Brown and Moore (2016), EFA was useful in improving flaws in the theory too. Especially concerning how the various theories from other disciplines were conceptualised, applied and integrated with financial planning theory.
Additionally, based on the EFA pattern matrix Structural \([a_{12}]\), Defend \([a_{15}]\), and Takeover \([a_{20}]\), were eliminated from latent factors \(b_3\) and \(b_4\) respectively. Not only did they have factor loadings less than .30, but also their cross loadings differed by less than .2. With regards to the Takeover \([a_{20}]\) statement ‘Strategic independent advice is being taken over by the accounting profession, as accountants redefine and re-position financial planning within their self-regulatory model,’ was also not interpreted in terms of the intent of the of the statement and context of the topic. This view was reflected in comments such as, “That's laughable” and “This is rubbish I've got a lot of my clients from accountants as they would not give advice”.

“In my experience accountants do not have the knowledge to provide appropriate advice regarding areas such as Centrelink and aged care”; “No. Accountants do not have the necessary expertise in the eyes of the clients.” Therefore, not only on quantitative [very low loadings], but also on qualitative statistical grounds [comments] this measure was deleted, because it was unexplained by the latent factor individual licensing model. Variable Defend \([a_{15}]\) ['Since the media has exposed the financial planning scandals, financial advisers have had to defend their relationship/association/affiliation with their licensee to clients'] also indicated some statistical issues, with unacceptable low factor scores. Once again, advisers were answering the statement from their practice’s experience, emotional or from a desirability point of view, rather than as the question tried to elicit, namely advisers in general. For example, “The answer to this question is both yes and no. There have been some scandals however the majority of financial advisers and their clients have not been involved and/or impacted. Not all advisers are bad. I have a large business [when compared to the market], I have never had to defend a relationship.” Some found the question offensive, others responded defensively, which affected the results. For example, “Again, I am offended by the tone of these questions. This appears to be a witch hunt against licensees and advisers. Storm Financial had been ticked off as compliant by ASIC in 2007 - they were self licensed?” Some other examples include, “NOT ME- I HAVE NEVER BEEN LINKED TO ANY OF THOSE ISSUES” and “Not me!” The obvious unclear wording, misunderstanding by respondents or multiple comprehensions or interpretations and perhaps perceived tone of question may have ultimately invalidated the measure as an indicator of the latent factor Legitimacy \([b_3]\). These deletions did not jeopardise the integrity of the theory or data but improved it. Instead it solved the statistical problems of explaining the factors (Osborne & Costello 2005) so the main research question and investigative questions were better answered. Furthermore, deleting these measures ensured a more parsimonious model for confirmatory factor analysis, which structural equation
modelling writers claim was preferred (Kline 2010; Byrne 2013). A fourth problematic variable evident in the \textit{a priori} model was Cognitive \([a_{14}]\). It displayed a higher estimate when loading onto \(b_4\) than the \textit{a priori} model. Despite this anomaly, it was decided to retain this variable in factor \(b_3\), because no theoretical substantive reason to move it or remove it could be justified. In addition, no replacement variable was available to substitute it. Furthermore, its loading was greater than .30 and hence interpretable and persuasive enough.

\begin{table}[h]
\centering
\caption{Pattern matrix\textsuperscript{a} after E/CFA}
\begin{tabular}{lcccc}
& \multicolumn{3}{c}{Factor} \\
& 1 & 2 & 3 \\
\hline
Dual & & & 0.532 \\
Simult & & & 0.611 \\
BestRev & & & 0.508 \\
CoIAss & 0.711 & & \\
AlignAct & 0.921 & & \\
CoIAct & 0.821 & & \\
FiducAct & 0.958 & & \\
CompAct & 0.580 & & \\
Regulative & & 0.767 & \\
Consequential & & 0.932 & \\
Procedural & & 0.850 & \\
Personal & & 0.483 & \\
Cognitive & 0.358 & 0.378 & \\
Trust & & 0.866 & \\
Independence & & 0.767 & \\
Professions & & 0.759 & \\
IPFPSB & & 0.811 & \\
EliminateCoI & & 0.689 & \\
\hline
\end{tabular}
\end{table}

\textsuperscript{a}Rotation converged in 5 iterations.

Note: Coefficients were suppressed above an absolute value of .35 during SPSS EFA estimation.
Extraction Method: Maximum Likelihood.
Rotation Method: Promax with Kaiser Normalization.

The scree plot [Figure 5.15] also confirmed the respecification as summarised in the pattern matrix after E/CFA shown in Table 5.5. Thus, as illustrated in Table 18 in the Appendix 5.18, three hypotheses and survey questions, and hence variables, were discarded. Hence, only three factors out of the original pre-conceived four factor-model and 18 out of the original 21 measures remained for further analysis. Uni-dimensionality was achieved in the CFA model, because all measuring items have acceptable factor loadings for the respective latent construct and all factor loadings were positive. Therefore, by using EFA within the CFA MLE
framework resulted in the appropriate number of factors and correct measures for each latent construct (Brown 2006) illustrated in Figure 5.4 below. Significant cross-loadings were fixed when evaluating the initial model against the pattern matrix. Subsequently, poorly selected indicators and error covariance were fixed to zero to see if they would further produce a refined conceptual model for CFA after MLE.

![Graph 5.11 Scree plot after E/CFA indicating three factors after the kink](image)

**Graph 5.11 Scree plot after E/CFA indicating three factors after the kink**

**5.3.2.2 Confirmatory factor analysis maximum likelihood estimation results**

After E/CFA was conducted, confirmatory factor analysis using the EFA modified model in Figure 5.4 below proceeded.

During MLE there were no incidences of non-convergence, Heywood cases, improper solutions (Byrne 2013), any ‘missing constraint’ errors nor indications the estimation was unable to reach its iteration limit (Gaskin 2016e). The standardised estimates indicated both the latent variable and indicators, where the mean was equal to zero and the standard deviation was equal to one, were all positive.
Figure 5.4 CFA measurement model prior to respecification using modification indices
Table 5.7 Goodness of fit statistics of the bootstrapped MLE a priori model, after E/CFA and after CFA respecification

<table>
<thead>
<tr>
<th>Measure</th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A priori model before E/CFA and CFA</td>
<td>After E/CFA before respecification using MIs</td>
<td>After CFA respecified using MIs</td>
<td></td>
</tr>
<tr>
<td>CMIN ex CLF</td>
<td>536.537</td>
<td>374.725</td>
<td>222.131</td>
<td>128.339</td>
</tr>
<tr>
<td>DF</td>
<td>183</td>
<td>132</td>
<td>119</td>
<td>101</td>
</tr>
<tr>
<td>P</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.034</td>
</tr>
<tr>
<td>CMIN/DF</td>
<td>2.932</td>
<td>2.839</td>
<td>1.867</td>
<td>1.271</td>
</tr>
<tr>
<td>GFI</td>
<td>0.831</td>
<td>0.859</td>
<td>0.915</td>
<td>0.95</td>
</tr>
<tr>
<td>AGFI</td>
<td>0.787</td>
<td>0.817</td>
<td>0.878</td>
<td>0.915</td>
</tr>
<tr>
<td>CFI</td>
<td>0.884</td>
<td>0.916</td>
<td>0.964</td>
<td>0.991</td>
</tr>
<tr>
<td>TLI</td>
<td>0.866</td>
<td>0.902</td>
<td>0.954</td>
<td>0.986</td>
</tr>
<tr>
<td>NFI</td>
<td>0.835</td>
<td>0.877</td>
<td>0.927</td>
<td>0.958</td>
</tr>
<tr>
<td>PCFI</td>
<td>0.77</td>
<td>0.79</td>
<td>0.75</td>
<td>0.654</td>
</tr>
<tr>
<td>AIC</td>
<td>632.537</td>
<td>452.725</td>
<td>326.131</td>
<td>268.339</td>
</tr>
<tr>
<td>[Saturated; Independent]</td>
<td>[462; 342.725; 342; 342]</td>
<td>[3073.37; 3073.37; 3073.37; 3073.37]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BIC</td>
<td>803.818</td>
<td>591.891</td>
<td>511.685</td>
<td>518.123</td>
</tr>
<tr>
<td>[Saturated; Independent]</td>
<td>[1286.288; 952.187; 952.187; 952.187]</td>
<td>[342; 342; 342; 342]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SRMR</td>
<td>0.793</td>
<td>0.0692</td>
<td>0.0688</td>
<td>0.0318</td>
</tr>
<tr>
<td>RMSEA</td>
<td>0.086</td>
<td>0.084</td>
<td>0.058</td>
<td>0.032</td>
</tr>
<tr>
<td>[90% CI]</td>
<td>[0.078; 0.095]</td>
<td>[.074; .094]</td>
<td>[.046; .069]</td>
<td>[.009; .048]</td>
</tr>
<tr>
<td>PCLOSE</td>
<td>0</td>
<td>0</td>
<td>0.139</td>
<td>0.971</td>
</tr>
</tbody>
</table>

Although the EFA model fit had improved after E/CFA, it was not meeting the thresholds expected to achieve good fit. For instance, in column 2 of Table 5.7, the CMIN p-value is less than .05, an indication the model is different from the population’s true covariance structure (Ke-Hai 2005; Bentler 2006; Hayduk et al. 2006; Barrett 2007). Given CMIN has been criticised for generally being unreliable for large sample sizes greater than 250 (Matsunaga 2010) like this study of n=262, on recommendations in the literature (Byrne 2013), the plausibility of the model was determined by including other goodness of fit indices. For example, RMSEA indicated the model explained the correlations to within an average error of (Byrne 2013) .084. PCLOSE [closeness of fit] is less than the .05, which indicated the test that ‘RMSEA is good in the population’ failed. In addition, the AIC values of 452.725 is greater
than the saturated model estimate of 342. Even so, it is smaller than the independence model of value 3,073.337, which is desirable. Also desirable is the BIC value 591.891 is smaller than both saturated [952.187] and independence [3,073.337] models. The expected cross-validation index [ECVI] is 1.735 [1.528; 1.971 at the 90% CI], was greater than the saturated model’s value of 1.310 at 90 per cent CI [1.310;1.310]). However, it was less than the independence model’s value of 11.775 at 90% CI [11.103; 12.475]. The absolute fit index critical N [CN] is 103 [p<.05] and 10 [p<.01], which is below the threshold sample size for accepting the model is correct (Schreiber et al. 2006). Therefore, together with the Hoelter at alpha .05 of 112 and at .01 of 121 results, it was concluded the model inadequately represent the sample data. Furthermore, the Bollen-Stine bootstrap p = .005 for testing the null hypothesis of a correct the model is correct confirmed the model is mis-specified. So, the model is a misfit and misrepresents a reasonable approximation to the population, which means it requires modifications (Byrne 2013).

On the grounds of inadequate fit, before making inferences and testing the hypotheses, CFA specification searches were performed using modification indices with a cut-off threshold greater than 4.0 (Brown 2006), because it provided recommendations to correct discrepancies or differences between the proposed and estimated model (Hermida 2015, p. 6). Clearly, the modification indices showed systematic error based on respondent characteristics such as nay-saying, respondents who may have been stressed answering the questions and answering in socially desirable ways (Byrne 2013). A degree of overlap in item content (Byrne 2013) may arguably also have been perceived by some respondents. Thus, starting with the covariance’s among measurement errors fixed to zero for the reason they were initially assumed unique to each indicator, it was evident several modification indices estimated at more than four was present. Consequently, after limiting modifications to 13 of the larger modifications greater than four, goodness of fit was achieved within the thresholds specified in Table 5.7 columns three and four above. The modifications were justified on empirical and conceptual grounds (Maccallum & Necowitz 1992) to minimise what Hermida (2015) referred to as data driven specifications searches that can lead to further model misspecification and overfitting. They claimed this avoids the inclusion of unnecessary parameter estimates due to chance associations in the sample data. Therefore, adding the covariance between the errors to the model in Figure 5.4, above, to produce Figure 5.5 below, made sense and were reasonable (Harrington, 2009) for reasons tabled in Table 19 in the Appendix 5.19. They were found to be all significant at p<.05 level.
Given the fit statistics indicated, the data fits the model adequately after respecification [Columns three and four in Table 5.7 above] using modification indices, the standardised
residual covariance estimates were, only scrutinised, not used to produce better-fit statistics. It appeared the model did not account for the relationship between Cognitive \([a_{14}]\) and \(a_{16}\) [Trust] [SRC=4.069] and \(a_{18}\) [Professions] [4.415], because their SRCs were greater than the SRC critical value of 3.84 for one degree of freedom at the alpha level of 0.05 (Brown 2006). The data driven EFA indicated Cognitive \([a_{14}]\) would better load on \([b_4]\) individual licensing, where individual licensing would facilitate a shared understanding of the difference between independent advice and conflicted advice could explain this problem. Nevertheless, moving this variable could not be justified, nor was deleting it an option, because it is key to the conceptualised theoretical basis for Cognitive \([a_{14}]\) legitimacy in this study. While, this predictor was of value to the theoretical construct (Byrne, 2010) no other measure to measure cognitive legitimacy was found. Unlike the original Structural \([a_{12}]\), it could not be replaced with another measurement value, because none was available. As only two out of 171 SRCs showed values larger than four in the matrix, which amounted to only 1.17 per cent of the covariance matrix, it was unnecessary to change the model, unless further problems were found down the track (Matsunaga 2010). Fortunately, no further problems were identified for these variables further down the track and thus, were retained. Furthermore, further deletions were not an option, because the variables left in the model added significant value to the theoretical construct (Byrne, 2010) and were all significant at the \(p<.05\) alpha level. Deleting anymore variables would threaten the integrity of the data to solve the statistical problems of explaining the factors (Clark & Watson 1995; Osborne & Costello 2005). After model respecification to produce the model in Figure 5.5, the minimum sample required for MLE increased to 200 cases with effect size of .3, power of .8 and probability level .05. This was established by recalculating the minimum sample size using the online calculator developed by Soper (2016), which recall from Chapter 4, he based on the works of Cohen (1988) and Westland (2010). This number was still below the sample size of 262, which indicated the sample size for this study was sufficient.

5.3.2.3 Cross-validation results

Thus, with tentative support for the notion the evolving theoretical model was properly specified (Myung, Tang & Pitt 2009); the next step in the progression was cross-validation using another sample drawn from the population. The multiple group gender [male and female] formed the new sample from the same population specified and estimated in the same model, with freely estimated measurement parameters compared to measurement parameter estimates constrained (Anderson & Gerbing 1988). Table 5.8 provides the results of the constrained
models nested within less constrained models (Harrington, 2009). Bootstrapping was used to generate the estimates, because $\chi^2$ is sensitive to linearity, additivity, multicollinearity and normality (Joreskog 1978).

### Table 5.8 Model specification cross-validation of multi-group [male/female] \[n = 216\]

<table>
<thead>
<tr>
<th>Model</th>
<th>Unconstrained</th>
<th>Constrained</th>
</tr>
</thead>
<tbody>
<tr>
<td>$\chi^2$</td>
<td>404.903</td>
<td>424.564</td>
</tr>
<tr>
<td>df</td>
<td>238</td>
<td>253</td>
</tr>
<tr>
<td>$p$</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>$\chi^2$-square diff</td>
<td></td>
<td>19.661</td>
</tr>
<tr>
<td>df diff</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>$\chi^2$-square diff $p$</td>
<td>Insignificant</td>
<td>0.185</td>
</tr>
<tr>
<td>critical $\chi^2$ -square $p&lt;.05^*$</td>
<td></td>
<td>24.996</td>
</tr>
<tr>
<td>critical $\chi^2$ -square $p&lt;.01^*$</td>
<td></td>
<td>30.578</td>
</tr>
<tr>
<td>critical $\chi^2$ -square $p&lt;.001^*$</td>
<td></td>
<td>37.697</td>
</tr>
<tr>
<td>CFI</td>
<td>0.943</td>
<td>0.942</td>
</tr>
<tr>
<td>CFI diff</td>
<td></td>
<td>0.001</td>
</tr>
</tbody>
</table>

*Values of the Chi-squared distribution sourced from https://www.medcalc.org/manual/chi-square-table.php*

Table 5.8 indicate the $\chi^2$ difference value is insignificant, therefore the unconstrained model fits the data better than the constrained model in which the parameters were fixed (Joreskog 1978). Consequently, the computed $\chi^2$ statistic was less than the critical value\(^{111}\) in the $\chi^2$ table value for a 0.05 probability level. Thus, the null hypothesis verifying cross-validation is lacking could not be rejected. Consequently, the model in Figure 5.5 has real significance and meaning (Yuan & Bentler 2004). With the data cross-validated, it can be generalised (Myung & Pitt 2003), because it is not as a result of capitalisation of chance (Hermida 2015). Then, the model provides a good predictor of future observations (Myung, Tang & Pitt 2009).

#### 5.3.2.4 Invariance results

Table 5.9 summarising the invariance tests, in conjunction with Table 5.10 the invariance test goodness of fit results below proves the model displayed: configural [model 1], metric [model 2], latent factor mean difference test for scalar invariance [model 3] and equality of uniqueness [residual variance] associated with observed variables [model 4]. Simply, a parameter was invariant across both male and female groups and the factor loadings were equal across the male and female groups resulting in metric invariance. For structural invariance the

\(^{111}\) All critical $\chi^2$ values were sourced online from MedCalc Software (2016). A modified copy of their table of the critical chi-square values is available in Appendix 5.20 Table 20 below.
equivalence of factor means [model 5], equivalence of factor covariance [model 6] and variance [model 7] as recommended by various writers (Brown 2006, pp. 269-270; Schmitt & Kuljanin 2008) were tested. From Table 5.10 empirically MLE generated reasonable GOF for the unconstrained [model 1] CFA solutions for male and female $\chi^2 404.903; \text{df } 238; p .000$; CMIN/df 1.701; GFI .862; AGFI .802; CFI .943; TLI .927; PCFI .734; RMSEA .052; 90% CI .043, .061; PCLOSE .335. In this solution, the freely estimated unstandardised factor loadings were all statistically significant $p<.001$ [males] and $p<.05$ [females] apart from $a_1$, $a_2$ and $a_3$ loading on $b_1$. The standardised regression weights were all greater than this study’s threshold of .35, except for $a_1$, $a_2$ and $a_3$. Recall from Chapter 4, $\chi^2$ is influenced by sample size and hence model fit. Thus, different sample sizes will affect interpretability of the results. For instance, the female sample size is a small $n=44$ and so will affect the results. Nonetheless, for male respondents $n=216$, all the unstandardised regression weights were statistically significant at the $p<0.001$ level with standardised regression weights all being greater than this research’s threshold of 0.35. Therefore overall invariance was proven, whereby the factor structure and loadings are equivalent across groups ensuring the variables measures the different underlying latent constructs for different groups within the sample and are thus generalisable across population (Vandenberg & Lance 2000). Configural [baseline] invariance has been proved based on the results of the $\chi^2$ difference test for configural invariance [the p-value for the chi-square difference test for the configural model is insignificant at the $p<0.05$ level]. Although, it was unnecessary to go ahead with the metric invariance test (Schmitt & Kuljanin 2008), additional tests of invariance were performed in this study out of curiosity with results in Table 5.9. The purpose was to see how restricting the model more affected the results, as well as in case reviewers and examiners wanted these tests performed.

According to the $\chi^2$ difference test, the model has metric invariance, because the p-value for the chi-square difference test is insignificant at the $p<0.05$ level [Table 5.9 below]. The $\chi^2$ difference of 19.661 with 21 degrees of freedom is less than the critical $\chi^2$ of 32.671 and it is insignificant with a p-value of .456 [Table 5.9]. This invariance is confirmed by the difference in CFI, because the value of 0.001 for Model 2 [Figure 5.10] was less than .01 threshold (Cheung & Rensvold 2002). The factor loadings were considered equal across gender groups and shows the two groups have the same metrics. Thus, factor structure and loadings are equivalent across groups, which means the composite variables measure the same underlying latent constructs for different groups within the sample and are therefore generalisable across the population of interest (Vandenberg & Lance 2000).
Table 5.9 Model specification invariance tests of multi-group [male and female]

<table>
<thead>
<tr>
<th>Invariance Model</th>
<th>χ²</th>
<th>df</th>
<th>χ² diff df diff</th>
<th>p&lt;.05*</th>
<th>p&lt;.01*</th>
<th>p&lt;.001*</th>
<th>Critical χ²</th>
<th>Critical CFI</th>
<th>CFI Invariance Significance p-value</th>
<th>CFI Invariance CFI</th>
<th>CFI diff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Configural [Model 1]</td>
<td>404.903</td>
<td>238</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.943</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Metric [Model 2]</td>
<td>424.564</td>
<td>253</td>
<td>19.661 15</td>
<td>28.869</td>
<td>34.805</td>
<td>42.312  N.S. p = .185</td>
<td>*</td>
<td>0.942</td>
<td>0.001 [ ]</td>
<td></td>
<td>#</td>
</tr>
<tr>
<td>Structural covariance [Model 3]</td>
<td>425.945</td>
<td>259</td>
<td>21.042 21</td>
<td>32.671</td>
<td>38.932</td>
<td>46.797  N.S. p = .456</td>
<td>*</td>
<td>0.943</td>
<td>0 [ ]</td>
<td></td>
<td>#</td>
</tr>
<tr>
<td>Measurement Residual [Model 4]</td>
<td>467.982</td>
<td>290</td>
<td>63.079 52</td>
<td>69.832</td>
<td>78.616</td>
<td>89.272  N.S. p = .140</td>
<td>*</td>
<td>0.94</td>
<td>0.003 [ ]</td>
<td></td>
<td>#</td>
</tr>
<tr>
<td>Configural of the latent mean [Model 5]</td>
<td>404.9</td>
<td>238</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.943</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Structural equity of factor means [Model 6]</td>
<td>440.509</td>
<td>271</td>
<td>35.606 33</td>
<td>50.998</td>
<td>58.619</td>
<td>67.985  N.S. p = .347</td>
<td>*</td>
<td>0.943</td>
<td>0 [ ]</td>
<td></td>
<td>#</td>
</tr>
<tr>
<td>Structural equity of factor covariance [Model 7]</td>
<td>442.348</td>
<td>277</td>
<td>37.445 39</td>
<td>54.572</td>
<td>62.428</td>
<td>72.055  N.S. p = .541</td>
<td>*</td>
<td>0.944</td>
<td>-0.001 [ ]</td>
<td></td>
<td>#</td>
</tr>
<tr>
<td>Structural variance [Model 8]</td>
<td>486.791</td>
<td>308</td>
<td>81.888 70</td>
<td>90.531</td>
<td>100.42</td>
<td>112.317 N.S. p = .157</td>
<td>*</td>
<td>0.939</td>
<td>0.004 [ ]</td>
<td></td>
<td>#</td>
</tr>
</tbody>
</table>

* χ² invariant where p > .05 threshold
# CFI invariant where CFI difference < .01 threshold
N.S. Not significant
From Table 5.9 empirically the data does display structural covariance invariance, because the $\chi^2$ difference for gender of 21.042 with degrees of freedom of 21 is less than the critical $\chi^2$ of 32.671 [Model 3] and therefore non-significant for the male/female group. Thus, covariance is equal across gender groups meaning the two groups exhibited similar covariance. This result is further confirmed by the difference in CFI, which indicated invariance, because 0.000 was less than .01 threshold (Cheung & Rensvold 2002). From Table 5.9 clearly model 4 also passes the strict invariance or equality of residual invariance test, because the $\chi^2$ difference is non-significant [p = .140] and its difference of 69.079 with degrees of freedom of 52 is less than the critical $\chi^2$ of 69.832. The residuals were equal across gender groups meaning the two groups presented similar residuals. This result is further confirmed by the difference in CFI, because 0.003 was less than .01 threshold (Cheung & Rensvold 2002).

<table>
<thead>
<tr>
<th>Measure</th>
<th>Free Estimate</th>
<th>Constrained Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Models 1 and 5</td>
<td>Model 2</td>
</tr>
<tr>
<td>CMIN</td>
<td>404.903</td>
<td>424.564</td>
</tr>
<tr>
<td>DF</td>
<td>238</td>
<td>253</td>
</tr>
<tr>
<td>P</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>CMIN/DF</td>
<td>1.701</td>
<td>1.661</td>
</tr>
<tr>
<td>GFI</td>
<td>0.862</td>
<td>0.858</td>
</tr>
<tr>
<td>AGFI</td>
<td>0.802</td>
<td>0.809</td>
</tr>
<tr>
<td>CFI</td>
<td>0.943</td>
<td>0.942</td>
</tr>
<tr>
<td>TLI</td>
<td>0.927</td>
<td>0.931</td>
</tr>
<tr>
<td>NFI</td>
<td>0.875</td>
<td>0.869</td>
</tr>
<tr>
<td>PCFI</td>
<td>0.734</td>
<td>0.788</td>
</tr>
<tr>
<td>RMSEA</td>
<td>0.052</td>
<td>0.051</td>
</tr>
<tr>
<td>90% CI</td>
<td>.043; .061</td>
<td>.043; .060</td>
</tr>
<tr>
<td>PCLOSE</td>
<td>0.335</td>
<td>0.394</td>
</tr>
</tbody>
</table>

Recall, structural invariance is divided into three tests of equality, namely equivalence of factor variances, tests of equality of factor covariance and latent means. Structural invariance test the population heterogeneity (Brown 2006). To assess population heterogeneity, the invariance of
the measurement and structural part of the MGCFA across two gender groups was tested. Differences between measurement errors, factor loadings, and latent means among gender groups was expected, given measurement invariance was proven. Thus, in terms of equivalence of factor means [Model 6] the difference in $\chi^2$ observed across gender groups is insignificant [$p = .347$] [Table 5.18], because once again $\chi^2$ difference of 35.606 with degrees of freedom 36 is less than the critical $\chi^2$ of 50.998. This estimate point toward residual invariance, namely all items are related in terms of their unique traits in the same way across groups. Furthermore, the results in Table 5.18 is confirmed by the CFI difference test. In addition, for equivalence of factor covariance [Model 7], the difference in $\chi^2$ observed across gender groups is insignificant [$p=.541$], because $\chi^2$ difference of 37.445 with degrees of freedom of 39 is less than the critical $\chi^2$ of 54.572. Finally, the equivalence of factor variance [Model 8] across gender groups is proven with the difference in $\chi^2$ observed as insignificant [$p=.157$], because $\chi^2$ difference of 81.888 [degrees of freedom 70] is less than the critical $\chi^2$ value of 90.531. The results from the respective fit indices for each model indicated a reasonably adequate fit, illustrated in Table 5.10, in all invariance test cases. As shown in Table 5.10, the differences between fit indices were negligible when the unconstrained models [Models 1 and 5] were compared to the constrained models [Models 2, 3, 4, 6, 7 and 8]. This measure provides support for both the equivalency of factor loadings and the invariance of factor variance-covariance (Hewett, Money, and Sharma 2006), validating the two groups of gender may be analysed as one sample (Locander et al. 2015). Thus, it was unnecessary to explore and respecify the model, but to continue with model verification starting with validity and reliably tests.

5.3.2.5 Validity and reliability results

Convergent validity is evident in the EFA pattern matrix in Table 5.5 above, because the estimates of a given indicator loaded onto an underlying latent variable are above threshold of 0.35 [n> 250] and large and significant. Recall values above .30 (Harrington, 2009) are interpretable. Additionally, the average variance extracted is greater than .5 (Harrington, 2009) for all the factors according to my calculations and recorded in Table 5.11 below. This outcome means the indicators have large degrees of true score common variance (Hermida 2015). For instance, AVE for the latent variables were estimated for: Dual [0.548]; Legitimacy [0.772]; and Individual licensing [0.771]. Further evidence of convergent validity is the statistically highly significant $p = .001$ and $p<.001$ [ex CLF] [Table 20a in Appendix 5.20], and $p = .007$ and $p<.05$ [cum CLF] [Table 20b in Appendix 5.20], reflected in CFA MLE estimates in AMOS.
To assess discriminant validity, both EFA and CFA tests were considered. The first EFA method was to examine the factor correlation matrix (Gaskin 2016b). Overall discriminant validity was established, because the EFA generated factor correlation matrix, in Table 5.12 below, whereby the correlation estimates, in Table 21 in Appendix 5.21, indicated the correlations between factors were less than .85 (Harrington, 2006). Thus, the indicators of the theoretical distinct constructs are not highly intercorrelated (Harrington, 2006). Therefore, shared variance between factors is absent, which proved discriminant validity (Gaskin 2016b).

<table>
<thead>
<tr>
<th>Factor</th>
<th>Cronbach alpha</th>
<th>CR</th>
<th>AVE</th>
<th>MSV</th>
<th>ASV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual</td>
<td>0.563</td>
<td>0.622</td>
<td>0.548</td>
<td>0.233</td>
<td>0.186</td>
</tr>
<tr>
<td>Legitimacy</td>
<td>0.937</td>
<td>0.885</td>
<td>0.772</td>
<td>0.121</td>
<td>0.177</td>
</tr>
<tr>
<td>Individual licensing</td>
<td>0.880</td>
<td>0.794</td>
<td>0.771</td>
<td>0.138</td>
<td>0.129</td>
</tr>
</tbody>
</table>

A second method was applied, namely examining the pattern matrix [Table 5.5 above] to establish any cross loadings. With the exceptions of variable Cognitive \([a_{14}]\) no shared variance where most variables loaded significantly onto one factor occurred (Gaskin 2016b). However, variable Cognitive \([a_{14}]\) shows ‘cross-loadings’ by loading onto both \(b_3\) and \(b_4\) factors. Furthermore, the Cognitive \([a_{14}]\) loadings between these two factors differed by less than 0.02, which is of some concern for discriminant validity at indicator level, because it is less than the threshold of .20. A third method applied was to examine the AVE and ASV generated using CFA results in Table 5.11 above. If the AVE is greater than average shared variance, which it is for all three factors then the model displays discriminant validity (de Almeida et al. 2014).
Finally, Harrington (2009) proposed another method useful during CFA to establish discriminant validity, namely the CFA MLE correlations do not exceed .85 (see Table 5.23 below). Hence, from Table 21 in Appendix 5.21, the indicators of the theoretical distinct
constructs are not highly intercorrelated (Harrington 2009). Note, although CFA does assess convergent and discriminant validity (Curran, West & Finch 1996), Farrell and Rudd (2009) claimed EFA is the better technique to assess discriminant validity. Overall based on EFA analysis discriminant validity was proven.

Before the results of the respecified model were trusted, three methods of reliability tests were performed. Cronbach alpha (Field 2014) was the first test and composite reliability the second. A third test for reliability in this study included congeneric, tau equivalent and parallel equivalent (Kline 2010) $\chi^2$-square difference test (Yuan & Bentler 2004). Evident from the CR values in Table 5.11, they are not far off the Cronbach alphas values. Field (2014) recommended when dealing with psychological constructs values, Cronbach alphas of 0.8 is appropriate especially during the early stages of research. Thus, for purposes of this thesis, values as low as 0.5 were considered sufficient and values greater than 0.7 was expected. Consequently, except for Dual latent variable, CR and Cronbach alphas of the other two latent variables were greater than 0.8. Even though, the Dual latent factor estimate was above 0.5, it was considered an acceptable alpha value for pioneering research according to Field (2014).

Table 5.13 Reliability and validity of multigroup gender

<table>
<thead>
<tr>
<th>Estimate</th>
<th>Congeneric [Baseline]</th>
<th>Tau-equivalent</th>
<th>Parallel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chi-squared</td>
<td>404.903</td>
<td>441.868</td>
<td>467.982</td>
</tr>
<tr>
<td>df</td>
<td>238</td>
<td>272</td>
<td>290</td>
</tr>
<tr>
<td>p</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>chi-square diff</td>
<td>36.965</td>
<td>63.079</td>
<td></td>
</tr>
<tr>
<td>df diff</td>
<td>34</td>
<td>52</td>
<td></td>
</tr>
<tr>
<td>critical chi-square p&lt;.05*</td>
<td>48.602</td>
<td>69.832</td>
<td></td>
</tr>
<tr>
<td>critical chi-square p&lt;.01*</td>
<td>56.061</td>
<td>78.616</td>
<td></td>
</tr>
<tr>
<td>critical chi-square p&lt;.001*</td>
<td>65.247</td>
<td>89.272</td>
<td></td>
</tr>
<tr>
<td>Significance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RMSEA</td>
<td>0.052</td>
<td>0.049</td>
<td>0.049</td>
</tr>
<tr>
<td>RMSEA low</td>
<td>0.043</td>
<td>0.041</td>
<td>0.041</td>
</tr>
<tr>
<td>RMSEA high</td>
<td>0.061</td>
<td>0.057</td>
<td>0.057</td>
</tr>
<tr>
<td>PClose</td>
<td>0.335</td>
<td>0.553</td>
<td>0.59</td>
</tr>
<tr>
<td>SRMR</td>
<td>0.0727</td>
<td>0.0735</td>
<td>0.0732</td>
</tr>
<tr>
<td>CFI</td>
<td>0.943</td>
<td>0.942</td>
<td>0.94</td>
</tr>
<tr>
<td>PCFI</td>
<td>0.734</td>
<td>0.838</td>
<td>0.89</td>
</tr>
</tbody>
</table>

*Values of the critical Chi-squared distribution sourced from https://www.medcalc.org/manual/chi-square-table.php
N.S. Not significant
Figure 5.7 Parallel-equivalent model to test for reliability
Congeneric tests are unrestricted [Figure 5.5], unlike parallel and tau-equivalent (Curran, West & Finch 1996) when testing for scale reliability. Tau-equivalent tests have equal true score loadings \([\lambda_1 = \lambda_2, \text{etc.}]\), but possibly different error variances \([\varepsilon_1 \neq \varepsilon_1, \text{etc.}]\) [Figure 5.6] (Brown & Moore 2016). More restrictive is parallel where observed measures have equal factor loadings \([\lambda_1 = \lambda_2, \text{etc.}]\) and equal error variances \([\varepsilon_1 = \varepsilon_1, \text{etc.}]\) and measure the latent construct with the same level of precision, namely equivalent error variances [Figure 5.19] (Brown & Moore 2016). Applying the the \(\chi^2\)-square difference test to evaluate the number the nested model comparisons for tau and parallel equivalents (Yuan & Bentler 2004) from Table 5.13 below, clearly, the model displays both convergent and discriminant validity. The congeneric model fit is better than the other tau and parallel-constrained models. In addition, scale reliability was found, because this likelihood ratio test indicates at 34 degrees of freedom, chi square difference of 36.965 is less than the critical 48.602 in Table 5.13. The chi-square and degrees of freedom value increase was insignificant by constraining the parameters.

Thus, the reliability of the measures used does not compromise the statistical conclusions drawn at the end of this and forthcoming chapters.

5.3.2.6 Common methods bias results

To test for a common method bias a few different tests, recommended by Gaskin (2013), were implemented, namely the Harman test (Nebojsa 2014; Choi, Ullah & Kwak 2015), common latent factor test (Podsakoff et al. 2003; Podsakoff, MacKenzie & Podsakoff 2012), and common latent factor marker test (Podsakoff, MacKenzie & Podsakoff 2012; Williams & O’Boyle 2015). From the results, in Table 5.14 below, empirically a single factor accounts for approximately 43 per cent of the variance in the model in terms of how much of the variance/covariance matrix can be explained, rather than how much of the variance in latent or observed endogenous variables is explained (Podsakoff, MacKenzie & Podsakoff 2012). Thus, CMB is a non-issue, because a single factor does not account for more than 43 per cent of most the variance in the model. No single factor emerged in the results, and general factor did not account for most of the variance. An unrotated factor analysis extracted three distinct factors accounted for 65.148 per cent. From Table 5.14 obviously, the three latent variables explained 65.148 per cent of the total variation, leaving 34.852 per cent variation unexplained. These results showed common method bias was unlikely a significant problem in the data.
<table>
<thead>
<tr>
<th>Factor</th>
<th>Initial Eigenvalues</th>
<th>Total Variance explained</th>
<th>Extraction Sums of Squared Loadings</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>% of Variance</td>
<td>Cumulative %</td>
</tr>
<tr>
<td>1</td>
<td>7.828</td>
<td>43.488</td>
<td>43.488</td>
</tr>
<tr>
<td>2</td>
<td>2.445</td>
<td>13.583</td>
<td>57.071</td>
</tr>
<tr>
<td>3</td>
<td>1.454</td>
<td>8.077</td>
<td>65.148</td>
</tr>
<tr>
<td>4</td>
<td>0.827</td>
<td>4.595</td>
<td>69.743</td>
</tr>
<tr>
<td>5</td>
<td>0.684</td>
<td>3.800</td>
<td>73.543</td>
</tr>
<tr>
<td>6</td>
<td>0.661</td>
<td>3.673</td>
<td>77.216</td>
</tr>
<tr>
<td>7</td>
<td>0.596</td>
<td>3.31</td>
<td>80.526</td>
</tr>
<tr>
<td>8</td>
<td>0.544</td>
<td>3.021</td>
<td>83.546</td>
</tr>
<tr>
<td>9</td>
<td>0.477</td>
<td>2.650</td>
<td>86.197</td>
</tr>
<tr>
<td>10</td>
<td>0.437</td>
<td>2.429</td>
<td>88.626</td>
</tr>
<tr>
<td>11</td>
<td>0.367</td>
<td>2.038</td>
<td>90.664</td>
</tr>
<tr>
<td>12</td>
<td>0.333</td>
<td>1.851</td>
<td>92.515</td>
</tr>
<tr>
<td>13</td>
<td>0.302</td>
<td>1.677</td>
<td>94.191</td>
</tr>
<tr>
<td>14</td>
<td>0.295</td>
<td>1.639</td>
<td>95.830</td>
</tr>
<tr>
<td>15</td>
<td>0.238</td>
<td>1.323</td>
<td>97.153</td>
</tr>
<tr>
<td>16</td>
<td>0.200</td>
<td>1.111</td>
<td>98.264</td>
</tr>
<tr>
<td>17</td>
<td>0.169</td>
<td>0.941</td>
<td>99.205</td>
</tr>
<tr>
<td>18</td>
<td>0.143</td>
<td>0.795</td>
<td>100.000</td>
</tr>
</tbody>
</table>

*Extraction Method: Maximum Likelihood.*

Next, the common latent factor method [CLF] (Podsakoff *et al.* 2003; Podsakoff, MacKenzie & Podsakoff 2012) was applied. When the specific source of the common method bias cannot be identified, the CLF serve as a solution. In this method, the researchers utilised a common latent factor to capture the common variance among all observed variables in the model, by adding a single latent factor to the respecified CFA model indicated in Figure 5.8.

When the standardised regression weights from this model is compared to the standardised regression weights of a model without the CLF [Table 5.15], undoubtedly differences between the model *cum* CLF and model *ex* CLF were less than .2.

Thus, based on this test it was unnecessary to retain the CLF when estimating the results (Williams & O’Boyle 2015), because the relationships are unaffected by common method (Groza, Locander & Howlett 2016). However, this test is not automatically considered the most reliable test, and thus additional tests were performed.
Figure 5.8 Common latent factor model
Table 5.15 Comparison of standardised regression weights: [Group number 1 - Default model]

<table>
<thead>
<tr>
<th></th>
<th>cum CLF</th>
<th>ex CLF</th>
<th>Absolute Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>a1</td>
<td>b1</td>
<td>0.604</td>
<td>0.585</td>
</tr>
<tr>
<td>a2</td>
<td>b1</td>
<td>0.689</td>
<td>0.686</td>
</tr>
<tr>
<td>a3</td>
<td>b1</td>
<td>0.375</td>
<td>0.372</td>
</tr>
<tr>
<td>a10</td>
<td>b3</td>
<td>0.794</td>
<td>0.875</td>
</tr>
<tr>
<td>a11</td>
<td>b3</td>
<td>0.781</td>
<td>0.831</td>
</tr>
<tr>
<td>a13</td>
<td>b3</td>
<td>0.679</td>
<td>0.623</td>
</tr>
<tr>
<td>a14</td>
<td>b3</td>
<td>0.682</td>
<td>0.560</td>
</tr>
<tr>
<td>a4</td>
<td>b3</td>
<td>0.740</td>
<td>0.748</td>
</tr>
<tr>
<td>a5</td>
<td>b3</td>
<td>0.810</td>
<td>0.884</td>
</tr>
<tr>
<td>a6</td>
<td>b3</td>
<td>0.773</td>
<td>0.831</td>
</tr>
<tr>
<td>a7</td>
<td>b3</td>
<td>0.821</td>
<td>0.909</td>
</tr>
<tr>
<td>a8</td>
<td>b3</td>
<td>0.679</td>
<td>0.700</td>
</tr>
<tr>
<td>a9</td>
<td>b3</td>
<td>0.727</td>
<td>0.793</td>
</tr>
<tr>
<td>a16</td>
<td>b4</td>
<td>0.745</td>
<td>0.828</td>
</tr>
<tr>
<td>a17</td>
<td>b4</td>
<td>0.662</td>
<td>0.742</td>
</tr>
<tr>
<td>a18</td>
<td>b4</td>
<td>0.711</td>
<td>0.816</td>
</tr>
<tr>
<td>a19</td>
<td>b4</td>
<td>0.695</td>
<td>0.801</td>
</tr>
<tr>
<td>a21</td>
<td>b4</td>
<td>0.536</td>
<td>0.629</td>
</tr>
</tbody>
</table>

Subsequently, the common latent factor marker technique [zero constraint method/CFA marker technique] was performed. In this test a marker variable, which is the CLF is added as illustrated in Figure 5.9. Each factor loading loading onto the CLF are initially unconstrained as in Figure 5.5 and then constrained as in Figure 5.9 (Podsakoff, MacKenzie & Podsakoff 2012).

