



Boutique Financial Planning Principals Group Inc

PO Box 80, GRANGE QLD 4051

General Manager
Retail Investor Division
The Treasury
Langton Crescent
PARKES
ACT 2600

14 February 2014

Dear Sir

RE: SUBMISSION IN RELATION TO THE CORPORATIONS AMENDMENT (STREAMLINING OF FUTURE OF FINANCIAL ADVICE) BILL 2014

Please find enclosed the BFP's submission regarding the draft Bill.

Who are the Boutique Financial Planners?

The Boutique Financial Planning Principals Group Inc (BFP) was formed in 2002 to give a voice to small, independently-owned financial services licensees which in the main are in the advice giving business rather than the product sales business. We are a national, not for profit, organisation with members in every state. Most BFP members comprise businesses of less than 5 advisers – being small family owned businesses.

Our Submission

In general we support the government's proposals to reduce compliance costs for small business and as such are in agreement with the provisions of the draft bill.

However, in relation to Chapter 2 of the Draft Explanatory Memorandum, Ongoing Fee Arrangements, we propose amendments to the regulations regarding Chapter 7 of the Corporation Act 2001 in relation to the provision of fee disclosure statements (FDS) as follows:

- Where an adviser, pursuant to an ongoing fee arrangement, directly invoices clients annually or more frequently and that invoice sets out the services to which the invoice relates, and the client pays that invoice by cheque or electronically (including under a direct debit arrangement), we propose no FDS would be required, as it represents a doubling up of information already provided, and
- Where an adviser's fees pursuant to an ongoing fee arrangement are calculated, deducted from a client's account, and paid to the adviser by an Investor Directed Portfolio Service (IDPS or "platform"), and that IDPS reports to the client the fees so calculated and paid as part of the IDPS' regular client reporting requirements, no FDS would be required as the fees have already been disclosed to the client.

In neither of these situations can it be argued that clients have become "disengaged" or are "passively paying ongoing advice fees"¹ and as such the provision of an FDS is unnecessary and in our members' experience simply a source of client confusion.

¹ Explanatory Memorandum Corporations Amendment (Future of Financial Advice) Bill 2011, Section 2.6, page 20 suggested these as reasons Fee Disclosure Statements were required

Corporations Act (2001) Section 962G(2) provides that the regulations may provide that the requirement to provide a fee disclosure statement contained in Section 962G(1) does not apply in a particular situation. Accordingly it would be possible, if the government thought fit, to provide exemptions for these situations by regulation rather than legislation, specifically by including the situations described above in Regulation 7.7A.10 as arrangements that are not ongoing fee arrangements.

We would be happy to discuss our proposals with Treasury or answer any questions which may arise.

Yours faithfully



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Boutique Financial Planning Principals Group Inc.

Submission to Treasury

re

Corporations Amendment (Streamlining of
Future of Financial Advice) Bill 2014

and

Corporations Amendment (Streamlining of
Future of Financial Advice) Regulation 2014



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Summary

The Boutique Financial Planning Principals Group (BFP) supports the government's proposals to reduce the compliance burden on small business, financial advisers and their clients.

In particular, FOFA provisions regarding the provision of Fee Disclosure Statements introduced a costly level of red tape that penalized financial advisers that were already providing the information regarding services and fees. We propose further amendments removing the need to provide Fee Disclosure Statements in circumstances where the actual fees a client has paid have already been, or will be, disclosed to clients in other forms