Table 5.16 Common methods bias tests: CLF marker technique/zero constraint method/CFA marker technique

<table>
<thead>
<tr>
<th>Model</th>
<th>CLF unconstrained</th>
<th>CLF constrained to zero</th>
</tr>
</thead>
<tbody>
<tr>
<td>( \chi^2 )</td>
<td>128.339</td>
<td>222.131</td>
</tr>
<tr>
<td>df</td>
<td>101</td>
<td>119</td>
</tr>
<tr>
<td>( \chi^2 ) difference</td>
<td>93.792</td>
<td></td>
</tr>
<tr>
<td>df difference</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>Critical chi-square p&lt;.05*</td>
<td>28.869</td>
<td></td>
</tr>
<tr>
<td>Critical chi-square p&lt;.01*</td>
<td>34.805</td>
<td></td>
</tr>
<tr>
<td>Critical chi-square p&lt;.001*</td>
<td>42.312</td>
<td></td>
</tr>
<tr>
<td>Significance</td>
<td>S. p&lt;.001</td>
<td></td>
</tr>
<tr>
<td>CMB if p&lt;.05</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

\* Values of the Chi-squared distribution sourced from https://www.medcalc.org/manual/chi-square-table.php

S. Significant
Figure 5.9 Common latent factor marker with zero constraints model

The results of this re-estimation are provided in the right-most column of Table 5.16 above. Note, in this new model, zero constraints were imposed on the loadings from the methods factor to its indicators to obtain convergence. This procedure is consistent with the approach used by other researchers employing this approach (Podsakoff, MacKenzie & Podsakoff 2012). As can
be seen from Table 23 in Appendix 5.23, the chi square difference test came out as significant for difference in chi-squared 93.792 and difference in degrees of freedom 18, which indicated significant shared variance. In the case of this study, it is surmised, although one cannot be sure, the common methods variance may be likely and probably due to using a single questionnaire, rather than a multi-method approach (Brown 2003). Furthermore, common method bias might be a reflection of some advisers faking their responses (Biderman et al. 2011) on the grounds of the defensiveness and emotional responses of some of the respondents on the matter around licensing of financial advisers, based on the comments such as “Again the RMIT should know better than to ask such a question.” “Duh! That's big business for you. They're not charities.”

Interestingly the common method bias was greatest for professions, followed by trust and IPFPSB. Thus, with the presence of common method, the researcher opted for retaining the common latent factor, namely the unmeasured common latent method factor during MLE (Podsakoff et al. 2003), because it controlled all systematic sources of bias during hypotheses testing of relationships between constructs (Podsakoff, MacKenzie & Podsakoff 2012).

Furthermore, on the grounds of a non-significant p-value of .310 for the common latent factor variance in Table 22 in the Appendix 5.22, it was surmised common method bias should not threaten the validity of this enquiry’s conclusions. Moreover, findings by Meade, Watson and Kroustalis (2007) showed common method bias may be in many cases be inconsequential and not impede the validity of the study’s conclusions. As further evidence, this is the case for this research project, the results were reported by including and excluding the common latent factor.

5.3.2.7 Finalised confirmatory factor analysis model

Thus, after applying the remedy for common method bias, the most important goodness of fit indices, namely the $\chi^2$ test, RMSEA, GFI, AGFI, SRMR and PCLOSE, were analysed. The $\chi^2$ was not larger than three times its degrees of freedom, which means the model has relatively good fit. The SRMR and RMSEA in in Table 5.7 were within the specified limits of acceptability, satisfying the goodness of fit criteria specified by numerous authorities. The GFI and AGFI are well above the .90 threshold and are both close to unity and close to perfect fit. Although overall GOF [Columns three and four of Table 5.7] validates reasonable approximate fit for this complex congeneric model with many indices, some relationships, particularly $\alpha_3$ [BestRev] displayed the lowest loadings [Tables 5.17]. Despite this low loading, further evidence suggests the sample matrix is produced reasonably well, overall, because all the
Table 5.17 Standardised regression weights: [Group number 1 - Default model]

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Estimate</th>
<th>p</th>
<th>SE</th>
<th>SE-SE</th>
<th>Mean</th>
<th>Bias</th>
<th>SE-Bias</th>
<th>Lower</th>
<th>Upper</th>
<th>Range</th>
<th>p</th>
<th>Estimate</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual $a_1 [b_1]$</td>
<td>0.585</td>
<td>0.001</td>
<td>0.215</td>
<td>0.011</td>
<td>0.616</td>
<td>0.031</td>
<td>0.015</td>
<td>0.232</td>
<td>1.132</td>
<td>0.900</td>
<td>0.01</td>
<td>0.604</td>
<td>0.007</td>
</tr>
<tr>
<td>BestRev $a_3 [b_1]$</td>
<td>0.372</td>
<td>***</td>
<td>0.109</td>
<td>0.005</td>
<td>0.338</td>
<td>-0.034</td>
<td>0.008</td>
<td>0.103</td>
<td>0.590</td>
<td>0.487</td>
<td>0.01</td>
<td>0.375</td>
<td>***</td>
</tr>
<tr>
<td>Regulative $a_9 [b_3]$</td>
<td>0.793</td>
<td>***</td>
<td>0.029</td>
<td>0.001</td>
<td>0.791</td>
<td>-0.001</td>
<td>0.002</td>
<td>0.734</td>
<td>0.850</td>
<td>0.116</td>
<td>0.01</td>
<td>0.727</td>
<td>***</td>
</tr>
<tr>
<td>Consequential $a_{10} [b_3]$</td>
<td>0.875</td>
<td>***</td>
<td>0.026</td>
<td>0.001</td>
<td>0.872</td>
<td>-0.003</td>
<td>0.002</td>
<td>0.817</td>
<td>0.916</td>
<td>0.099</td>
<td>0.01</td>
<td>0.794</td>
<td>***</td>
</tr>
<tr>
<td>Procedural $a_{11} [b_3]$</td>
<td>0.831</td>
<td>***</td>
<td>0.031</td>
<td>0.002</td>
<td>0.829</td>
<td>-0.001</td>
<td>0.002</td>
<td>0.766</td>
<td>0.884</td>
<td>0.118</td>
<td>0.01</td>
<td>0.781</td>
<td>***</td>
</tr>
<tr>
<td>Personal $a_{13} [b_3]$</td>
<td>0.623</td>
<td>***</td>
<td>0.039</td>
<td>0.002</td>
<td>0.626</td>
<td>0.003</td>
<td>0.003</td>
<td>0.535</td>
<td>0.698</td>
<td>0.163</td>
<td>0.01</td>
<td>0.679</td>
<td>***</td>
</tr>
<tr>
<td>Cognitive $a_{14} [b_3]$</td>
<td>0.560</td>
<td>***</td>
<td>0.047</td>
<td>0.002</td>
<td>0.567</td>
<td>0.007</td>
<td>0.003</td>
<td>0.469</td>
<td>0.657</td>
<td>0.188</td>
<td>0.01</td>
<td>0.682</td>
<td>***</td>
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<tr>
<td>Independence $a_{17} [b_4]$</td>
<td>0.742</td>
<td>***</td>
<td>0.047</td>
<td>0.002</td>
<td>0.75</td>
<td>0.008</td>
<td>0.003</td>
<td>0.653</td>
<td>0.831</td>
<td>0.178</td>
<td>0.01</td>
<td>0.662</td>
<td>***</td>
</tr>
<tr>
<td>Professions $a_{18} [b_4]$</td>
<td>0.816</td>
<td>***</td>
<td>0.042</td>
<td>0.002</td>
<td>0.816</td>
<td>0.000</td>
<td>0.003</td>
<td>0.736</td>
<td>0.895</td>
<td>0.159</td>
<td>0.01</td>
<td>0.711</td>
<td>***</td>
</tr>
<tr>
<td>IPFPSB $a_{19} [b_4]$</td>
<td>0.801</td>
<td>***</td>
<td>0.039</td>
<td>0.002</td>
<td>0.804</td>
<td>0.003</td>
<td>0.003</td>
<td>0.719</td>
<td>0.872</td>
<td>0.153</td>
<td>0.01</td>
<td>0.695</td>
<td>***</td>
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<tr>
<td>Simult $a_2 [b_1]$</td>
<td>0.686</td>
<td>marker</td>
<td>0.280</td>
<td>0.014</td>
<td>0.714</td>
<td>0.028</td>
<td>0.020</td>
<td>0.313</td>
<td>1.264</td>
<td>0.951</td>
<td>0.01</td>
<td>0.689</td>
<td>marker</td>
</tr>
<tr>
<td>Structural $a_4 [b_3]$</td>
<td>0.748</td>
<td>***</td>
<td>0.035</td>
<td>0.002</td>
<td>0.749</td>
<td>0.001</td>
<td>0.003</td>
<td>0.674</td>
<td>0.805</td>
<td>0.131</td>
<td>0.01</td>
<td>0.740</td>
<td>***</td>
</tr>
<tr>
<td>AlignAct $a_5 [b_3]$</td>
<td>0.884</td>
<td>***</td>
<td>0.020</td>
<td>0.001</td>
<td>0.883</td>
<td>-0.001</td>
<td>0.001</td>
<td>0.835</td>
<td>0.923</td>
<td>0.088</td>
<td>0.01</td>
<td>0.810</td>
<td>***</td>
</tr>
<tr>
<td>CoIAct $a_6 [b_3]$</td>
<td>0.831</td>
<td>***</td>
<td>0.029</td>
<td>0.001</td>
<td>0.833</td>
<td>0.002</td>
<td>0.002</td>
<td>0.772</td>
<td>0.885</td>
<td>0.113</td>
<td>0.01</td>
<td>0.773</td>
<td>***</td>
</tr>
<tr>
<td>FiducAct $a_7 [b_3]$</td>
<td>0.909</td>
<td>marker</td>
<td>0.016</td>
<td>0.001</td>
<td>0.908</td>
<td>-0.001</td>
<td>0.001</td>
<td>0.871</td>
<td>0.937</td>
<td>0.066</td>
<td>0.01</td>
<td>0.821</td>
<td>marker</td>
</tr>
<tr>
<td>CompAct $a_8 [b_3]$</td>
<td>0.700</td>
<td>***</td>
<td>0.039</td>
<td>0.002</td>
<td>0.699</td>
<td>-0.001</td>
<td>0.003</td>
<td>0.620</td>
<td>0.772</td>
<td>0.152</td>
<td>0.01</td>
<td>0.679</td>
<td>***</td>
</tr>
<tr>
<td>EliminateCoI $a_21 [b_4]$</td>
<td>0.629</td>
<td>***</td>
<td>0.051</td>
<td>0.003</td>
<td>0.636</td>
<td>0.007</td>
<td>0.004</td>
<td>0.542</td>
<td>0.738</td>
<td>0.196</td>
<td>0.01</td>
<td>0.536</td>
<td>***</td>
</tr>
<tr>
<td>Trust $a_{16} [b_4]$</td>
<td>0.858</td>
<td>marker</td>
<td>0.035</td>
<td>0.002</td>
<td>0.857</td>
<td>-0.001</td>
<td>0.003</td>
<td>0.780</td>
<td>0.920</td>
<td>0.140</td>
<td>0.01</td>
<td>0.745</td>
<td>marker</td>
</tr>
</tbody>
</table>

112 We were unable to generate standardised regression weight’s 95% confidence intervals in AMOS using bootstrap cum CLF.
estimates are significant at p<.001, apart from $a_1$ [Dual] with a significance value p= .001 in the case of ex CLF and p=.007 in the case of cum CLF.

From standardised regression weights estimates in Table 5.17, and the unstandardised factor loading estimates in Tables 21a and 21b in Appendix 5.20, it is clear the model’s scale is reflective, rather than formative, because no proof of negative factor loadings [regression weights] was evident. Thus, from this AMOS MLE solution the direction of the parameter estimates was in accordance with the prediction of the theory. Namely, the indicators all have positive relationships with the latent constructs (Gaskin 2016b). Therefore, it was unnecessary to discard (Blunch 2008) any relationships during this phase of the CFA analysis. For example, predictors $a_1$, $a_2$ and $a_3$ are positively related to the construct Dual [$b_1$]. Their direction of causality was from construct to predictor. In Table 5.17 no evidence of any standardised regression weights below 0.35 was found, which the investigator considered acceptable thresholds for sufficient or significant factor loadings based on sample sizes of 250 (Gaskin 2016b). The lowest bootstrapped cum CLF standardised regression weight was 0.375 for indicator BestRev [$a_3$]. The loadings meeting the excellent threshold of above 0.71 were $a_4$, $a_5$, $a_6$, $a_7$, $a_9$, $a_{10}$, $a_{11}$, $a_{16}$ and $a_{18}$. The very good loadings above 0.60 included $a_{13}$, $a_{14}$, $a_{17}$, $a_{19}$, $a_2$, $a_8$ and $a_1$. In addition, only one variable $a_{21}$ scored fair for being above 0.45, but not quite good [above .55]. Based on the literature’s rules of thumbs, no poor loadings below 0.32 (Tabachnick & Fidell 2007; Harrington 2009) was evident. However, these rules of thumb ignore sample size. For this study’s sample size of 262, a loading of more than .35, based on a sample size of 250, is considered acceptable. Refer to Table 22 in the Appendix 5.22, to obtain estimates of the variance in the unstandardised solution of all the indicators accounted for by the latent factors. The parameters in the CFA model include factor variance in the unstandardised solution, which is the variance for a factor in the sample data. It also includes error covariance, which are correlated errors demonstrating the indicators are related. In both these cases, these estimates measured influences other than the shared influence of the latent factor. Correlated errors could result from method effects, such as common measurement method of self-report or similar wording of items when testing for common methods bias, which was found earlier. Overall, the variances are all highly significant, except for the CLF.

When measuring the precision or statistical accuracy, in other words the standard errors, in the estimates of the parameters, the overall SEs were considered reasonable as they are not too close to zero or too large. None of these parameters appeared statistically insignificant. However, dual-agency indicators’ SE magnitudes were inconsistent with the other variables
SE magnitudes. Thus, some concern for the SEs of the bootstrapped indicator estimates $a_1$ and $a_2$ forming part of factor Dual-agency $b_1$ was identified. The standard errors for $a_1$ and $a_2$ were particularly high compared to the other estimates in the model. The high SE has led to upper limits greater than one for the 95 per cent CI. For instance, from Table 5.17 the 95 per cent CI of the indicator $a_1$ factor loading [.585] verifies 95 per cent certainty the true population value of parameter is between .232 and 1.132 [cum bootstrap, ex CLF]. Obviously the 95% confidence interval for particularly $a_2$ [Simult], $a_1$ [Dual] is quite wide for the bootstrapped data, followed to a lesser extent by $a_3$ [BestRev], which all load on the same factor Dual-agency. This result confirms the variable dual-agency shows some problematic results, which will be investigated further during the discussion in Chapter 6 of the Dual-agency role factor. Thus $a_1$ and $a_2$ were problematic issues for survey respondents. Thus caution is advised when considering these variables estimates, because the statistical significance tests of path coefficients may result in Type one errors with a risk of rejecting the models in error, if the chi-square is large (Menard 2002). The chi-square estimates for this model was not considered large, which minimises the possibility of Type one errors. As far as the Dual-agency factor [$b_1$] is concerned no error covariance was specified for its indicators during CFA MLE respecification using modification indices. Thus, all the covariation among its indicators was due to the shared influence of the latent variables. In other words the measurement error was considered random (Brown 2006). Yet, expectedly after considering the modification indices, thirteen error covariance indicators covary. The comments of some respondents confirmed these indicators are related in some way, whereby some of their covariation is due to sources other than the shared influence of the latent factor (Menard 2002; Brown 2006). In addition, interesting, eight indicator error covariance for both legitimacy and alternative licensing factors produced negative values [Tables 24a and 24b in Appendix 5.23]. This means these estimates were out of range after modification. Generally, the presence of an error covariance indicates two indicators share systematic variance, which is unexplained by their common factor (Brown 2006). A negative covariance between error variables may indicate the relationship between two indicators is overestimated by the factor$^{113}$. Evident in this research, the empirical covariance is smaller than the model-implied covariance. A reason for this outcome is the possible presence of two correlated factors instead of one. Recall, two correlated factors, namely Objectives of the Act factor $b_2$ with Legitimacy factor $b_3$ were merged. Yet E/CFA

discounts this reason. Another reason found in the literature (Brown 2006) explained a method effect occurs when a positive effect on the first indicator and an undesirable effect on the second indicator is found. Based on the qualitative results in this research, this latter reason is likely, that this study’s measurement model involved a multiple-item questionnaire similarly worded, and given the controversial nature of the topic, hence emotional responses of some respondents, differentially prone to social desirability. According to Gaskin (2016a) other reasons include a measurement issue deeper down, like skewness or kurtosis problems, or too much missing data, or a variable that is nominal. These were considered unlikely, because skewness and kurtosis were not a problem, missing data was minimal nor were there any nominal variables. Literature recommended remedies were applied to address the negative covariance estimates, including moving the latent variable path constraint of one to another path. Unfortunately, they failed to fix the problem. Another approach applied was to rectify these improper negative indicator covariance (Anderson & Gerbing 1988) by re-specifying the model by fixing improper estimates to zero and performing a chi-square difference test [Table 24 in the Appendix 5.24]. According to this chi-square test, fixing parameters to zero significantly worsened the goodness of fit and $\chi^2$ value. Then the investigator applied Anderson and Gerbing (1988) proposed approach to preserve the confirmatory factor model, namely to fix these improper estimates to an arbitrarily small positive number, such as .005 [Table 24 Appendix 5.24]. This remedy also worsened the model fit (Joreskog 1978). As the drop in chi-square was large compared to the difference in degrees of freedom, it indicated the negative covariance represents a real improvement and the drop in chi-square means the improvement in fit is not obtained by chance or sampling error and so these negative covariance parameters have real significance or meaning in this model (Joreskog 1978). Thus, this difficult negative error covariance was retained in the model. The relationship between these indicators was further confirmed from the comments made by survey respondents, notwithstanding it significantly helped with model specification and/or model fitting. Therefore, key to model specification were the positive and negative covariance between them. When the reliability of the responses was measured, Graph 6.12 below and Table 25 in Appendix 5.25 provide the squared multiple correlations of the data. Focusing on the cum CLF estimates in Graph 6.2, plainly only 14 per cent and 31 per cent of the variance of $a_3$ [BestRev] and $a_{21}$, [EliminateCoI] are accounted for by the latent factor Dual and latent factor Individual licensing, respectively. This outcome means 86 per cent and 69 per cent, estimates of $e_3$ and $e_{21}$, respectively are accounted for by unique variance or other factors.
Graph 5.12 Cum CLF square multiple correlations ($r^2$) in percent
Consequently, the estimated reliability of $a_3$ is only 14 per cent, which is very low and puts a question mark on the reliability of the responses from the survey participants. Furthermore, $a_8$ [CompAct], $a_2$ [Simult], $a_{13}$[Personal] and $a_1$ [Dual] also have square multiple correlation estimates below 50 per cent. An interesting statistic, in Graph 5.12 below and Table 25 in Appendix 5.25, is the confidence interval of Simult $[a_3]$, which is quite large and inconsistent with the other indicators in the model’s $r^2$ 95 per cent confidence intervals. Thus, indicators EliminateCoI, CompAct, Personal and particularly adviser’s dual-agency role factor with low reliability values for Dual, Simult, and BestRev, seemed problematic topics for the survey respondents. On the grounds of an analysis of the respondents’ comments explained why the reliability for these five indicators were possibly so low. When some advisers considered the survey statement measuring $a_1$ [Dual]: Advisers authorised through third-party licensees face a dual-agency relationship, namely an adviser-licensee relationship and an adviser-client relationship, it seems they failed to see themselves as agents of licensees, but agents of clients only. “My understanding of dual agency is where the agent represents the interests of both the buyer and the seller. As an adviser, we represent the interests of the client (buyer) but the interests of the licensee are not as a ‘seller’. The licensee authorises/licenses advisers, they don’t ‘sell’ advice which is what the client is ‘buying’.” “Almost all advisers will tell you that their responsibility is to their clients. The fact that the law says there must be a relationship between licensee and adviser in the eyes of most advisers I know is purely because it has to be. I consider myself bound to my client before bound to the Licensee.” Others viewed licensees merely as providing support services, authorise them to work and/or in some cases they feel licensees did not control them. “Factually correct but I see the licensee as a servant/tool rather than a commander/controller.” “Not true. Licensees provides the framework for the adviser to service their clients on a day to day basis. The interest of the client always come first.” Although not everyone agreed, because there were comments where advisers claimed they act as agents to distribute product of particularly aligned licensees or were limited and controlled by their licensees, depending on the licensee. “It depends on who you are licensed with. An adviser who is licensee of a bank or a specific dealer group that does not have a wide authorised product list definitely do have a dual agency relationship and tend to be limited on the product offerings available to their clients. They also tend to be restricted in relation to processes and systems.” Some did not seem to think any relationship with the licensee exists. While another added, they neglected to consider the licensee-client
relationship. “Licensees are required to ensure that the client's best interest is considered by its authorised representatives. Therefore Licensees also have a Licensee - client relationship.”

When reflecting on the survey statement of \( a_2 \) [Simult]: Licensing advisers through third-party licensees’ results in advisers serving the interests of their clients and licensees, simultaneously, seemingly advisers were very much focused on prioritising their relationship with the clients. With only a few giving any thought with regards to their relationship with their licensees. “Clients interest come first and foremost - and that is absolute. If there is a benefit to the licensee's interests and its not detrimental to the client, then I am happy to also benefit the licensee.” Many did not see themselves serving the interests simultaneously; because the best interest duty is seen to override the interests of licensees. Whereas others did see themselves serving “…2 masters in this equation but this doesn't mean a licensee gets 'served' over the client. It depends so much on the licensee involved as to what their 'interests' are.” When talking about interests, some respondents ignored the licensees’ interests as if they are unimportant, non-existent, or irrelevant. “Not really; I don't give the licensee a second thought. I am not required to recommend their product or meet any quotas or targets.” Whereas others seem to indicate the relevance, importance and existence of the interests being served simultaneously. “Again, an undeniable fact, but the question makes no distinction to the relative % of service to and importance of each. My experience is that advisers serve their clients as close to 100% as the law allows, and their Licensee whatever % that leaves on the table.” “If licensee is a member of a dealer group that is an organisation listed on the stock exchange, then the there is a greater probability that the adviser will be working in the interests of the licensee and hence shareholder…Privately run dealer groups may be less inclinded to do the above and cover costs only. Hence serve clients interests more.” “The adviser must service client's interests. / The adviser only needs to serve the licensee's compliance interests.” “Whilst advisers need to be mindful of their licensee's interests, the client's needs must take priority, even where this may not "suit"the licensee.” Thus, an open-ended question in the man survey about the benefits licensees derive from authorising individual advisers was asked. A constant theme found for this question was the view the relationship between adviser-licensee is the licensee not only authorises advisers but also serves advisers. “We are clients of the licensee and so they have to service me although I have to abide by their rules as they are responsible for the advice that I give. However, I can choose to change licensee's or make sure I utilise one that provides sufficient breadth to provide the types of advice and use the prodcuts that I deem to be suitable.” “Many licensees have no interests other than compliance and
reporting. It is important to separate out these two issues rather than assuming all licencees are the same.” No clear consensus was present as to whether the adviser and licensee are assumed a unit acting on behalf of the client, or two separate units acting independently of each other. “The interests of the Licensee should be to ensure the interests of the clients come first. Authorised Representatives activities are an extension of the Licensee’s activities”

Advisers also produced inconsistent responses to comments pertaining to $a_3$ [BestRev] measured by the statement: While serving the best interest of their clients, advisers also generate revenue for their licensees. For instance, not all licensees were in business “to make money” or “make money” from funds under management of product distribution based on a few comments: “Thankfully my dealergroup doesn’t operate like this. They have a flat fee and there is absolutely no pressure to “grow your business” to make more revenue for the dealer. Having done research back before I joined this group I can see from many others this is not the case.” Licensee revenues were viewed as a means for advisers to pay their licensees for services rendered to support them in their roles or businesses. “Revenue is required in order to cover expenses. Particularly given the high cost of ongoing education and compliance.” “…only in as much as we pay a fee for the licensee to provide us with a service, being research, technical, compliance etc. As a small business owner I contract with a lot of people to provide me with services: Telstra; Landlord; Mechanic etc.” “We certainly pay our licensee for services provided, however most dealer groups do not generate a profit, they simply breakeven.” Whereas other licensees seem to use their advisers to distribute product for them. “Yes, but overall most licences do not make a substantial profit, it is more to complement other services and other benefits of having distribution.” “Most licensees have preferred product lines that generate income for the licensee, and in may cases the adviser through share allotments in the licensee based on product volumes.” “Where licensees charge a % this may be true. My licensee charges a flat fee. So the licensee income is not tied to income generated by the adviser. However this is a relatively new system and mainly applies to new clients. Grandfathering provisions and the Approved Product List can create issues with serving the best interest of the client.” Thus, the level of licensee control over their advisers, variety of business models, licensee-adviser agreements and remuneration arrangements were some of the other factors advisers thought about when reflecting on their response. “Only if I select their products which I am not compelled to do.” “My practice is basically fixed fee with my AFSL. My AFSL doesn’t make any more or less money from me irrespective of the source of my fees. That's why I am with them. If I worked for an Industry Fund or bank then I am in trouble. The
answer would be maybe 75%.” “Yes this is true, depending on what the adviser makes money from. We generate money for the dealership, however the dealership gets volume rebates if we use their products. See where this is going?” Licensee revenues was a touchy subject, because some advisers felt compelled to defend or rationalise licensees' revenues. “Licencees are in the business of making money, but this has to be done transparently with the client, so that they understand the services they're paying for.” “I see no problem with that, all other professionals also generate revenue for themselves and /or an umbrella entity, and that has to be so that they are recompensed for their services.” “dah. … The Licensee is a business. They are not the enemy. They are there to provide a service, to assist us in our business, to be there if things go wrong. They provide our APL, the rules and the sandpit we need to play in. They are also the buffer between us and ASIC. Thank goodness they are there for us.” Thus, from the foregoing the issue of licensee revenues is a difficult issue for advisers.

The low squared multiple correlation for $a_8$ [CompAct] measured by the question: Licensing advisers through aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] limits advisers from competing on a level playing field within the industry indicating problems with reliability. From the comments, the advisers had different experiences or views concerning the issue of competition within the financial planning industry. Their lack of clarity on the topic of competition is reflected in their answers, which was also influenced by whether they considered him/herself aligned, non-aligned or s923A independent. For example, advisers seem to perceive competition as sales versus advice: “The real distinction is advice vs. selling "products". Aligned advisers are driven/encouraged to sell products as a solution to clients' needs. Advice may result in no action at all e.g. aligned adviser encourages a client to mortgage the family home and invest in the stock market or managed funds. Best advice may be to do nothing.” Some looked at the question from the perspective of product offered versus quality/suitability of advice: “This assumes that advisers are competing in terms of their product offering not quality or suitability of advice. Surely it is the quality of advice that is important not the make or model of the product (if a product is offered)?” On the other hand, others answered the question on competition from a marketing perspective. “They have a huge brand advantage.” Whereas one respondent looked at competition from the perspective of size or number of advisers or concentration of advisers within the industry. “Bank advisers consist of 70% of the industry advisers. The IFA, we are 10-15% approx. Remainder is industry funds. It is not level. The IFA advice model has consistently ranked superior but the average consumer does not know this, or if they do, don't have the budget, where banks subsidise their advice.
delivery from vertical integration.” Another adviser considered the size of the licensees: “Alignment may seriously increase the competitive position of aligned advisers due to the strength of branding, systems & infrastructure, marketing resources and existing clientele. Nobody cares about level playing field. As an independent I have a serious disadvantage by comparison. Sometimes I wish I wasn’t so conscientious.” While another considered economies of scale: “Only partly true. some platforms pass on some of their economies of scale to end clients and this is an area where our business, for example cannot readily compete. On the other hand our fee model tends to result in lower overall costs because of the fact we do not take income from the platform.” Whereas another looked at the capability of licensees to subside costs. “Yes, the field is tilted in their favour as the licensee can afford to defray the costs or running the licensee onto other parts of their business, hence it is much easier for them to invest sufficiently into the very difficult compliance regime. Their large size also is a big advantage.” Another ignored the intent of the question and offered an alternative explanation for their view, particularly approaching the question from a compliance point of view. “Agree but for different reasons than intended by the question: The high licensee compliance standard places me at a competitive disadvantage against practitioner not subjected to such stringent standards. (And I DO understand the question and the intention of it!).” Consequently, these different angles of answering the question may explain the low $r^2$ value.

The low squared multiple correlations for the survey question: Contributions to the debate with government surrounding the licensing of advisers by specific individual leaders of aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP) are aimed to protect their product distribution channels, measuring $a_{13}$ [Personal] may be explained by the following comments. The answers to Personal [$a_{13}$] moral legitimacy clearly does not explain the latent factor legitimacy completely, because other factors are at play, such as: 1) licensees “…hoping to protect their turf. But they are also trying to reduce the increase increase in administrative burden placed on financial advisers - raising the cost of advice to clients.” 2) “Contributions to the debate are around educating government and other interested parties in the profession and options for continual improvement. I disagree more to protect the advisers who look after the clients. With recent legislation changes some advisers have passed on the costs increased by the changes.”

Respondents’ comments also explained the low squared multiple correlation for $a_{14}$ [Cognitive] variable, which is measured by the statement: Licensing advisers through third-party licensees is one of the reasons why the Australian public cannot clearly distinguish
between advisers who provide independent advice [as defined by the Act] and those who provide advice possibly conflicted by a product bias. It seems “this is too simplistic. There are other factors”. For instance, one adviser claimed, “independent advice also has bias to some extent, while there may be a wider investment choice / selection available the planner is inherently biased towards funds / products they have already used and have a relationship with.” “The reason for confusion includes the rules that govern the use of certain banned words (independent, unbiased, etc.). However I also believe confusion would reduce if there was clarity in relation to the legal provider of the advice (i.e. the licensee).” For another adviser, “There is no "independent advice".” Whereas another adviser disagrees, “There is no conflict. Again, what would you suggest - if I was licensed with CBA, and then sold an AMP product, and an AMP adviser sold a CBA product - both products are still owned by someone. Would you prefer I set up my own managed fund for my clients to invest in? Where is the safety in that.” “I agree that the public has difficulty but not because of the existence of third party Licensees. I think the distinction should be about quality of advice. Product bias is a minor, secondary consideration. It is not the source of all evil. Bad advice can be delivered by any adviser; independent, self licensed; aligned or in the employ of a bank.” Also, the emotional response in this example explains the lower $r^2$, “The industry can't even work out what independent is. We have advisers who can receive an Independent Financial Adviser Award (IFA Magazine) yet who operate businesses as conflicted as a Banks. The AFSL then leverages that publicity to appear as something they are not - appalling!! Is it any wonder the public has no trust.” “Really don't think most Australians would know the difference as it is not usually openly disclosed to them” For another, they “Hadn't thought of it that way before. / Quite possibly. / Need to make it easier to handle compliance of own AFSL?”

Many respondents also answered the survey in terms what should be the case, rather than answering the question in terms of what is the case, which may explain the low squared multiple correlations and regression weights for these variables. In other words, the model may fit the data, but does not reproduce some indicator relationships well. It also does not produce uniformly interpretable parameter estimates, because the matter is more complex than was at first theoretically conceptualised. Even so, the model was not re-specified to improve the parsimony and interpretability of the CFA model, because based on the evidence from the comments made by the respondents, advisers are unclear about their role and identity. This lack of a clearly defined identity and role is also evident in the financial planning literature, which is an important finding. As far as the estimates for the seven indicators with lower than 50 per
cent \( r^2 \) values are concerned perceptibly, advisers’ identity, role and performance is still evolving and/or in an evolutionary, if not in a revolutionary phase.

Therefore, based on the overall results discussed above the model is properly specified and plausible (Kline 2010). It is not different from the population’s true covariance structure (Kline 2010). Furthermore, all the fit indices for \( ex \) and \( cum \) CLF, led to the same conclusion for the hypotheses. Hence, an interpretation and discussion of the findings was proceeded with confidently in the next chapter.

5.4 CONCLUSION

In this chapter, the findings of the pilot study indicated respondents misunderstood many of the survey questions, and mainly because of the manner they interpreted and used terminology prevalent in financial planning practice. Pilot study respondents highlighted numerous terminologies used in practice, which seemed move away from the intent of s923A of the Act. Many were unmotivated to respond, because the survey was considered long. Additionally, much of the financial planning literature on this issue was rather damaging, making designing survey questions a difficult matter. The limitation of an unbalanced view in the literature led some survey invitees to perceive the survey questions as biased. Despite these limitations and difficulties during the pilot study, it served to improve the main survey instrument and confirm the importance and feasibility of conducting the main study. Therefore, the extended main study went ahead to produce some interesting results as reported in this and the forthcoming chapter.

To sum up the extended main study, the raw data was screened utilising Microsoft® Excel and IBM SPSS software. After analysing the demographics, a data driven exploratory factor analysis technique was applied within a confirmatory factor analysis framework. The assumptions were tested using a data-driven EFA approach within a CFA method (Brown & Moore 2016) using MLE. EFA was important to implement, because as noted earlier, this study pioneered a new theoretical framework combining several different theories for the first time defining, modelling and measuring legitimacy. Beginning with the \( a \) priori model, the first initial misspecification source was too many factors. Consequently, the four indicators of the Objective of the Act factor were collapsed into one factor per the pattern matrix during EFA analysis by merging them into the legitimacy factor \( [b_3] \). Three indicators were deleted, due to unacceptable low loadings during initial E/CFA. Then one of the measures was replaced after it was validated appropriate per the pattern matrix during EFA analysis combined with
interpreting the substantive theory. Thus, E/CFA provided the model a more realistic solution in line with the theory. Once the correct number of indicators and factors were identified, the analyses proceeded with CFA bootstrapped MLE specification searches using modification indices by adopting current practice in SEM. Sequentially the model was modified thirteen times until adequate fit was achieved. This respecification resulted in a more parsimonious model for CFA. Notably, SEM experts (Kline 2010; Byrne 2013) claimed simpler models are preferred. Then, using chi-square difference test between the multi-group containing males \( n=218 \) and females \( n=44 \), the data was cross-validated successfully. This positive result meant the data was generalisable and not because of capitalising on chance. The results also passed all the invariance tests using the same male/female multigroup CFA MLE \( \chi^2 \) difference test approach (Schmitt & Kuljanin 2008). Convergent together with discriminant validitry was established using common statistical techniques. Scale reliability was proven using tau equivalent tests and the more restrictive parallel tests. High power and p-values confirmed little evidence of any Type two errors among the indicators. Type one errors based on the standard error values were also not of concern. However, common method bias was observed when the well-known Harman test was applied. This test was further validated with more reliable tests, such as the common latent factor [CLF] and CLF marker tests using \( \chi^2 \) differences. Although, the mean values may be distorted, common method bias was inconsequential and observed not to threaten the validity of this research’s conclusions. With or without the remedy for common method bias [namely, adding a CLF], all the estimates led to the same conclusions for the hypotheses. So, both the bootstrapped MLE results with [cum] and without [ex] CLF starting with the fit statistics were reported. To conclude, the respecified hypothesised model seemed a good fit for the data collected. For example, Comparative Fit Index value showed the over-identification condition was met when comparing the estimated model to an independent and null model. Bayesian information criterion indicated the estimates are generalisable. The root mean-square error of approximation indicated the population matrix model was the same as the estimated or sample model’s matrix. PClose value verified the estimated model [sample] is a good fit to the population. Thus, given the goodness of fit thresholds have been identified, remedied and met, the interpretation of the model’s parameter estimates together with testing the hypotheses proceeds in the next chapter.
Appendix 5.1

Table 1 Frequency use of ‘Other’ option on the ruler-option scale

<table>
<thead>
<tr>
<th>Variable</th>
<th>I don’t understand the question</th>
<th>I don’t know</th>
<th>Not applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>Frequency</td>
<td>Percent</td>
</tr>
<tr>
<td>a1</td>
<td>3</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>a2</td>
<td>3</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>a3</td>
<td>3</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>a4</td>
<td>2</td>
<td>2</td>
<td>0.8</td>
</tr>
<tr>
<td>a5</td>
<td>5</td>
<td>4</td>
<td>1.5</td>
</tr>
<tr>
<td>a6</td>
<td>5</td>
<td>4</td>
<td>1.5</td>
</tr>
<tr>
<td>a7</td>
<td>6</td>
<td>5</td>
<td>1.9</td>
</tr>
<tr>
<td>a8</td>
<td>8</td>
<td>2</td>
<td>0.8</td>
</tr>
<tr>
<td>a9</td>
<td>8</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>a10</td>
<td>3</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>a11</td>
<td>8</td>
<td>8</td>
<td>3.1</td>
</tr>
<tr>
<td>a12</td>
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<td>2</td>
<td>0.8</td>
</tr>
<tr>
<td>a13</td>
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<td>0.4</td>
</tr>
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<td>a20</td>
<td>6</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>a21</td>
<td>2</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>Total</td>
<td>98</td>
<td>15</td>
<td>67</td>
</tr>
</tbody>
</table>
Appendix 5.2

Table 2 Missing Patterns [cases with missing values] for Section A of the questionnaire

<table>
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<tr>
<th>Case No.</th>
<th>Missing No.</th>
<th>%</th>
<th>a12</th>
<th>a21</th>
<th>a14</th>
<th>a15</th>
<th>a16</th>
<th>a17</th>
<th>a3</th>
<th>a8</th>
<th>a2</th>
<th>a4</th>
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<tr>
<td>171</td>
<td>1</td>
<td>4.8</td>
<td>S</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>165</td>
<td>2</td>
<td>9.5</td>
<td></td>
<td>S</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>261</td>
<td>3</td>
<td>14.3</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>9.5</td>
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<td>S</td>
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</tr>
<tr>
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<td>14.3</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

No.: Number of missing cases %: percentage of missing cases
# Cases and variables are sorted on missing patterns.

Appendix 5.3

Table 3 Observations farthest from the centroid [Mahalanobis distance] [Group number 1]

<table>
<thead>
<tr>
<th>Observation number</th>
<th>Mahalanobis d-squared</th>
<th>p1</th>
<th>p2</th>
<th>Difference in Mardi d</th>
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<tbody>
<tr>
<td>89</td>
<td>54.485</td>
<td>0</td>
<td>0.004</td>
<td>2.546</td>
</tr>
<tr>
<td>90</td>
<td>51.939</td>
<td>0</td>
<td>0</td>
<td>1.067</td>
</tr>
<tr>
<td>65</td>
<td>50.872</td>
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<td>0</td>
<td>0.776</td>
</tr>
<tr>
<td>222</td>
<td>50.096</td>
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<td>0</td>
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</tr>
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<td>49.640</td>
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<td>230</td>
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<td>0</td>
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<td>136</td>
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<tr>
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<tr>
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</tr>
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<td>p2</td>
<td>Difference in Mardi d</td>
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## Appendix 5.4

### Table 4a Outlier Dual [a1] comments

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<td>29</td>
<td>2</td>
<td><em>This question is not entirely reflective of a relationship between FA and Licensee. A Licensee who is not aligned directly or indirectly with a product manufacturer, is unlikely to interfere with the client-adviser relationship. There is a very important distinction between belonging to an aligned and non-aligned licensee.</em></td>
</tr>
<tr>
<td>44</td>
<td>10</td>
<td><em>The real agency is with the client. The relationship with the third-party licensee is one of a service provided.</em></td>
</tr>
<tr>
<td>158</td>
<td>11</td>
<td><em>I do not see any conflict. In offering an adviser-client relationship, the adviser is still undertaking a commercially rewarding enterprise, as does any other professional, including medical practitioners.</em></td>
</tr>
<tr>
<td>166</td>
<td>9</td>
<td><em>Our greatest relationship is to our clients and as long as the approved list is wide it should not be a problem.</em></td>
</tr>
<tr>
<td>194</td>
<td>0</td>
<td><em>My understanding of dual agency is where the agent represents the interests of both the buyer and the seller. As an adviser we represent the interests of the client [buyer] but the interests of the licensee are not as a 'seller'. The licensee authorises/licenses advisers, they don't 'sell' advice which is what the client is 'buying'.</em></td>
</tr>
<tr>
<td>197</td>
<td>0</td>
<td><em>Adviser relationship is empirical to the client</em></td>
</tr>
<tr>
<td>227</td>
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<td><em>This would depend entirely on the type of licensee. / In the proper world, the client-adviser relationship is paramount, the licensee would expect and respect that. / The licensee should be merely facilitating the service the adviser provides to client, not influence it.</em></td>
</tr>
<tr>
<td>Case</td>
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<td>Comment by respondent</td>
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</tr>
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<td>25</td>
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<td><em>Only to pay for services provided...Audits, Research, Technical etc.</em> / Licensees do not normally provide product however the licensee can be owned by a product provider.</td>
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<td>182</td>
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<td><em>My practice is basically fixed fee with my AFSL. My AFSL doesn't make any more or less money from me irrespective of the source of my fees. That's why I am with them. If I worked for an Industry Fund or bank then I am in trouble. The answer would be maybe 75%.</em></td>
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<td><em>Licensees should charge a fee which is independent of what an adviser does for a client.</em></td>
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<td><em>Advice quality suffers</em></td>
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<td><em>Only to pay for services provided...Audits, Research, Technical etc.</em> / Licensees do not normally provide product however the licensee can be owned by a product provider.</td>
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<th>Case</th>
<th>Score</th>
<th>Comment by respondent</th>
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<tbody>
<tr>
<td>147</td>
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<td><em>I disagree more to protect the advisers who look after the clients. With recent legislation changes some advisers have passed on the costs increased by the changes.</em></td>
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<td>179</td>
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<td><em>I am comfortable that AMPs intentions and involvement at a government level is genuinely intentioned to actually tell these bureaucrats how things actually work in reality, not via some cookie cutter approach where one set of guidlines will provide the panacea to everybody's financial planning issues.</em></td>
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<td>194</td>
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<td><em>As far as I know, leaders of aligned licensees don't debate on this. The professional bodies FPA and AFA do this as bodies that represent adviser interests. Adviser don't recommend products unless they are competitive. The product providers protect their distribution channels by making their products competitive in the first place.</em></td>
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## Appendix 5.5

### Table 5 Test for homogeneity of variance

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### Appendix 5.6

#### Table 6 Collinearity statistics

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## Appendix 5.7

### Table 7 Gender split of survey respondents

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<td>Female</td>
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<td><strong>Total</strong></td>
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## Appendix 5.8

### Table 8 Frequency of age of survey participants

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<td>Gen X [1965-1980]</td>
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<tr>
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</tr>
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### Table 9 Frequency of location of survey respondents

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<th>Percent</th>
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Appendix 5.10

Table 10 Frequency of the number of years of AR status of survey respondents

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### Appendix 5.11

#### Table 11 Frequency of the highest and financial planning qualifications achieved

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<tr>
<td>Diploma</td>
<td>33</td>
<td>12.6</td>
<td>12.6</td>
<td>16.4</td>
<td>87</td>
<td>33.2</td>
<td>33.7</td>
<td>34.5</td>
<td></td>
</tr>
<tr>
<td>Advanced Diploma</td>
<td>52</td>
<td>19.8</td>
<td>19.8</td>
<td>36.3</td>
<td>93</td>
<td>35.5</td>
<td>36</td>
<td>70.5</td>
<td></td>
</tr>
<tr>
<td>Bachelor Degree</td>
<td>65</td>
<td>24.8</td>
<td>24.8</td>
<td>61.1</td>
<td>14</td>
<td>5.3</td>
<td>5.4</td>
<td>76</td>
<td></td>
</tr>
<tr>
<td>Bachelor Honours degree, Graduate Certificate, Graduate Diploma</td>
<td>43</td>
<td>16.4</td>
<td>16.4</td>
<td>77.5</td>
<td>33</td>
<td>12.6</td>
<td>12.8</td>
<td>88.8</td>
<td></td>
</tr>
<tr>
<td>Master Degree</td>
<td>59</td>
<td>22.5</td>
<td>22.5</td>
<td>100</td>
<td>23</td>
<td>8.8</td>
<td>8.9</td>
<td>97.7</td>
<td></td>
</tr>
<tr>
<td>None of the above</td>
<td>6</td>
<td>2.3</td>
<td>2.3</td>
<td>100</td>
<td>6</td>
<td>2.3</td>
<td>2.3</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>4</td>
<td>1.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>262</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>262</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>
## Appendix 5.12
### Table 12 Frequency of professional association membership

<table>
<thead>
<tr>
<th>Association</th>
<th>Frequency</th>
<th>Valid Percent</th>
<th>Missing</th>
<th>Valid Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Planning Association [FPA]</td>
<td>186</td>
<td>71.0</td>
<td>76</td>
<td>29.0</td>
</tr>
<tr>
<td>Self-Managed Super Fund Association [SMSF]</td>
<td>45</td>
<td>17.2</td>
<td>217</td>
<td>82.8</td>
</tr>
<tr>
<td>Association of Financial Advisers [AFA]</td>
<td>41</td>
<td>15.6</td>
<td>221</td>
<td>84.4</td>
</tr>
<tr>
<td>Not a member of any association</td>
<td>23</td>
<td>8.8</td>
<td>239</td>
<td>91.2</td>
</tr>
<tr>
<td>Chartered Accountants Australia and New Zealand [CA ANZ]</td>
<td>21</td>
<td>8.0</td>
<td>241</td>
<td>92.0</td>
</tr>
<tr>
<td>Certified Practicing Accountants [CPA]</td>
<td>19</td>
<td>7.3</td>
<td>243</td>
<td>92.7</td>
</tr>
<tr>
<td>Financial Services Institute of Australasia [FINSIA]</td>
<td>18</td>
<td>6.9</td>
<td>244</td>
<td>93.1</td>
</tr>
<tr>
<td>The Tax Institute [TTI]</td>
<td>7</td>
<td>2.7</td>
<td>255</td>
<td>97.3</td>
</tr>
<tr>
<td>Asian Institute of Chartered Bankers [AICB]</td>
<td>6</td>
<td>2.3</td>
<td>256</td>
<td>97.7</td>
</tr>
<tr>
<td>Independent Financial Advisers Association of Australia [IFAAA]</td>
<td>5</td>
<td>1.9</td>
<td>257</td>
<td>98.1</td>
</tr>
<tr>
<td>Mortgage &amp; Finance Association of Australia [MFAA]</td>
<td>3</td>
<td>1.1</td>
<td>259</td>
<td>98.9</td>
</tr>
<tr>
<td>Stockbrokers Association Australia [SAA]</td>
<td>2</td>
<td>0.8</td>
<td>260</td>
<td>99.2</td>
</tr>
<tr>
<td>Boutique Financial Planner Principals' Group [BFP]</td>
<td>2</td>
<td>0.8</td>
<td>260</td>
<td>99.2</td>
</tr>
<tr>
<td>Australian and New Zealand Institute of Insurance and Finance [ANZIIF]</td>
<td>2</td>
<td>0.8</td>
<td>260</td>
<td>99.2</td>
</tr>
<tr>
<td>Association of Superannuation Funds of Australia [ASFA]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
<tr>
<td>Responsible Investment Association Australasia [RIA]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
<tr>
<td>Association of Independently Owned Financial Professionals [AAIOFP]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
<tr>
<td>Finance Brokers Association of Australia Limited [FBAA]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
<tr>
<td>Institute of Certified Management Accountants [ICMA]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
<tr>
<td>International Academy of Collaborative Professionals [IACP]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
</tbody>
</table>

Control and click to follow the link to the association’s webpage.
### Appendix 5.13

#### Table 13 Frequency of professional qualifications of survey respondents

<table>
<thead>
<tr>
<th>Qualification</th>
<th>Valid Frequency</th>
<th>Valid Percent</th>
<th>Missing Frequency</th>
<th>Missing Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certified Financial Planner [CFP]</td>
<td>141</td>
<td>53.8</td>
<td>121</td>
<td>46.2</td>
</tr>
<tr>
<td>No professional qualifications</td>
<td>67</td>
<td>25.6</td>
<td>195</td>
<td>74.4</td>
</tr>
<tr>
<td>Self-Managed Super Specialist [SSA]</td>
<td>40</td>
<td>15.3</td>
<td>222</td>
<td>84.7</td>
</tr>
<tr>
<td>Certified Practicing Accountant [CPA]</td>
<td>22</td>
<td>8.4</td>
<td>240</td>
<td>91.6</td>
</tr>
<tr>
<td>Chartered Accountant [CA]</td>
<td>21</td>
<td>8.0</td>
<td>241</td>
<td>92.0</td>
</tr>
<tr>
<td>Other professional qualifications</td>
<td>11</td>
<td>4.2</td>
<td>251</td>
<td>95.8</td>
</tr>
<tr>
<td>Fellow Chartered Financial Practitioner [FCHFP]</td>
<td>9</td>
<td>3.4</td>
<td>253</td>
<td>96.6</td>
</tr>
<tr>
<td>Life Risk Specialist [LRS]</td>
<td>9</td>
<td>3.4</td>
<td>253</td>
<td>96.6</td>
</tr>
<tr>
<td>Accredited Estate Planning Strategist [AEPS]</td>
<td>5</td>
<td>1.9</td>
<td>257</td>
<td>98.1</td>
</tr>
<tr>
<td>Chartered Life Practitioner [CHLP]</td>
<td>3</td>
<td>1.1</td>
<td>259</td>
<td>98.9</td>
</tr>
<tr>
<td>Certified Financial Analyst [CFA]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
<tr>
<td>Stockbrokers and Financial Advisers Association of Australia Professional Diploma in Stockbroking™</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
<tr>
<td>Certified Management Accountant [CMA]</td>
<td>1</td>
<td>0.4</td>
<td>261</td>
<td>99.6</td>
</tr>
</tbody>
</table>
### Appendix 5.14

### Table 14 Frequency of authorised representative status of survey participants

<table>
<thead>
<tr>
<th>Status</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee AR</td>
<td>63</td>
<td>24</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>Self-employed AR</td>
<td>199</td>
<td>76</td>
<td>76</td>
<td>100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>262</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
<td></td>
</tr>
</tbody>
</table>

### Appendix 5.15

### Table 15 Frequency of licensee status of survey respondents

<table>
<thead>
<tr>
<th>Status</th>
<th>Frequency</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aligned licensee</td>
<td>125</td>
<td>47.7</td>
<td>47.7</td>
</tr>
<tr>
<td>Non-aligned licensee</td>
<td>97</td>
<td>37.0</td>
<td>84.7</td>
</tr>
<tr>
<td>S923A independent licensee</td>
<td>39</td>
<td>14.9</td>
<td>99.6</td>
</tr>
<tr>
<td>Other licensee</td>
<td>1</td>
<td>0.4</td>
<td>100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>262</strong></td>
<td><strong>100</strong></td>
<td></td>
</tr>
</tbody>
</table>
Appendix 5.16

Table 16 Initial pattern matrix\(^a\) during E/CFA analysis

<table>
<thead>
<tr>
<th>Parameter</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual ([a1])</td>
<td></td>
<td>0.250</td>
<td>0.558</td>
<td></td>
</tr>
<tr>
<td>Simult ([a2])</td>
<td></td>
<td></td>
<td>0.647</td>
<td></td>
</tr>
<tr>
<td>BestRev ([a3])</td>
<td></td>
<td></td>
<td>0.461</td>
<td></td>
</tr>
<tr>
<td>CoIAss ([a4])</td>
<td>0.544</td>
<td></td>
<td></td>
<td>0.284</td>
</tr>
<tr>
<td>AlignAct ([a5])</td>
<td>0.850</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CoIAct ([a6])</td>
<td>0.450</td>
<td></td>
<td></td>
<td>0.703</td>
</tr>
<tr>
<td>FiducAct ([a7])</td>
<td>0.897</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CompAct ([a8])</td>
<td>0.525</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regulative ([a9])</td>
<td>0.786</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consequential ([a10])</td>
<td>0.987</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procedural ([a11])</td>
<td>0.934</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Structural ([a12])</td>
<td></td>
<td>0.217</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personal ([a13])</td>
<td>0.501</td>
<td>0.260</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cognitive ([a14])</td>
<td>0.312</td>
<td>0.397</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Defend ([a15])</td>
<td>0.248</td>
<td>0.293</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trust ([a16])</td>
<td></td>
<td>0.874</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independence ([a17])</td>
<td></td>
<td>0.775</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professions ([a18])</td>
<td></td>
<td>0.769</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IPFPBS ([a19])</td>
<td></td>
<td>0.818</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Takeover ([a20])</td>
<td></td>
<td>0.214</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EliminateCoI ([a21])</td>
<td></td>
<td>0.699</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Extraction method: Maximum likelihood.*

*Rotation method: Promax with Kaiser normalization.*

\(^a\) Rotation converged in 5 iterations.
### Appendix 5.17

#### Table 17 Initial structure matrix during E/CFA

<table>
<thead>
<tr>
<th>Parameter</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual ([a_1])</td>
<td>0.366</td>
<td>0.586</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Simult ([a_2])</td>
<td>0.343</td>
<td></td>
<td>0.665</td>
<td></td>
</tr>
<tr>
<td>BestRev ([a_3])</td>
<td></td>
<td>0.419</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CoIAss ([a_4])</td>
<td>0.754</td>
<td>0.454</td>
<td>0.35</td>
<td>0.605</td>
</tr>
<tr>
<td>AlignAct ([a_5])</td>
<td>0.870</td>
<td>0.406</td>
<td>0.262</td>
<td>0.530</td>
</tr>
<tr>
<td>CoIAct ([a_6])</td>
<td>0.800</td>
<td>0.400</td>
<td>0.312</td>
<td>0.928</td>
</tr>
<tr>
<td>FiducAct ([a_7])</td>
<td>0.900</td>
<td>0.395</td>
<td>0.301</td>
<td>0.530</td>
</tr>
<tr>
<td>CompAct ([a_8])</td>
<td>0.660</td>
<td>0.393</td>
<td>0.397</td>
<td>0.422</td>
</tr>
<tr>
<td>Regulative ([a_9])</td>
<td>0.780</td>
<td>0.374</td>
<td>0.332</td>
<td>0.388</td>
</tr>
<tr>
<td>Consequential ([a_{10}])</td>
<td>0.890</td>
<td>0.381</td>
<td>0.254</td>
<td>0.401</td>
</tr>
<tr>
<td>Procedural ([a_{11}])</td>
<td>0.854</td>
<td>0.412</td>
<td>0.269</td>
<td>0.356</td>
</tr>
<tr>
<td>Structural ([a_{12}])</td>
<td></td>
<td>0.264</td>
<td>0.210</td>
<td></td>
</tr>
<tr>
<td>Personal ([a_{13}])</td>
<td>0.614</td>
<td>0.500</td>
<td>0.289</td>
<td>0.286</td>
</tr>
<tr>
<td>Cognitive ([a_{14}])</td>
<td>0.571</td>
<td>0.598</td>
<td>0.354</td>
<td>0.361</td>
</tr>
<tr>
<td>Defend ([a_{15}])</td>
<td>0.386</td>
<td>0.423</td>
<td>0.261</td>
<td></td>
</tr>
<tr>
<td>Trust ([a_{16}])</td>
<td>0.376</td>
<td>0.824</td>
<td></td>
<td>0.214</td>
</tr>
<tr>
<td>Independence ([a_{17}])</td>
<td>0.394</td>
<td>0.788</td>
<td>0.314</td>
<td>0.209</td>
</tr>
<tr>
<td>Professions ([a_{18}])</td>
<td>0.374</td>
<td>0.763</td>
<td>0.243</td>
<td>0.218</td>
</tr>
<tr>
<td>IPFPSB ([a_{19}])</td>
<td>0.362</td>
<td>0.783</td>
<td></td>
<td>0.231</td>
</tr>
<tr>
<td>Takeover ([a_{20}])</td>
<td>0.236</td>
<td>0.298</td>
<td>0.233</td>
<td></td>
</tr>
<tr>
<td>EliminateCoI ([a_{21}])</td>
<td>0.302</td>
<td>0.687</td>
<td>0.267</td>
<td>0.216</td>
</tr>
</tbody>
</table>

*Extraction Method: Maximum Likelihood.*

*Rotation Method: Promax with Kaiser Normalization.*
Appendix 5.18

Table 18  Hypotheses and/or related survey question discarded during E/CFA

<table>
<thead>
<tr>
<th>Variable</th>
<th>Empirical test</th>
<th>Respecification</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>H1(d): Financial advisers significantly agree licensing advisers through aligned licensees leads to conflict of interest from association.</td>
<td>Licensing advisers through aligned licensees (e.g. ANZ, Westpac, NAB, CBA and AMP) results in conflict of interest from association.</td>
<td>Hypothesis deleted</td>
<td>Based on substantive theoretical reasons and reviewing the original conceptualisation of the theory, reconceptualising the theory, the data responses for this statement was moved to measure H3(d): Financial advisers significantly agree the current ‘authorised representative’ licensing model does not have structural normative legitimacy.</td>
</tr>
<tr>
<td>a4 [b1]</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H3(d): Financial advisers significantly agree the current ‘authorised representative’ licensing model does not have structural normative legitimacy.</td>
<td>Licensing professionally qualified advisers through third-party licensees means that when these advisers leave their licensee, unless they sign up with another licensee, they lose their ability to work as a professional financial adviser.</td>
<td>a12 replaced by a4</td>
<td>Data not interpretable, because factor loadings for a12 were below .30. Therefore, removed from analysis.</td>
</tr>
<tr>
<td>a12 [b3]</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H3(g) Financial advisers significantly agree that a financial adviser of product-aligned licensees must defend their relationship/association/affiliation with their licensee to clients</td>
<td>Since the media has exposed the financial planning scandals, financial advisers have had to defend their relationship/association/affiliation with their licensee to clients.</td>
<td>Hypothesis deleted</td>
<td>Data not interpretable, because factor loadings were below .30. Therefore, removed from analysis.</td>
</tr>
<tr>
<td>a15 [b3]</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H4(e): Financial advisers significantly agree the lack of independence from conflicted licensees exposes the financial planning industry to a ‘takeover’ by the accounting profession as the accountants redefine or reposition financial planning within their self-regulatory model.</td>
<td>Strategic independent advice is being taken over by the accounting profession, as accountants redefine and reposition financial planning within their self-regulatory model.</td>
<td>Hypothesis deleted</td>
<td>Data not interpretable, because factor loadings were below .30. Therefore, removed from analysis.</td>
</tr>
<tr>
<td>a20 [b4]</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 19 Argument for the reasonableness of including thirteen covariances in the model

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>CoIAct e₆ ↔ Structural e₄</td>
<td>If there are structural legitimacy whereby licensing advisers through aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] does not result in conflicts of interest from association, then the objective of the Act to minimise conflicts of interest is achieved. Therefore, these two measures are related.</td>
</tr>
<tr>
<td>Personal e₁₃ ↔ Cognitive e₁₄</td>
<td>If contributions to the debate with government surrounding the licensing of advisers by specific individual leaders of aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] are not primarily aimed to protect their product distribution channels, then this should have some influence on the identity, role and performance of authorised representatives. Therefore, these measures are related.</td>
</tr>
<tr>
<td>Independence e₁₇ ↔ EliminateCoI e₂₁</td>
<td>Where there is no conflict of interest from association, there is independence, <em>vice versa</em>. Therefore, these measures are related.</td>
</tr>
<tr>
<td>AlignAct e₅ ↔ Regulative e₉</td>
<td>If licensing advisers through aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] leads to unintentional compliance breaches by their advisers, such as for example providing product biased advice because of their affiliation to product issuers then the objective of the Act to align the interests of the adviser to the client is breached. Therefore, these measures are related.</td>
</tr>
<tr>
<td>CoIAct e₆ ↔ Procedural e₁₁</td>
<td>If licensing advisers through aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] results in sales policies, procedures, and practices is designed by licensees to give the appearance [window dressing) of complying with the regulatory requirements, then the objective of the Act to eliminate or reduce conflicts of interest is breached. Therefore, these measures are related.</td>
</tr>
<tr>
<td>FiducAct e₇ ↔ CompAct e₈</td>
<td>If the objective of the Act of the best interest duty obligations to clients is achieved, then this should assist in achieving the objective of the Act to encourage competition within the financial planning/services industry. Therefore, these measures are related.</td>
</tr>
<tr>
<td>Relationship Type</td>
<td>Description</td>
</tr>
<tr>
<td>-------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Consequential e_{10} &lt;-&gt; Procedural e_{11}</td>
<td>There is a relationship between the commercial interests of licensees [any business in general] and their sales policies, procedures, and practices.</td>
</tr>
</tbody>
</table>
| CoIArct e_{6} <-> Consequential e_{10} | If the commercial interests of aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] does not compromise their advisers' best interest duty obligations, then it can be argued the objective of the Act of eliminating or minimizing conflicts of interest has been achieved. Therefore, these measures are related.  

Cognitive e_{14} <-> Structural e_{4} | If the Australian public can clearly distinguish between advisers who provide independent advice [as defined by the Act] and those who provide advice that may be conflicted by a product bias then licensing advisers through aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] should not result in conflict of interest from association. Therefore, these measures are related.  

CompAct e_{8} <-> Consequential e_{10} | If the commercial interests of aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] does not compromise their advisers' best interest duty obligations, then it can be argued the objective of the Act of encouraging competition within the financial services industry is achieved. Therefore, these measures are related.  

Trust e_{16} <-> Professions e_{18} | Professions such as the accounting, legal and medical are considered trusted professions. Therefore, these measures are related.  

CoIArct e_{6} <-> Personal e_{13} | The objective of the Act to encourage authorised representatives to eliminate or reduce conflicts of interest would influence the role of leaders to lobby government to retain [or not] their product distribution channels. These measures are related.  

Regulative e_{9} <-> Personal e_{13} | Unintentional compliance breaches by advisers because of their affiliation to product issuers may be the result of specific individual leaders of aligned licensees [e.g. ANZ, Westpac, NAB, CBA and AMP] primarily lobbying government to protect their product distribution channels. Therefore, these measures are related.  

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### Appendix 5.20

#### Table 20a Unstandardised regression weights ex common latent factor: [Group number 1 - Default model]

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Estimate</th>
<th>SE</th>
<th>SE-SE</th>
<th>Mean</th>
<th>Bias</th>
<th>SE-Bias</th>
<th>Lower</th>
<th>Upper</th>
<th>Range</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual [a₁]</td>
<td>0.746</td>
<td>0.0229</td>
<td>3.256</td>
<td>0.683</td>
<td>0.034</td>
<td>0.94</td>
<td>0.194</td>
<td>0.048</td>
<td>0.175</td>
<td>3.166</td>
</tr>
<tr>
<td>BestRev [a₃]</td>
<td>0.438</td>
<td>0.123</td>
<td>3.555</td>
<td>0.186</td>
<td>0.009</td>
<td>0.43</td>
<td>-0.008</td>
<td>0.013</td>
<td>0.063</td>
<td>0.831</td>
</tr>
<tr>
<td>Regulative [a₉]</td>
<td>0.891</td>
<td>0.051</td>
<td>17.456</td>
<td>0.038</td>
<td>0.002</td>
<td>0.89</td>
<td>-0.001</td>
<td>0.003</td>
<td>0.807</td>
<td>0.966</td>
</tr>
<tr>
<td>Consequential [a₁₀]</td>
<td>0.953</td>
<td>0.044</td>
<td>21.607</td>
<td>0.039</td>
<td>0.002</td>
<td>0.952</td>
<td>-0.002</td>
<td>0.003</td>
<td>0.87</td>
<td>1.021</td>
</tr>
<tr>
<td>Procedural [a₁₁]</td>
<td>0.941</td>
<td>0.049</td>
<td>19.091</td>
<td>0.04</td>
<td>0.002</td>
<td>0.942</td>
<td>0</td>
<td>0.003</td>
<td>0.856</td>
<td>1.016</td>
</tr>
<tr>
<td>Personal [a₁₃]</td>
<td>0.538</td>
<td>0.046</td>
<td>11.698</td>
<td>0.048</td>
<td>0.002</td>
<td>0.546</td>
<td>0.007</td>
<td>0.003</td>
<td>0.448</td>
<td>0.645</td>
</tr>
<tr>
<td>Cognitive [a₁₄]</td>
<td>0.611</td>
<td>0.06</td>
<td>10.186</td>
<td>0.058</td>
<td>0.003</td>
<td>0.623</td>
<td>0.012</td>
<td>0.004</td>
<td>0.521</td>
<td>0.749</td>
</tr>
<tr>
<td>Independence [a₁₇]</td>
<td>0.829</td>
<td>0.065</td>
<td>12.752</td>
<td>0.063</td>
<td>0.003</td>
<td>0.842</td>
<td>0.014</td>
<td>0.004</td>
<td>0.71</td>
<td>0.969</td>
</tr>
<tr>
<td>Professions [a₁₈]</td>
<td>0.917</td>
<td>0.07</td>
<td>13.098</td>
<td>0.063</td>
<td>0.003</td>
<td>0.92</td>
<td>0.003</td>
<td>0.004</td>
<td>0.818</td>
<td>1.037</td>
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<tr>
<td>IPFPSB [a₁₉]</td>
<td>0.882</td>
<td>0.063</td>
<td>13.961</td>
<td>0.065</td>
<td>0.003</td>
<td>0.888</td>
<td>0.006</td>
<td>0.005</td>
<td>0.74</td>
<td>1.019</td>
</tr>
<tr>
<td>Simult [a₂]</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>...</td>
</tr>
<tr>
<td>Structural [a₄]</td>
<td>0.735</td>
<td>0.047</td>
<td>15.771</td>
<td>0.047</td>
<td>0.002</td>
<td>0.738</td>
<td>0.003</td>
<td>0.003</td>
<td>0.647</td>
<td>0.83</td>
</tr>
<tr>
<td>AlignAct [a₅]</td>
<td>1.004</td>
<td>0.045</td>
<td>22.309</td>
<td>0.035</td>
<td>0.002</td>
<td>1.006</td>
<td>0.002</td>
<td>0.002</td>
<td>0.938</td>
<td>1.076</td>
</tr>
<tr>
<td>CoIAct [a₆]</td>
<td>0.925</td>
<td>0.048</td>
<td>19.169</td>
<td>0.045</td>
<td>0.002</td>
<td>0.93</td>
<td>0.005</td>
<td>0.003</td>
<td>0.839</td>
<td>1.017</td>
</tr>
<tr>
<td>FiducAct [a₇]</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>...</td>
</tr>
<tr>
<td>CompAct [a₈]</td>
<td>0.775</td>
<td>0.06</td>
<td>12.815</td>
<td>0.056</td>
<td>0.003</td>
<td>0.775</td>
<td>0</td>
<td>0.004</td>
<td>0.668</td>
<td>0.88</td>
</tr>
<tr>
<td>EliminateCoI [a₂₁]</td>
<td>0.682</td>
<td>0.066</td>
<td>10.374</td>
<td>0.068</td>
<td>0.003</td>
<td>0.695</td>
<td>0.012</td>
<td>0.005</td>
<td>0.545</td>
<td>0.833</td>
</tr>
<tr>
<td>Trust [a₁₆]</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>...</td>
</tr>
</tbody>
</table>

---

1 including Bollen-Stine bootstrap
Table 20b Unstandardised regression weights *cum* common latent factor: [Group number 1 - Default model]

<table>
<thead>
<tr>
<th>Parameter</th>
<th><em>ex</em> and <em>cum</em> Bootstrap¹</th>
<th><em>ex</em> Bootstrap ¹</th>
<th><em>cum</em> Bootstrap</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Estimate</td>
<td>p-value</td>
<td>S.E.</td>
</tr>
<tr>
<td>Dual [a1]</td>
<td>0.766</td>
<td>0.007</td>
<td>0.286</td>
</tr>
<tr>
<td>BestRev [a3]</td>
<td>0.439</td>
<td>***</td>
<td>0.121</td>
</tr>
<tr>
<td>Regulative [a9]</td>
<td>0.903</td>
<td>***</td>
<td>0.059</td>
</tr>
<tr>
<td>Consequential [a10]</td>
<td>0.957</td>
<td>***</td>
<td>0.049</td>
</tr>
<tr>
<td>Procedural [a11]</td>
<td>0.98</td>
<td>***</td>
<td>0.071</td>
</tr>
<tr>
<td>Personal [a13]</td>
<td>0.649</td>
<td>***</td>
<td>0.125</td>
</tr>
<tr>
<td>Cognitive [a14]</td>
<td>0.824</td>
<td>***</td>
<td>0.216</td>
</tr>
<tr>
<td>Independence [a17]</td>
<td>0.852</td>
<td>***</td>
<td>0.077</td>
</tr>
<tr>
<td>Professions [a18]</td>
<td>0.92</td>
<td>***</td>
<td>0.082</td>
</tr>
<tr>
<td>IPFPSB [a19]</td>
<td>0.881</td>
<td>***</td>
<td>0.073</td>
</tr>
<tr>
<td>Simult [a2]</td>
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<td>1</td>
</tr>
<tr>
<td>Structural [a4]</td>
<td>0.805</td>
<td>***</td>
<td>0.089</td>
</tr>
<tr>
<td>AlignAct [a5]</td>
<td>1.019</td>
<td>***</td>
<td>0.053</td>
</tr>
<tr>
<td>ColAct [a6]</td>
<td>0.952</td>
<td>***</td>
<td>0.063</td>
</tr>
<tr>
<td>FiducAct [a7]</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>CompAct [a8]</td>
<td>0.833</td>
<td>***</td>
<td>0.091</td>
</tr>
<tr>
<td>EliminateCoI [a21]</td>
<td>0.67</td>
<td>***</td>
<td>0.078</td>
</tr>
<tr>
<td>Trust [a16]</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>

¹including Bollen-Stine bootstrap
## Table 21 Correlations of indicator variables: [Group number 1 - Default model]

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Estimate</th>
<th>SE</th>
<th>SE-SE</th>
<th>Mean</th>
<th>Bias</th>
<th>SE-Bias</th>
<th>95% Confidence interval</th>
<th>p-value</th>
<th>Estimate</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td>$e_6$ $&lt;!!&lt;!!&gt; e_4$</td>
<td>0.343</td>
<td>0.078</td>
<td>0.004</td>
<td>0.339</td>
<td>-0.004</td>
<td>0.006</td>
<td>0.164</td>
<td>0.499</td>
<td>0.01</td>
<td>0.35</td>
</tr>
<tr>
<td>$e_{13} $ $&lt;!!&lt;!!&gt; e_{14}$</td>
<td>0.275</td>
<td>0.061</td>
<td>0.003</td>
<td>0.276</td>
<td>0.001</td>
<td>0.004</td>
<td>0.152</td>
<td>0.399</td>
<td>0.01</td>
<td>0.119</td>
</tr>
<tr>
<td>$e_{17} $ $&lt;!!&lt;!!&gt; e_{21}$</td>
<td>0.338</td>
<td>0.083</td>
<td>0.004</td>
<td>0.331</td>
<td>-0.007</td>
<td>0.006</td>
<td>0.172</td>
<td>0.491</td>
<td>0.01</td>
<td>0.35</td>
</tr>
<tr>
<td>$e_5 $ $&lt;!!&lt;!!&gt; e_9$</td>
<td>-0.294</td>
<td>0.07</td>
<td>0.004</td>
<td>-0.287</td>
<td>0.007</td>
<td>0.005</td>
<td>-0.426</td>
<td>-0.151</td>
<td>0.01</td>
<td>-0.294</td>
</tr>
<tr>
<td>$e_6 $ $&lt;!!&lt;!!&gt; e_{11}$</td>
<td>-0.222</td>
<td>0.105</td>
<td>0.005</td>
<td>-0.239</td>
<td>-0.016</td>
<td>0.007</td>
<td>-0.444</td>
<td>-0.039</td>
<td>0.033</td>
<td>-0.211</td>
</tr>
<tr>
<td>$e_7 $ $&lt;!!&lt;!!&gt; e_8$</td>
<td>-0.261</td>
<td>0.087</td>
<td>0.004</td>
<td>-0.267</td>
<td>-0.006</td>
<td>0.006</td>
<td>-0.448</td>
<td>-0.107</td>
<td>0.01</td>
<td>-0.265</td>
</tr>
<tr>
<td>$e_{10} $ $&lt;!!&lt;!!&gt; e_{11}$</td>
<td>0.184</td>
<td>0.103</td>
<td>0.005</td>
<td>0.18</td>
<td>-0.004</td>
<td>0.007</td>
<td>-0.02</td>
<td>0.394</td>
<td>0.071</td>
<td>0.199</td>
</tr>
<tr>
<td>$e_6 $ $&lt;!!&lt;!!&gt; e_{10}$</td>
<td>-0.213</td>
<td>0.087</td>
<td>0.004</td>
<td>-0.214</td>
<td>-0.001</td>
<td>0.006</td>
<td>-0.386</td>
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<td>0.013</td>
<td>-0.202</td>
</tr>
<tr>
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<td>0.154</td>
<td>0.062</td>
<td>0.003</td>
<td>0.15</td>
<td>-0.004</td>
<td>0.004</td>
<td>0.034</td>
<td>0.279</td>
<td>0.018</td>
<td>0.075</td>
</tr>
<tr>
<td>$e_8 $ $&lt;!!&lt;!!&gt; e_{10}$</td>
<td>-0.181</td>
<td>0.087</td>
<td>0.004</td>
<td>-0.176</td>
<td>0.005</td>
<td>0.006</td>
<td>-0.358</td>
<td>-0.004</td>
<td>0.047</td>
<td>-0.173</td>
</tr>
<tr>
<td>$e_{16} $ $&lt;!!&lt;!!&gt; e_{18}$</td>
<td>-0.373</td>
<td>0.207</td>
<td>0.01</td>
<td>-0.378</td>
<td>-0.005</td>
<td>0.015</td>
<td>-0.884</td>
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<td>0.013</td>
<td>-0.492</td>
</tr>
<tr>
<td>$e_6 $ $&lt;!!&lt;!!&gt; e_{13}$</td>
<td>-0.169</td>
<td>0.071</td>
<td>0.004</td>
<td>-0.171</td>
<td>-0.002</td>
<td>0.005</td>
<td>-0.33</td>
<td>-0.034</td>
<td>0.01</td>
<td>-0.133</td>
</tr>
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<td>$e_9 $ $&lt;!!&lt;!!&gt; e_{13}$</td>
<td>-0.148</td>
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<td>-0.15</td>
<td>-0.002</td>
<td>0.004</td>
<td>-0.271</td>
<td>-0.06</td>
<td>0.011</td>
<td>-0.131</td>
</tr>
<tr>
<td>Estimate</td>
<td>S.E.</td>
<td>C.R.</td>
<td>P</td>
<td>Lower</td>
<td>Upper</td>
<td>P</td>
<td>Estimate</td>
<td>S.E.</td>
<td>C.R.</td>
<td>P</td>
</tr>
<tr>
<td>----------</td>
<td>------</td>
<td>------</td>
<td>----</td>
<td>--------</td>
<td>--------</td>
<td>----</td>
<td>----------</td>
<td>------</td>
<td>------</td>
<td>----</td>
</tr>
<tr>
<td>b₁</td>
<td>587.673</td>
<td>193.722</td>
<td>3.034</td>
<td>0.002</td>
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<td>593.552</td>
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<td>b₃</td>
<td>1040.192</td>
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<td>***</td>
<td>825.423</td>
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<tr>
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<td>114.994</td>
<td>5.452</td>
<td>***</td>
<td>-</td>
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<td>526.230</td>
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<td>661.896</td>
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<td>3.684</td>
<td>***</td>
<td>283.944</td>
<td>-</td>
<td>1123.446</td>
<td>0.199</td>
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<td>c₃</td>
<td>702.158</td>
<td>68.389</td>
<td>10.267</td>
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<td>518.060</td>
<td>864.655</td>
<td>0.01</td>
<td>698.405</td>
<td>67.186</td>
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<tr>
<td>c₄</td>
<td>319.743</td>
<td>33.488</td>
<td>9.548</td>
<td>***</td>
<td>222.435</td>
<td>427.546</td>
<td>0.01</td>
<td>316.230</td>
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<tr>
<td>c₅</td>
<td>432.923</td>
<td>43.871</td>
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<td>***</td>
<td>299.874</td>
<td>561.788</td>
<td>0.01</td>
<td>435.759</td>
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<tr>
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<td>26.491</td>
<td>8.985</td>
<td>***</td>
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<td>321.971</td>
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<td>220.033</td>
<td>26.897</td>
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### Appendix 5.23

Table 23a Factor and indicator covariance: [Group number 1 - Default model]

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### Appendix 5.24

Table 24 Error covariance constraint chi-square difference test [Bootstrapped ex and cum CLF]

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#### cum CLF

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<td>0</td>
<td>60.461</td>
<td>8</td>
<td>15.507</td>
<td>20.09</td>
<td>26.124</td>
<td>0.972</td>
<td>0.019</td>
</tr>
</tbody>
</table>

*Values of the Critical chi-squared distribution sourced from https://www.medcalc.org/manual/chi-square-table.php*
### Appendix 5.25

#### Table 25 Squared multiple correlations: [Group number 1 - Default model]

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Estimate</th>
<th>SE</th>
<th>SE-SE</th>
<th>Mean</th>
<th>Bias</th>
<th>SE-Bias</th>
<th>Lower</th>
<th>Upper</th>
<th>P</th>
<th>Range</th>
<th>Estimate</th>
<th>Lower</th>
<th>Upper</th>
<th>P</th>
<th>Range</th>
</tr>
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<tbody>
<tr>
<td>Structural</td>
<td>a4</td>
<td>.560</td>
<td>.052</td>
<td>.003</td>
<td>.562</td>
<td>.002</td>
<td>.004</td>
<td>.454</td>
<td>.648</td>
<td>.01</td>
<td>.194</td>
<td>.574</td>
<td>.458</td>
<td>.669</td>
<td>.01</td>
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<tr>
<td>EliminateCoI</td>
<td>a21</td>
<td>.395</td>
<td>.065</td>
<td>.003</td>
<td>.407</td>
<td>.012</td>
<td>.005</td>
<td>.294</td>
<td>.545</td>
<td>.01</td>
<td>.251</td>
<td>.390</td>
<td>.311</td>
<td>.555</td>
<td>.01</td>
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<td>IPFPSB</td>
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<td>.062</td>
<td>.003</td>
<td>.648</td>
<td>.006</td>
<td>.004</td>
<td>.516</td>
<td>.760</td>
<td>.01</td>
<td>.244</td>
<td>.623</td>
<td>.501</td>
<td>.834</td>
<td>.01</td>
</tr>
<tr>
<td>Profession</td>
<td>a18</td>
<td>.665</td>
<td>.069</td>
<td>.003</td>
<td>.668</td>
<td>.003</td>
<td>.005</td>
<td>.542</td>
<td>.801</td>
<td>.01</td>
<td>.259</td>
<td>.694</td>
<td>.554</td>
<td>.833</td>
<td>.01</td>
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<td>Independence</td>
<td>a17</td>
<td>.550</td>
<td>.069</td>
<td>.003</td>
<td>.564</td>
<td>.014</td>
<td>.005</td>
<td>.426</td>
<td>.691</td>
<td>.01</td>
<td>.265</td>
<td>.541</td>
<td>.417</td>
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<td>Trust</td>
<td>a16</td>
<td>.736</td>
<td>.060</td>
<td>.003</td>
<td>.735</td>
<td>0</td>
<td>.004</td>
<td>.609</td>
<td>.847</td>
<td>.01</td>
<td>.238</td>
<td>.754</td>
<td>.588</td>
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<td>Cognitive</td>
<td>a14</td>
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<td>.003</td>
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<td>.010</td>
<td>.004</td>
<td>.220</td>
<td>.431</td>
<td>.01</td>
<td>.211</td>
<td>.502</td>
<td>.322</td>
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<td>Personal</td>
<td>a13</td>
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<td>.003</td>
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<td>.487</td>
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<td>.463</td>
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<td>.01</td>
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<td>Procedural</td>
<td>a11</td>
<td>.690</td>
<td>.051</td>
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<td>Regulative</td>
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<td>.003</td>
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<td>.490</td>
<td>0</td>
<td>.004</td>
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<td>FiducAct</td>
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<td>.001</td>
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<td>-.002</td>
<td>.002</td>
<td>.759</td>
<td>.878</td>
<td>.01</td>
<td>.119</td>
<td>.839</td>
<td>.775</td>
<td>.898</td>
<td>.01</td>
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<tr>
<td>ColAct</td>
<td>a6</td>
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<td>.048</td>
<td>.002</td>
<td>.695</td>
<td>.004</td>
<td>.003</td>
<td>.596</td>
<td>.783</td>
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<td>.187</td>
<td>.688</td>
<td>.607</td>
<td>.791</td>
<td>.01</td>
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<td>.002</td>
<td>.779</td>
<td>-.001</td>
<td>.002</td>
<td>.697</td>
<td>.852</td>
<td>.01</td>
<td>.155</td>
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<td>.01</td>
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<td>BestRev</td>
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<td>.005</td>
<td>.011</td>
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<td>.039</td>
<td>.588</td>
<td>.118</td>
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<td>1.598</td>
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<td>1.500</td>
<td>.481</td>
<td>.245</td>
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<td>Dual</td>
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<td>.015</td>
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<td>.054</td>
<td>1.282</td>
<td>.01</td>
<td>1.228</td>
<td>.448</td>
<td>.099</td>
<td>.812</td>
<td>.02</td>
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</table>
CHAPTER 6: EMPIRICAL ANALYSIS OF THE CURRENT AFSL-AR LICENSING REGIME AND THE EXISTING LICENSEE-ADVISER RELATIONSHIP

6.1 INTRODUCTION

Once the thresholds of the most important goodness of fit indices were met, the next step was to identify, explain and/or remedy any bias in the data, run the final bootstrapped maximum likelihood estimation ex and cum CLF, and proceed with interpreting the results. Thus, this chapter homes in on the major quantitative results\textsuperscript{114} within the context of some of the key qualitative\textsuperscript{115} results to address the four investigative questions, which served to answer the main research question. It will be evident in the foregoing analysis; the current AFSL-AR licensing model is significantly illegitimate.

6.2 OVERALL RESULTS OF THE AFSL-AR LICENSING MODEL

Accordingly, in the CFA models, depicted in Figure 6.1 below, all the estimated bootstrapped standardised regression weights in the respecified model are highly significant, except factor $b_1$ adviser dual-agency role. The critical ratios of all the unstandardised factor loadings far exceeded the threshold critical values of 1.96 [alpha .05] or 1.65 [alpha .01] or 2.58 [alpha .001], displayed in Tables 6.1 to 6.5 below. The correlation coefficients were highly significant, except those between $b_1$ [dual-agency] and $b_4$ [individual licensing] cum CLF model [Figure 6.1]. However, this exception was interpreted with caution, its insignificant p = .079 value is good news. Advisers cannot be dual agents, while concurrently being licensed via a single independent professional financial planning standards board. Overall, the results indicated, all the theories in this model were useful in evaluating the licensee-adviser licensing’s legitimacy. Although not ideal, the negative covariance for factor $b_3$ [legitimacy] indicated overestimations of the relationships between its indicators. These relationships were retained, because as discussed in Chapter 5 they were central to the model.

\textsuperscript{114} Recall, we give priority to the quantitative results, while merely using the qualitative results to understand and interpret the quantitative results.

\textsuperscript{115} Please note concerning the qualitative results, the thesis reports the actual words of the participants in italics within double quotation marks when combining the qualitative results with the quantitative results. In addition, to maintain the integrity of the comments, corrections to the respondents’ typographical and grammatical errors did not happen.
Figure 6.1 Confirmatory factor analysis model standardised regression weights after bootstrapped MLE ex and cum CLF

- $z = 3.346$, $p = ***$, ex CLF
- $z = 1.758$, $p = .079$, cum CLF
Graph 6.1 Respondents’ mean level of agreement with 95% confidence interval
Furthermore, from Table 28 in the Appendix 6.1 and Graph 6.1 above, visibly the mean values indicated the extent of the level of agreement was close to undecided [a neutral value of 50 per cent] for (1) Regulative illegitimacy \([a_9]\) with a mean level of agreement of 48 per cent, (2) CompAct \([a_8]\) with mean of 51 per cent and (3) EliminateCoI \([a_{21}]\) with mean of 52 per cent. Whereas the highest mean level of agreement of 78 per cent for both BestRev \([a_3]\) and Personal illegitimacy \([a_{13}]\) indicated advisers strongly agree they earn revenues for licensee, while serving their best interest duty, while their leaders of aligned licensees focus to protect product distribution. Four variables scored a mean level above 70 per cent, namely Dual \([a_1]\), BestRev \([a_3]\), Structural illegitimacy \([a_4]\) and Personal illegitimacy \([a_{13}]\). Interestingly, the mean level of agreement above 50 per cent, but below 60 per cent, included FiducAct \([a_7]\), CompAct \([a_8]\) and EliminateCoI \([a_{21}]\). Apart from EliminateCoI \([a_{21}]\), Simult \([a_2]\), AlignAct \([a_5]\), CoIAct \([a_6]\), Consequential \([a_4]\), Procedural \([a_{11}]\), Cultural-cognitive \([a_{14}]\), while the rest of the indicators for the factor individual licensing \([b_4]\) had mean values between 60 per cent and 70 per cent. From Graph 6.1 above, noticeably the mean scores of the indicators for individual licensing factor \([b_4]\) were consistent. Overall, the bootstrap 95 per cent confidence intervals were narrow in range and had CI p-values of .01 for all the estimates. For instance, the smallest value for the 95 per cent CI 6.962 for indicator Dual \([a_1]\). Whilst the largest range value amounted to 9.821 for indicator AlignAct \([a_5]\).

**Table 6.1 Structural part of the conceptualised theoretical model**

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Parameter</th>
<th>Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual-agency role and the legitimacy of the current licensing model are significantly correlated.</td>
<td>(b_1 \leftrightarrow b_3)</td>
<td>(b; SE [95% CI] CR p-value [ex CLF])</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b; CR p-value [cum CLF])</td>
</tr>
<tr>
<td>Illegitimacy of the current licensing model and the individual licensing model is significantly correlated.</td>
<td>(b_3 \leftrightarrow b_4)</td>
<td>(.387 .102 [.112, .503] 3.326 p = *** [ex CLF])</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(.257; 3.134 p = .002 [cum CLF])</td>
</tr>
<tr>
<td>No significant correlation between dual-agency role and individual licensing</td>
<td>(b_1 \leftrightarrow b_4)</td>
<td>(.45 .061 [.335, .571] 6.067 p = *** [ex CLF])</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(.786; 5.892 p = *** [cum CLF])</td>
</tr>
</tbody>
</table>

*Correlation (\(\beta\)) Standard error (\(SE\)) CI [Confidence interval] Critical ratio (CR)*
Furthermore, the structural part as conceptualised in Chapter 4, depicted on the left in Figure 6.2, ended up looking like the structural path on the right with its bootstrapped maximum likelihood estimates. Recall the indicators of factor \( b_2 \) was merged into \( b_3 \), thus the beta \( [\beta] \) estimates between \( b_1 \) and \( b_2 \), \( b_2 \) and \( b_3 \), as well as \( b_2 \) and \( b_4 \) were lost. Thus, leaving \( \beta \)'s between \( b_1 \) and \( b_4 \), \( b_1 \) and \( b_3 \), as well as \( b_3 \) and \( b_4 \) in the respecified CFA model of Figure 6.1 in this chapter. From Table 6.1 above, there is no significant relationship between \( b_1 \) and \( b_4 \) after adding the CLF. The dual-agency role [\( b_1 \)] and individual licensing [\( b_4 \)] relationship was insignificant at the \( p<.05 \) level scoring a \( p \)-value of .079. Thus, this relationship was discarded in the final structural part of the model.
Table 6.2 Summary of findings for adviser dual-agency role [b₁]

Q1: To what extent do financial advisers agree licensing via third-party licensees creates a dual-agency role, whereby they serve the commercial interests of licensees and the best interests of clients simultaneously, leading to conflict of interest from association?

H1: Financial advisers on the ASIC Adviser Register significantly agree licensing via third-party licensees creates a dual-agency role, whereby they serve the commercial interests of licensees and the best interests of clients simultaneously, as specified in the Act, which leads to conflict of interest from association.

<table>
<thead>
<tr>
<th>Parameter (Par)</th>
<th>Question (Q)</th>
<th>Hypothesis (H)</th>
<th>Standardised regression weight (λ)</th>
<th>Standard error (SE)</th>
<th>Critical ratio (CR)</th>
<th>Mean (M)</th>
<th>Mean standard error (MSE)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LITERATURE REVIEW</strong></td>
<td><strong>SUB-HYPOTHESES SUPPORTED</strong></td>
<td><strong>EMPIRICAL TEST</strong></td>
<td><strong>EMPIRICAL EVIDENCE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>a₁</strong></td>
<td>Licensee-adviser (Gor 2005; Smith &amp; Walter 2001) and adviser-client relationship (Corones &amp; Galloway 2013).</td>
<td>H1 (a): Financial advisers significantly agree advisers authorised via third-party licensees face a dual-agency role, namely an adviser-licensee relationship and an adviser-client relationship.</td>
<td>Advisers authorised through third-party licensees face a dual-agency relationship, namely an adviser-licensee relationship and an adviser-client relationship.</td>
<td>λ</td>
<td>SE [95% CI]</td>
<td>CR p-value (ex CLF)</td>
<td>λ</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>.585</td>
<td>.215</td>
<td>[.232, 1.132]</td>
<td>3.256 p = .001</td>
</tr>
<tr>
<td><strong>a₂</strong></td>
<td>Advisers serve the interests of licensees &amp; clients, simultaneously (Kingston &amp; Weng 2014).</td>
<td>H1 (b): Financial advisers significantly agree licensing advisers through third-party licensees results in advisers serving the interests of their clients and licensees, simultaneously.</td>
<td>Licensing advisers through third-party licensees results in advisers serving the interests of their clients and licensees, simultaneously.</td>
<td>.686</td>
<td>.280</td>
<td>[.313, 1.264]</td>
<td>marker p = ***</td>
</tr>
<tr>
<td><strong>a₃</strong></td>
<td>Dual role creates conflicts of interest (Kingston &amp; Weng 2014).</td>
<td>H1 (c): Financial advisers significantly agree while serving the best interests of their clients, advisers also generate revenue for their licensees.</td>
<td>While serving the best interest of their clients, advisers also generate revenue for their licensees.</td>
<td>.372</td>
<td>.109</td>
<td>[.103, .59]</td>
<td>3.555 p = ***</td>
</tr>
</tbody>
</table>
From the foregoing Tables 6.1 and subsequent Tables 6.2 to 6.5\(^{116}\), empirically all the investigative questions hypotheses and their sub-hypotheses were supported. Consequently, a synopsis of the overall finalised model’s statistical results and hypotheses tests attests overall advisers support the notion licensing advisers via multiple third-party licensees creates a dual-agency role. They also claimed licensing advisers via third parties is inconsistent with four of the objectives of the Act. Linked to the objectives advisers confirmed the current licensing model lacks legitimacy based on Suchman’s theoretical legitimacy framework. Not only does this illegitimacy of the AFSL-AR licensing model strengthen arguments for individual licensing through a single independent professional body, like other professions, but also advisers seem to support this latter concept. In sequence of the theoretical model discussed in the literature review, a more detailed account of these overall findings is presented.

**6.3 DUAL-AGENCY ROLE UNCERTAINTY**

Summarised in Table 6.2 above, mean [Table 28 in Appendix 6.1] agreement levels distributed from 62 per cent to 78 per cent confirmed the prevailing licensing model created a dual-agency role between licensee-adviser (Smith & Walter 2001; Gor 2005) and adviser-client (Corones & Galloway 2013). Additionally, results confirmed Kingston and Weng’s (2014) claim, serving both principals simultaneously leads to conflicts of interest. Furthermore, the moderate standardised regression weights [Table 5.17], substantiate mixed perceptions, which meant uncertainty is evident among respondents when reflecting on the licensee-adviser-client agency role. This mixed response reflected in the commentary informants offered. However, when evaluating these results in conjunction with the results of unavoidable conflict of interest from association in Table 6.3 below and structural illegitimacy in Table 6.4 below, it was clear advisers do perceive licensing advisers via third-party licensees leads to a conflict of interest from association. Interestingly, the moderate SE for predictor dual-agency role, differed from the SE magnitudes of the indicators for factors \(b_3\) and \(b_4\) in the model. Based on the comments

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\(^{116}\) Please note the first column of Tables 6.2 to 6.5 refers to the parameter, while the second column describes normative theory, followed in column three by the hypotheses. In column four we provide the statistical empirical test and column five the evidence as follows:

- Column 5 Row 1: the bootstrapped standardised regression weights [RW], their standard errors [SE] 95% confidence intervals [95% CI] critical ratios or z-values [CR] with significant p-values \(ex\) CLF,
- Column 5 Row 2: the bootstrapped [RW] critical ratios or z-values [CR] and p-values \(cum\) CLF
- Column 5 Row 3: the advisers’ mean agreement level, mean 95% CI and mean standard errors [MSE] with critical ratios or z-values [CR] and significant p-values.
by survey respondents, their view of their role compared to what the theory implied, and the law intended differed significantly. This is explained further by evaluating each indicator.

6.3.1 Licensee-adviser and adviser-client relationship issues

Although advisers agreed with high *cum* CLF, mean level of agreement of 77 per cent [73 per cent, 80 per cent], the moderate *cum* CLF regression weight of .604 in Table 6.2 above tells us a licensee-adviser and adviser-client agency relationships exists. However, their dual-agency role is definitively unclear in practice for advisers compared to perhaps what the legislation intended, and financial planning literature describes.

Empirically advisers in practice considered the legal adviser-licensee relationship as unimportant or a “*purely legal, compliance related*” definition. In their view for “*almost all advisers...their responsibility is to their clients.*” The empirical results also revealed agency theory, models and propositions produced in textbooks of personal financial planning in Australia (for example, Beal & McKeown 2009; Banister et al. 2013) were mainly incorporated into the client-adviser relationship. “*The real agency is with the client. The relationship with the third-party licensee is one of a service provided,*” because “*the client relationship is distinct from and trumps the Licensee relationship in all cases.*”

Seemingly, the “*Best Interest Duty overrides the dual agency relationship, as the adviser is left in no doubt about the fact his fiduciary duties are to the adviser-client relationship.*” However, this matter is complicated, because the evidence suggests: “*It depends on who you are licensed with. An adviser who is licensee of a bank or a specific dealer group that does not have a wide authorised product list do have a dual agency relationship and tend to be limited on the product offerings...if the licensee is unaligned then the dual agency is not relevant. If the licensee is aligned with a product provider, then there is a stronger relationship with the product provider.*”

Apparently, advisers are “*bound by the licensee rules and regulations,*” whereas licensees are merely seen “*as a servant/tool,*” “*supplying compliance, audit and PD training,*” “*relevant legislation; education*” and “*assesses the products available in the market.*” These last points of view were more evident among the non-aligned and s923A independent advisers. Also, evident in the commentary of respondents there are both direct and indirect licensee-client relationships affecting the adviser-client and the licensee-adviser relationship.
**6.3.2 Advisers serve licensees and clients simultaneously**

Although advisers seem to agree, they are “...TRYING to serve the interests of both parties, in practice it is often one or the other.” Thus, with a mean of 12 per cent above the neutral agreement level of 50 per cent, together with a moderately high *cum* CLF effect size of .689, licensing advisers through third-party licensees results in advisers serving the interests of their clients and licensees, simultaneously (Kingston & Weng 2014, p. 294). “One eye is forward towards our clients (best interests) and one eye in the rear-view mirror, as we get audited and queried on both sides. The AFSL restricts for example the products we can recommend,” according to one commentator.

Yet, when the investigator considered the squared multiple correlation value of .481 [ .245, 2.173], which indicated how much this indicator is explained by the factor dual-agency role detectably 52 per cent is unexplained by the dual-agency role. There are other issues at play as per the comments of survey respondents. For instance, “Irrespective of my Licensee and their alignment to a parent company, I have always served the interest of my client first and foremost. The interest of my licensee does not even come in to it.” A sentiment expressed by several advisers. “We are clients of the licensee and so they have to service me although I have to abide by their rules as they are responsible for the advice that I give.” Following the “rules” of the licensees was a term used by several informants. “Serving the interests of clients is the only consideration for advisers. Licensees provide tools and services to advisers to assist them to best serve the interests of their clients.”

Once again, advisers point to the best interest duty having changed the relationship between licensee-adviser from advisers as agent acting on behalf of licensees to advisers being serviced by licensees. Combine some of the adviser comments here with the results from asking the question to survey respondents: ‘What are the benefits to institutional licensees appointing, authorising and supervising authorised representatives?’ Control product distribution, in Table 30 in Appendix 6.3 below, seems a key agenda issue for licensees. Although, advisers “Should always serve their clients, however licensees have there own agenda depending who they are aligned to.”

Predominant sentiments indicated simultaneously serving licensees’ and clients’ interest is evident “where the third party licensee is also a product provider and/or has financial relationships with product providers to promote to the authorised representative. Where the licensee is itself independent and operates in the interests of clients then the relationship is
much different.” Thus, serving both parties simultaneously “depends on whether the licensee is independent or not.” Furthermore, “it is possible to have a conflicted/product aligned AFSL and still give good advice from a limited solution set, provided, the products meet a certain quality or performance standard. However, my experience is that there remains an expectation from employer/AFSLs for an internal product bias.” Serving the interests of the licensee “depend on the extend of the control exerted by the Licensee.” Threats made to advisers by licensees of “Do what the AFSL says or lose your job.” While others argued, the quality of advice is adversely influenced by remuneration conflicts. “The power of the licensee completely overwhelms the best interests of the client. With live computerised reviews the licensee is now more closely monitoring to ensure advise is provided in the nest commercial interests of the licensee.” Furthermore, remuneration models are also key, because “this would not be the case should the FA be with a non-aligned licensee and pays a fixed flat fee to the licensee. In other words, no commissions or percentage based fee income.” Additionally, listed public companies versus private companies is also another matter to consider with regards to serving licensees interest according to one respondent: “if licensee is a member of a dealer group that is an organisation listed on the stock exchange, then the there is a greater probability that the adviser will be working in the interests of the licensee and hence shareholder Privately run dealer groups may be less inclined to do the above and cover costs only. Hence serve clients interests more.” “Totally serving interests of clients BUT within guidelines,” of licensees dictated to by the Act. Notwithstanding, “Where licencees are product providers there is an inherent conflict of interest. This is generally played out in the Approved Product List which limits products that may be appropriate. Advice is also limited to the level of risk a licensee is prepared to accept.” For some serving the interests of the licensee and client simultaneously, “sometimes confuses” and makes for “a bad model”, because it “reduce the quality of advice.” Interestingly, included in the types of licensee interests articulated by some advisers were “compliance interests,” “reporting” and “commercial interests of the licensee,” or in other words “to make money.” This is further confirmed from the detailed description of the comments, in Appendix 6.3 and further summarised in Table 30 in Appendix 6.3, when considering the benefits AFS licensees derive by licensing advisers.

6.3.3 Tension between licensees’ revenues and clients’ best interest

Despite scoring jointly with personal illegitimacy \([a_{13}]\) the overall highest mean level of agreement of 78 per cent \([75 \text{ per cent, } 82 \text{ per cent}]\), the regression weights of .375 and the
squared multiple correlation, measuring the reliability of the responses, of .143 [.025, .35] were
the lowest compared to all the other indicators in the CFA model. Further investigation of the
qualitative data revealed earning revenues for the licensees, while serving clients best interests
was a difficult conundrum for the advisers. In their commentary licensee revenues was
something they chose not to think about or want to think about. Based on the emotional
responses of some, it is clear this topic was confronting and difficult for several advisers to
reflect upon.

The most interesting quantitative combined with the qualitative results was the low squared
multiple correlation values for hypothesis H1 (c) [.138 ex CLF and .143 cum CLF in Table 25
Appendix 5.25] reflecting the discomfort to openly address this issue of licensee revenues. Yet
the 0.9999 observed statistical power confirmed its statistical significance, especially as
“commercial interests of the licensee” “to make money” ranked in the top three benefits
advisers felt licensees received by authorising them as recorded in Table 30 [Appendix 6.3].
Some advisers even presented nonsensical qualitative data to deflect or avoid committing an
opinion when reflecting on the survey question: ‘What are the benefits to licensees appointing,
authorising and regulating ‘authorised representatives’?’

Combining the findings of this question with informants’ comments explained the reasons for
this low reliability in conjunction with its moderate effect size. From the qualitative evidence,
advisers’ explanation points to oblivion, ignorance, conflict, emotionality, myopia, lack of
interest, notwithstanding even discomfort when they were asked about licensees’ benefits.
Unexpectedly, for some advisers, “The revenue of the licensee is never a consideration.”
Whereas for others, “Licencees are in the business of making money.” However, “this must be
done transparently with the client, so that they understand the services they're paying for.” Not
everyone agrees that “it is a compulsory part of the process that advisers generate revenue for
licensees as licensees can be the only party that legally collects revenue and therefore they are
empowered to deduct their fees with or without adviser permission.” “Without the Planner the
Dealer group gets no revenue,” because how and whether advisers generate revenue for
licensees, “depends on the licencee model, flat fee or percentage of revenue”, “on the product
sold, or any dealer split of fees charged for advice”, “product and platform fees from the
companies” and/or whether the “dealership gets volume rebates if we use their products,”
notwithstanding “how they charge advisers to use their services.” If a licensee charges a flat
fee, then “the licensee income is not tied to income generated by the adviser.”
Table 6.3 Summary of findings for objectives of the Act [b2]

<table>
<thead>
<tr>
<th>Q2: To what extent do financial advisers perceive the current ‘authorised representative’ licensing model achieve four objectives of the Act?</th>
<th>H2: Financial advisers on the ASIC Adviser Register significantly agree the current ‘authorised representative’ licensing model does not achieve the four identified objectives of the Act.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PAR</strong></td>
<td><strong>LITERATURE REVIEW</strong></td>
</tr>
<tr>
<td>Encourage aligning advisers’ interests with their clients’ best interest (Goedecke 2001)</td>
<td>H2 (a): Financial advisers significantly agree the current ‘authorised representative’ licensing model, as specified in the Act, makes it difficult for advisers to align their interests with the best interests of the client.</td>
</tr>
<tr>
<td>Manage, control or avoid conflicts of interest (Tuch 2005; Pearson 2006; Schwarcz 2009; Valentine 2008, 2013)</td>
<td>H2 (b): Financial advisers significantly agree the current ‘authorised representative’ licensing model, as specified in the Act, results in conflict of interest from association because they are affiliated to product issuers.</td>
</tr>
<tr>
<td>Ensure compliance of the statutory fiduciary duty (Banister et al. 2013; Bateman &amp; Kingston 2014)</td>
<td>H2 (c): Financial advisers significantly agree the current ‘authorised representative’ licensing model, as specified in the Act may lead to unintentional breaches of advisers’ statutory fiduciary duty obligations.</td>
</tr>
</tbody>
</table>

335
Promote competitive behaviour between financial service providers (Steen, McGrath and Wong 2016)

H2 (d): Financial advisers significantly agree that the current ‘authorised representative’ licensing model limits fair competition within the financial planning sector.

Licensing advisers through aligned licensees limits advisers from competing on a level playing field within the industry.

Table 6.4 Summary of findings for Suchman’s legitimacy criteria [b3]

Q3: To what extent do financial advisers agree the current Australian Financial Services licensee-authorised representative licensing model is legitimate based on the criteria of Suchman’s theoretical legitimacy framework?

H3: Financial advisers registered on the ASIC Adviser Register significantly agree the current Australian Financial Services licensee-authorised representative licensing model is illegitimate based on the criteria of Suchman’s (1995) theoretical legitimacy framework.

<table>
<thead>
<tr>
<th>PAR</th>
<th>LITERATURE REVIEW</th>
<th>SUB-HYPOTHESIS</th>
<th>EMPIRICAL TEST</th>
</tr>
</thead>
<tbody>
<tr>
<td>a9</td>
<td>Perception of compliance with laws operating within some socially acceptable system (Suchman 1995).</td>
<td>H3 (a): Financial advisers significantly agree the current licensee-adviser licensing model does not have regulative legitimacy.</td>
<td>Licensing advisers via aligned licensees can lead to unintentional compliance breaches by their advisers, because of their affiliation to product issuers (Bitekline 2011; Chelli et al., 2014).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.793 [.734, .850] 17.456 p = ***</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.727, 15.207 p = ***</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>48 [43, 52] 2.337 20.365 p = ***</td>
</tr>
<tr>
<td>a10</td>
<td>Acceptable specified ethics of socially value outputs/ outcomes (Suchman 1995).</td>
<td>H3 (b): Financial advisers significantly agree the current licensee-adviser licensing model does not have consequential normative legitimacy.</td>
<td>Licensing advisers via aligned licensees leads to the commercial interests of these aligned licensees compromising their advisers’ best interest duty obligations (Smith 2009, p.62; Pain, 2013; Moran 2014; Maclean &amp; Behnam 2010).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>.875 [.817, .916] 21.607 p = ***</td>
</tr>
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<td></td>
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<td></td>
<td>.794, 19.416 p = ***</td>
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<td></td>
<td></td>
<td></td>
<td>63 [59, 58] 2.264 28.111 p = ***</td>
</tr>
</tbody>
</table>
Perception of socially acceptable practices, standards & procedures (Suchman 1995).

H3 (c): Financial advisers significantly agree the current licensee-adviser licensing model does not have procedural normative legitimacy.

Licensing advisers via aligned licensees sometimes results in sales policies, procedures, and practices designed by licensees to give the appearance [window dressing] of complying with the regulatory requirements (Valentine & Hollingworth 2015; Valentine 2013; Newnham 2012; Sampson 2010; West 2009).

Adopting acceptable formal structures acceptable to society (Suchman 1995).

H3 (d): Financial advisers significantly agree the current licensee-adviser licensing model does not have structural normative legitimacy.


Perception of acceptable leader's role to exert personal influence to dismantle/create existing/new entities (Suchman 1995; Goretzki et al. 2013; Carnegie & O’Connell 2012).

H3 (e): Financial advisers significantly agree the current licensee-adviser licensing model does not have personal normative legitimacy.

Contributions by specific individual leaders of aligned licensees to the debate with government surrounding the licensing of advisers are aimed to protect their product distribution channels (Bird & Gilligan 2015; Sampson 2010).


H3 (f): Financial advisers significantly agree the current licensee-adviser licensing model does not have cultural-cognitive legitimacy.

Licensing advisers via third-party licensees is one of the reasons why the Australian public cannot clearly distinguish between advisers who provide independent advice (as defined by s923A of the Commonwealth Corporations Act 2001) and those who provide advice may be conflicted by product bias (Morris, 2013).
“Some dealer groups aim to cover costs only.” “My licencee takes less than 2% of the income I generate.” Thus, “overall most licences do not make a substantial profit, it is more to complement other services and other benefits of having distribution.” For example, they “make money out of providing the services like compliance, research, software, that they get cheaper than an individual planner can get it.” “The majority of licencees though do expect their advisers to generate revenue through” “preferred product lines.” “And that's the conflict.” Surprisingly, despite compliance requirements, the revenues earned by their licensees is non-transparent “marginal revenue for any product placement (information to which I am not privy) depends on what we actually do.”

6.4 INFRINGEMENTS OF THE OBJECTIVES OF THE ACT

With overall moderate cum CLF mean levels of agreement, strong squared multiple correlations [reliability] and standardised regression weights, the current licensing model is perceived as failing to achieve the four objectives of the Act. Evident from the results of the indicators for the factor objectives of the Act $b_2$ in Table 6.3 above were high reliability, because the squared multiple correlations were high [Appendix 5.25, Table 25]. Licensing advisers via third-party licencees makes aligning adviser-client’s interests, eliminating conflict of interest from association, non-violations of the statutory best interest duty, and fair competition, challenging. Based on scoring the overall highest squared multiple correlation values [.826 ex CLF and .839 cum CLF], as tabled in Appendix 5.25, Table 25, and overall highest regression weight [.909 ex CLF and .821 cum CLF] in Table 6.3, a key finding in this research was advisers claimed unintentional [including “intentional”] best interest duty contraventions were the key variable de legitimising the licensee-adviser licensing model. The second highest overall estimate was the misalignment of adviser-client interests evident under the present licensing regime.

6.4.1 Unintentional breaches of the best interest duty

Advisers agree at a 59 per cent [54 per cent, 63 per cent] mean level of agreement, a strong regression weight of .821 in Table 6.3 and the highest overall reliability score [$r^2$] of 83.90 per cent [77.50 per cent, 89.80 per cent] [Appendix 5.25 Table 25], licensing advisers through aligned licencees puts their advisers at greater risk of unintentionally [and in some instances “intentionally”] breaching their best interest duty obligations. Although, “Best Interest Duty should override these conflicts. Great in theory, but not always implemented in practice.”
Furthermore, although licensees manage conflicts of interest, qualitative data indicated otherwise, because “aligned dealer groups spend most of their money working out ways to legally argue that their advisers are not at risk, or that they are satisfying best interest. their SoAs are littered with statements to this effect and are fairly standard to all their clients, regardless of how different the circumstances.” Even though the “Licensee has rigorous standards and an uncompromising audit regime,” compliance “is all about protecting the licensee and adds no value to the client. It also adds cost and complexity, so the adviser and client lose out.”

 Allegedly, “aligned licensees have a business model that deliberately breaches the best interest duty obligations. It is not the advisers that breach the obligations it is the licensee.” If “an organisation has a poor culture, then this could occur.” With regards culture “pressure from BDM’s may influence new advisers.” Especially, aligned licensees “pressure the Planners to sell products.” This is a problem. “When there is pressure to use a particular product there is a much higher risk of breaching best interest duty.” “The major banks have the greatest influence as their advisers are also employees and if they do not achieve targets their job is in jeopardy.” Advisers face ethical dilemmas, based on “examples where aligned advisers by direct employment have had their employment directly and repeatedly threatened if they did not put the employers interest first and only.” Seemingly, advisers are powerless in some instances to prevent infringements of the best interest duty when licensed via third parties.

 Additionally, an unlimited APL may also not necessarily be the answer, because “the practicality of relatively small 'non aligned' businesses being capable of representing the full universe of investment options…can be misleading as well. Finite resources often demand that independent advisers narrow their focus to 'favourites!’” Also, evident when advisers are faced with one-off approval applications, “it just makes their business inefficient by having to apply for one off approval.” Whereas others denies affiliation to product issuers results in unintentional best interest duty. “There is clarity around what is required to meet the best interest duty and if a licensee has structured their business in a way that the adviser is unable to meet this standard advisers will exit and that licensee's business will fail.” This issue of best interest duty is a thorny matter, because “this depends more on the processes they have to follow in making their recommendations - rather than the affiliation. For example, it depends more on the wording in the Statement of Advice and whether they have the freedom to alter the words and therefore the intent. To some degree they are limited by the products they can offer.”
If this issue of serving the best interest of their clients is considered in combination with the qualitative results from the question asking advisers if they ever prepare SOAs without product recommendations, then it is clear most of the respondents [77 per cent] do not always make product recommendations in every SOA. Sometimes they provide only strategic advice. More details about this issue can be found in Appendix 6.4 below. A solution proposed “to act in the clients best interests is via an Independent (as defined by the Act) AFSL.” “The product makers should be separate from the product sellers.”

6.4.2 Misalignment of adviser-client interests

Advisers agree at a mean level of 60 per cent [55 per cent, 65 per cent] agreement, with strong r² of .783 [.707, .856] and effect size in the regression weight .810 [Table 6.3], licensing advisers through aligned licensees “sometimes,” if not “in most cases” made it difficult to align adviser-client interests. With the second highest r² and regression weight overall, it was clear transgression of this objective is the second highest reason de legitimising licensing advisers via third parties.

Apparent, “it is more the licensee that has the conflict rather than the planner. The licensee has no relationship with the client and only with the planner so the relationship is driven by money.” Although, it seems the “ethics of the adviser will determine this.” To the contrary, misalignment results in “even for the most ethical advisers trying to fit a client into one of the aligned products.” Whereas another did not think it was that simple: “There are many levels to this. They all have aligned AFSL's that place AR's somewhere from almost independent to tightly limited. Best Interests applies to everyone equally. The only difference is the Approved Product List and level of authorisation.”

The success of aligning adviser-client interests “depends on their model of business”. For instance, “major banks and not so much AMP”, were cited as the main culprits of causing this misalignment. Misalignment of interests depended “on the licensee. AMP has a very open APSL and has had for many years, whereas I don't think a bank aligned planner would write non bank alined products. Very common for an AMP planner to be advising on industry / external funds from the AMP group.” Thus, advisers confirmed declarations by Goedecke (2001), Australian “major banks” are the main culprits. “Having worked for NAB, I would say in general that it is extremely difficult for these advisers to align their interests with the best interests of the client.” “The Bank aligned practices would be 100%. I was offered MLC/ NAB and the terms are pretty bad.” “Bank advisers would certainly have incentives to recommend
their own products.” “The banks talk about putting clients first, but all procedures are designed to put themselves first.” “Especially when you have sat in a room and heard a distribution manager plead with advisers to support the upstream owner's product to ensure the continuation of the dealer group without any reference to best interest.”

Furthermore, there “is a difference between an employee adviser and a licensee adviser.” “It depends because if they are in house, then they have to be employees. However, if they own their own practices, even though they are licensed through AMP, they try to provide best advice to their clients - usually these FPs are fee for service.” Despite the legislation dealing with conflicts of interest from remuneration between licensee and adviser, seemingly remuneration models continue to influence advisers based on the claim, it is “All about how the advisers are remunerated / incentivized.” Specifically, the licensee-adviser relationship is “driven by money”, by a “Share of wallet' and 'sales' culture proven to be a conflict”, which arises from ownership structures.

“The pressures within aligned licensees to use the 'in-house' product is very high, and bonuses are often predicated upon certain percentages of 'in-house' products being utilised.” However, uncertainty concerning this matter of sales pressure is prevalent. There are claims advisers “do not know what other licencees do, but my licensee places no pressure or suggestions to use aligned products. From what I have read I believe this may be an issue with some.” In other instances, instead of remuneration incentives, “Advisers are KPI to write the aligned product.” “Whilst some aligned licensees have removed sales/ income targets for their FAs, the FA is still captured under a 'performance review' which determines their employment.” “The pressure is always there to get the sale as this is how the Bank makes its' money. (This is from experience - not heresay). The banks like it when their employees have personal debt and are hungry to "write the business". Making a no action recommendation to the client does not pay, and in fact costs money if you have to write an SOA.”

Disturbing is advisers are encouraged to incur personal debt through their employer, which seems a strategy banks use to control their advisers. Advisers are also controlled by “restricted choice (ie "cookie cutter model") means advice may not be in the client's best interests.” “Limited APL prevents choice for the client.” Consequently, “it is impossible to satisfy the client's best interest where product providers require advisers to use their approved product lists on which only their own products sit.” Yet approved product lists does not limit every adviser. Licensees “Apogee, RI advice, Charter etc (true aligned licensees) have wide
Approved Product Lists, limiting the conflict. The adviser can pay more in licensee fees to have the licensee research more products for them, but most adviser choose not to. If you work for a bank, or AMP directly, the APL is smaller and limited and you can’t increase it.” Furthermore, “there is an APSL that we follow but we’ve had successful approvals for products outside of this list”.

Surprisingly, not everyone is able to apply for or is granted one-off approvals, because an adviser claimed: “There are times I would like to use a strategy or give product advice that my Licensee and PI insurer will not allow me to do”. This latter issue is confirmed if analysed in conjunction with the results from the open-ended survey question: ‘Have you ever applied for one-off approvals for financial products or investments not on you licensees’ approved product list? Why or why not?’ Referring to Appendix 6.5, note, 79 per cent of the survey respondents said they have done so, when dealing with government backed super funds, industry super funds, life insurance companies, new exchange-traded funds, ethically responsible funds or life insurance bonds for aged care clients or when it was in the clients’ best interest. Reasons why one-off approvals were unnecessary, included the APL was sufficient to meet the clients’ needs, as well as the APL was sufficiently broad, extensive and/open especially among the self-licensed who managed their own APLs. Some advisers experienced one-off approvals to be “Difficult, time consuming and not always productive” and they were “not interested in the PI hassle”.

6.4.3 Unavoidable conflict of interest from association

The evidence indicated a decent mean level of agreement of 65 per cent [61 per cent, 69 per cent] with high regression weight of .773 [Table 6.3] and a high reliability r² of .688 [.607, .791], in Table 25 in Appendix 5.25, licensing advisers through third-party licensees who are product biased does lead to unavoidable conflict of interest from association.

Licensees control over advisers, with a culture geared towards product distribution is a problem. Instead of obvious product sales targeted KPIs, some licensees have moved to performance reviews or “cultural pressure from the parent company, in many instances” as a method to influence advisers’ recommendations to specific product solutions, which for a salaried “employee” advisers is forcing them into ethical dilemmas they may not be able to control. These “employee” advisers face inducement to mis-sell, because it “difficult to retain their job or obtain bonuses” for non-performance of increasing volumes of “writing product not strategy/optimal product for the client.”
Once again, advisers point the finger at “the limitation of product (APL).” Thus, “the application of APLs and the level of control from overseers” and “One off approval for products not on APSL,” linked to PI creates a problem. “There will always be conflicts as it is not possible to have every product available in the market on an approved product list due to PI insurance reasons as well as other compliance reasons.” Thus, “the licencees choose to impose the conflicts by not having open approved product lists”.

Again, advisers confirming the difficulty of achieving this objective of the Act seems more evident amongst those who “work for a product manufacturer”, especially if they are “employee” advisers or own financial planning practices with “BOLR” terms. Yet, those who disagreed felt: “All conflicts of interest are "avoidable" - sometimes an extra administrative step is required to justify it is within the client's best interest.” “Conflicts can often be managed. Depends largely on the integrity of the Adviser” was a response by the dissenters with regards to this topic. Ultimately, it seems “it is up to the adviser to avoid conflicts of interest and ensure clients best interests are paramount. that has become easier in recent years but not with all licencees.” The solution to these unavoidable conflicts offered by advisers included, “Less of an issue with a very open/Broad APL” and “One off approval for products not on APSL help meet Best Interest.” “This conflict is unavoidable unless it is very clearly and publicly stated that the advisers only have one master - the client. This has not happened in Australia but has happened at least once in the UK (until that bank was taken over by RBS).”

Concerning was the comment in some cases, licencees set a “minimum requirements for certain % of business to be placed through the product manufacturer.” Disturbing was the same theme evident in the other objectives, namely it is “All about how the adviser is remunerated, how the licensee is remunerated.” Particularly “employee” advisers were particularly incentivised, influenced or coerced to promote the licencees’ products. Interestingly, despite legally banning conflicts of interest from remuneration, advisers still claimed, “remuneration model is far more likely an indication of a conflict of interest from association. It is not a 'moral' choice on the part of the adviser. If AFSLs wanted to demonstrate Best Interests they would remove all conflicted remuneration models. They never will.” Allegedly, “Best Interest Duty should override these conflicts. Great in theory, but not always implemented in practice.” A surprising comment was: “These conflicts can be avoided but if all advisers avoid them, the dealer groups will fold.”
6.4.4 Anti-competitive behaviour between financial services providers

Concerning the question stating authorising advisers through aligned licensees limits advisers from competing on a level playing field within the industry, generally, advisers seem close to undecided with a mean level of agreement at 51 per cent [47 per cent, 55 per cent] with a moderate regression weight of .679 as tabled in Table 6.3 above. Its reliability $r^2$ is .494 [.398, .625] [Appendix 5.25, Table 25].

While the licensing model's failure on the first three objective is clear, less clear is its failure about competition. One explanation for this close to neutral level of agreement is the view “Its the Licensees that are competing not the advisers.” In addition, an adviser claimed, “the question assumes the licensee dictates terms.” In addition, the context advisers answered the question varied, which could explain this lack of clarity in the responses: “This assumes that advisers are competing in terms of their product offering not quality or suitability of advice. Surely it is the quality of advice that is important not the make or model of the product (if a product is offered)?”; “There is more to financial advice than recommending a product. Product is only a solution or tool, the strategy is the important thing and the adviser must have the knowledge and understanding required of strategies in order to compete on a level playing field within the industry”; and “My experience suggests that getting numbers through the door is more important. Competition in this space appears minimal when it comes to the client relationship selling.”

Despite the lack of clarity on the issue of competition, others were clearer in terms of the context: “Uneven playing field exists between commercial advisers and those that work for Industry Superannuation funds as Industry planners do not have the same level of disclosure on fees and the industry funds mask their fee structure by applying no advice fees then charge huge SOA fees and consultation fees.” In addition, “Alignment may seriously increase the competitive position of aligned advisers due to the strength of branding, systems & infrastructure, marketing resources and existing clientele…an independent…have a serious disadvantage by comparison.” Thus, “marketing budgets and support from aligned dealer groups are substantial…these institutions providing outstanding support services, including advertising and referrals.” Once again, support services provided by the larger aligned licensees afford greater “access to training, conferences, fund managers, resources, research materials etc.” “When you are not aligned the cost of PI is huge.” Additionally, “aligned
adviser has generally the power of third line forcing. Eg to get you loan you have to have insurance and you need to see our financial adviser before the loan can proceed.”

Although it was conceded, a disadvantage of being licensed via a large licensee is the “high licensee compliance standard places”, the adviser is “at a competitive disadvantage against practitioner not subjected to such stringent standards.” Particularly, “banks rely on the use of their products to generate more revenue from their networks.”

Then the “banks subsidise their advice delivery from vertical integration.” The “large size” means, “the licensee can afford to defray the costs or running the licensee onto other parts of their business, hence it is much easier for them to invest sufficiently into the very difficult compliance regime.” “The ability of aligned licensees to subsidise their advice channels from product margin can actually make the independent licensees uncompetitive.”

In addition, “aligned advisers will sell this to clients as an advantage saying that they are backed by some of the largest institutions in the country. Unfortunately what they don’t tell the clients that they are also backed by some of the largest legal teams in the country protecting the Licensee and not the client.” Therefore, “Advisers licensed through aligned licensees actually have a competitive advantage due to price that independents cannot compete against.” This contrasts with “the non aligned advisers who aren’t on a level playing field.” Consequently, “many clients and potential clients think they are safe with the perceived security.”

Once again, the data revealed remuneration models is an issue contributing to anti-competitive behaviour. Some respondents proposed solutions. “Best practice for client outcome would, in my view, be an open APL with highly experienced advisers who can truly tailor an insurance portfolio. For advisers? Aligned advisers get trusting customers directed to them as 'targets', independent advisers have to find their own.”

6.5 AFSL-AR LICENSING MODEL FAILS SUCHMAN’S LEGITIMACY TESTS

Further assessment of the existing licensing’s legitimacy was grounded on Suchman’s (1995) complete legitimacy theoretical framework. On the grounds of overall moderate to strong mean scores, regression weight values and squared multiple correlations, from the adviser’s perspective, the current licensing model using criteria from Suchman’s model combined with the objectives of the Act, is illegitimate. Overall, advisers felt licensing via third parties failed
the tests of achieving the objectives of the Act and failed the tests for regulative, consequential moral, procedural moral, structural moral, personal moral and cultural-cognitive legitimacy.

The significant high regression weights, in Table 6.4 above, prove the current licensing model is illegitimate from a regulative point of view, because unintentional compliance infringements are problematic. Additionally, consequential moral illegitimacy is evident, because licensees’ commercial interests do compromise advisers’ best interest duty as anticipated in several financial planning studies (Smith 2009, p. 62; Maclean & Behnam 2010; Finke & Langdon 2012; Pain 2013; Moran 2014). Combining the results of hypothesis H3(b) with H1(c), empirically advisers acknowledge licensee revenues as a problem, but find contemplation of the matter difficult. Furthermore, the strong results in Table 6.4 attests licensees’ sales procedures, standards and practices are designed to reinforce product distribution, while giving the appearance of satisfying regulatory compliance requirements. Thus, confirming the inferences during the literature review (West 2009; Sampson 2010; Newnham 2012; Valentine 2013; Valentine & Hollingworth 2015), the AFSL-AR licensing model lacks procedural moral legitimacy. Also Valentine’s (2013) claim, conflict of interest from association is present, was validated by the results in Table 6.4. Thus, this confirmed multiple third-party licensing is structurally debase and illegitimate. The findings in Table 6.4 above found further the licensing model is deficient in personal moral legitimacy too. Additionally, individual leaders of aligned licensees do aim, as claimed by several authors (Sampson 2010; Bird & Gilligan 2015a) during the secondary study, to protect their distribution channels. Advisers agree with mixed feelings, the Australian public cannot clearly distinguish between advisers who are defined as s923A independent and those who are not. This outcome of cultural-cognitive illegitimacy is in line with Roy Morgan’s survey findings (Morris 2013; Vickovich 2013; Boutique Financial Planners 2014).

From the foregoing discussion, none of the legitimacy tests was met. Hence, the licensee-adviser licensing structure is convincingly illegitimate. Next, each legitimacy criteria are unpacked in more detail, using the qualitative data, to understand the quantitative findings of the illegitimacy of the current licensee-adviser licensing model.

### 6.5.1 Regulative illegitimacy

Although strong evidence suggested the licensing model is shown to not have regulative legitimacy based on the effect size of .727, based on the mean level of agreement, noticeably financial advisers were on average unsure [close to undecided at a 47 per cent mean level of
whether the legally socially constructed licensing via third parties caused financial
advisers to unintentionally breach regulatory compliance when dealing with clients.

Surprising was the mixed close to 50 per cent, which is the neutral or undecided mean
agreement level score. The explanation of this mixed response is evident in the emotional
comments of survey informants. For some it was “impossible not to breach” unintentionally.
Although the focus of this research was on unintentional violations, seemingly “those breaches
you read about from bank-aligned advisers are NOT unintended!!!!!!” Even though
compliance contraventions by aligned advisers were “often intentionally as well!”, apparent “it
depends upon the adviser and the culture of his superiors. Sales pressure can be extreme in
some of those larger institutions.” Not everyone agreed it was a problem for only the aligned
advisers, because one adviser stated, “All advisers from all Licensees have this problem.”

Purportedly, “the pressure to earn income...causes the unintentional compliance breach and
not the product.” A “pressure the licensee brings to bear on the adviser to generate income for
the licensee which may lead to shortcuts which breach compliance.” Among several reasons
blamed were “the business models of the aligned licensees” and “their remuneration models
courage intentional compliance breaches.”

Respondents offered many examples of such pressure leading to the contraventions, for
instance, “those who have to meet sales target can misunderstand directions they receive (or
they did not misunderstand and did exactly what they were told).” Troubling “some aligned
advisers thrive in this environment and are condoned for their actions despite many clients
paying for inappropriate advice. eg an aligned adviser switching super to licensee's product
and to get unnecessary insurance that costs more than the clients annual contributions.”
“Especially where product sales volumes are rewarded in various ways.”

Additionally, the “legislative demands are what causes accidental breaches. they are
draconian.” Aligned employee “in house Advisers” were cited to be at higher risk than self-
employed aligned advisers or independents of unintentional infringements.

The approved product list was also provided as a reason for the unintentional compliance
contraventions. “If it is not on your APL you can't write it and I have seen numerous time clients
in expensive products written by an aligned adviser where a more cost effective option with a
different provider would do the same - how does this relate to best interest.” Additionally,
braches will be at the licensee level (e.g. via limited APLs, etc.) and not likely to come from
the adviser who spends most of his or her day on compliance.”
Furthermore, compliance infringements were not limited to product only, but other compliance demands such as “didn’t file note a conversation in time, or they accidentally provided verbal ‘hold’ advice not realising it was advice and therefore didn’t provide an advice document”. Contrary views explained, “a compliance breach is the Adviser’s responsibility. It is up to the Adviser to ensure that the advice is compliant.” Besides, “large licencees have very strict and comprehensive compliance checks. More so than “Independents”, “Compliance managers make sure that advisers will not be uncompliant”. Seemingly, there is the perception that “under the big licencees there are less compliance breaches, due to strict compliance audits.” Consequently, “breaches from the adviser are actually less likely because of the strict controls imposed upon them.”

6.5.2 Consequential illegitimacy

Additionally, consequential moral illegitimacy was evident, because advisers with the third highest reliability [squared multiple correlation, namely .766 and .768, ex CLF and cum CLF respectively, see Table 25 in the Appendix 5.25], and the third overall highest standardised regression weights [.875 and .794, ex CLF and cum CLF respectively in Table 6.4] strongly confirmed the theory. Licensees’ commercial interests do compromise advisers’ best interest duty (Smith 2009, p. 62; Maclean & Behnam 2010; Finke & Langdon 2012; Pain 2013; Moran 2014). The mean level of agreement was moderate scoring 64 per cent [59 per cent, 68 per cent] by advisers; the current licensing model does not display consequential moral legitimacy.

Advisers clearly see tension between the commercial interests of aligned licencees and their advisers’ best interest duty obligations. Combining the results of hypothesis H3(b) with H1(c), empirically advisers acknowledge licensee revenues as a problem, but find contemplation on the matter difficult. For instance, some argue “fee for service eliminates this former problem,” which once again implies remuneration models plays a role. Although, Adviser RR claimed there is no tension by penning: “Not anymore. Client’s best interests are key. Perhaps the big banks provide sales pressure.” It seems tension is “more likely if the adviser is a direct employee representative of a financial product provider/bank.” In line with shareholder wealth maximisation theory, “instos are there to serve shareholders...they want returns and money.” “The profits of the company are put ahead of the clients best interests as the licensee makes up only part of the company's profit. The Funds Management business makes far more money than the Advice business but both are only part of the companies profits and the large financial institutions concentrate on shareholder profit.” Additionally, it is claimed “commercial
interests control the content of the APL”. Furthermore, licensee commercial interests compromising best interests “can potentially happen if performance and KPI is linked to funds under advice and remuneration, number of new clients.” For instance, “the bank financial advisors ( those who operate from branches or branded offices) ...are sales people meeting KPIs.” However, “not all aligned licensees push their commercial interests on to their advisers.” Furthermore, this commercial-best interest tension “depends on the type of Practice.” Seemingly, “the institution is to blame not the planner. Our system blames the Planner.” Although, it is argued, this “is a problem from licensees end not advisers” contentiously, “a strong willed, well credentialed adviser can still resolve these issues when they arise.” From the evidence in this research, some advisers feel “it comes down to ethics.” Another argued, “as a professional ...ethics training plus a higher moral ethical overlay ... means the licensee cannot control me against my client.”

Also, when considering the above results in conjunction with the qualitative data, reported in Appendix 6.3 below, about benefits licensees gain from authorising advisers, profit is in the top three benefits, after the benefit of controlling product distribution.

6.5.3 Procedural illegitimacy

The evidence shows, with a strong regression weight of .781 [Table 6.4] and moderately strong squared multiple correlation of .687 [.576, .784] [Appendix 5.25, Table 25], the current licensing model lacks procedural legitimacy. At a mean of 61 per cent [56 per cent, 66 per cent] level of agreement among advisers, licensing advisers through aligned licensees sometimes results in sales policies, procedures and practices designed by licensees to give “on paper appearance of compliance.”

“Verbally, or in practice, advisers encouraged to act in ways which do not comply.” For example, “recent cases of some aligned licensees have shown that the companies concerned have not been driven by the ethos that is embedded in the regulatory requirements.” Experienced by an adviser, it was “often in the best interest of area managers to push advisers to use in-house products and override the best interest duty.” Advisers are expected to jump “hurdles...daily to make the best choices combined with the culture and the 'education' would make it incredibly difficult. But this is magnified by the 'unethical' advisers being feted and the ethical ones seen as 'non-performing' because they do the extra paperwork, rather than just sell.” Commentary suggests there is “a growing list of advisers receiving poor audit results for process (not advice) reasons.” Alarming “newer advisers will not be able to tell these processes
from a structured 'advice' process.” While “experienced advisers may simply choose to use a successful and 'compliant' sales process to generate themselves more revenue. ie. "if it comes from the Licensee, it must be fine with compliance and my auditor.” Respondents would explain from the perspective of their experience:- “I have worked in management with AFSL’s. I have seen aligned AFSLs dress-up as independents (Financial Wisdom - owned by CBA and Colonial) but set an internal sales budget of $1, billion in platform recruitment to CFS FirstChoice. Same at MLC with specific targets for product placement from it's more 'independent' AFSL's.”

Worrying the practices “are hidden. I have recently taken on a client who is a friend, sold duplicated insurance by the CBA with no advice. how they get away with this is quite frankly disgusting, and we find it hard to compete against this fraudulent efficiency.” Using the legislation to window dress product distribution is an alarming finding: - “Compliance is all about window dressing. The licensee makes it so strict so as to protect themselves against the charge of pushing product.” “Compliance is all about lip service and covering your arse. The client never ever reads the provided documentations. FSG, SOA, PDS are all about protecting the licensee and the adviser. 'But we disclosed everything'. [Subtext; not my fault you are stupid enough to require advise and can't or won't read.”

Despite licensees providing “open’ APL but really internally the approach is to use the aligned product.” Then there are situations where “some licensees focus on compliance but overlook instances where advisers only use inhouse products.”

However, the minority counter-arguments seem to offer hope based on the comment: “many of the aligned licensors believe that they are seeking to act in client interest. However they also have a duty to their stakeholders...there is a genuine objective to provide the client with a good outcome, within a profit model.” Allegedly these practices do not go unnoticed and should not be of any concern according to some respondents, because “licensees are well aware of the scrutiny of ASIC and Adele Ferguson, so no window dressing is applied.” Notwithstanding the scrutiny by “ASIC to ensure regulatory compliance.”

6.5.4 Structural illegitimacy

Furthermore, this research proves strong support at a mean level of 75 per cent agreement and regression weight of 0.740 [Table 6.4] and judicious squared multiple correlations of 0.574 [0.458, 0.669] [Appendix 5.25, Table 25] the current licensing model does not display structural moral legitimacy.
The frequency of comments was the highest in this part of the survey responses. Conflict of interest from association by licensing advisers via third-party licensees “is what is causing most of the problems in the Financial Planning industry.” “This is the cancer that has led to the current situation of advisers being attacked from all political corners.” It is a “major confliction” “This is the crux of the problem with financial planning.”

Questionable, according to one adviser is, “How can best interest possibly be served with these conflicts.” Apparently, “The advisers fight very hard against the conflicts and aim to serve their clients first, but the licensees are able to use compliance as a tool to put themselves ahead of the client. The advisers are then scared of their licensee burning them and are forced to choose between the client and the licensee.” This implies licensees have power to control adviser behaviour, rather than advisers having the power to self-control their own behaviour. From experience, an adviser wrote “having come from this system originally we were pressured to sell the product. If your advice didn’t match the product that you had available they made life very difficult.” However, he was not the only one who shared this experience: - “Worked for a major bank for 9 years. This is DEFINITELY a conflict of interest. Aligned advisers are under pressure and inducement to use aligned products and services.” Thus, “under a sales culture ... the pressure on managers to perform is very high.” “Where an individual adviser has specific KPI triggers to use products owned by their licensee there is a huge conflict between what is best for the client and what is best for the adviser licensee to reach bonuses/profit etc.” Thus, “aligned advisers put their licensee before the clients best interest. / They are conflicted by their ownership and their own products.” One adviser observed, affiliation or ownership is “only a conflict if you use the aligned licensee's product.” Another adviser acknowledged although “Most Licensees will encourage their advisers to use their products, however under our best interest duty we can only use our licensees products if they are suitable for our clients.” However, they are in the minority. Some advisers “chose to leave the dealership... because of its bias towards its own platform.” It is also claimed licensing advisers via licensees ensures the “client is not aware of these associations. If they go to a Holden dealership they only expect to buy a new Holden. Clients do not understand they are walking into a dealership when they walk into an aligned business - they do not know that the adviser has a limited suite of platform to choose from (not investments) there is a difference.”

The few who held contrary views, by disagreeing conflict of interest from association is the problem, pointed at other possible reasons. For instance, it “is more about disclosure than affiliation. If the affiliation is disclosed the conflict is minimal. Unfortunately, that disclosure
is usually hidden deep in small print.” In addition, “the Licensee does own a product issuer license and has aligned platforms. However Advisers can use other products and platforms if on the APSL or also can seek one off approval to use off-APSL products and platforms.” Yet, it was found in this research mentioned earlier one off-approvals were not always readily granted.

Interestingly although “Licensing through aligned licensees does create conflicts of interest… it would be a mistake to believe that a non-aligned licensee doesn’t have a conflict, it simply has different conflicts.” Therefore, “Conflicts apply across all industries and regardless of whether a planner is aligned or not.” Advisers named specific licensees in their responses. “Licensees will encourage their advisers to use their products, however under our best interest duty we can only use our licensees products if they are suitable for our clients.”

Once again it seems “Employee reps conflicted” and self-employed “Auth reps limited conflict” when it comes to conflict of interest from association. Likewise, “Wherever there is vertical integration there are inherent conflicts of interest. I have seen a number of studies that shows that advice from vertically integrated advisers is extremely heavily biased towards the parent company.” However, not everyone agrees: “The inherent bias comes from within the Approved Products list construction, but even this can be widened with a reasonable alternative and a good reason. In truth, conflicts of interest by association are more about perception than reality.” For advisers to practise their craft they “need a licence, that licence is with a bank. This does not influence our decisions on our client outcomes!” Ultimately, for another adviser it is “Up to the adviser to accept these ‘inducements’ or not. Some of us paid the higher fees to be licensed so that we were NOT influenced.” Overall most agree, “Adviser must address this conflict with integrity of a professional, but until this connection is removed there will always be the appearance of conflict of interest.” Unexpectedly, “an aligned licensee will mostly recommend the product from the licensee due to BOLR agreement.” Even if it is “Up to the adviser to accept these ‘inducements’ or not”, the overall quantitative results indicate structural illegitimacy.

A solution offered for the structurally corrupt licensing system is for licensee-adviser licensing advisers to be “dismantled immediately for the sake of the clients and the profession.”

6.5.5 Personal illegitimacy

It also seems the current licensing model does not display personal moral legitimacy given by the level of agreement of advisers sitting at 78 per cent with a standardised regression weight
effect size of .679 [Table 6.4] and squared multiple correlation of .463 [.335, .669] [Table 25, Appendix 5.25] when advisers were asked whether contributions by specific individual leaders of aligned licensees to the debate with government surrounding the licensing of advisers have a “a vested interest” to protect their product distribution channels.

“Leaders of aligned licensees will not only protect their distribution channels when discussing the topic with the govt, they will also band together to control the information going to the government. ie FSC.” Combine these results with the findings consequential illegitimacy, it is clear licensees “first obligation is to shareholders or employer,” because they “care about one thing, that is their bottom line. Client outcomes is a long way down the list.” A problem again is “the continuum of Financial Advice Business models.” Thus, “leaders will do what suits their particular business at the time. They are there to make a profit. If they could sell their product direct to the public and cut out the adviser, they would do it in a heartbeat. Life Insurance Framework is a good indication of that.” The insurance debate was mentioned several times by respondents: “look at the new insurance proposals designed to reduce adviser commissions etc but not increase benefits to consumers via better definitions” and the “so called 'Churn Debate' in relation to insurance is a case in point.”

Furthermore, combine the results with structural illegitimacy, albeit “they don't have the integrity to admit this. All these institutions also OWN INSURANCE companies who have significant 'Direct' distribution - group - through industry funds and elsewhere, and on-line). These are also being protected in public debate. There is no proper research on outcomes for consumers.” Although the leaders are claimed to “try but their model does not reside on good, long term, client outcomes.”

However, some advisers did not see a problem with licensees leaders lobbying “to protect their revenue” with a “focus on retention of FUM” as evidenced by “their Annual Reports and see where they are making the massive profits.” “Of course, wouldn't any company want to preserve its sales arm?” An additional argument proposed was “business interests have every right to protect their ongoing survival and deserve to fail in business, fail their associates and fail to protect the interests of their clients if they did not do so.” Thus, some advisers attempted to justify leaders protecting product distribution “What do you expect? We live in a capitalist country where competition within the market and access to the market rules. The institutions have been at it for 100's of years in some cases. Delivering benefits to policy holders and superannuants; paying wages to staff and all the supporting infrastructure. Of course they have
“a vested interest.” Although, “It is natural for any business to protect its business model. It is up to Govt to decide if the business model is illegal or detrimental to society.” Yet, commentary indicate lobbying by aligned licensees “is true, but can’t the same be said about the leaders of non aligned groups??? Weavenous and Whitely spring readily to mind.” “Every new regulation has ended up benefitting the big players and transferred wallet share away from advisers directly to the product providers.”

Thus, Australian policymakers, in the eyes of some advisers, seem somewhat responsible for listening to the lobby groups and Federal and State politics seems to play a significant part in some of the woes the industry faces. For instance, “The Wallis enquiry could have fixed most of the industry problems by banning product manufacturers from owning advice businesses (and banning all commissions)...big instos' influence on politicians prevented this. Influence comes from industry funds as well of course.” In addition, “government really has not considered what happened in the UK and the FSC has pushed their own agenda and this is what is being listened to - even the professional associations have caved in to pressure from the FSC.”

6.5.6 Culture-cognitive illegitimacy

For this test the cum CLF level of agreement was 62 per cent with a moderate standardised regression weight effect size of .682 [Table 6.4] and $r^2 .502 [.322, .752$] [Appendix 5.25, Table 25]. Consequently, advisers indicated the licensing model does not display cultural-cognitive legitimacy, whereby clients can clearly distinguish between s923A independent advisers and product-conflicted advisers. Respondents indicated “the public has difficulty but not because of the existence of third party Licensees.” To them it “is too simplistic. There are other factors,” which is confirmed by the $r^2$ of .502 [.322, .752].

Among the other factors suggested by respondents include, “quality of advice. Bad advice can be delivered by any adviser; independent, self licensed; aligned or in the employ of a bank.” “Clients value good, solid, professional planning that meets their goals and aspirations no matter how licensed.” Plus, “It's the individual advisers ethics, best interest etc. no amount of legislation will combat a crook or someone who is unethical.” Additionally, “they just want what is clearly good and easy to understand advice from an Adviser with understanding and empathy.” “What we do not know is the level of literacy and comprehension individuals have.”

Whereas for another, “The reason for confusion includes the rules that govern the use of certain banned words (independent, unbiased, etc.).” Allegedly, the “industry can't even work out what
independent is. We have advisers who can receive an Independent Financial Adviser Award (IFA Magazine) yet who operate businesses as conflicted as a Banks. The AFSL then leverages that publicity to appear as something they are not - appalling!! Is it any wonder the public has no trust.” The term ‘independent’ remains a controversial matter among some advisers based on the comment “we should be able to use the word independent, unlike the banks who manufacture and sell their own product. The word independent should be legislated for those satisfying a criteria.” Confusion among advisers is apparent around the term ‘independent’, because it is alleged “non aligned advisers are independent but don't meet the definition.” Furthermore, it seems “having your own AFSL does not mean that you don't have an arrangement with a product provider.” “It’s in the private financial planning firms both 3rd party aligned and with their own AFSL where independence is foggy.” An interesting comment was: “There is no definition of the advice provided in s923A, it is concerned with the use of certain words. It relates to remuneration models not the type of advice provided.” “As a non-aligned adviser of an independently-owned Dealership, the difference is clear. Best interests of the client come first. Decisions about product are made towards the end of the process. Aligned advisers are (arguably) looking to sell a product to the client. In my experience the product was aligned to the dealer group/bank with sales targets to meet.” Thus, the foregoing suggests differentiating the services, they offer in practice some advisers base it on ownership, product and/or remuneration practices.

Apparently, there is the perception the “confusion would reduce if there was clarity in relation to the legal provider of the advice (i.e. the licensee).” Specifically, the misperception has “to do with labelling. People might expect MLC product from a MLC adviser, but Godfrey Pembroke is a different matter. A lot of this would be cleared up if product providers did not have advice businesses.” Apparent, “the aligned licensees hide behind multiple business names - no transparency exists.” Seemingly, “most Australians would not know the difference as it is not usually openly disclosed to them.” Allegedly, the problem is not as apparent “if a client walks into one of the big 5,” because “then they would expect to get a big 5 product.” Furthermore, “It's the old contracts/books that are sold where the majority of the "independence" damage is done i.e. protectionist actions by the instos.”

Arguably, this issue of identifying the nature of the licensee “is covered by disclosure to each client.” Thus, to help clients distinguish s923A independent advice from that which is not, “the public are given a Financial Services Guide at the first meeting which shows who the Dealer Group is aligned to or not. So the public can distinguish the differences.” Yet, to the contrary,
“even though FSGs are provided, consumers don't really understand any conflicts that may arise depending on licensing.” “Disclosure has become so complicated that most of the public do not understand what they are reading.” Thus, disclosures are not always done effectively. Notwithstanding that “most Australians would not know the difference as it is not usually openly disclosed to them.” “Most people who seek advice have no idea that there could be a possibility of a conflict”.

Disturbing is the adviser view that “the public are not really interested in the issue.” There is the perception that “clients don't care whether their adviser is licensed through a 3rd party or independently. I have never had a client walk away because of who my Licensee is.” The reason for this outcome in the qualitative data is “the Australian public have a relationship with the adviser not the licencee. The trust is with the adviser.” Surprisingly advisers claimed, “Most clients don't even ask about independence” and “Clients don't care about independence.” They “trust that the best advice will be given.” Several respondents proposed a solution. For instance, “there should not be product providers who also have advice arms to their businesses.”

6.6 INDIVIDUAL LICENSING MODEL VIA A SINGLE BODY SUPPORTED

From the above results, the current licensing model is convincingly illegitimate. Accordingly, this illegitimacy strengthens arguments to replace the existing licensing model with individual licensing. Advisers reveal with moderate to high regression weights, mean levels of agreement and $r^2$, their support for such as model based on the evidence in Table 6.5 below. Advisers also strongly agree the most important factor to influence whether a person seeks financial advice, namely clients’ trust (Balasubramnian, Brisker & Gradisher 2014) would improve with individual licensing. They acknowledged it would provide them with much needed independence from product-conflicted licencees. Furthermore, they are in favour of modelling adviser licensing on other professions. Interestingly, the preference is individual licensing via a “single body.” However, most of them expressed some reservations and concerns about the practical implementation of disconnecting them from licencees. Specifically, they were unsure what an individual licence would entail. Additionally, they feared the costs involved as well as wanting to know where the “subsidised” support services “research, compliance, marketing and training support” were going to come from, which “from aligned dealer groups are substantial.”
6.6.1 Public trust and confidence will improve

When asked whether client trust and confidence would improve under a single licensing regime, advisers agreed at a cum CLF of 64 per cent [60 per cent, 68 per cent] mean level of agreement [Table 6.5 below], a high regression weight estimate of .745 and reliability of \( r^2 = .754 [.588, .902] \) [Appendix 5.25, Table 25].

Qualitative data disclose that at “100% the dealer group model is broken. It has not achieved what it was meant to do, give a higher quality of advice to the public.” “Apart from applying for your own license” individual licensing “is the only way to remain truly client focussed,” “if the regulating body did a good job of monitoring and enforcing.” Besides, “Advisers would then also be more PERSONALLY accountable.” Thus, let “individuals actions/service etc. be the distinguishing factor.” “This would go a long way to 'level the playing field' and break down the current underlying distribution based model.”

In line with the views of O'Brien and Gilligan (2014), “there is no longer a place for large institutions to be able to offer licencing services and to also be product manufacturers. The Law should require they chose to do one but not both.” Another “really like this idea, but...cant see it happening,” nor “how this would work in practice.” Although, “consumers would have more confidence, this may be based on a perception only.” A sentiment expressed in the survey was “the existing vested interests and huge investment in infrastructure by the biggest players would stop this in its tracks.” Besides, according to some, a single licensing model was not considered a viable solution to “exclude bad advisers from the system” nor prevent those “who deliberately sets out to deceive” for the simple reason that “any industry that...make a lot of money quickly, someone will ALWAYS try to push the envelope. Also different AR's will have different attitudes.” While a respondent, who was once “a senior government bureaucrat,” perceived individual licensing via a single body to build trust and confidence would flop “if it ended up being ran by bureaucrats.” Because “from experience...most have no understanding of the commercial world or private sector. That's why so many government contracts both state & federal end up in tears.” He was not the only adviser who feared individual licensing would “increase the size of bureaucracy.”

It was also perceived that a single body “would produce a licensee with to much power...Better to have many licensee's for competition and non that issue product.”
Table 6.5 Summary of findings for Individual licensing [b4]

Q4: To what extent do financial advisers agree the current licensee-adviser licensing model of individual financial advisers should be replaced with an independent individual licensing system, like other professions?

H4: Financial advisers on the ASIC Adviser Register significantly agree the current ‘authorised representative’ licensing model of individual financial advisers should be replaced with individual licensing.

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<td>a16</td>
<td>Lack of trust &amp; confidence (Hely 2012; ASIC 2013a; Morgan &amp; Levine 2015) prevents the public from seeking advice (Balasubramnian et al. 2014)</td>
<td>H4 (a): Financial advisers significantly agree clients’ trust and confidence in financial advisers would be restored if the licensing of individual financial advisers was via a single individual licence with professional standards of education, appointment, registration, regulation, discipline and cessation.</td>
<td>Clients would have more confidence and trust in financial advisers if advisers were licensed under a single individual licence with professional standards of education, appointment, registration, regulation, discipline and cessation.</td>
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<td>64 [60, 68] 2.327 27.386 p = ***</td>
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<td>a17</td>
<td>Institutional commercial licensee favoured over individual professional adviser (Sanders &amp; Roberts 2015, p. 18) leads to problems (O’Brien &amp; Gilligan 2014; Sampson 2010). Individual licensing to disconnect advisers from product issuers may lead to a culture shift (Steen, McGrath and Wong 2016; O’Brien &amp; Gilligan 2014; PJC on Corps &amp; Fin Sers. 2009) to independence (North 2015; ASIC 2017a; Smith, Clarke &amp; Rogers 2017)</td>
<td>H4 (b): Financial advisers significantly agree a single individual licence will promote independence from those licensees who may be conflicted by product bias.</td>
<td>A single individual licence for individual advisers will promote independence from those licensees who may be conflicted by product bias.</td>
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<td>65 [61, 69] 2.230 29.147 p = ***</td>
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358
Financial advisers have been likened to other professionals (Ap 2011; Bruce 2012; Knutsen & Cameron 2012; Burke et al. 2015). Professional regulation evident in law/medicine is critical to the proper functioning of financial services industry (Omarova 2010).

H4 (c): Financial advisers significantly agree the licensing of individual Australian financial advisers should be modelled on those of other professions, such as the accounting, legal and medical. It is ‘appropriate’ to license advisers with an individual licence in line with other professions, such as the accounting, legal and medical professions.

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<th>Parameter (Par)</th>
<th>Question (Q)</th>
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<th>Standardised regression weight (λ)</th>
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<td>.816 .042 [.736, .895] 13.098 p = ***</td>
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<td>69 [64, 73] 2.244 30.618 p = ***</td>
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Individual license (Hoyle 2017; Sanders & Roberts 2015; PJC on Corps & Fin Servs 2009, 2014; Tuch 2005) via single monopoly body = most effective way to regulate the future financial planning profession (Kingsford Smith 2014).

H4 (d): Financial advisers significantly agree they would prefer an individual licence regulated through a single independent registration, competency, education, conduct, standards and disciplinary board. You would prefer an individual licence regulated through a single independent registration, competency, education, conduct, standards and disciplinary board.


Conflict of interest from association due to co-habitation, leads to institutional-professional conflicts and ethical dilemmas (Smith, 2009). Therefore, disconnecting advisers from control by product distributors by means of a cultural shift (Steen, McGrath and Wong 2016; O’Brien & Gilligan 2014). Thus, it should eliminate this conflict.

H4 (e): Financial advisers significantly agree Individual licensing of advisers through a single independent professional standards board will eliminate conflict of interest from association.

|                 |              |                | .629 .051 [.542, .739] 10.374 p = *** | .536, 8.625 p = *** | 52 [48, 57] 2.167 24.188 p = *** |

Individual licensing of advisers through a single independent professional standards board will eliminate conflict of interest from association.
Furthermore, they did not want a professional association involved, “so much would depend on the structure, administration and interests of the single licensee. The FPA, for eg, has multiple conflicts of interest.”

Other counter-arguments to this new form of licensing suggested: “Confidence and trust in financial advisers is not built on a licensing arrangement but on the integrity of the individual financial adviser's ethics and integrity” Therefore, there was the argument suggesting “What needs to be pushed is the high level of consumer protection there is under the current rules.” The naysayers were not the only ones with hesitations. Those who supported the idea of individual licensing reluctantly admitted “big organisation provides more confidence to a person than a small local business.” Furthermore, “most Clients actually don't know or care,” because “they don't even realise that I'm licenced/Authorised in many cases.” Trust is with the individual adviser the client deals with, even though “clients approach and trust a firm or company in the initial approach.”

Concerns expressed by advisers around a single licensing body continued to grow. On the evidence participants did not want a professional association involved, because the “FPA, for eg, has multiple conflicts of interest. eg. the FPA delivers the 'CFP' designation which it claims is he 'pinnacle' of adviser qualifications. However, it is alo the only institution licensed to provide the training.”

For a few, to encourage trust and confidence in financial advisers is “simple...remove all remuneration from product, whether that's insurance, platform, investment. income for the Adviser can only be sourced through Fee for Service, no volume bonus schemes etc.”

Interestingly, not everyone was “sure what you mean by "single individual license"”, because they asked “Do you mean financial planning as a profession? With all the professional barriers to entry? Then yes,” “just like Accountants and Solicitors.” “Accounting provides a good model.” “Doctors are not licensed by hospitals or clients.” Thus “the model of doctors, lawyers and accountants” “is a real possibility, given the Professional Development education we are required to complete to sustain our AR title presently.” “Financial advisers need to be like other professionals and charge a fee for service. Then clients will totally trust them. The majority of clients are aware that commissions distort advice given.”
6.6.2 Independence from conflicted licensee control

A 66 per cent [61 per cent, 69 per cent] level of agreement with a standardised regression weight of .662 cum CLF [Table 6.5] and \( r^2 \).541 [.417, .693] [Appendix 5.25, Table 25] supported a single individual license for individual advisers to promote independence from those licensees who may be conflicted by product bias.

Those who agree felt: “It would also mean that advisors aren’t effectively bonded to an employer”, because the “problem is not the adviser - it is the model which allows a Licensee to own manufacture AND distribution. The banks & union super funds routinely abuse and exploit this.” Yet others believed independence is a myth, because irrespective of the licensing model “you cannot have good advice without product recommendations.” Thus, “product bias is going to be there for some advisers aligned or not,” especially for those who “work for a bank or an industry fund.”

A consistent theme throughout this chapter was, “an employee of a product provider still succumbing to bonuses etc to sell their products.” Therefore, there “will still be the potential to be conflicted if product providers are able to reward advisers for product volumes.” Some advisers are convinced, “providers will always try to provide incentives for advisors to recommend their products.” Alternatively, the “conflicted licensee will always try to bring pressure to get the sales and revenue either by coercion or demand.” However, also expressed is the viewpoint that “it’s not about licensing, it’s about the ethics, standards and morals and education of the adviser.”

Adding to the foregoing misgivings, there are problems with the practical application of individual licensing to promote independence according to advisers. For instance, “who guarantees that the research and monitoring of the products will be maintained” and “who would provide the APL or would any promoter have access to advisers.” Additionally, “who will rigorously set out, apply, monitor, administer, and enforce the standards required for those who do not do the right thing; and make sure they have IP insurance; and deal appropriately with client complaints etc. Put ASIC in charge? A professional body?” “In practice the amount of red tape and regulation means that most advisors may still need a 3rd party licensee to provide support so conflicts may still occur”. Thus, uncertainty as to “how the compliance frame work would operate” exists. Evident was the fear, individual licensing will “place a much greater burden on individual advisers and/or practices to review and select appropriated investments.”
Another major concern expressed was “the cost will be high.” Specifically, “the costs of PI Insurance and administration of running a self licensed practice would cause the costs of providing a service on a $Flat fee basis too expensive. This would marginalise the majority of the public who couldn't afford to pay the fees.”

However, despite the misgivings, advisers acknowledged like doctors, financial advisers could have “multi layered licence to determine specialist from generalists.” Also expressed as desirable by many respondents is “A Single individual licensee will need to be independent of the regulator, institutions and Govt.”

6.6.3 Adviser licensing like other accredited professions

Advisers indicated a moderately high mean level of agreement of 69 per cent [64 per cent, 73 per cent] with a high standardised regression weight of .711 [Table 6.5] and r² of .694 [.554, .833] reliability [Table 25 in Appendix 5.25] it is ‘appropriate’ to license advisers with an individual licence in line with other professions, such as the accounting, legal and medical professions.

“Trouble is the legislation is all wrapped up around product advise, whereas the other professions have legislation around professional standards rather than product. The law does not seem to envisage the provision of financial advice without use of a product.” Financial advisers “want to be considered a profession and yet...are corralled and controlled like sales cattle. How many accountants, solicitors and medical professionals do you see being 'franchised' by banks.” “It would clarify the issues and advisers would be answerable to their clients and the regulator.”

Yet, respondent’s support for separation from licensees is conditional on several aspects, such as it is affordable, ensures ongoing independent compliance audits, is self-regulatory, excludes AFS licensees, professional associations and government-owned institutions, while remaining focused on rigorous professional standards in line with other true professions. Specifically, advisers want to be “able to afford the cost incurred as a result of compliance, insurance and ongoing education. All of which help to ensure that the client is receiving good advice that is in their best interest.” Important is “affordable professional indemnity insurance with a low level of policy excess.” A concern for individual advisers is they “don't have easily obtainable funds available to them to meet claims, should they arise.” Again, it was expressed, “As long as they are independantly audited to maintain standards, it would be ideal.”
Additionally, advisers want to be judged “by...peers and reported for misconduct by peers as currently happens in the legal and accounting professions.” They want the licensing body to be “run by a NON-Government Body like the Law Society, ICA; Board of Surgeons,” without interference by “by banks and instos which is currently the case. There is too much fat in subscriptions to these groups and sponsorship by instos which then pollutes policy and ultimately credibility.” Individual licensing “needs...a vigorous framework...which doesn't currently exist. Allow the advisers to be a part of developing that framework.”

Once again, concern was uttered about the practical workings of “monitoring and supervision of individually licensed advisers” and “whether that system would support advisers enough.”

In addition, those who strongly disagreed with a new licensing model suggested: “Not on your nelly. I pay almost $30,000 per year for the privilege of providing advice to my clients. That is the cost of my license. for that, my licensee provides all research, compliance, reporting. I provide advice on Super, Insurance, estate planning, budgeting, investing, lending, health and wellbeing. There is so much more than "product".” The same misgivings as above, included the “compliance burden of this scenario” “Cost to end client would be much greater,” is yet again a concern.

Among those self-licensed they failed see the need for individual licensing, because they were “already under those regulations” as in their view “that option exists today - individuals can obtain an AFSL.”

### 6.6.4 Independent professional financial planning standards board

The support was moderately strong for an individual license regulated through a single independent registration, competency, education, conduct, standards and disciplinary board. Extent of adviser agreement was measured to score a mean level of 68 per cent [63 per cent, 72 per cent] with moderately high standardised regression effect size of .695 [Table 6.5] and moderate $r^2$ of .623 [.501, .834] [Table 25, Appendix 5.25].

From these survey results, advisers are coming around to being licensed via a “‘single’ body.” An informant felt “it would put all advisers on the same page and distinguish the aligned ones.” However, once again those self-licensed with their “own AFSL,” suggested it was unnecessary to pursue any new independent licensing model, because they were “already in that space” where they “operate as an independent (as defined by the Act).”
A couple of respondents recognised this “has all been tried before”. Particularly the “FPA has tried to move down this track but has been largely ignored.” The reason it has been neglected is it is perceived as a “little hard as after 15 years we're heavily invested into the current position with commercial property and such.” However, advisers desire such a model, because it “takes the conflict of industry bodies away who currently 'own' the designations (eg. CFP and FPA).”

Interestingly, although it was reported above costs were a major concern, to the contrary others perceived the “costs could be drastically reduced due to numbers,” and hence “help reduce costs to an Adviser's practice.” Once again, advisers who were in favour of individual licensing did so conditionally. They expect “the services delivered by current licensee are available at reasonable cost” by the new body, because they “are already under extreme pricing pressure and compliance complexity.” According to one respondent, if the costs were not kept “feasible”, then “the product providers will somehow find a way to "reward 'advisers who use their product and pay their fee."” Survey participants confirmed, “licensees subsidise the cost of services to affiliated advisers.” Furthermore, the question was raised, “will the administration burden on advisers reduced under an individual license?” “Economies of scale is important,” because “too much compliance work” makes a single license unworkable according to some informants.

Additionally, the expectations of respondents included the licensing body should have “the resources required to monitor and manage,” “was run efficiently and fairly” with “no ties union or government influences” nor “indirectly controlled by the institutions in the form of ‘corporate sponsorship’” with “vested interest.” They want to see a new body “decreases red tape… and makes doing business easier.” Worrying for one respondent was “no board has shown any ability to appear independent - they usually have some vested interest.” What troubled advisers was the potential loss of “the backing of a large financial institution who owns the AFS license and appoints authorised representatives and monitors and supervises them.”

Also, the forfeiture of subsidised support services licensees provides, such as “business planning and development support”, “Professional Indemnity Ins, Adviser software, practice management support training/technical support etc” was seen cannot be provided by a single board. However, another made counter claims “back office and other support services can be delivered by other parties in competition with each other,” whereby, “advisers can pay a
registration fee to a single board and pay for services independently of their license.” This latter claim was supported with evidence, such as the likes of “CPA Australia and ICA can survive independently and compete.”

Some respondents added finer details of what they would like to see the board provide. “Degree from a recognised university, post degree course administered by professional body, registration by government body.” It should offer “a single set of standards for example, asset allocation, standard terminology for clients to understand (and agreed benchmarks with narrow deviation) and very strict compliance and disciplinary standards for those who choose to not comply.” An added problem highlighted was uncertainty as to “how this would remove the bias towards in house products as advisers would still have to work with APL and sales targets.” Additionally, there should be “appropriate distinctions for exactly what advice that ‘professional’ is licensed to provide. Eg Insurance specialists (no other services offered) are designated differently to investment specialist - and variation thereof (no insurance), different to those who offer a bit of both.”

6.6.5 Stamp out conflict of interest from association

Generally it seems advisers were unsure whether individual licensing of advisers through a single independent professional standards board will completely eliminate conflict of interest from association based on a mean level of agreement score of 52 per cent [48 per cent, 57 per cent] with a moderate effect size of .536 [Table 6.5] and moderately low squared multiple correlations of .39 [.311, .555] [Appendix 5.25, Table 25].

Although it might “not eradicate conflicts,” “it will resolve possibly the biggest issue standing in the way of clients’ best interest being satisfied (all of the time).” The excuse is “advisers can’t know all the products in the market so well as to satisfy their know your product obligation for all of them, so a close alignment with a product provider is inevitable.” Many respondents appeared to sit “mid way with this one.” The difficulty appears, although they “agree with a Professional Standards Board,” they did not “see how this will stop Conflicts of Interest.” Those who felt conflicts interest will be eliminated, held it would provide them with control to enforce better ethical culture within licensees. “If financial planners hold a licence and can choose their association and change at will, more pressure on the institutions to comply with legislation and look after clients rather than push profits.” To overcome this problem of control by licensees is to ensure “the ability for advisers to get paid by the products are removed as well.”
However, others argue, product bias will remain a problem despite the licensing regime, because there is a “personal bias” together with “other sources of product bias such as business efficiency,” as well as “poor sales practices, or simply inexperienced advice or business processes lacking in structure.” “As long as advisers are involved in recommending product and implementing product solutions beyond SMSF set up, product providers will continue to try and influence advisers.” At risk of the greatest influence by licensees are the employee advisers who “still need to work through a company - at least initially to gain experience. These companies will have their preferences for products and platforms and will influence the services the advisers offer.” It has been reported earlier, “BDMs” of licensees allegedly will continue to use “sales incentives like commissions, marketing allowances, white labeled products etc.”

Additionally, it is contended “white label products with the product manufacturers” remains a problem and “may compromise the independence depending on how it is incorporated into the business.” “Commercial reality will simply generate new conflicts” is thus a reason put forward why a single body will fail. Mentioned again by advisers, the “problem is conflicted remuneration rather than that created by association alone.” For some the conflicted association was an issue of ethics: “Advisers are either conflicted or not. Licencing is not the issue. Ethics of advisers is the issue.”

Despite these misgivings above, advisers recognise a solution is to “De-link product and advice”, and thus “separate the product owner from the Adviser,” because, while “the two are connected, you have conflict.”

6.7 CONCLUSION

The quantitative results clearly show the current AFSL-AR licensing model is illegitimate. This research answered the four investigative questions highlighted in Chapter 4. Firstly, financial advisers perceived a dual-agency role between Licensee-Adviser-Client. They agreed with financial planning literature claiming advisers serve the interests of both the licensees and clients simultaneously, which they confirmed does lead to a conflict of interest. This conflict of interest they confirmed was indeed from association to third-party often commercially driven product oriented conflicted licensees. Secondly, advisers empirically confirmed licensing advisers through third parties is inconsistent with four objectives of the Act. Thirdly, the observed research confirmed in the eyes of financial advisers, the current AR-AFSL licensing model fails the legitimacy criteria of Suchman's legitimacy framework applied to
financial planning theory. Finally, financial advisers were cautiously in favour of an alternative licensing option disconnecting them from third-party licensees based on other professions, such as accounting, medical and legal. They were in favour of considering a single independent professional financial planning standards board to regulate, not only the education of individual advisers, but also their registration, competency, conduct, standards and disciplinary issues, as an option to eliminate conflict of interest from association.

However, observed in the commentary by advisers, licensing advisers is a difficult issue with many other variables at play, leading to more complexity and perhaps even confusion. Interestingly, best interest duty has changed the perception of whom advisers are working on behalf of, even though the legislation does not reflect this. Advisers also find it challenging to attend both the licensees’ and clients’ interest simultaneously. Furthermore, the diverse benefits licensees gain from authorising advisers is not as transparent as one would expect and seems a difficult matter for advisers to reflect on and discuss.

Misalignment of adviser-client interests may also be a licensee-adviser and/or a licensee-client interest misalignment. Licensing advisers via a third party is problematic within the context of licensees’ business models, remuneration models and culture. In addition, it seems the following may negatively affect the adviser-client relationship in terms of achieving the four objectives of the Act: 1) AR employee or self-employment status with the licensee; 2) licensee influence over advisers; 3) application of licensee APLs and 4) adviser KPIs or performance indicators implemented by licensees.

Statutory fiduciary duty is the most significant variable driving the illegitimacy of the current licensee-adviser representative licensing model. The second most important source of illegitimacy is the objective of the Act, aligning adviser-client interests. Interestingly, the tension between licensees’ commercial interests and advisers’ fiduciary duty is the third key factor legitimising the current AFSL-AR licensing model. This means these variables, together with advisers’ view clients would have more trust in advisers licensed via a single licensing model, were significant determinants driving the illegitimacy of the current AFSL-AR licensing model.

Consequently, survey respondents, albeit with some misgiving and reservations, support the argument to change the current licensee-adviser licensing model to individual professional adviser licensing via a monopoly professional independent regulatory body.
APPENDICES FOR CHAPTER 6

APPENDIX 6.1

Table 28 Means or Intercepts: [Group number 1 - Default model] Bootstrapped ex and cum CLF

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Survey statement</th>
<th>Estimate</th>
<th>S.E.</th>
<th>C.R.</th>
<th>P</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual [a₁]</td>
<td>Advisers are dual agents</td>
<td>76.973</td>
<td>1.912</td>
<td>40.266</td>
<td>***</td>
</tr>
<tr>
<td>Simult [a₂]</td>
<td>Simultaneously serving licensee and client</td>
<td>61.779</td>
<td>2.188</td>
<td>28.234</td>
<td>***</td>
</tr>
<tr>
<td>BestRev [a₃]</td>
<td>Generating revenue for licensees</td>
<td>78.485</td>
<td>1.767</td>
<td>44.416</td>
<td>***</td>
</tr>
<tr>
<td>Structural [a₄]</td>
<td>Conflict of interest from association</td>
<td>74.519</td>
<td>2.043</td>
<td>36.477</td>
<td>***</td>
</tr>
<tr>
<td>AlignAct [a₅]</td>
<td>Aligning adviser-client interests is difficult</td>
<td>60.328</td>
<td>2.363</td>
<td>25.528</td>
<td>***</td>
</tr>
<tr>
<td>CoIAct [a₆]</td>
<td>Unavoidable conflicts of interest present</td>
<td>65.137</td>
<td>2.313</td>
<td>28.159</td>
<td>***</td>
</tr>
<tr>
<td>FiducAct [a₇]</td>
<td>Greater risk of breaching best interest duty</td>
<td>58.836</td>
<td>2.288</td>
<td>25.717</td>
<td>***</td>
</tr>
<tr>
<td>CompAct [a₈]</td>
<td>Advisers limited from competing fairly</td>
<td>51.279</td>
<td>2.305</td>
<td>22.247</td>
<td>***</td>
</tr>
<tr>
<td>Regulative [a₉]</td>
<td>Risk of unintentional Act compliance breaches</td>
<td>47.584</td>
<td>2.335</td>
<td>20.375</td>
<td>***</td>
</tr>
<tr>
<td>Consequential [a₁₀]</td>
<td>Licensee commercial interests compromising adviser best interest duty</td>
<td>63.630</td>
<td>2.263</td>
<td>28.112</td>
<td>***</td>
</tr>
<tr>
<td>Procedural [a₁₁]</td>
<td>Sales window dressed to comply with the Act</td>
<td>61.160</td>
<td>2.356</td>
<td>25.956</td>
<td>***</td>
</tr>
<tr>
<td>Personal [a₁₃]</td>
<td>Aligned leaders of licensees aim to protect their product distribution channels when lobbying</td>
<td>78.282</td>
<td>1.796</td>
<td>43.594</td>
<td>***</td>
</tr>
<tr>
<td>Cognitive [a₁₄]</td>
<td>Public cannot clearly distinguish s923A independent advisers from those who are not</td>
<td>62.172</td>
<td>2.269</td>
<td>27.401</td>
<td>***</td>
</tr>
<tr>
<td>Trust [a₁₆]</td>
<td>Individual licensing will improve public trust and confidence in advisers</td>
<td>63.733</td>
<td>2.327</td>
<td>27.386</td>
<td>***</td>
</tr>
<tr>
<td>Independence [a₁₇]</td>
<td>Individual licensing will promote independence from product biased licensee</td>
<td>65.000</td>
<td>2.23</td>
<td>29.147</td>
<td>***</td>
</tr>
<tr>
<td>Professions [a₁₈]</td>
<td>Individual licence should be in line with other professions, such as medical</td>
<td>68.718</td>
<td>2.244</td>
<td>30.618</td>
<td>***</td>
</tr>
<tr>
<td>IPFPSB [a₁₉]</td>
<td>Advisers prefer individual licence through a single independent body</td>
<td>68.061</td>
<td>2.198</td>
<td>30.969</td>
<td>***</td>
</tr>
<tr>
<td>EliminateCol [a₂₁]</td>
<td>Individual licensing will eliminate conflict of interest from association</td>
<td>52.424</td>
<td>2.167</td>
<td>24.188</td>
<td>***</td>
</tr>
</tbody>
</table>
APPENDIX 6.2

Difference in aligned, non-aligned and s923A independent advice

The results are tabled in Table 29 below about the question: What is the difference in advice provided by aligned advisers, non-aligned advisers and independent advisers as defined by the Commonwealth Corporations Act 2001?

<table>
<thead>
<tr>
<th>Respondents claims</th>
<th>Frequency</th>
<th>Percent of n = 262</th>
</tr>
</thead>
<tbody>
<tr>
<td>There is a difference</td>
<td>128</td>
<td>48.85</td>
</tr>
<tr>
<td>There is no difference</td>
<td>40</td>
<td>15.27</td>
</tr>
<tr>
<td>There should not be a difference</td>
<td>32</td>
<td>12.21</td>
</tr>
<tr>
<td>Missing responses</td>
<td>24</td>
<td>9.16</td>
</tr>
<tr>
<td>Not much or very little</td>
<td>12</td>
<td>4.58</td>
</tr>
<tr>
<td>Don’t know</td>
<td>11</td>
<td>4.20</td>
</tr>
<tr>
<td>Not committing an answer</td>
<td>10</td>
<td>3.82</td>
</tr>
<tr>
<td>It depends</td>
<td>5</td>
<td>1.91</td>
</tr>
</tbody>
</table>

From Table 29 above obviously not all advisers agree there is or should be a difference in advice provided by aligned, non-aligned and independent advisers. Based on the responses surprisingly only 49 per cent agreed there was a difference. On the grounds of the number of missing responses (24), don’t know (11) and uncommitted responses (10) numbering 50 (19%) in total, it is apparent advisers found this question difficult to answer or did not want to answer it or chose not to answer the question. As already alluded to, by combining these findings with the findings of cultural-cognitive illegitimacy, it is clear advisers struggle with clearly defining their identity, role and performance. Evidence showed advisers differentiated between non-aligned and s923A independence. How Advisers differentiated between aligned and independent licensees was based on APLs, remuneration models, presence of KPIs, product and the nature of the adviser-licensee relationship. As already alluded to, by combining these findings with the findings of cultural-cognitive illegitimacy, it is clear advisers struggle with clearly defining their identity, role and performance.
APPENDIX 6.3

Licensees benefits of appointing, regulating and supervising advisers

The question asking: What are the benefits to institutional licensees appointing, authorising and supervising ‘authorised representatives’? is tabled in Table 30 below. Advisers’ diverse responses, which were in some instances unclear, indicated it is necessary to explore this question further. For example, although the question asked advisers about what benefits licensees derive, six participants explained the benefit ASIC derives, namely “easier for regulators to monitor/supervise/regulate” or “Cheaper for ASIC.” It was as if they tried to avoid answering the question by deflecting the issue towards ASIC. Empirically proven, product distribution is the main reason licensees appoint and regulated authorised representatives. Overall, it appeared 102 out of 262 (39%) advisers used the term “control” in terms of product distribution; the compliance obligations of advisers; back office management of administration; advice process, procedures and outcomes; and management of the APLs.

Table 30 Licensees benefits derived from advisers

<table>
<thead>
<tr>
<th>Respondents claims</th>
<th>Frequency</th>
<th>Percent of 262</th>
</tr>
</thead>
<tbody>
<tr>
<td>Control product distribution</td>
<td>49</td>
<td>18.70</td>
</tr>
<tr>
<td>Financial benefits</td>
<td>47</td>
<td>17.94</td>
</tr>
<tr>
<td>Control the compliance obligations of advisers</td>
<td>29</td>
<td>11.07</td>
</tr>
<tr>
<td>Economies of scale benefits</td>
<td>24</td>
<td>9.16</td>
</tr>
<tr>
<td>Lower cost benefits</td>
<td>23</td>
<td>8.78</td>
</tr>
<tr>
<td>Adviser benefits mentioned ignoring licensee benefits</td>
<td>18</td>
<td>6.87</td>
</tr>
<tr>
<td>No benefits to licensees</td>
<td>16</td>
<td>6.11</td>
</tr>
<tr>
<td>Missing responses</td>
<td>15</td>
<td>5.73</td>
</tr>
<tr>
<td>Benefit when clients’ best interests are met</td>
<td>12</td>
<td>4.58</td>
</tr>
<tr>
<td>Benefit from authorised representatives recruiting clients for licensees</td>
<td>12</td>
<td>4.58</td>
</tr>
<tr>
<td>Increased legal protection benefits for licensees by authorising advisers</td>
<td>12</td>
<td>4.58</td>
</tr>
<tr>
<td>Control back office management of administration, advice process, procedures and outcomes</td>
<td>12</td>
<td>4.58</td>
</tr>
<tr>
<td>Control management of the APLs</td>
<td>8</td>
<td>3.05</td>
</tr>
<tr>
<td>ASIC benefits</td>
<td>7</td>
<td>2.67</td>
</tr>
<tr>
<td>Do not know how licensees benefit</td>
<td>7</td>
<td>2.29</td>
</tr>
<tr>
<td>Sharing of compliance risk between licensee and adviser benefits</td>
<td>5</td>
<td>1.91</td>
</tr>
<tr>
<td>Increased public &quot;brand&quot; awareness benefits</td>
<td>5</td>
<td>1.91</td>
</tr>
<tr>
<td>Reduced competition benefits</td>
<td>4</td>
<td>1.53</td>
</tr>
<tr>
<td>Unspecified control benefits</td>
<td>4</td>
<td>1.53</td>
</tr>
</tbody>
</table>
APPENDIX 6.4

Statement of advice without product recommendations

To determine whether advice is SOA are only product related, the question asked: Have you ever prepared a SOA [Statement of Advice] without any product recommendations? [Why or why not?] Table 31 recorded results of the responses.

Table 31 Frequency of non-product recommendation SOAs

<table>
<thead>
<tr>
<th>SOA with no financial product recommendations? [Yes/No]</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>204</td>
<td>77.9</td>
</tr>
<tr>
<td>No</td>
<td>58</td>
<td>22.1</td>
</tr>
<tr>
<td>Total</td>
<td>262</td>
<td>100</td>
</tr>
</tbody>
</table>

APPENDIX 6.5

One-off approvals

Table 32 records the results of the question: Have you ever applied for one-off approvals financial products or investments not on you licensees’ approved product list? Why or why not? As was the case with non-product SOAs, most respondents have applied for one-off product approvals. The reasons provided by the 21 per cent who have not applied for one-off approvals were diverse. The 12 of the 55 [22 per cent] claimed the APL was sufficient to meet the clients’ needs, followed by nine out of 55 [16 per cent] who claimed the APL they were using was broad, extensive and open. Thirteen per cent of this group were self-licensed and managed their own APLs, whereas one participant claimed, “I dont have an approved product list”.

Table 32 Frequency of one-off approval applications

<table>
<thead>
<tr>
<th>One-off approval applications? [Yes/No]</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>206</td>
<td>78.6</td>
</tr>
<tr>
<td>No</td>
<td>55</td>
<td>21.0</td>
</tr>
<tr>
<td>Missing response</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>Total</td>
<td>262</td>
<td>100</td>
</tr>
</tbody>
</table>
CHAPTER 7: LEGITIMACY OF THE CURRENT LICENSEE-ADVISER LICENSING MODEL: KEY FINDINGS AND POLICY ISSUES

7.1 INTRODUCTION

From the phenomenological perspective of legislative, agency, financial planning and legitimacy theories, as well as empirically judged by financial advisers, the current licensing model lacks legitimacy. Therefore, this chapter begins with a discussion of the key findings organised around the four key research issues validating licensee-adviser licensing’s illegitimacy. Thereafter, an argument follows the implications for practice and policy for all the stakeholders.

7.2 ADVISER DUAL-AGENCY ROLE AMBIGUITY

During data analysis, albeit with hesitation, advisers concur that under the current licensing model, they serve two masters as dual agents simultaneously. They confirmed licensing advisers via third-party commercially driven licensees leads to a conflict of interest from association. Mainly, because licensees are earning various permutations of technical, and hence questionable types of revenue, while advisers serve their clients’ best interests at the same time.

With some level of uncertainty when reflecting on the licensee-adviser-client agency role, advisers sanction their agency relationship is both an adviser-client relationship and a licensee-adviser relationship. The empirical results, together with agency theory, models and propositions produced in personal financial planning courses and their textbooks in Australia (Beal & McKeown 2009; Banister et al. 2013; Taylor, Juchau & Houterman 2013) revealed the emphasis is the client-adviser relationship.

In contrast, the licensee-adviser relationship is neglected in financial planning textbooks and tertiary education courses. Consequently, some advisers seem to ignore, neglect or mentally discard s916A and s916B legislated licensee-adviser agency relationships definition in practice, conceptually and empirically. Evidence of a mismatch between advisers’ perception, understanding and even practise of the licensee-adviser relationship is present. Evident in the data collected, this includes what has been legislated. In practice advisers see the adviser-licensee relationship as merely an unimportant legal arrangement of compliance, which they must live with and accept. Accordingly, they ignore this relationship.
Contrary to the terms in s916A and s916B, namely “to provide a specified financial service or financial services on behalf of the licensee”, the results revealed advisers no longer perceive themselves as operating on behalf of AFS licensees. Since the implementation of statutory best interest duty, the legislated adviser-licensee relationship, of agent\textsuperscript{117} (Den-Toll 2001) and principal providing services to the public\textsuperscript{118} has changed in the eyes of advisers. Instead of acting on behalf of licensees, the introduction of statutory fiduciary duty has forced advisers to act on behalf of clients (Sitkoff 2014). Therefore, a division exists between how the advisers defined their and their licensees’ role in practice, compared to how the Act defines these roles. It is unclear whether this viewpoint comes from themselves or through conditioning, training or marketing from their licensees, or the financial planning literature. A consistent theme in the qualitative data analysed is most advisers consider licensees as merely supervising, monitoring and providing support services, such as compliance, software, marketing, professional and business development, branding, product, professional indemnity and technical research. For advisers, whether rightly or wrongly, licensees serve them, not the other way around. If this is how advisers think and operate, then it means (1) the Act is either out of sync with what is taking place in practice and/or (2) financial planning practice is out of sync with the terms and requirements of the Act.

Also, evident in the commentary of respondents, are both direct and indirect licensee-client relationships affecting the adviser-client and the licensee-adviser relationship. The licensee-client relationship is not a specific conceptual focus in financial planning scholarly literature (for example, Beal & McKeown 2009; Banister et al. 2013; Taylor 2017). This confirmed that not only is agency theory hardly presented in many Australian financial planning literature, but also the legislation does not represent the dynamics of the relationships between licensee-adviser-client, which is subsequently mirrored in practice.

In support of the views of Kingston and Weng (2014, p.294), namely conflicts of interest arise when agents serve two principals simultaneously, noticeably a major conflict, ranked in the top three is the commercial interests of licensees compromising best interest duty. Problematic, generating revenue for licensees is a compulsory part of the process for advisers. Seemingly, licensee’s revenues earned from advisers was claimed to complement other services, particularly the benefit of having product distribution networks.

\textsuperscript{117} Section 761A and Section 916A of the Act.
\textsuperscript{118} Section 761G of the Act.
Some advisers claimed in practice, they were forced to choose between either serving the interests of the client and the licensee, especially when their AFS licensees had an internal product recommendation bias expectation. Several reasons were proposed by advisers that make serving both parties simultaneously difficult. For instance, the inherent conflict of interest plays itself out in the restrictive APLs. Advice was also limited to the level of risk the licensee was able or prepared to accept. The qualitative data indicated the commercial arrangement between the licensee and their advisers determines whether and how licensees earn revenue through their advisers.

Licensees’ remuneration models [flat fee, percentage of revenue, licensee split of fees charge for advice, platform fees, product fees or fees they charge advisers to use their services, and/or any volume rebates for specific products], including the type of product sold, looks to be a key conflict from association. Yet, apparent some advisers claimed licensees aimed to cover costs only. Thus, they do not make any profit from authorising financial advisers. This begs the question are there not-for-profit licensees also operating within the Financial Services industry then. Unexpectedly, were the proclamations by some advisers they never reflected on the revenues licensees earned from them. From the qualitative evidence, advisers’ explanation points to oblivion, ignorance, conflict, emotionality, myopia, lack of interest, notwithstanding even discomfort when they were asked about licensees’ benefits. Remarkably, some advisers even presented nonsensical qualitative data to deflect or avoid committing an opinion when reflecting on the benefits, especially revenue related benefits licensees receive by authorising advisers. A possible reason for this myopia is licensees keep advisers in the dark when it comes to the volume rebates or indirect revenue they generate via product for their licensees when they recommend products to clients. Advisers admit that serving the interests of licensees and clients simultaneously is confusing.

As was found in an Australian study by Smith (2009) licensees’ threatened their salaried representatives with dismissal if they did not achieve product revenue targets. Notwithstanding, as evident from the submissions to Government during the Ripoll (Parliamentary Joint Committee on Corporations and Financial Services 2009b) and Murray Reviews (Parliamentary Joint Committee on Corporations and Financial Services 2014) the study confirmed some advisers feel the lack of structural independence adversely impacts the quality of advice. Licensees, advisers claimed, have the power, notwithstanding the authority to control the quality of advice, the flow of funds via APLs and the sources of revenue. The power of the conflicted licensee to use technology to monitor advisers’ performance in terms of meeting the
licensees’ commercial interests and expectations was claimed to overwhelm the best interests of the client. The control licensees exercise over remuneration is reinforced by the fact licensees are the only party legally permitted to collect revenues from clients. Informants alleged licensees are legally authorised to deduct their fees allegedly with or without the consent of the advisers. Surprising, there was uncertainty among advisers exactly how much they were earning for the licensee as a revenue centre. In contrast, this is not the case when the licensee is itself independent, where the clients’ interest comes first, and the relationship is completely different.

7.3 CONTRAVENTIONS OF THE OBJECTIVES OF THE COMMONWEALTH CORPORATIONS ACT 2001

Additionally, at the macro-level institutional [social] illegitimacy (Chen & Roberts 2010) is present. The external institutional forces (Soin & Huber 2013), in the form of the legal requirement to achieve the objectives of the Act as enforced by ASIC via AFSL licensees, is contributing to the illegitimacy (Chelli, Durocher & Richard 2014) of the AFSL-AR licensing model. From advisers’ observations and experience, licensing advisers via third parties makes it hard to align adviser-client’s interests, eliminate conflicts of interest, comply with the statutory best interest duty, and maintain fair competition.

Best interest duty obligations is the top reason for deligitimising the current AFSL-AR licensing model. Whereas, the results indicated misalignment of adviser-client interest is empirically proven the second highest contributing factor delegitimising current licensing. The claim by Bender (2011) legitimacy was threatened by conflicts of interest, was found true empirically. Advisers substantiate, the conflict of interest from association is a significant problem for the emerging financial planning profession. More advisers agree than disagree licensing advisers via multiple third parties threatens competition within the advisory sector.

In line with claims in the literature (see for example, Black 2005; Parliamentary Joint Committee on Corporations and Financial Services 2009b; Bowen 2010; Johnsen 2010; Australian Securities and Investments Commission 2012a; Inderst & Ottaviani 2012d; Kell 2012; Kingsford Smith 2012; Parliamentary Joint Committee on Corporations and Financial Services 2015) this study confirmed advisers view remuneration practices, ownership structures, licensees’ product sales culture, licensees’ incentives and/or lack of professional, educational and ethical standards, which are all linked, as subsequent reasons for the failure of advisers achieving the four objectives of the Act successfully.
Uncontentious on the prevailing evidence, licensing advisers via third parties creates business models that place them at greater risk of unintentionally [and in some instances intentionally] breaching their best interest duty obligations. Thus, substantiated in this research was the suggestion by Degeling and Hudson (2014), limiting advisers’ recommendations to the authorisations of their AFSLs leads to unintentional violations of the best interest duty. Although, it is well-recorded in the literature review best interest duty should override conflicts in theory, the evidence confirms, it is impractical to implement in practice. Specifically, in the presence of conflict of interest from association complying with the best interest duty is tricky according to the data collected.

Licensees and their advisers are unsuccessful in achieving the objectives of the Act, because the results reveal the presence of a poor product sales culture within aligned licensees confirming findings in the literature review (Smith 2009; Steen, McGrath & Wong 2016). Furthermore, this culture is facilitated by the ownership structures between licensees and advisers as suggested by Goedecke (2001). Closely associated with a poor product sales culture, advisers confirmed the findings of Smith (2009, p. 316), namely licensees’ compliance, business development, area and/or distribution managers ‘encourage’ them to sell the licensees’ in-house financial products. Advisers explained licensees’ control over them made them powerless from avoiding contraventions of the best interest duty.

Although, the results acknowledged some aligned licensees have removed sales or income targets for their authorised representatives, their in-house product sales performance is still captured under a ‘performance review’ which determines their employment. Therefore, instead of obvious product sales targeted KPI’s, some licensees have moved to performance reviews in conjunction with the cultural pressure as a method to influence advisers’ recommendations to specific product solutions. Furthermore, licensees have the power to manipulate their employees with threats of dismissal or forfeiture of remuneration [specifically, bonuses and support services] if they fail to follow procedures designed to serve the licensees’ interests. For instance, writing the bank’s business to achieve individual KPIs. Strikingly from the results, salaried employee advisers are forced into ethical dilemmas they are unable to control. It seems if licensees dictate the terms or have influence over the adviser, then the adviser finds it harder to effectively manage, control and/or avoid conflicts of interest, in comparison to situations where the advisers dictate the terms of their licensee-adviser relationship.
Additionally, on the grounds of the evidence, this burden to sell products leads to the misalignment of adviser-client interests. This enquiry also validates claims by secondary non-academic sources, Australian aligned licensees limited their ARs to recommendations of mainly products they select and assess for the approved product list (Australian Government The Treasury 2014; Sheehan 2016). The qualitative data highlights it was even difficult for the most ethical bank advisers facing limited APLs to align their interests with the best interests of the client. Advisers agree, it is difficult to manage conflicts, if financial products on APLs are linked to professional indemnity insurance (Stewart 2013) to reduce the licensees’ risk. Seemingly, the practice to link PI to products on the APLs is questionable, because it limits APLs. Limiting APLs to PI approved products, arguably, serve to ‘encourage’ advisers to recommend only these products. Debatably, this practice increases the risk of advisers breaching the best interest duty. Although secondary evidence suggests PI’s purpose is to reduce the licensees’ risk, no mention is made of the potential risks clients of financial advisers face by the practice of linking PI to APLs. Seemingly, advisers are unaware they are failing the client in this regard.

Even though aligned licensees apply rigorous standards of compliance within an audit process, they tend to default protecting their interests if they believe they can get away with it. This is at the expense of their clients, because the large aligned licensees spend money to work out ways to argue legally they are satisfying the best interest duty. The statements in their standardised Statements of Advice documents is proof of licensees protecting themselves, regardless of how different a client’s circumstances are from one another. On the grounds of the evidence, and in line with the viewpoint of Tuch (2005, p. 38), there is an inconsistency between the regulations of managing, controlling or avoiding conflicts of interest and the statutory obligations.

Although counter claims proposed one-off approvals for products unavailable on the APL is the solution, it was clear from the qualitative results not every adviser was permitted to apply for or even be granted one-off approvals. Some licensees disallow one-off approvals. Where licensees permit one-off approvals, they make the application process a time-consuming, unproductive and fruitless endeavour for the adviser to discourage them from applying. By implication, licensees do not want advisers to move away from the restricted approved product list.
While one can argue a truly ethical adviser will leave such an employer, doing so, according to respondents, is not always possible for those advisers who are lured to incur high personal loan obligations with the licensee. Thus, they accept offers of significant loans, which potentially locks them into long-term arrangements with the licensee. It is some strategy licensees use to better control the adviser. Some licensees allegedly have even suggested to their advisers, selling in-house products ensures the continuation of the licensee. This type of licensee ‘pressure’ increases the cultural tolerance by bank employees to mis-sell, and hence misalign interests. Therefore, despite licensees obligations by law to monitor their agent’s work in accordance with ASIC’s (2007) enforcement requirements to prevent moral hazard, together with questionable licensee practices, it seems licensees demand alternative adviser behaviour.

The qualitative findings support the counter arguments proposed by respondents, namely the advisers with greater autonomy from licensees, such as the independents, cannot be ‘encouraged’ by distribution managers to support the licensees’ products. Thus, empirically, it is dubious the current licensing regime has the power to make licensees’ revenue interests congruent with clients’ best interests. The findings reveal this additional agency relationship between licensees and advisers creates a potential, as well as an actual, incongruence between the interests of the authorised representatives and their licensees. In turn, this creates an incongruence between the interests of advisers and their clients. Starke (2013b) drew attention to the subject of congruency between the interests of clients and individual professional advisers as essential to any profession.

Disturbing was the ever-present licensee and adviser remuneration model problem. This subject of conflicted licensee remuneration models, note not adviser remuneration models, was continually raised by respondents. The qualitative data suggested, apparently it is all in the way licensees frame the remuneration within the context of disclosures to comply with the legislation. Seemingly, respondents accuse some licensees of using terminology for various types of fees to mask the true nature of the remuneration.

Advisers reported in the empirical study that the disclosures have not been as transparent as they were intended to be in the legislation. Although, this conflict can be managed at licensee and adviser level, effective management of this conflict ultimately relies on the integrity of the adviser and the culture of the licensee. Surprisingly, parliament members of the Commonwealth of Australia (2014a) conceded, although conflicts of interest is morally wrong, they are legally permitted as long as they are disclosed and clients consent to them. This view
by the government commentators is questionable, because in accordance with ASIC’s Regulatory Guide 181\(^\text{119}\), it is insufficient to just disclose conflicts and obtain consent from clients. The control licensees have over advisers via APLs, together with a culture geared towards product distribution contributes to the futility of managing this conflict of interest effectively. Therefore, it is counterproductive to permit licensees through their advisers to manage conflict of interest from association via disclosures. Although disclosures reduce licensees and possibly their advisers’ risks, the evidence declares it does so at the expense of increased risks to their clients. Again, advisers confirmed the difficulty of achieving this objective of the Act is particularly evident among employees and/or BOLR\(^\text{120}\) product-aligned advisers, who are incentivised, influenced or coerced by their licensees.

Recall from the literature review, Inderst and Ottaviani (2009) maintained when faced with intense competition for retail customers, financial services sales force [advisers] require more incentives from their institutions, while complying with specified standards. Some qualitative results confirmed this issue. Also perceived by the non-aligned independent advisers as anti-competitive behaviour, common among the aligned advisers was the practice of third line forcing, which occurs when a loan application is only approved if the client also obtains insurance from the same provider. By implication, product-aligned licensees improve their product distribution in this way. Furthermore, advisers alleged banks subsidise their advice delivery from vertical integration in practice by defraying the costs and support services, of running the license onto other parts of the business.

The findings in this research support the conclusions of Moran (2014) and Kennedy (2012), who concluded that the current licensing legislation encourages advisers towards larger conflicted product-aligned licensees to protect business value, save cost, obtain subsidisation of support services, while managing their uncertainty. Consequently, an independent adviser is at a competitive disadvantage by comparison. Survey respondents in this investigation further verify the submission in the Murray (Commonwealth of Australia 2014a) and ASIC

\(^{119}\) Regulatory guide 181. Licensing: Managing conflicts of interest. Chapter 7 - Financial services and markets outlines the ASIC’s approach to how conflicts should be controlled, avoided and disclosed.

\(^{120}\) Recall from Chapter 3 some aligned institutions restrict adviser ownership of the clients introduced to the licensee by, for example offering buyer of last resort (BOLR) terms (Independent Financial Adviser News 2016c). These agreements require self-employed advisers to leave the clients with the licensee when they transfer to another licensee. The abandoned licensee purchases the clients they “own” indirectly, from the adviser leaving, based on some formula or multiple of revenue specified in the BOLR agreement. Unless of course the leaving adviser sells these clients to an authorised representative who is already authorised by or approved by the abandoned licensee. BOLR is also being used to purchase clients within networks to pass onto the younger up and coming ‘authorised representatives’ of the product-aligned licensee when advisers retire (Pokrajac 2013).
reviews of the consequences by the high concentration of vertical integration in financial services. For example, the licensing provisions and regulatory framework potentially limits competition, contributes to conflicts of interest, and lowers investor confidence, while it imposes barriers to the entry and growth for new entrants. Although, aligned advisers market, to clients, advice backed by large institutions is an advantage over small institutions, respondents claim they fail to inform the client large institutions have large and expensive legal teams to protect the licensees’ interests.

Problematic, advisers think the objectives of the Act are not being met. More so, if the perspective of the Australian Government and ASIC with FOFA is to address conflicts of interest by introducing the principle of putting the priorities of clients first (Australian Securities and Investments Commission 2013a, 2014c; Sinodinos 2014). Furthermore, it was documented earlier in this thesis, the Australian Financial Systems Inquiry (Commonwealth of Australia 2014a) singled out aligning financial institutions [presumably licensees and their advisers] and consumers’ interests. Confusingly, past Australian Government commentators (Sinodinos 2013c, 2013a) announced at various conferences, the political agenda is about eliminating conflicts of interest within financial planning.

7.4 ILLEGITIMACY OF LICENSEE-ADVISER LICENSING

In the next part, the strategic [organisational] (Suchman 1995) illegitimacy of the AFSL-AR licensing model is discussed, which is an examination at the ‘micro-level’. Simply, when regulative, normative [moral] and cultural-cognitive legitimacy of the AFSL-AR licensing model was assessed by the internal actors (Tilling 2004b), these criteria indicated this licensing model was unsupported by the advisers.

About regulative illegitimacy, the evidence revealed in practice there were not only unintentional compliance transgressions, but also the occurrence of intentional breaches. Advisers, not only limited to aligned advisers, perceive compliance violations. Recall North (2015) established in her study, the current licensing regulations have disseminated a range of business models covering different standards, structures and sizes. Subsequently, this enquiry recognized further, these business and remuneration models, encouraging product sales volumes, were among several issues blamed for the compliance contraventions. Findings revealed, the level of the product ‘sales’ culture licensee leaders encouraged within their institutions determined the extent of compliance breaches. Interestingly, the qualitative data corroborate the findings in a study by Smith (2009, p. 326), namely advisers became frustrated.
when licensees lacked any desire to implement consistent behaviour and adviser conduct standards across their financial advisory groups. Furthermore, there were clear differences in opinion among respondents as to whether the licensees’ compliance managers and the strict controls licensees imposed prevented compliance violations or not. Also unclear among respondents, which was highlighted in the literature review as important (Considnine & Ali Afzal 2011; Carlin & Gervais 2012), was the issue as to who [advisers, or the licensees or both] is ultimately accountable and in what proportions after a compliance breach.

In terms of normative [moral] illegitimacy, advisers significantly agree that they perceive the current licensing model is unable to attain the morals, values or ethics (Chen & Roberts 2010; Chua & Rahman 2011) around outcomes, policies, procedures, practice goals, activities, and/or structure (Suchman 1995; Bitektine 2011) within the financial advisory sectors’ socially accepted (Johnson & Holub 2003) or socially constructed value system (Bitektine 2011). Results revealed the model failed the tests for consequential, procedural, structural and personal moral legitimacy. Significantly, the third highest contributing factor delegitimising the licensee-adviser licensing model is licensees’ commercial interests compromising the clients’ best interest duty.

Convincingly, as explained in the literature (Maclean & Behnam 2010; Perkins & Monahan 2011), this research shows financial institutions struggle to manage regulatory compliance when the legal requirements appear to conflict with or compromise commercial activities. Advisers claimed in the empirical study of this project that the profit motive to achieve shareholder wealth maximisation is at the forefront of licensees’ goals. When considering consequential moral illegitimacy advisers provided strong evidence the presence of tension (Maclean & Behnam 2010), and compromises (Perkins & Monahan 2011), between the aligned licensees’ commercial interests and clients’ best interest duty obligations. This study validated aligned licensees are indeed “commercial businesses using advisers as a sales force” (Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24) to support shareholder theory121 (Griffiths 2007, p. 231; Lindorff & Peck 2010; Kofman & Murawski 2015) instead of stakeholders’ interests to develop social capital122 (Lindorff & Peck 2010). As was argued in the literature review, this is understandable, because in accordance with the Australian Corporate Law, corporate executives of Australian corporations (Jones & Welsh 2012, p. 373) must advance the interests of the shareholders, including complying with their

121 Shareholder wealth maximisation and/or profit maximisation.
122 Goodwill, reputation and/or sustainability.
fiduciary duty to shareholders. Yet, the same law also expects licensees and their ARs, when managing conflicts of interest, to put the client’s best interests first [s961B], even when not in the licensees’ or the licensees’ shareholders’ interests (Australian Securities and Investments Commission 2016i). Even though the client’s best interest duty should legally trump shareholder’s interests in practice, the findings in this research suggest otherwise. This enquiry reconfirms the conclusions by Smith (2009), namely when behaving ethically is perceived as unprofitable by licensees, then the question of what licensees influence their advisers to do, as opposed to what they should actually do to comply, are two different things. Discovered in the qualitative data, the aligned licensees were aware they put their company profits, from expressly funds under management, ahead of the clients’ best interest, if they can get away with it. This is bad news, because, Griffiths (2007) wrote focusing on immediate shareholders profits results in negative social costs to retail clients.

Furthermore, any incompatibility between the institutions’ values and the professional values of the adviser manifests into institutional-professional conflicts, which requires compromise (Bamber & Iyer 2002). The data in Chapter 6 adds further evidence to the findings of Smith (2009, p.324) with regards to tension between professional-commercial obligations experienced by advisers due to, as mentioned before, cultural ‘sales pressure’ using legal control over their representatives (Carruthers 1995) from their licensees to meet their obligations around profit. However, it is acknowledged by the advisers, this cultural pressure is only prevalent among some licensees, especially without a doubt the case for bank employees. Many aligned advisers in the study blamed their licensees for favouring what several ASIC shadow shopping (Australian Securities and Investments Commission 2003, 2006, 2010a, 2012c) expeditions and reviews (Australian Securities and Investments Commission 2016i) also identified was advice strategies linked to the specific branded products. Consequential illegitimacy makes professionalisation of financial advisers illusive, because according to Rubin (2015), institutions’ financial interests makes clients’ interests secondary in practice to that of the institutions.

Advisers scored and explained in the empirical survey formal policies, processes and rules for legislative compliance differ from actual practice (Carruthers 1995) and behaviour (Scott 2014). Thus, the quantitative results supported by the qualitative findings showed the current licensing model lacks procedural moral legitimacy. Accordingly, it is clear empirically that within the advisory sector of Australia, decoupling (Cole & Salimath 2013) by licensing advisers via third parties is present. Although a few advisers see the compliance audits as
sufficiently rigorous, others see licensees using it as intentional compliance window dressing. From the evidence, it is apparent financial institutions decouple by developing relatively elaborate administrative systems (Carruthers 1995), while using compliance to window dress product distribution. This primary source back up the allegations licensees implement legislated practices, standards and procedures to hide (Sampson 2010) while reinforcing the advisers’ product distribution role (Valentine 2013; Parliamentary Joint Committee on Corporations and Financial Services 2014, p. 24).

The reasons why Smith (2009, p. 319) found in her research licensee compliance officers failed to follow internal documented procedures and policies, as well as avoided encouraging the ethical decision making of the financial advisers they supervise, was further explained in findings of this research. Specifically, the qualitative results revealed commercial interests is a focus for licensees, even though it meant ‘unethical’ advisers were feted, and ethical ones ostracised as under-performing. This investigation upheld evidence in ASIC’s Report 515 (Australian Securities and Investments Commission 2017e; Graham 2017) that, for instance, licensees adopted policies designed to appear to meet compliance without adequate implementation into their business culture, systems and processes (Australian Securities and Investments Commission 2016i). From the quantitative data collected and supported by the qualitative data, visibly achieving procedural legitimacy is not as straight forward as following rules and codes (Considine & Ali Afzal 2011), while having best documented practice procedures and processes (Maclean & Behnam 2010) in place as a defence against accusation of bias, imprudence or violations of the Act.

Advisers claim their affiliation to financial product issuers, essentially leads to conflict of interest from association. Generally advisers in this study agree with Valentine (2008), the underlying structural issue of ownership of advice by product issuers, is the crux of the problems in the financial advisory sector. From the available data this is the main reason why advisers believe they are being attacked from all political corners. Thus, clearly the current licensing model displays structural moral illegitimacy. Conflicts of interest is undesirable, because as we saw in the literature review (Goedecke 2001; Parliamentary Joint Committee on Corporations and Financial Services 2009b; Commonwealth of Australia 2014a) with empirical substantiated evidence discussed above, it misaligns adviser-client interests. Respondents authenticated, the observed findings of Smith (2009, p. 317) suggesting the management of conflicts of interest linked with licensee ownership structures contributed to financial advisers’ unethical behaviour. The statements by the Parliamentary Joint Committee
on Corporations and Financial Services (2009b) and Valentine (2013) with regards to the cohabitation of licensee-advisers being conflicted by ownership and their own products was tested and found true. The qualitative data suggests this is not only restricted to aligned advisers, but independent advisers too.

Advisers validate points made in the literature (Collier 2003; Banister et al. 2013), namely they do try to observe professional obligations, but it is more difficult while they are affiliated to an ASIC licensee who also distributes products. By implication, the Act endorses conflict of interest from association, by authorising licensees to exert legal control over advisers. Survey respondents claimed that using compliance as a tool to discipline their authorised representative could lead to undesirable consequences. For instance, advisers claim in line with the views of Bearden (2002) the harmful consequences include financial interests can compromise advisers’ professional judgement, damage the adviser-client professional long term relationship of trust, notwithstanding the quality in the advisers’ work. The empirical evidence confirms licensees do control advisers like quasi-employees (Pokrajac 2014). Advisers generally do not have autonomy like other true professionals (Smith, Armstrong & Francis 2009). Furthermore, in support of the works of Scott (2013, p. 61), the cost and difficulty of monitoring the regulation through third parties, who may not necessarily be neutral, is a significant problem.

Repeatedly informers mentioned, aligned advisers are encouraged to recommend the in-house product due to BOLR agreements. Arguably, it is suggested BOLR agreements could be viewed as ‘soft dollar’ incentives if it motivates advisers to support in-house or ‘white-label’ products. Therefore, this research supports the view of journalist (Kendell 2017); explicitly BOLR is contrary to the best interest of the client, because it results in no continuity for the client. NMG Consulting (2014) found in the UK, once client-adviser relationships are established, clients are often loath to switch advisers, even for the opportunity of making small financial gains, because trusted relationships underpin ongoing service arrangements (Financial Conduct Authority 2014c). If this is true for Australia too, then as Sampson (2010) reported and proven here empirically, the financial planning industry’s related systems combined with its associations, are structurally corrupt. Thus, licensing compliance enforced via third parties appears to be counterproductive.

Mainly the seasoned survey respondents indicated, Federal and State politics seems to play a significant part in some of the woes the industry faces at present. Advisers perceived individuals of power work in the background and foreground (Carruthers 1995) politically
lobbying the government of the day to protect, notwithstanding benefit, their vested interests. Thus, the current licensing model does not meet the criteria for **personal moral** legitimacy. The data collected explained advisers felt, predictably, the first obligation of leaders of licensees is to shareholders or the employer. Although, a minority were supportive of leaders protecting product distribution, these informants fail to recognise the evidence of financial harm to the retail customers, notwithstanding the reputational damage to financial advisers and the licensees themselves, caused by protecting their distribution channels and business survival. Moreover, recall from the literature review, Young and Thyil (2014) proposed contemporary financial institutional leaders’ duty and moral obligation are to all stakeholders, not only shareholders, to be doing the right thing to obtain their implicit or explicit consent to operate. The extent stakeholders provide this consent to operate, they claimed, provides these institutions the legitimacy to operate.

Licensing advisers via third parties results in **cultural-cognitive** illegitimacy. The findings reveal licensing advisers through third-party licensees is one of the reasons why the Australian public cannot clearly distinguish advisers who provide s923A independent advice from those who provide advice conflicted by product and/or remuneration bias. Secondary sources highlighted (Elliott 2006), to protect clients from being misled, fairly restrictive requirements of section 923A of the Act specifies when financial services providers can describe themselves or market their services as ‘independent’ to existing or potential clients.

Yet, as explained in Chapter 3, media reports (Vickovich 2015; Santacruz 2016c; Plastow 2017), ASIC action (Australian Securities and Investments Commission 2016b) and a white paper launched by the Association of Independently Owned Financial Planning Professionals (Johnston & Walker 2017a) validated numerous financial advisers market themselves as independent without meeting all the requirements of s923A’s definition. Upon further investigation using the qualitative data, like the pilot study findings reported in Chapter 5, advisers genuinely mistakenly, yet also intentionally, misunderstand and/or misinterpret the requirements of the legislation from a structural, operational and ethical perspective. Articulated by respondents, it appears they differentiate the services they offer in practice, based purely on ownership, product and/or remuneration practices. Like the findings in the pilot study, the data in the extended main study confirm advisers in some instances are defining the terms of s923A in their own way. Thus, resulting in the misapplication of this term, while

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arguably misleading the public. The problem is unobvious if a prospective client walks into one of the large well-known top five aligned financial institutions. According to respondents, in these cases, clients expect to be recommended the in-house product. On the contrary, not all self-licensed financial planning firms are 923A independent. Yet some of them present themselves as independent, while having some invisible arrangements with third-party product-aligned institutions.

Acknowledged, this conflict of interest can be managed through disclosures (Serpell 2008). However, the results verify Sampson’s (2009) view and a Roy Morgan study (Morris 2013) of the common practice for licensees to own or have an interest in the financial planning group using multiple business names without disclosing its affiliated institutional brand conspicuously. Thus, disclosures as was discussed earlier, are proven ineffective as suggested in a paper by Bruhn and Miller (2014), because they are complicated, difficult to understand by the members of the public and unclear. Consequently, seemingly advisers misunderstand their identity [s923A independent or conflicted] and role [providing independent or conflicted advice] as financial advisers to achieve the objectives of the Act [performance] adequately.

7.5 INDIVIDUAL PROFESSIONAL LICENSING LIKE OTHER PROFESSIONS

The evidence is clear, advisers declare clients will have more confidence and trust in financial advisers if they were licensed under a single individual license via a single body with the same professional standards of education, appointment, registration, regulation, discipline and cessation as other professions. However, the data collected also highlights advisers’ uncertainty pertaining to what an individual licence would entail.

Recall from the literature review chapter, Balasubramnian, Brisker and Gradisher (2014) identified, trust is one of two most important determining factors influencing whether a person seeks financial advice. Widely publicised is the presence of a climate of instability and lack of confidence in financial planning in Australia (Hely 2012; Australian Securities and Investments Commission 2013a; Morgan & Levine 2015). According to the disclosures by most respondents, this lack of trust and confidence can be rectified with the implementation of an individual professional licensing regime. A minority disagreed; appealing it will depend on the adviser’s ethics and integrity. Worrying, the minority admitted they accept scandals as inevitable, because scandals are evident in all professions. Although there was evidence aligned advisers felt the public was better serviced by large institutions, these respondents ignored the
fact that rogue financial advisers easily hide within large institutions (Valentine 2008; Beal & McKeown 2009; Cull 2009; Chua & Rahman 2011; Fitzpatrick 2011; Kingsford Smith 2011; Taylor 2011; Walton 2012). Furthermore, the disruption by technological advances is arguably a threat to large institutions (Greenleaf 2017).

Although, in the literature review it was stated the public is confused or unsure when confronted by financial advisers of various competing financial planning institutions (Beaman 2010b), in practice respondents held most clients actually don’t know or care about which institution to deal with, because they deal with a trusted individual adviser irrespective of the brand the adviser may represent. This adviser view is startling given only a small percentage of the Australian public seek advice. In addition, this opinion makes a mockery of disclosure obligations and conflicts management obligations discussed in the Financial Services Guide.

Among the most prevalent adviser fears of an individual licence to build public trust and confidence were the costs and complexity of starting out in the advice business. At the time of writing, no compelling evidence supported this latter notion of cost and complexity as an issue.

Trust and confidence between principal and agent is imperative to professionalism (Evetts 2011, 2014). Therefore, the use of legal rules to create legal trust relationships (Haigh 2006), such as the current licensing model, is inferred empirically as a potential source of distrust among the public. This finding further supports the discoveries of the Professional Standards Councils (2014), namely licensees confirm improvement in trust and confidence would be one of the many benefits of professionalism.

Essentially, recognized in Chapter 1, most advisers in Australia are affiliated to financial product issuers. This affiliation threatens independence. Under-representation of independent advisers is undesirable, because Australians trust independent over conflicted advice more (Egan 2008; Australian Securities and Investments Commission 2010b). Empirically verified and validated here, most respondent advisers seek independence from licensees, because it would remove advisers from being bonded to an employer and/or licensee. Independence will provide the power and autonomy required to manage better any undue force from licensees to sell products. However, the results revealed advisers acknowledge the problem included licensees who manufacture and distribute product were also able to own advice businesses. Therefore, the problem is less the adviser, but the system the adviser is forced to operate within.
Furthermore, licensing, regulating and authorising individual advisers at the corporate commercial institutional licensee level, rather than at the individual professional adviser level (Sanders & Roberts 2015, p. 18), is proven to prevent alignment of adviser-client interests. Largely problematic is subjecting both the corporation [institutional licensees] (Australian Government Corporations and Markets Advisory Committee 2012) and ‘natural persons’ [individual financial advisers, including those who self-license] to the same licensing regime when clients do not receive personal financial advice recommendations from the institutional entities. Instead, retail clients develop a supposedly long-term relationship (Knie-Andersen 2002; Johnsen 2010; Siddiqui & Sharma 2010; Bruce 2012, p. 86) of trust with ‘natural persons’ to provide recommendations supposedly in their best interests. Thus removing the connection between product institutions and individual advisers, may lead to a culture shift financial adviser sector needs to minimise the ongoing scandals (Steen, McGrath & Wong 2016).

From the results, advisers agree they should be licenced in a similar way to other professions, such as the accounting, legal and medical professions. Being judged and reported for misconduct by your peers, as is the case in the legal and accounting professions is an attractive proposition for most advisers responding to the survey. In the discussion so far, advisers confirm their individual capacity is being overridden by licensees and is an obstacle to financial planning becoming a true profession. Advisers claim licensees, particularly banks, have too much control over their advisers, especially employee ARs, who are keen to consider non-APL product recommendations, but their hands are tied by processes and procedures. It is understandable to some extent licensees control their employee advisers given they are at greater risk of legal liability if the employee is exposed to breach compliance. However, if advisers are licensed like other professions, then at least they are accountable as individuals (Considnire & Ali Afzal 2011). Thus, they are then answerable to their clients and their regulator. Advisers want the freedom to set their own standards of registration, education, practice, ethical conduct and discipline like other professions as proposed in the literature by Frumento and Korenman (2013).

However, they do fear losing the subsidised support services, economies of scale and cost-savings offered by licensees to which they have become accustomed. Interestingly, according to discussions with Troy Penney, a consultant in platform advice and solutions for Accounting, Financial Services and the Mortgage sector, the issue of subsidised costs paid by licensees, is a myth he alleges the licensees keep alive to instil ‘fear’ in their authorised representatives.
advisers to retain them. For instance, Troy also explained, the PI cost is not that much different for advisers with an AFS licensee or who is self-licensed. Based on his AFSL cost of self-licensing, he alleges the PI cost depends on the advisers’ business model [the larger number of ARs with a license the greater the cost, because the greater the risk compared to smaller licensees]. This claim is yet untested scientifically.

The support by respondents of an individual professional licensing model modelled on other professions depends on several aspects, such as, but not limited to, professional standards, professional ethics, affordability, backed by research-based evidence, professional indemnity insurance, ongoing education, continuing independent compliance audits and the extent it is self-regulatory. Advisers were quite clear that it must exclude control by AFSL licensees, existing professional associations and the government, which is the case with other professions.

Secondary sources declared, the government, Professional Standards Board (Parliamentary Joint Committee on Corporations and Financial Services 2009b; Commonwealth of Australia 2014b; Professional Standards Councils 2014) and the Australian Financial Planning Association (Spits 2013) are open to consider a self-regulatory licensing model for advisers like other professions. Thus, this research provides clear empirical evidence advisers are in favor of a self-regulatory individual license regulated through a single independent professional registration, competency, education, conduct, standards and disciplinary board. By implication and on the grounds of the survey results, advisers are slowly coming around to the fact that they need to take control and be involved in professionalizing financial planning in Australia as a true profession. However, it is clear from the overall findings advisers no longer want others controlling their conduct. They do not want their ‘professionalism’ perpetually regulated by government, or licensees and professional associations with ties to licensees lobbying for them.

The primary qualitative data also indicated this support for entering an era of self-regulation by a single IPFPSB is conditional. They demand it is well resourced to enforce compliance, ensure efficiency and fairness, while having no ties to union, government and professional associations, including the government recognised FPA. They claim professional associations, like the FPA, are indirectly controlled by the AFSL institutions in the form of ‘corporate sponsorship’ with vested commercial interest. The Chartered Accountants Australia and New Zealand, as well as CPA Australia supported the possibility of individual licensing for financial advisers, but they were concerned individual compliance costs may discourage individuals
from obtaining an individual licence (Parliamentary Joint Committee on Corporations and Financial Services 2014). Likewise, the concern for increased costs was among the greatest concerns in most of the commentary in the survey. Yet this opinion is unjustified according to commentaries by respondents who contended an opposite view. For them, the costs could be drastically reduced due to economies of scale and decreases in red tape a single body can offer, with flow on effects to advisory practices and their clients. Once again, like broken record, advisers continued to express their concern for the loss of support services currently offered by licensees should an IPFPSB take over. The fear of change is unfounded, because with any change comes new innovative solutions with the help of technological advances. In addition, existing or new stakeholders in competition with each other can deliver back office and other support services. Alternatively, advisers can pay a registration fee to the single board and pay for services independently of their license. If CPA Australia and ICA can survive independently and compete, then surely it is more so possible for a monopoly regulatory body within the financial advisory sector.

However, not everyone was pleased with the idea of individual licensing, especially among those with their own AFSL, who felt they were already operating in this space, because they run an AFSL purely, so they can operate as an independent [as defined by the Act]. The lack of support by self-licensed independent advisers of individual licensing via a single body was unsurprising, because many have already invested quite a significant amount of time and money to apply for their own licence. Notwithstanding the costs they have incurred to ensure ongoing compliance. Furthermore, the lack of the finer implementation details, which is yet unresolved is possibly leading to these respondents’ uncertainty.

Interestingly, no mention was made by any advisers as to the use of financial technology to make compliance and providing advisory services more inexpensive, efficient and effective (Morgan Stanley 2018). However, according to a discussion paper and background discussions with Simon Hoyle, Tom Reddacliff and Troy Penney, who all have a respected track records within the financial advisory sector, solutions to address these concerns are available (Hoyle 2017f; Reddacliff 2017).

By removing the licensee-adviser legislated relationship, advisers agree should reduce conflict of interest from association. They claim it will resolve possibly the biggest issue standing in the way of clients’ best interest being satisfied [all the time]. Thus, this claim is in line with Corones and Galloway’s (2013) perspective, namely conflict of interest from association
challenges advisers’ statutory fiduciary duty obligation. However, the commentary of respondents indicated an alternative licensing model would eliminate uncertainty as to the extent conflict of interest from association. On the available evidence, conflict of interest from association will only be eliminated to some extent, because other sources of product bias are obtainable. The respondents indicated, in the presence of APLs, disguised remuneration incentives [bonuses] and business incentives [marketing allowances, white labeled products], irrespective of the licensing model, conflicted association will endure. Respondents claimed asset-based commissions, as well as the ability for advisers to be paid by the product owners is still an issue in Australia. Notwithstanding licensees are rebadging ‘commissions’ as fee-for-service. Additionally, although AFSL licensees argue their products and platforms allow for manager selection, advisers are still tied to those products and platforms. Seemingly, from the statements made by advisers remuneration earned between licensees, as well as between licensees and their advisers remains an issue despite what has been legislated. Plus, the role and job descriptions of business development managers is less about business development and more about product distribution of in-house, ‘private label’ and ‘white label’ financial products. For them, the commercial reality will simply generate new conflicts, because advisers will still be subject to incentive choices being made on a commercial basis.

Practical implementation issues are on the minds of many advisers: for instance timeous audits by one body; some advisers who choose to be employees will still have to work for a product provider; and initially, advisers will still need to work through a company to gain experience, before being completely independent. Nothing stops advisers aligning themselves or in groups to a provider if mutually beneficial, which creates the bias. In addition to licensee power and lack of adviser autonomy, ethics of advisers are also at play in influencing whether conflict of interest from association can be eliminated. If financial advisers are independent they are in a better position to choose their association and/or change it at will without encumbrances, such as offers of loans licensees put in place to tie their advisers into long-term loyalty. By delinking product and advice will give advisers the power and authority to encourage the institutions to re-consider using cultural sales pressures to promote profits at the expense of the client’s best interest. Advisers acknowledged during this research, being affiliated to commercially oriented and/or product biased institutions is a major obstacle to professionalism. Despite the minority who oppose any change, change will also drive the advice focus from product sales to appropriate advice strategies, which makes the change a worthwhile endeavour despite the challenges.
7.6 PRACTICAL APPLICATION

Placing most financial advisers under the regulatory control of licensees who are conflicted by product bias using the legislation, threatens independence, notwithstanding it also creates conflict of interest from association. From this evidence, it is time for a review of the terms and clauses of the Act about how the licensee-adviser-client relationship is defined and operationalised to reflect more accurately practice. Alternatively, it is time to review the perceptions; hence, practices, processes and procedures of advisers and licensees to reflect better the Act in terms of advisers acting on behalf of the licensees to provide services to clients. Advisers agree with North (2015), viz. for Australians to receive high quality reasonable priced financial advice, the advice industry requires more independent advisers.

Recall the Australian financial planning emerging profession is likened to other professions in the literature (Ap 2011; Bruce 2012; Knutsen & Cameron 2012; Australian Securities and Investments Commission 2014f; Burke et al. 2015). Yet upon closer inspection, the way the Act structurally licenses individual advisers makes these claims misleading. As was mentioned in earlier chapters, doctors may supply their patients with their preferred pharmaceutical products (Everingham 2014). They may also be working for a large medical institution of some sort (Breakey & Sampford 2017, p. 262). Yet they are not licensed via these institutions.

With support from advisers participating in this research, it is contended policymakers should no longer set individual licensing aside for another day. Proven illegitimacy in this study encourages policymakers, together with all financial planning stakeholders, to draw on the experience of other true professions, and hence work together towards disconnecting advisers from conflicted institutional licensees. Therefore, it is proposed here, an independent individual professional licence should be implemented to disconnect advisers from the control of licensees in line with the characteristics of a true professional. Evidence gleaned from secondary sources indicate FOFA reforms, specifically, statutory fiduciary duty together with the recently legislated professional, education and ethics standards, may have started the process of financial advisers transitioning from acting on behalf of licensees as product sellers to financial advisers becoming a true profession.

Accordingly, it is recommended the legislated FASEA should be tasked with more than just professional standards, education and ethics. FASEA should evolve to also appoint, register, regulate, discipline and cease individual advisers to practice their craft like true professionals. This body can independently authorise or revoke individual financial advisers’ authorisation.
for violations of ethical or professional standards. A monopoly body will provide advisers greater autonomy, power, authority and independence from corporate licensees’ influence.

Notably, other professions are often accredited via multiple independent professional bodies, covering multiple designations resulting in multiple challenges. In contrast, the emerging financial planning profession can distinguish themselves, by having a single monopoly body. A single entity makes sense, because mentioned in a submission to the Murray Review (Hoyle 2017d), if government is considering effective ways to regulate the financial planning emerging profession, then as proposed by Professor Kingsford Smith (2014,p. 19) it should be done through a monopoly. The main reason cited by her is bodies that are either co-regulatory or self-regulatory tend to compete. This competition, according to Kingsford Smith (2014, p. 19), tends to lead to “a race to the bottom” in terms of conduct standards and enforcement. Therefore, licensing advisers via a single entity with monopoly powers will be a distinguishing feature of this profession. Expressly, it capitalises on the advantages of monopolies, while overcoming some of the shortcomings of co-regulation or self-regulation via multiple entities. One specific shortcoming highlighted by several legal scholars (Kingsford Smith 2014; Rogers et al. 2016; Rogers, Smith & Chellew 2017), which was also verified in this study, is the commercial interests of licensees compromising the best interest duty of advisers.

Leaving a separate not-for-profit body to enforce professional standards of entry, appointment, registration, education, ethics, discipline and cessation of advisers, means it can focus on compliance breaches by individual advisers while empowered with the necessary enforcement powers to support appropriate behaviour of advisers. As a new body, it can harness technological solutions to better appoint, oversee, regulate, train, supervise and discipline individual financial advisers with similar standards, governance and structures as other professions. There should be significant cost reduction in, for instance, training using online resources, instead of incurring the high cost of professional development days at a conference facility. Where there are no existing solutions, innovators and researchers will identify the gaps to come up with Fintech solutions (Morgan Stanley 2018).

Although participants expressed some concerns, such as replacing the loss of subsidised support services, loss of economies of scale, the costs of compliance and advice, FASEA can draw on years of fine-tuning by for example, the medical, legal and accounting professions to overcome these perceived problems. However, it is recognised financial planning has its own unique characteristics differentiating itself from other professions. Therefore, a unique
opportunity exists for FASEA to capitalise on the differences, yet still draw on the history and experience of the established professions. It can learn from the mistakes made by these other professional bodies with plenty of supporting evidence to assist with this.

However, this recommendation is proposed with caution, because reinforced by the literature (see for example, Rogers 2004; Watts & Murphy 2009; Frumento & Korenman 2013; Rogers, Smith & Chellew 2017), it is well recognised contemporary professions are not without their problems. If financial advisers are to become true professionals, like in other accredited professions, then they will have to evolve constantly. Particularly important ongoing considerations are the new challenges profession and professional corporatisation through employment of professionals causes (Breakey & Sampford 2017; Rogers, Smith & Chellew 2017). In addition, technological advances in Fintech and blockchain in this regard influence professionals too (Greenleaf 2017; Rogers, Smith & Chellew 2017; Smith, Clarke & Rogers 2017; Morgan Stanley 2018). Thus, to implement change requires time, a concerted effort with active consultation between policymakers, ASIC, Professional Standards Council [and/or their regulator Professional Standards Authority], FASEA, professional associations, licensees, advisers and perhaps even representative members of the public. The onus is on all to find a unified co-ordinated approach to move this industry into the profession it should and could be. The use of a consultative decision-making approach is vital. In addition, any decisions made by policymakers must include a scientific evidence-based plan to steer the licensing of advisers in a certain direction. Especially, to minimise any pitfalls or unintended consequences of say a monopoly registration body. Individual licensing will require some fine-tuning, with everyone involved to work out the finer details collectively.

7.7 KEY POLICY IMPLICATIONS

Recall, the Australian Government is concerned about the detriment of misconduct within financial services (Senate Economics References Committee 2014; Ferguson 2015; Commonwealth of Australia 2016b; Steen, McGrath & Wong 2016). Within the context of the Ripoll and Murray inquiries, as well as senate, parliamentary, media and public debates, this study attempted to answer some important policy questions, albeit from a macro-perspective. Namely, who should appoint, train, monitor and supervise individual financial advisers? Should it be ASIC, professional associations, licensees, or the new self-regulatory independent industry professional standards board, such as the recommendation it be FASEA? How should financial advisers be appointed, trained, monitored and supervised? Should it be the current
AFSL-AR licensing model or a new individual professional licensing model? Finally, why should individual financial advisers be licensed in this manner? Is it to achieve the objectives of the Act? Will any new body be a legitimate approach to license individual financial advisers? What is in the Australian public interests? Thus, this research has policy implications for all financial planning stakeholders as financial planning professionalises.

Given the international licensing trends observed in Chapter 2, the policy implications of the findings in this research on regulatory reforms are relevant to other nations. Presently, on the grounds of the findings, several issues remain unresolved on this matter in practice, and hence should be confronted politically. The Australian, US and UK regulators face policy decisions around: (1) assisting the public to clearly distinguish between conflicted [product advisory institutions] and non-conflicted advisers [independent advisory institutions]; (2) the relationship between product providers-advisers-clients; (3) conflict of interest from association; (4) misalignment of institution-adviser-client interests; (5) fiduciary duty; (6) commercial interests of institutions compromising best interest duty.

Instead of accredited professional individuals, like other professions, common to all these countries is their regulators via third-party affiliates regulate all their financial advisers. If personal accountability is what regulators want to promote in the UK, US and Australia (Bateman & Kingston 2014; Salka 2015; McDermott 2016), then based on the findings, policymakers should pursue a different licensing model. A different licensing model should achieve moving financial planning internationally into a recognised accredited profession. Therefore, on the grounds of the findings now, it is perhaps prudent the licensing model of these nations should be tested for legitimacy too. This they can achieve by replicating and/or adapting the theoretical framework developed for this preliminary study. Thus, applying it within the context of their countries. Additionally, this research provides a blueprint for the international policymakers to reconsider their current regulatory models of licensing in favour of another. This is important, as technology, such as blockchain and financial technology, increasingly leads globalisation with subsequent lowering of barriers of flow of people, trade and standardisation.

Significantly, the findings potentially put Australia at the forefront of licensing advisers, internationally. Seemingly, conflict of interest from remuneration, best interest duty, as well as professional standards, education and ethics was addressed politically and legislatively to protect the public. However, from the evidence in this research, the success of this legislation
is questionable. For instance, commission payments between licensees, including commissions between licensees and advisers rebadged as fee for service remains a problem. This study established the presence of a divergence between government corporate regulation, licensee practices and adviser perceptions about the licensing of Australian advisers. If the Australian Government is serious about professionalising financial planning, then the empirical evidence in this thesis proves the next set of policy efforts should deal with conflict of interest from association. However, instead of more complex and costly compliance regulation, the findings in this thesis calls for policymakers to intervene with additional FOFA reforms, by building on the recommendations of the Ripoll and Murray inquiries with regards to individual licensing via a single monopoly independent industry standards board. Subject to higher established legislated standards of entry, registration, education, practices and ethics set and administered by a monopoly body, individual ‘natural persons’ are then held individually accountable. Thus, they are more likely to show commitment to the reputation of a professional model. In this way, remove advisers from being licensed by AFS licensees with commercial and/or product bias stakes. Besides, although needing some follow up, research in earlier years indicated independence was in the top 10 issues clients considered important when searching for a suitable financial adviser (Walker 2006). This separation of individual adviser from corporate institution should make identifying who is accountable for infringements and in what proportions much easier.

Although, this recommendation is tempered with a word of caution, namely this model’s legitimacy must also be tested. Particularly important are policy considerations around replacing the control licensees have over advisers with a licensing model in which advisers have greater professional powers to thwart licensees from influencing them. Especially important to eliminate are licensees’ opportunity to threaten advisers with job dismissals or loss of remuneration entitlements if they did not commit to the licensees’ product distribution business models and the profit motive at the expense of the adviser’s best interest duty. This approach could be key in the protection of the Australian public without more regulation governing the various complex relationships within financial planning.

Although it is documented in Chapter 3, ASIC favoured the co-regulatory model; they conceded in media commentary a likely benefit of a self-regulatory model is that employee advisers would be more visible to everyone. Therefore, the empirical evidence serves as a clear indication the nature of a co-regulatory model, as it has been implemented, is dysfunctional, and hence not providing the desired outcomes expressed in this thesis. Advisers facing a dual-
agency role are placing ASIC at risk of failing to identify compliance transgressions adequately or timeously for rectification. Although it is conceded, that more recently, ASIC has made a concerted effort to address this shortcoming. Besides the reputational damage to ASIC, they are forced to seek constantly costly taxpayer funded legal advice on specific interpretations of the Act. Recall the discussion in Chapters 1 and 3, together with the empirical evidence of the misunderstanding, misinterpretation and misapplication of s923A of the Act dealing with the terms ‘independent’, ‘unbiased’, ‘impartial’ and similar words.

Visibly, licensees and/or their advisers find creative ways to serve their self-interests within the current compliance framework. Perhaps an indication, the current licensing regulation is too complicated to understand, open to creative interpretation and application, which calls for simplification. By simplifying, the accreditation of advisers should ensure ASIC focusses their limited valuable resources and enforcement powers on corporate compliance contraventions by licensees by supporting appropriate behaviour of corporations. Leaving another body to focus on identifying rogue advisers. Conceding the licensing of individual ‘natural’ advisers to alternative body should arguably lower the risk to ASIC facing the legal challenges created through inventive interpretations of the law.

Indeed, if the individual licensing model is pursued by policymakers, it will result in significant changes in the existing arrangements ASIC has in place. The benefits that could potentially accrue from structurally changing the licensing regime include better resource allocation of taxpayers’ money to enforce institutional compliance. Thus, lowering the costs to only regulating AFSL, without needing to regulate ARs as well. Especially, if observations by a consultant to the financial services sector, Toms Reddacliff (2017) are true, namely ASIC and licensees are spending valuable resources to complete their duties when regulating advisers, often involving large volumes of complex data processed and collected from licensees on a daily basis using manual, ineffective and inefficient systems. Besides, ASIC, with the Commonwealth Corporations Act 2001, should focus on compliance by corporations, not ‘natural persons’. In other words, adviser regulatory requirements should be removed from the Corporations Act and inserted in more appropriate legislation legislating professions and professionals, such as the professional standards legislation enforced by the Professional Standards Council.

Consequently, the outcomes of this research also hold implications for the **Professional Standards Council** and its regulatory agency, the **Professional Standards Authority**. It is
documented, these bodies are willing to assist policy makers to improve the professional standards of advisers by using their powers under the jurisdiction of the requirements specified in the professional standards legislation, to approve and work with a financial planning professional body to further consumer protection (Professional Standards Councils 2015). However, they can only approve a professional standards scheme, if the financial planning body can demonstrate a high level of self-regulation by complying with the professional standards legislation controlling other professionals (Professional Standards Councils 2015). Therefore, if financial planning is to become a true profession then the Professional Standards Authority could assist with the development, in addition to the implementation of a plan for advisers to move from a co-regulatory environment to one of self-regulation. Specifically, with their assistance, a self-regulatory financial planning body, such as FASEA, assisted to comply with the professional standards legislation to become accredited, like other recognised professions.

With the inception of the **Financial Adviser Standards and Ethics Authority**, tasked to regulate professional standards, education and ethics since 2017, seemingly the government is initiating the development and implementation of new models, institutions and rules for regulating professional advisers as financial planning transforms into a profession. As was already mentioned, this investigation has implications for the new standard setting body. Although some stakeholders in financial services might argue to the contrary, the findings show strong support by informants for individual licensing via a single body. On the grounds of the findings of this research, FASEA as an initial “policy nudge” (Ariely, Amir & Lobel 2008, p. 2098) from government should be viewed as an interim solution, because an opportunity to use the prevailing body as a framework to evolve and adapt into an independent accredited professional financial planning body is a possibility. Note this idea was put forward and reported in the media (Kohler 2017). Therefore, reiterating earlier recommendations, FASEA should eventually also be tasked with entry, appointment, registration, supervision, education, competence, conduct, regulation and disciplinary standards in line with the National Professional Standards Legislation framework.

According to the white paper by Sanders and Roberts (2015), for a profession to exist requires a self-regulatory entity, regulated by the Professional Standards Board as qualified by the professional standards regulation. Eventually, when the time is right, FASEA could take over the responsibilities from ASIC in licensing individual financial advisers. It could also support client complaints and compensation under uniform standards distinct from AFS licensees, like
other professions. By linking into the government regulatory purpose of professionalising financial advisers, this professional body would then enforce their own conditions of membership, formulate their own rules, carry out their own discipline, while imposing their own conditions of dismissal (Black 1996). Accordingly, on behalf of the Australian public, this entity is envisaged to oversee and administer professional entry, professional standards of educational and ethics, a professional year requirement as well as registration examination requirements, notwithstanding the compliance expectations (Sanders & Roberts 2015) like other professions. Although unfortunately, it is currently funded by the banks and AMP (Kohler 2017). Hence, FASEA must eventually become a self-funding independent financial planning self-regulatory not-for-profit organisation. This will eliminate any potential for commercial interests compromising its purpose of protecting the public. Thus, effectively turning financial planning into a recognised profession that operates under the Professional Standards legislation in a similar manner as those of other professions. It means advisers licensed at the individual level are accountable foremost to their clients without undue influence from commercially driven product prejudiced licensees.

Furthermore, to add to our discussion around policy implications for ASIC in previous paragraphs, since the inception of FASEA, seemingly both ASIC and FASEA have overlapping responsibilities and duplication of jurisdiction over the conduct of advisers in areas of professional standards, education and ethics (Kohler 2017). Consequently, by removing ASIC out of the equation of professionalising advisers, leaves them to focus on compliance of corporations, while FASEA can focus on compliance of ‘natural persons’. It makes more sense to differentiate clearly between the roles and powers of ASIC and FASEA in this way. Thus, FASEA is well placed to assist financial advisers become independent of control by licensees, not only in name but also in practice, with the purpose to protect the public.

Although, for many, it may seem obvious professional associations should take on the role of professionalising financial advisers by taking on the role of regulating them, it must be recognised most of them would not qualify, because they will struggle to meet the requirements of a professional standards scheme pursuant to the professional legislation (Sanders & Roberts 2015). Particularly when, as upheld in the findings of this research, many are conflicted by sponsorships from commercial AFS licensees, who are also often corporate members of the association with strong relationships (Power 2016a). Thus, their role cannot include licensing individual financial advisers. It requires an entirely independent not-for-profit separate entity
who cannot be incentivised commercially and can bar advisers who do accept ‘creative’ soft dollar incentives from licensees.

The findings point to a different role for professional associations, as well as how they potentially may be regulated. Professional associations could play a role in influencing and supporting their members to adapt to any foreseeable change. For example, if they are to participate in the emerging profession, then they can infuse new epistemological beliefs, norms, and values (Paulo 2003) into new structures. Documented by Banister et al. (2013), professional financial planning associations support their member licensees and advisers to put in place socially desired best practices, standards, procedures, rules and structures such as codes of conduct, educational standards and programs. Given one of the key findings was advisers’ fear of being disconnected from licensees, because they will lose the subsidised support services they have become accustomed to, notwithstanding the loss of economies of scale, professional associations may have a key role to play here. Already, many of the financial planning professional bodies offer educational services. Therefore, the size of their member base achieves economies of scale providing these associations the opportunity to extend their services offered to advisers. Thus, it is argued here, professional associations are well positioned to take over this role of negotiating the necessary affordable support services on behalf of their members in a competitive environment using the magnitude of their membership base to achieve economies of scale. This would be in line with other professions, whereby their professional bodies and associations, specifically the medical profession, offer affordable support services to their members using the economies of scale of their membership base. Debatably, it is important that more than one professional association should provide advisers a choice and to encourage some competition. It is well known accountants have two main competing bodies, CPA, ICAA, and numerous smaller lesser-known bodies, such IPA. Consequently, professional associations form a critical part of the process of financial planning becoming a profession. If professional associations are to take this support service responsibility, then it will require adviser mandatory membership of at least one of the recognised professional associations. Furthermore, the professional associations with their licensee corporate memberships could be the connection between advisers and licensees without advisers being controlled by the licensees.

This study’s findings are potentially damaging to the reputations of AFS licensees, because the overall negative comments from survey respondents indicate how advisers truly feel about being appointed via third-party licensees and why they feel this way. Increasingly, it is clear
licensees face complex compliance fraught with liability risk of legal action by being responsible for authorising and overseeing financial advisers. Thus, licensees who wish to continue operating under the current licensing regime can be held vicariously liable for the actions of their agents, which when it becomes public knowledge damages their reputation with the public. Therefore, licensees are well-advised to consider the findings of this research, especially given the potential loss to their “reputational capital” (Simes, Harper & Green 2008, p. 34). The implication of advisers being disconnected from licensees implies licensees will face greater competition to source agents when their business model is product distribution based.

It is expected, the increased transparency to inform the public their employee representatives are selling products, not necessarily providing strategic advice, may impact business models of many aligned licensees. Furthermore, some licensees’ business models may become redundant, or many may have to reinvent themselves through innovation and entrepreneurship to redefine their identity, role and performance. Although not verified and validated, yet, it is expected vertical integration within financial services can potentially disappear or evolve into something else with the implementation of individual licensing of advisers as proposed above.

Self-licensed advisers will be significantly disrupted, because they have invested significant amounts of time and money to procure their own AFSL, only to find self-licensing redundant to practise their craft as ‘independents’. It is not uncommon any transformation, such as mergers, acquisitions and other forms of business transformations result in redundancies.

Under a new model, licensees will face a new type of employee operating within a professional group, because based on the writings of Evetts (2011), explored in Chapter 3, if advisers become true professionals employed in financial institutions they will not be as open to being controlled through managerial interventions and institutional controls. These professional employees will have autonomy over their work practices, when faced with professional ethical challenges (Smith, Armstrong & Francis 2009) that accompany the contemporary profession within the context of professional corporatisation through employment (Breakey & Sampford 2017; Rogers, Smith & Chellew 2017). Accompanied by high status these advisers will have greater powers and authority, making it more difficult for licensees to control or influence them to distribute product for profit especially if it is to the detriment of the client.

Fortunately, there are positive implications for licensees too. Under a new licensing regime for advisers, licensees and their employed registered sales force could be more transparent. They
could advertise their branded products openly to consumers as transactional. This increased transparency should also minimise their risk of legal liability. In addition, restricted APLs will no longer be an issue, because when a customer walks into a bank with a restricted product list of the bank’s branded products, it should be clear to the customer under a new licensing regime, they are purchasing a product from a conflicted adviser. This transparency should improve their reputations. Simple transparency of product sales should remove the accusations of licensees disguising product sales as strategic advice, which is empirically verified in this research as current practice.

Furthermore, as licensees’ business models evolve so too will the relationship between licensees and their advisers develop. Already this has happened, for instance, empirically it is indicated in this research, since the implementation of best interest duty how licensees and advisers relate as opposed to how it is legislated they should relate has changed. No longer do advisers see themselves in the role of acting on behalf of licensees. Instead the see themselves as acting primarily on behalf of their clients. Licensees are support service providers. Also separating advisers from licensees may hold cost benefits for licensees, especially in terms of the much-acclaimed high compliance costs, professional indemnity and BOLR agreements, which should be confirmed scientifically in future research. Besides, clearly licensees make most of their money from product distribution, not from advice fees or authorising advisers. In addition, compliance duplication within financial services will be drastically reduced. Accordingly, disconnecting advisers from licensees leaves AFS licensees and their employees to focus on manufacturing, promoting, distributing or selling financial products, within a transparent transactional framework, in a similar manner to pharmaceutical institutions, manufacturing, promoting, distributing or selling medical products to medical doctors and pharmacists. This is assuming the emerging financial planning profession builds on the models of other true professions. Thus, the findings do not imply self-regulation by a single independent body means product-aligned licensees are not able to employee individuals as pure branded product sales experts. They just will not be considered independent advisers providing strategic advice. Ultimately, if done well, a new licensing regime should make it easier for the public to clearly distinguish between product experts who are sales representatives restricted by a limited licensee approved product list and financial advisers who are financial strategy experts that may include or not product recommendations from an open product list. In the medical field, it is easy for the public to distinguish between a general practitioner and a specialist.
To preserve the client-agent relationship, as proposed in financial planning theory, yet remove the legalised licensee-agent relationship as defined in the Act, which recall is conspicuously neglected in financial planning theory, will have significant implications for professionalising the emerging financial planning profession. Since the implementation of best interest duty, as well as professional standards of education and ethics, it is clear the risk of providing advice is increasingly transferring from institutional licensees to the individual financial advisers. Besides advisers clearly indicated empirically why they no longer perceive the right to practise their craft should be subject to the political whims of different ruling parties of government, professional associations and licensees. Ideally, advisers want to be independent, accredited and recognised professionals in demand.

Based on these results, it is time to license individual advisers in a manner allowing them to set and enforce their own standards of entry, appointment, registration, education, practice, ethical conduct and discipline like other professions. Therefore, this work provides financial advisers the validation to take control besides, taking responsibility for the future direction of their profession. Preferably, real change can only be driven by advisers with a little push from government, support by ASIC, PSA, FASEA, professional associations and acceptance by AFS licensees. Advisers should then be in a stronger position to place the best interests of their clients first without encumbrances accompanying licensing via multiple institutions with varying standards, compliance policies, procedures and processes.

Furthermore, individual licensing where they are foremost accountable to their client, then their professionalising body, should provide them with greater leverage to block any ‘pressure’ licensees may try to impose on them to the detriment of their clients. Significant benefits should occur by clearly separating the institutional licensee product manufacturer, issuer, promoter or distributor and the ‘natural person’ responsible for providing the financial recommendations. For instance, employees of product-aligned licensees will be accredited differently compared to true independent self-employed or employee advisers to make them distinguishable to the public. An independent professional body also serves as an avenue for whistleblowing. Rather than the need to confront the perpetrators or go to the media and the law first to address the wrongdoing, advisers can go directly to their professional body to raise alarms of wrongdoing contrary to the public interest. Thus, whistleblowing via the professional body may serve to discourage institutions from promoting a culture of unethical behaviour. Advisers will have greater professional control and autonomy over the ethical behaviour.
Based on the writings of Evetts (2011) explored in Chapter 3, if advisers become true professionals employed in financial institutions they will be less open to being controlled through managerial interventions and institutional controls. Thus, it should minimise if not eliminate the undue influence licensees impose on advisers to distribute, particularly in-house, financial products. Particularly, when licensees use covert or overt ‘influential’ tactics to influence adviser behaviour to the detriment of the client. It may also prevent advisers from hiding within multiple layers of protective institutional settings to disguise their misdemeanours from public scrutiny. Furthermore, with improved ethical behaviour combined with clear accountability advisers’ ‘reputations’ should improve.

With a central enforcement body, like FASEA, financial advisers can move between employers, co-operatives, advising companies and partnerships without losing their ability to practise their craft of providing financial advice or any encumbrances, which is in line with other professions. An individual licence through a recognised single professional body is likely to attract more talent from the pool of new graduates entering Financial Services. Mainly for the reason, a new model should provide individual advisers professional independence, one of the key attributes of a professional (Riaz, Buchanan & Bapuji 2011), professional status, autonomy, control, power and privilege to operate as true professionals. With more graduates finding financial planning an attractive career option, the shortages in the roles of retiring baby boomer advisers will be better filled.

Presently, although advisers may be highly qualified, competent and ethical, unlike other professionals, they cannot practise their craft unless a licensee institution employs them or they become self-licensed. By licensing individual advisers via a single body, means qualified competent advisers never, lose their accreditation to provide financial advice when they leave or resign from any institutional licensee.

There are also implications for the types of adviser business models that will work with individual licensing for advisers. For example, with some evident in practice available, advisers can consider partnership models, like other professions (Heath 2017). Whereas others are proposing registered advice groups to perhaps, continue providing the support services advisers fear they will lose under an individual licensing regime (Hoyle 2017e). Therefore, self-employed advisers, including self-licensed advisers may have to use innovation and entrepreneurship to reinvent business models to work with an individual licence.
The research highlights advisers are unclear about the benefits their licensees derived by authorising them, nor are they clear about their identity [who they are], role [what they do] and performance [achieve the four objectives of the Act]. Therefore, by licensing advisers as individuals, may be a significant step forward in clarifying everyone understanding of their identity, role and performance when providing professional financial advice, which can only improve the quality of advice.

Policymakers can no longer ignore the potential risks to the Australian public, highlighted in the findings. Thus, by removing any potential for conflict of interest from association via a new licensing system means the licensee influence over the adviser transfers to the client, as it should be. Furthermore, with a single body setting the designations of advisers should make it easier for the public to source accurate information about an adviser to identify correctly those providers who are conflicted by product from those who are independent. By making, this distinction clear to the public, in the manner these individuals are licensed, means the public will less likely be misled, while having a greater choice of whom they choose to service their financial needs once the new system is implemented and has settled.

From the foregoing discussion, the illegitimacy of the current licensing model with its recommended individual licensing solution poses threats and opportunities for all stakeholders. Significantly, change is going to require a redefinition of the identity, role and hence performance of every single stakeholder identified above, because of the connections and entanglements amongst them. Consequently, every single stakeholder should be involved in addressing the structural shortcomings of the current licensing model with a new simpler professional licensing model.

**7.8 CONCLUSION**

This provocative research established a lack of support for the legitimacy of the current AFSL-AR licensing model as perceived and judged by the internal actors, namely practising authorised representatives. Specifically confirmed here, the existing licensing system creates a dual-agency role; leading to conflict of interest from association. Results reveal this conflict is inconsistent with four objectives of the Act. Licensing via multiple third parties is unethical, because it leads to ethical dilemmas. Specifically, the top three ethical issues delegitimising the licensing model are (1) violations of the statutory best interest duty, (2) misalignment of adviser-clients’ interests and (3) licensees’ commercial interests compromising clients’ best interests. Thus, the coexistence of competing logics between, specifically (1) adviser statutory
fiduciary duty and licensee commercial interests; and (2) misalignment of client-adviser interests and conflict of interest from association, is contributing to the illegitimacy of this licensing model. The evidence in this research reaffirms investigations by several parties (Australian Government Corporations and Markets Advisory Committee 2012; North 2015) into the transgressions from narrow sales recommendations, together with licensee culturally-endorsed unethical adviser behaviour using remuneration models. Clearly on the available evidence, licensing advisers via third-party licensees results in regulative, consequential moral, procedural moral, structural moral, personal moral and culture-cognitive illegitimacy. Inevitably, individual professional licensing is an acceptable solution for advisers to supersede the delegitimised AFSL-AR licensing model. However, those who have contributed to the research are clear, the current licensing model as described and assessed, has failed, except to lead to licensee and adviser practices undermining the integrity of the financial advisory sector. A simpler model is needed, because despite operating within a rigorous complex compliance regime under the current system, advisers are still able to produce adverse outcomes for their clients. Thus, arguments for an alternative licensing model are empirically strengthened by these findings.

From the discussion in this chapter, the policy implications are far-reaching for international policy makers, Australian policy makers, Professional Standards Council and Professional Standards Authority, Australian Securities and Investment Commission, Financial Adviser Standards and Ethics Board, Professional Associations, AFS licensees, financial advisers, the public and the Australian public. Therefore, the empirical data collected using the theoretical framework provides financial planning stakeholders concrete evidence to commit to a paradigm shift in the current licensing of individual financial advisers. This is important, because the prevailing licensing model impedes independence while creating conflict of interest from association. The outcome of this study leads to recommend the financial advisory industry needs to restructure. By implication, the identity and roles of all stakeholders should be redefined to see changes in their performance. FASEA is recommended to be the most logical body for this challenging task. Therefore, based on the evidence in this study the proposed changes should go a long way to restoring the reputation of financial advisory services in Australia.

Yet caution should be exercised, before launching into any new regime. It is imperative stakeholders address the misgivings raised during the discussion above. Specifically, advisers’ fear of losing the subsidised support services licensees offer them, such as software, training,
professional indemnity, research, compliance, legal and back office support. Furthermore, for some advisers, licensing costs are another major concern. However, background discussions with influential people in financial services indicated these are not insurmountable obstacles.

Additionally, given all stakeholders will be impacted by change, means a concerted effort is required by all stakeholders to drive change, because any new regime must correspondingly prove its legitimacy.

In closing, the evidence in this thesis serves as a catalyst for the regulators, professional associations, licensees and advisers to initiate additional steps to turn Australian financial planning into a recognised accredited profession, like other professions. Thus, putting Australia at the forefront of adviser professionalism internationally.
CHAPTER 8 CONCLUSION

8.1 INTRODUCTION

Although this research started with troubled negative unconfirmed statements around the illegitimacy of the current AFSL-AR licensing model, after collecting and analysing the quantitative and qualitative results substantiated scholarly evidence of this topic was the result. Thus, using a normative conceptualized theoretical framework to define, model and measure this legitimacy, a more balanced view on what is clearly a controversial and sensitive matter is now available. The purpose of this chapter is to make concluding remarks about the illegitimacy of licensing individual financial advisers via multiple third-party licensees. Therefore, a summary of the main findings is presented, highlighting its importance. This is followed by recommendations for future work. A brief discussion on the theoretical and empirical contributions, together with some of the assumptions and limitations ends this final chapter.

8.2 SUMMARY OF FINDINGS AND SIGNIFICANCE

Secondary sources indicated the legitimacy of licensing has been an issue since at least 1996. Within the predominantly FOFA legislative framework, Australian financial advisers are presently appointed, authorised and regulated through third-party licensees as specified in the Commonwealth Corporations Act 2001. Various stakeholders were making allegations about licensing advisers via third parties without any compelling scientific-based evidence of what is appropriate for financial planning as an emerging profession. This study provides that evidence. This research provides initial empirical evidence proving licensing advisers via multiple third parties has been a problem since its inception.

Advisers revealed they are dual agents facing a conflict of interest from association. However, on the available evidence reported in previous chapters, the best interest duty has change the perceived view and practice of the licensee-adviser-client relationship. Quite an interesting finding was advisers refute licensees were the principal in the licensee-adviser relationship in practice anymore. Instead of working on behalf of licensees, advisers claimed licensees served the purpose of merely legally authorising them, while providing them with subsidised support services, such as compliance, legal, software, professional indemnity, professional and business development, back office support as well as approved product lists. In other words,
advisers advocated they perceived themselves as clients of licensees, while their priority is to act in the best interests of clients above all.

In accordance with the academic focus in the emerging financial planning theory on the adviser-client relationship, in practice advisers were taking their relationship with their clients seriously. While at the same time, mirrored in financial planning textbooks and tertiary education courses, they are disregarding their relationship with their licensees. Thus, s916A and s916B of the Act, where advisers are legislated to act on behalf of licensees, is either out of sync with practice or *vice versa*. Additionally, also revealed in the results is the neglected licensee-client relationship. Just like ASIC clarified the interpretation of s923A of the Act regarding terminology ‘non-aligned’, ‘non-institutionally-owned’ and ‘independently owned’, the legal definitions of the licensee-adviser-client relationship should be reviewed for clarification within the context of financial planning theory, legislation and practice.

In support of the dual-agency role findings, it is empirically clear the current licensing model sanctions contraventions of the best interest duty, misalignment of adviser-client interests, conflict of interest from association and anti-competitive practices. Importantly, of the four legislative objectives, the verdict is advisers take intentional and unintentional contraventions of the statutory fiduciary duty the most seriously. Given the pre-eminence accorded the best interest duty in the legislation, financial planning theory and practice, this finding is no surprise. By implication, the objective of the Act to promote the best interest duty is an important issue. Accordingly, its influence on the illegitimacy of the current licensing model in the debate around the licensing model should not be under-estimated. In effect, it is argued here, the best interest duty legislation has made the current licensing model of individual advisers redundant. Moreover, linked to the foregoing, the second most important issue resulting in illegitimacy is the AFSL-AR licensing model misaligns adviser-client interests. Therefore, the evidence strongly proves the current licensing model is not doing the job it was meant to do, namely protect the public as the objectives of the Act defines. As was mentioned earlier in this thesis, these potential statutory compliance infringements can encourage class action, while leading to damaged reputations of legislators, regulators, licensees and advisers.

If the contraventions of the objectives of the Act are considered in conjunction with the legitimacy tests using the criteria of Suchman’s (1995) theoretical framework, then it is clear, licensing advisers via multiple third-parties does not result, in order of rank, consequential
moral, procedural moral, regulative, structural moral, personal moral and culture-cognitive legitimacy.

Unsurprisingly, of all Suchman’s (1995) criteria, consequential moral illegitimacy was recognized as the third most influential reason why the current licensing model is illegitimate. Thus, in accordance with his criteria applied to financial planning theory, without a doubt licensees’ commercial interests compromises best interest duty. Surprisingly, advisers were apathetic when reflecting on the matter of licensees’ revenues, even though it is clearly a significant problem causing difficulties for the current licensee-adviser licensing model. Adding insult to injury, licensees window-dress sales policies, procedures and practices to appear to comply with the Act. Individual leaders of aligned licensees, according to advisers, aim to protect their product distribution channels when lobbying government during FOFA reform consultations. Thus, it is questionable private commercially oriented institutions can be trusted to regulate their advisers activities in the public interest.

Despite ASIC’s attempt to use the legislative process, the public cannot clearly distinguish between s923A independent advisers from those who are product-conflicted. Seemingly, while advisers are connected to licensees, they themselves are unclear of who they are [identity] and what they do [role] to achieve the four objectives of the Act [performance].

The way licensing is structured works against legislators’ efforts to raise financial planning standards through the legislative process and regulatory reform to enforce industry compliance of the Act. Besides, the existing licensing model threatens independence, a key characteristic of a profession. Additionally, conflicted association between particularly product-conflicted licensees and their authorised representatives arises due to their ‘co-existence’. Yet, it is well documented in this manuscript elimination of conflicts is vital to a true professional. Merely concentrating on conflicts from remuneration, professional standards, education and ethical standards to improve financial adviser conduct, is thus misguided.

Accordingly, in the company of minority critics, it is certain, the findings strengthen arguments for individual licensing through a single independent professional body, modelled on other professionals. Inevitably, a single new body with updated epistemological rules, norms, beliefs and scripts for individual professional licensing should supersede the delegitimised existing rules, norms & beliefs of the multiple institutional conflicted licensing bodies. Following from the foregoing statement, FASEA should evolve to take on this challenging task. The verdict is
individual licensing will improve trust and confidence in financial advisers, one of the concerns of the Australian Government.

However, support by a sample of authorised representatives for professional individual licensing comes with reservations and concerns. Specifically, advisers fear losing the well-funded subsidised support services licensees offer. For example, the loss of licensees subsidised software, training, research, compliance, business, legal plus back office support is a major concern for many. Advisers are also apprehensive about the impact on licensing costs and economies of scale should government make a move to individual licensing. Additional unresolved issues around licensing comprises: practicality, professional indemnity, approved product lists, ‘white’ and ‘private’ label products, plus vertical integration.

Although, it seems conflicted remuneration has been removed, licensees are using ‘other’ forms of incentives to control advisers, such as concealed soft dollar incentives, including the subsidised support services and BOLR agreements. These incentives arguably steer some advisers to recommend mainly in-house or ‘white’ label products or effectively act as an inducement to tie them to a licensee. Thought-provoking, apparently AFS licensees will always find ways to incentivise advisers to distribute their products no matter what licensing regime is in operation.

However, these concerns should not demotivate policymakers from pursuing further reforms to license advisers as recognised accredited professionals, like doctors, lawyers and accountants. Thus, to promote a healthy functioning financial services industry where advisers are recognised as true professionals under the same legislative requirements as other accredited professionals, then structural change to licensing individual advisers is required. Besides, the undesirable consequences of the AFSL-AR licensing model are detrimental to all the stakeholders within Financial Services. If the benefit of improved public trust and confidence, is weighed against the costs of independence, conflict of interest from association, unintentional contraventions of the statutory fiduciary duty, misalignment of adviser-client interests and the matter licensee commercial interests comprise ARs’ best interest duty, then for the sake of public interest change is inevitable. Especially given the public backlash to the scandals appeared to have outweighed the benefits the public may feel they would receive from obtaining financial advice. Notwithstanding the disparaging effect on the reputations of the Australian Government, regulators, licensees and advisers.
From the above conversation, the illegitimacy of the examined current licensing model implies it should be superseded or revised. Recognised here, implementing change is accompanied by practical, political, social and business opportunities and threats for all stakeholders’ interests. Each actor in the financial services sector will have different objectives in a future licensing model. For the Australian Federal Government, it is to protect the Australian public from financial harm. For ASIC, it is to ensure successful law enforcement sufficient to build confidence, trust and transparency in the Australian Financial System. For the FASEA, it is ensuring financial advisers comply with professional, educational and ethical standards to promote professionalism further. For professional associations, it is to continue supporting the members of the emerging profession and the public interest, while helping advisers further their careers. For AFSLs, it is providing financial products and services to the Australian public within a profit model operating within an ethical framework acceptable to society. For advisers, it is to make quality recommendations to clients ethically while serving their best interests without the encumbrances licensees imposed. For the public, it is receiving professional unbiased financial advice they can trust, cost effectively. Finally, for the media it is to continue delivering everyone with information around events, issues and characters in the Financial Services industry requiring attention. Thus, professional individual licensing is critical to ensure the interest of all stakeholders are served.

If financial planning becomes a recognised accredited true profession, enjoyed by other true professions, then a likely benefit is it will incentivise university graduate talent to enter the financial advisory sector. It is well known the recognised accredited professions have status. Thus, younger financial advisers entering this emerging profession should go a long way to reduce any fears of shortages in independent advisers.

8.3 RECOMMENDATIONS FOR FUTURE RESEARCH

While a great deal more is now known about licensing advisers via third parties in comparison to professional individual licensing, this investigation serves to merely lay initial groundwork for further future research. The broad scope of the research has left many areas unexplored, while raising more questions requiring in-depth detailed investigation.

For instance, having only collected data from one group of stakeholders, the advisers, valuable insights would further contribute to a balanced view by collecting data from policymakers, ASIC, FASEA, PSA, professional associations, licensees and clients with regards to their perceptions of the legitimacy of current licensee-adviser licensing model.
Additional research should delve deeper into the agency roles between adviser-client, and the much-neglected licensee-adviser and licensee-client relationships, because the agency role is not as simple or clearly defined as seemingly proposed in financial planning literature. The results of the study advocate the financial planning theory concerning the principal agent relationship is not aligned with the legislation, nor is the legislation aligned with financial planning theory. What needs clarification is the inconsistent perceptions of legislative, theoretical and actual practices regarding advisers’ agency role. The licensee-adviser relationship, advisers felt, is merely a legislated definition, which differs from the practical application of this definition in practice. Added to this latter point, it is uncertain whether the viewpoint that advisers no longer act on behalf of licensees comes from themselves or through, conditioning, training or marketing from their licensees, or the financial planning literature, which needs further investigation.

Moreover, since the best interest duty was implemented, advisers no longer understand their agency identity and role in terms of agency theory and as prescribed in law. The apparent disconnect between how the advisers defined their and their licensees’ role in practice, compared to how the Act defines these roles needs further assessment in future enquiry.

Within the financial advisory sector, the relationships are not restricted to only licensee-adviser-client relationships. Other potential relationships exist involving multiple layers of advisory services. For example, these relationships include financial advisers and independent facilitating agencies. These principals assist them to complete some of the work involved in implementing financial plans they prepare for their clients. Facilitating agencies are specialists—such as rating agencies, lawyers, accountants, fund managers, research suppliers, paraplanners, investment banks or institutions. Given the foregoing explanation submits financial planning involves a wide range of relationships, this highlights the need for these associations to be reported in the financial planning literature. Therefore, further research into all the associations financial advisers develop during providing financial advice, such as, with lawyers and accountants, could provide worthwhile information to update the literature and/or the legislation.

Additionally, lacking in financial planning theory are the agency relationships between the decision-making management team [agents] and the shareholders [principals] of financial services institutions [AFSL holders]. However, a void in the literature on how these
relationships interact with the licensee-adviser-client relationship is prevalent. Thus, this void should be addressed.

In addition, more detailed future investigation should consider the politics, conflicts and power play between licensees and advisers; advisers and their clients; and licensees and their clients. In addition, employee representatives compared to self-employed authorised representatives face the greatest challenge when it came to conflict of interest from association, because their licensee uses key performance indicators, sales targets and threats of job loss or loss of remuneration to control them. Therefore, an important area of research is to ascertain to what extent employee advisers can deal with these control mechanisms and still operate ethically. With new legislation on whistleblowing yet to be tested, a gap on the issues of power and influence within financial planning literature exists. Especially, the gap relating to the licensee-adviser relationship requires further enquiry. Consequently, the extent licensees influence [control] their authorised representatives, and vice versa should be assessed.

In addition, what is overlooked in the normative theory and confirmed in this empirical positive study is the continued lack of clarity or misinterpretation by some financial advisory sector participants in practice of the terms ‘aligned’, ‘non-aligned’ and ‘s923A independent’. Based on the backlash from advisers as reported in the media after ASIC provided guidance as to how to interpret s923A and the use of these terms, has demonstrated further work is necessary to distinguish independent advisers from those who are not clearly. Therefore, it is apparent more research is required to understand how practitioners and other stakeholders interpret and understand the definition of independence as defined by the Act. Moreover, it is yet to be empirically established whether it truly matters and is in the public’s best interest to receive ‘independent’ advice compared to advice not necessarily independent. Simply, future work should assess the legitimacy of the definition of independence as specified in the Act. Especially when some stakeholders seems unhappy with the interpretation and recent determination of s923A by Australian Securities and Investments Commission (2017b).

Researchers should also examine topics concerning adviser concerns and unresolved issues raised regarding a new licensing regime. For example, the practical application of individual licensing caused unease among those in favour of individual licensing. Specifically, more light should be shed on the actual, social and opportunity costs of changing to professional individual licensing systems, the impact on ongoing compliance costs and perceived loss of subsidised support services, notwithstanding the impact on established business models within the
advisory sector. For example, the exact cost break down of providing subsidised support services per adviser in conjunction with a breakdown of the size of the subsidy licensees offered should be empirically verified and validated.

Additionally for some stakeholders, redundancy is surmised an inevitable outcome if financial planning is to become a true profession via an individual licensing model. Consequently, further research can be conducted to determine the level of disruption to the various Financial Services stakeholders to come up with solutions to mitigate it.

The lack of consensus on some of the other concerns and unresolved issues raised during this research, such as, disclosures, APLs, BOLR agreements, and economies of scale of the current licensing model versus professional individual licensing demands further investigation.

Additionally, further inquiries into the extend licensees may be contributing to the illegitimacy at a micro level, would add a richer understanding of the problems confronting the current licensing model. Specifically, future research should determine why the commercial interests or benefits licensees derive by using ARs are unimportant to advisers to the extent they do not think about it, or do not want to think or communicate clearly about it. Another finding was licensees, especially those aligned, are mainly concerned with funds under management through product distribution, because this is where they make their profits. The inherent bias in approved product lists highlighted in the findings, including platform product lists, ‘white’ and ‘private’ label products, and the link to one-off approvals need further scrutiny within the licensing model’s context. What should be learnt is to what extent is licensee control of APLs a problem? Interestingly, professional indemnity insurance ownership and requirements is also seen as some potential means licensees can restrict their APLs. Conflicts of interest from remuneration between licensees, and between licensees and their advisers is still an issue that needs to be examined. For instance, if licensees are finding “legal” ways to incentivise advisers, obviously or subliminally, to distribute their product, whether by coercion or persuasion, then the ethics of these practices needs additional research.

The business models of licensees linked to the problems of a poor product sales culture that has shown to develop by licensing advisers via third-party AFS licensees are also important topics for future research. Notwithstanding, examining the benefits and costs AFSL licensees derived from appointing, supervising and overseeing advisers, in more depth, will make for fascinating findings.
If the recommendation of evolving FASEA into a body that not only sets and enforces professional education and ethics standards, but also licenses advisers individually, then future work should involve empirical verification of its legitimacy to ensure it is and continues to be fit for purpose. In addition, recall, the illegitimacy findings and support for individual licensing does not only affect the current and future role, including the performance of advisers, but also those of other stakeholders. Thus, a worthwhile piece of research would be an examination of their current role and performance, as well as their expected future role and performance in the event an individual licensing model develops. This research could potentially provide valuable insights into how best to implement change given the practical implementation concerns of a new licensing regime.

Financial planning academic scholars have also overlooked risks associated with a specific licensing regime. Therefore, additional inquiry into the key risks stakeholders faced will further illuminate the strengths and weaknesses of each licensing model considered in this research, notwithstanding any other model that was outside the scope of this study.

Furthermore, information technological advances and online information technology solutions could be of value during the implementation of disconnecting advisers from licensees and the ongoing management of individual licensing via their professional body. This is another avenue of research important to the future of adviser licensing.

Outside the scope of this study, numerous respondents also blamed industry super fund licensees to have a conflict of interest from association. This is interesting, given industry superannuation funds allegedly serve to benefit their members, including ploughing any profit the fund earns back to their members. Therefore, the extent industry superfund advisers also face a conflict of interest from association and whether it is a problem, would make for an interesting study.

Future researchers are encouraged to use, adapt or modify the conceptualised theoretical framework to study other complex business-related problems within other disciplines. Additionally, this includes replicating this research to confirm the findings; converting it into a longitudinal study to see how perceptions of survey participants change over time; or even applying the model within the context of other nations’ jurisdictions, such as the US and UK.

Although, various researchers (see, Suchman 1995; Zimmerman & Zeitz 2002) offered a selection of legitimation strategies for responding to a legitimacy crisis (Tilling 2004b; Chelli,
Durocher & Richard 2014), these strategies were excluded from this study to be addressed in future research.

To present a more detailed account of this topic, perhaps future research could use other types of research paradigms and methodologies, which are yet to be applied, tried, or tested, and reported in Australian financial planning literature. In this way fill other gaps in the study of the licensing of individual financial advisers or to further enhance the conceptualised model developed during this study, and hence the survey questionnaire. Thereby, this should enrich the theory of this infant, emerging, financial planning academic discipline further, especially given this is a preliminary study, viewed from a macro- or strategic level, rather than at micro-level of detail.

Given the qualitative evidence played a minor role in this research, as well as how sensitive, if not emotional about the topic, informants were during this investigation, there is room for more extensive qualitative research incorporating all stakeholders’ views on the numerous issues raised in this thesis that have been dealt with superficially. For instance, from the findings, a large group, 3,391 [84.78 per cent] out of the probability randomly selected total sample of 4,000 did not respond to the survey, neither declining consent, nor providing a reason for their non-participation. Consequently, to advance empirical research methodologies it would be valuable to ascertain with supplementary research why these advisers were uninterested to complete the survey dealing with such an important topic.

The recommendations provided in the foregoing are a few preliminary reflections of the void in the theory [normative] and empirical research [positive]. From the above discussion, it is clear the surface of the underlying issues around licensing individual financial advisers has barely been touched. Further room to research this complex phenomenon with research teams comprising financial advisory services stakeholders from various disciplines, academic and private sector institutions to advance financial planning theory and practice is evident.

**8.4 CONTRIBUTIONS**

Although the different authors cited in this thesis and different authorised representatives have put different emphasis about the legitimacy of third-party licensing of advisers, it is clear this challengingly delicate topic has finally been given the scholarly attention it deserves. The current licensing model is clearly verified by the internal actors as illegitimate. This proof in turn have led to both significant theoretical and empirical contributions to the financial planning discipline.
8.4.1 Theoretical contributions

Financial planning theory building is in its infancy with plenty of gaps yet unexplored on questions that are difficult to define, model and quantify. Consequently, this work addresses an issue where no prior theory or research evidence was available. By relying on the: experience of the researcher; literature review of multiple disciplines; and innovative thinking to develop the framework for this study, the work may be considered groundbreaking. It is groundbreaking in the sense it builds new financial planning theory by developing a conceptualised normative model on the back of several theories sourced from other disciplines, specifically law, accounting, medicine, and management.

The critical theoretical analysis, extension and application of agency theory, the legislation, legitimacy theory by Suchman (1995, p. 574) and expected standards of accredited true professionals in this study are important theoretical contributions to empirically evaluate and verify the legitimacy of the current licensing model for individual financial advisers. The framework provided an opportunity to develop a standard instrument for future empirical analysis using dimensions such as regulative, consequential, structural, procedural, personal and cultural-cognitive as criteria to capture, as was the case in this thesis, the perceptions of ARs regarding the desirability, propriety, or appropriateness of the current AR licensing model.

Furthermore, this enquiry not only considered the legitimacy of the current AR model, but also researched a debated alternative solution to the current AR model, namely individual licensing. Consequently, providing a preliminary theoretical foundation and framework to not only assess the problem of the legitimacy of any licensing model where the source of its legitimacy is dependent on public trust and confidence, independence, conflicts of interest and a licensing body, but also addresses possible solutions.

Accordingly, the application of several theories to the main research problem has not only advance financial planning theory but has also provided a scholarly platform for future empirical research to address complex problems in other social science disciplines.

Entering unchartered areas within a financial planning context, this research has added to the established financial planning body of knowledge with theory to guide future policy on suitable financial planning policies, procedures and practices. Thus, theory building has provided policymakers, domestically and internationally, with guidelines to collect data and a normative analysis tool to assist with policy decisions around the regulation [specifically, licensing] of individual advisers. Thus, it has provided a scholarly platform for future empirical research
initiatives for interested parties across the globe to obtain data relevant aimed at evidence-based decisions around complex topics.

In closing, this project provides extensive scope to pursue additional valuable research in the field of financial planning, specifically matters relating to professionalising financial advisers.

### 8.4.2 Empirical contributions

The empirical contributions are twofold. Firstly, this research has advanced application of research methodology for the social sciences, and specifically for the financial planning discipline. Secondly, it has contributed to bringing together theory, application of research methodology and practice in a novel way. These two contributions will be discussed next.

#### 8.4.2.1 Research design application

A fresh approach to Australian financial planning research involved starting with simplifying the complex problem by formulating a series of linked questions to develop the hypotheses. Then these questions and hypotheses were conceptualised into an *a priori* measurement construct. After deciding on the sampling technique, the legitimacy was evaluated from a specific research paradigm and methods approach leading to structural equation modelling techniques unseen in financial planning research before. Thus, a notable contribution of this enquiry to the financial planning discipline are: (1) the novel integration of several theories to formulate linked investigative research questions and hypotheses, (2) application of post-positivist research paradigm and mixed methodology involving parallel convergent research design, (3) combining structural equation modelling [quantitative] with constant comparative [qualitative] techniques to generate the findings. In other words, for the first time in Australian financial planning research the definition, modelling and quantification of a complex problem was reflected in a different research design compared to other studies. In the process a new body of knowledge with regards to application of quantitative research methodology and methods for financial planning to solve difficult, yet politically, legally and socially important problems, was produced. Therefore, with Australian research in financial planning still in infancy, this research has contributed to adding to the body of knowledge of acceptable standards (Willmott 1993) for financial planning research by providing an empirical conceptual and methodological framework to study complex issues.

Also new to the Australian academic financial planning discipline is the manner in which this study collected data, developed and evaluated their measures, and analysed the data to make
inferences. In terms of new contributions to the collection of data, this project moved financial planning away from convenience sampling to stratified probability random sampling. Furthermore, traditional data collection approach commonly used in financial planning research and SEM surveys have been Likert scales. However, based on compelling evidence provided by Yusoff and Mohd Janor (2012), the Likert-scales were replaced with a new continuous scale customised for purposes of this study. Specifically, the ruler-option scale developed by Yusoff and Mohd Janor (2012) was applied, because it was proven in previous studies to produce more valid measures of attitudes and perceptions when conducting empirical SEM research.

An additional contribution was the way minor modifications were applied to an untested \textit{a priori} conceptualised model during E/CFA and CFA data analyses to produce a valid model for accurate interpretation of the estimates. Specifically, the content of the theory in the literature review was taken into consideration during the respecification of the model to keep the integrity of the theory intact. Therefore, bringing together normative and empirical research data. From Chapter 5 importantly this study contributed application of multiple approaches suggested in the literature and combined various statistical techniques in structural equation modelling during analysis. The researcher relied on multiple tests to test for and confirm reliability and validity of the findings, because by doing so ensured the compelling evidence is more difficult to question.

Furthermore, this investigation contributed numerous statistical techniques to financial planning research methodology to ensure and measure generalisability of the estimates. These included, stratified probability random sampling, invariance tests for generalisability and Bayesian Information Criteria. Stratified probability random sampling, compared to the common approach of convenience sampling evident in Australian financial planning research, increased the chances of generalisability. The invariance tests and the Bayesian Information Criteria goodness of fit measure confirmed the estimates were generalisable. This validated the views of Aguinis and Edwards (2014) that a large sample size is unnecessary to ensure generalisability, because large samples do not provide guarantees of generalisability.

Overall, this study resulted in contributions to research methodology previously unseen in financial planning research. Additionally, after this project, the handful of Australian financial planning researchers skilled in an important statistical technique, namely structural equation
modelling, has increased. This is important to fast track the research of financial planning, a fairly young academic discipline, forward into the future.

8.4.2.2 Financial Services industry practice

A major contribution to practice is replacing the myths and hearsay in popular and professional media, and in practice, with substantiated evidence on the difficult topic of licensing. It serves as the beginning of a more balanced empirically verified and validated view on the matter, rather than in the past, a discussion based on harmful unconfirmed proclamations. Although the study did not cover every aspect of licensing because of its complexity, it does provide a solid foundation to pursue additional topics surrounding the matter.

On the grounds of the deficiency in scholarly attention to the matter of licensing and the large number of potential respondents in the sample who refrained from participating in the survey, it looks like the financial advisory sector appears unenthusiastic to confront this important political issue head on. Yet, this thesis shows clearly it is not only important, but also time the financial advisory sector considers the future of licensing individual advisers. As the research proceeded, it stimulated debate on this topical, emotional, controversial and political subject from a more scholarly perspective. Contributing to this debate was a journal publication listed in the list of publications at the start of this thesis, email feedback, face-to-face discussions, consequences of sending out the survey questionnaire social media reaction and professional media impact after the researcher presented on this matter on several occasions at several Personal Finance and Investment Symposia in 2014, 2015, 2016 and 2017 hosted at various universities. Moreover, examining the licensing model scientifically aims to remove emotion out of the debate.

A specific contribution of this enquiry was to offer a scholarly ‘voice’ to financial advisers about issues affecting them, namely, their dual-agency role, conflict of interest from association, the objectives of the Act, AFSL-AR licensing, public trust and confidence, independence and professional individual licensing.

It also highlights the value to financial planning researchers to take on more difficult and complex topics. Most importantly, this research serves to help navigate areas of argument around licensing with a framework politicians, academics and practitioners can use as a guide to ask additional questions around some of the difficult political and practical financial planning topics needing answers. Thus, providing policymakers evidence to make better decisions on contentious issues. For example, there is now preliminary evidence for
policymakers to commit to individual licensing as financial planning continues the journey to true professionalism. Thus, it contributes to shaping the future policy direction of licensing individual financial advisers in Australia. Particularly with respect to the professionalising of the emerging profession, to make financial advisers truly independent unconflicted professionals, with the aim to restore public trust and confidence in them. While politically serving the public interest with better protection. Finally, it is hoped this research contributes to inform policy about licensing individual advisers as true professionals that reaches further than just the Australian borders.

8.5 ASSUMPTIONS AND LIMITATIONS

Despite carefully designing the study at each stage to produce valid results to report and describe the extent of the legitimacy of the current licensing model, several limitations became evident during theory development, ethics approval, data collection and analysis, which influenced the project on several fronts. Therefore, a discussion now follows on several theoretical and empirical limitations, together with a few assumptions in the closing stages of this thesis.

8.5.1 Assumptions

This research is grounded on the assumption, if financial advisers are to become an accredited recognised profession, then they should be structurally licensed in a similar manner to other professions. This means allowing individual advisers to control their own professional conduct, rather than be controlled by multiple conflicted commercial institutions. Consequently, included in this general assumption, is if financial planning is to evolve into a true profession, then it must comply with the same standards and be subject to the same rules as other accredited professions.

Although, examples of professions referred to in this study were limited to law, accounting and medicine, it does not preclude the other numerous accredited professions and professional bodies.

This study assumed the sample and the population distributions have the same shape and meaning. The enquiry’s findings are conditional on the assumption the bootstrap sampling distribution sourced from the sample is representative of the population, despite the multivariate non-normal data. In addition, independence and the distribution of responses were
assumed identical, because the data displayed violations of multivariate normality assumptions. This is explained further in the empirical limitations section of data analysis, below.

8.5.2 Theoretical and empirical limitations

A limitation of this research is applying the Corporations Act, agency theory, with legitimacy theory to financial planning theory for the first time, which may have resulted in the exclusion of many other relevant theories and variables. However, it is acknowledged, including all relevant variables or theories would have made the scope of this already complex and difficult study too large to simplify into one study. Furthermore, although most indicators in the conceptualised model displayed acceptable reliability, three variables and their hypotheses were abandoned during the E/CFA analysis process. This ensured the model makes theoretical sense, was parsimonious and fitted the data adequately for reliable interpretation.

Furthermore, the theoretical construct evaluated legitimacy from a macro-level or strategic level, rather than from a narrowly focused micro-level of evaluation. Hence the legitimacy criteria are not all inclusive, which Zimmerman’s and Zeitz’s (2002) advised is typical in research. Approaching the topic from a broad perspective, rather than narrowly, meant neglecting certain areas, which may be relevant to licensing advisers. For example, certain matters were ignored, such as the extent to which financial advisers themselves would or do invest in the same financial products they recommend to clients. The issues around professional indemnity, approved product lists, costs of advice, ‘white’, ‘private’ label products, and vertical integration were only mentioned briefly in the literature review, while being excluded from the conceptualised theoretical model. From the responses, these issues are important within the context of licensing. However, they were excluded, because they are issues at the micro-level of examination. Thus, legitimacy criteria could only be applied at a superficial level, because the problems of conflict of interest from association is so complex. Further, more in-depth analysis of the topic is required using each of the criteria in Suchman’s legitimacy theoretical framework. Nonetheless, this project was merely a starting point to explore further the problems and solutions around conflict of interest from association.

Without enough peer reviewed financial planning literature supported by epistemologically sound definitions, principles, models, norms and decision rubrics (Paulo 2003), it was difficult - as was mentioned several times during this thesis - to find and present a balanced view, particularly in the review phase of the financial planning literature in Chapter 3. Therefore,
this research was limited to the negative unsupported arguments in both popular mainstream and professional media and the limited financial planning scholarly secondary sources.

Not all agency relationships within the context of licensing of individual financial advisers were included to narrow the scope of the study. Although, these agencies are outside the scope of the study, it is acknowledged they may have indirect influences on the licensee-adviser-client relationship and hence AFSL-AR licensing.

Of all the legitimacy criteria in this investigation, structural legitimacy theory was the most challenging variable to identify and measure within the context of financial planning theory and licensing for the first time. However, estimation of structural legitimacy was achieved through the substitution of variables using secondary sources that made theoretical and quantitative sense (Zimmerman & Zeitz 2002).

Although industry superannuation funds, such Australian Super, HESTA, Cbus etcetera, may be important, they were excluded from this study, because trade unions and industry bodies with a not-for-profit motive originally started them, where any profits are returned to their members. The project was scoped to include profit-motivated institutions who serve shareholders’ interests only.

8.6 CONCLUSION

Financial Services continues to be scrutinised for the ongoing contraventions of legislation implemented to protect the public. Specifically, serious violations of the Act by AFS licensees and their authorised representatives remains in the spotlight. In this damaging environment, the legitimacy of the current AFSL-AR licensing model is questioned, and hence formed the purpose of this research. Until this enquiry, no academic has attempted to define, model and measure the legitimacy of the current licensee-adviser licensing model, because seemingly the conceptual construct was difficult to define and quantify. Therefore, the rectification of this difficulty involved critically integrating financial planning theory with several other theories forming a normative foundation to examine the legitimacy [or what was found to be the illegitimacy] of the prevailing licensing model.

Utilising this conceptualised normative model, results revealed advisers do presume licensing advisers via product aligned, commercially oriented institutions, creates a dual-agency role between licensee-adviser-client. This produces conflict of interest from association. Since the implementation of adviser’s best interest duty, conflict of interest from association can no
longer be tolerated. The empirical outcomes verified the main reason for this intolerance is the best interest duty had changed the licensee-adviser-client legislated agency relationship in practice. It also threatens independence and adviser ethics. Results revealed licensing advisers via multiple third parties is inconsistent with four objectives of the Act. Specifically, the top three issues delegitimising the licensing model, in order of rank, are (1) contraventions of the legislated best interest duty to clients; (2) misalignment of the interests of adviser-client; and (3) the commercial interests of AFS licensees compromises the best interest duty to clients. Clearly, on the available evidence presented in this thesis, the current licensing does not result, in order of rank, in consequential moral, procedural moral, regulative, structural moral, personal moral and culture-cognitive legitimacy. Accordingly, arguments for individual licensing via a single body was strengthened by the adviser support for such a solution observed in the findings. It is recommended FASEA in its current form should be tasked with more than just professional standards, education and ethics. FASEA should evolve to also appoint, register, regulate, discipline and cease individual advisers to practice their craft like true professionals. Yet, before launching into any new regime, it is imperative further research must address the perceived challenges around implementing individual licensing detected in this research. Additionally, illegitimacy puts the identity, role and performance of all stakeholders on notice. Therefore, this study holds implications for all Australian stakeholders within the advisory sector, not to downplay the importance of the findings for the international financial advisory sector. Although the conclusions can be challenged, not only are they compelling and timely, but important for the advice sector for several obvious reasons. Extending and applying several theories for the first time, provides: (1) a more balanced view on an emotive and controversial topic; (2) the theoretical foundation to advance financial planning theory and empirical research by closing a void; (3) policymakers domestically and internationally with credible evidence to make evidence-based policy decisions around licensing advisers; and (4) a scholarly platform to raise central topics and additional questions for future empirical research. Therefore, with a shared sense of purpose, based on the findings, all stakeholders need to work together collaboratively to overcome their differences. Not only with the resolve to restore trust and confidence in financial advisers, while boosting growth in the numbers of independent advisers by encouraging graduates to pursue a professional career in financial planning, but also to find more fitting solutions to protect the public. Thus, this research and its implications potentially puts Australia at the international forefront of licensing advisers professionally, like other professions.
BIBLIOGRAPHY


Aguinis, H, Gottfredson, RK & Joo, H 2013, Best-practice recommendations for defining, identifying, and handling outliers, 1094-4281.


Bacon, LD 1997, 'Using Amos for Structural Equation Modelling in Market Research.'.


Banister, PM 2016, *Australian financial planning handbook 2016-17*, Thomson Reuters, Pyrmont, NSW.


Bender, R 2011, 'Paying for advice: The role of the remuneration consultant in U.K. listed companies', *Vanderbilt Law Review*, vol. 64, no. 2, pp. 361-396.


Boyle, L 2015, 'An Australian August corpus: Why there is only one common law in Australia', *Bond Law Review*, vol. 27, no. 1, pp. 27-56.


Brannan, MJ 2017, 'Power, corruption and lies: Mis-selling and the production of culture in financial services', *Human Relations*, vol. 70, no. 6, pp. 641-667.


Brittain, N 2013, 'So you want to be a planner?', Professional Adviser, vol. n/a, p. 21.


Brown, R 2011, APESB standard hits the mark, Sydney.


Brown, TA 2003, 'Confirmatory factor analysis of the Penn State Worry Questionnaire: Multiple factors or method effects?', Behaviour Research and Therapy, vol. 41, no. 12, pp. 1411-1426.


Bruce, K 2012, Conceptions of the professionalism of financial planners, PhD thesis, Central Queensland University.


Carosa, C 2012, 'What is a fiduciary (and why should we care)?', Benefits Selling, vol. 10, no. 2, pp. 50-50.


Clayton Utz Financial Services Reform Group 2002, 'Insurance agents: Coping with the transition to the financial services reform', *Australian and New Zealand Institute of Insurance and Finance*, vol. 25, no. 5, pp. 31-34.


Coghill, T 2013, 'The great independence conundrum... part 9, v7', *Professional Adviser*, vol., p. 17.


Cole, DA, Ciesla, JA & Steiger, JH 2007a, 'The insidious effects of failing to include design-driven correlated residuals in latent-variable covariance structure analysis', *Psychological Methods*, vol. 12, no. 4, pp. 381-398.

Cole, DA, Ciesla, JA & Steiger, JH 2007b, 'The insidious effects of failing to include design-driven correlated residuals in latent-variable covariance structure analysis', *Psychological Methods*, vol. 12, no. 4, pp. 381-398.


Cooper, DJ & Robson, K 2006, *Accounting, professions and regulation: Locating the sites of professionalization*, *Accounting, Organizations and Society*, vol. no. 31(4-5), pp. 15-444.


de Queiroz, MAL, de Vasconcelos, FC & Goldszmidt, RGB 2007, 'Economic rents and legitimacy: Incorporating elements of organizational analysis institutional theory to the field of business strategy', *Brazilian Administration Review*, vol. 4, no. 1, pp. 51-65.


English, B 2008, “‘Climate for ethics” and occupational-organisational commitment conflict’, *Journal of Management Development*, vol. 27, no. 9, pp. 963-975.


Fain, JA 2010, 'Should we publish pilot/feasibility studies?', *The Diabetes Educator*, vol. 36, no. 4, p. 521.


Ferguson, A, Masters, D & Christodoulou, M 2014, 'Sales-driven culture within Commonwealth Bank's financial planning division examined', *ABC Four Corners*, 5 May, viewed 10 August 2017,


448


Fitzpatrick, J 2011, 'A message from the CEO', *Journal of the Australian & New Zealand Institute of Insurance & Finance*, vol. 34, no. 4, pp. 4-5.

Fornell, C & Larcker, D 1981, 'Evaluating structural equation models with unobservable variables and measurement error', *JMR, Journal of Marketing Research (pre-1986)*, vol. 18, no. 000001, p. 39.


Goedecke, M 2001, 'Wealth management: Can the banks beat the accountants at their own game? The banks possess the huge customer bases and the resources to tackle the wealth management market. But as Mark Goedecke reports, they could be doing better', *Journal of Banking and Financial Services*, vol. 115, no. 6, p. 4.


452


Harvey, V 2011, 'Why we are proud to be restricted', *Professional Adviser*, pp. 32-33.


Hii, S-K & Su-King, H 2009, 'Tougher regulation is likely for AFS licensees and new applicants', *InFinance*, vol. 123, no. 5, p. 52.


Himstreet, J 2012, 'Regulation and supervision of financial planning under the securities laws', *The Investment Lawyer*, vol. 19, no. 4, pp. 3-15.


Horsley, M & Thomas, D 2003, 'Professional regulation and professional autonomy: Benchmarks from across the professions - The New South Wales experience.', *Change: Transformations in Education*, vol. 6, no. 1, pp. 34-47.


Hoyle, S 2017c, 'Licensees’ futures are built on support for advisers', *Professional Planner*, 26 May, viewed 26 May 2017, <https://www.professionalplanner.com.au/featured-posts/2017/05/26/licensees-future-is-built-on-support-for-advisers-56200/?utm_medium=email&utm_campaign=PP0026&utm_content=PP0026+CID_6758e88afedd748a494b9f846b35701&utm_source=Campaign%20Monitor&utm_term=Exactly%20how%20the%20nature%20of%20financial%20planners%20will%20change%20is%20still%20unsettled%20but%20one%20thing%20does%20seem%20certain%20%20licensees%20will%20have%20to%20adapt%20to%20a%20new%20role>.


Kelleher, DM, Hall, SW & Medina, F 2016, 'The Dodd-Frank Act is working and will protect the American people if it is not killed before fully implemented', North Carolina Banking Institute Journal, vol. 20, no. 1, pp. 127-144.


Lichterman, P 2015, 'Interpretive reflexivity in ethnography', *Ethnography*, vol., p. 1466138115592418.


Markland, D 2007, 'The golden rule is that there are no golden rules: A commentary on Paul Barrett’s recommendations for reporting model fit in structural equation modelling', *Personality and Individual Differences*, vol. 42, no. 5, pp. 851-858.


Mazzola, DG 2013, 'A universal fiduciary standard: Does it eliminate confusion or protect investors?', *The CPA Journal*, vol. 83, no. 9, p. 10+.


McDonald, RP 2011, 'Measuring latent quantities', *Psychometrika*, vol. 76, no. 4, pp. 511-536.

McFadyen, AK, Maclaren, WM & Webster, VS 2007, 'The interdisciplinary education perception scale (IEPS): An alternative remodelled sub-scale structure and its reliability', *Journal Of Interprofessional Care*, vol. 21, no. 4, pp. 433-443.


McMeel, G 2013, 'International issues in the regulation of financial advice: A United Kingdom perspective - the retail distribution review and the ban on commission payments to financial intermediaries.', *St. John's Law Review*, vol. 87, no. 2 3, pp. 595-627.


Mennen, J 2014, 'Financial advice disputes - recent developments', *Precedent*, vol. no. 121, p. 36.


Money Marketing 2011, 'Regulation: RDR around the world'.


Murphy, B & Watts, T 2009, 'Financial planning in Australia: Industry or profession', paper presented to 14th FINSIA MCFS Banking and Finance Conference, Melbourne, Australia: Melbourne Centre for Financial Studies.


468


Owen, L 2003, 'Wealth management: surviving the tough times: AXA Asia Pacific chief executive Les Owen explains why he retains faith in the wealth management industry--but also warns that too many providers are chasing too few customers. (Wealth Management). (Industry Overview)', Journal of Banking and Financial Services, vol. 117, no. 3, p. 4.


Parliamentary Joint Committee on Corporations and Financial Services 2009a, Inquiry into Financial Products and Services in Australia, Senate Printing Unit, Parliament House, Canberra.

Parliamentary Joint Committee on Corporations and Financial Services 2009b, Inquiry into Financial Products and Services in Australia, Commonwealth of Australia, Canberra.


Pearson, G 2006a, 'The place of codes of conduct in regulating financial services', *Griffith Law Review*, vol. 15, no. 2.


Pitt, MA & Myung, J 2002, 'When a good fit can be bad', *Trends in Cognitive Sciences*, vol. 6, no. 10, pp. 421-425.

*Structural equation modeling (SEM) workshop powerpoint slides* 2013, RMIT University, Australia, 20 January.

Podsakoff, PM, MacKenzie, SB & Podsakoff, NP 2012, Sources of Method Bias in Social Science Research and Recommendations on How to Control It, 0066-4308.  


472
Professional Planner 2017b, 'To boldly go where every other profession has gone before', *Professional Planner*, vol. no. 97, pp. 6-12.


Raar, J 2008, 'A basic user utility preference to reduce uncertainty: A dissent to reporting and asset measurement', *Critical Perspectives on Accounting*, vol. 19, no. 5, pp. 785-804.


Raykov, T 2004, 'Behavioral scale reliability and measurement invariance evaluation using latent variable modeling', *Behavior Therapy*, vol. 35, no. 2, pp. 299-331.


Reese, R 2011, 'Planning to share advice & client bases: The Future of Financial Advice ( FoFA) reforms underway are likely to have a profound effect on the way accountants and financial planners interact', *Australian Banking & Finance*, vol. 3, no. 9, p. 19.
Reichman, C 2013, 'Safe and sound: Has RDR de-risked advice?', Professional Adviser, vol. n/a, pp. 5-7.


Rubin, GD 2015, 'Advisers and the fiduciary duty debate', Business and Society Review, vol. 120, no. 4, pp. 519-548.


Senate Economics References Committee 2014, Issues paper: Corporate whistleblowing in Australia: Ending corporate Australia’s cultures of silence, viewed 30 May 2016.


Smith, J 2009, Professionalism and ethics in financial planning, PhD thesis, Victoria University, Melbourne, Australia.


478


Starke, A 2013b, 'A case of vertical integration: The Future of Financial Advice (FoFA) legislation has already outlasted the government that first championed the sweeping reforms but will its legacy ultimately be one of honourable intent tarnished by unintended consequences?', *Asia-Pacific Banking & Finance (AB+F)*, vol. 5, no. 9, p. 3.


Tuffin, J 2009, 'Responsible lending laws: Essential development or overreaction?', *Queensland University of Technology Law & Justice Journal*, vol. 9, no. 2, pp. 280-310.


United States Department of Labour 2017, *Definition of the Term ‘Fiduciary’; Conflict of Interest Rule—Retirement Investment Advice; Best Interest Contract Exemption (Prohibited Transaction Exemption 2016–01); Class Exemption for Principal Transactions in Certain Assets Between


van Teijlingen, ER & Hundley, V 2002, The importance of pilot studies, 40, Royal College of Nursing, Great Britain, 27 April 2014, <sru@soc.surrey.ac.uk>.


Venable, J 2013, 'A framework for comparing IS research paradigms: how is design science related to other research paradigms?', paper presented to 24th Australasian Conference on Information Systems 2013, Melbourne, 4-6 December 2013.


Walton, S 2012, 'Back to the future: the debate over the future of financial advice reforms has some surprising similarities to the debate that accompanied the introduction of secret commissions laws over a century ago.', Law Institute Journal, vol. 86, no. 9, p. 6.


Yuan, K-H & Bentler, PM 2004, 'On chi-square difference and z tests in mean and covariance structure analysis when the base model is misspecified', Educational and Psychological Measurement, vol. 64, no. 5, pp. 737-757.


Yusoff, R & Mohd Janor, R 2014, 'Generation of an interval metric scale to measure attitude', *SAGE Open*, vol. 4, no. 1.


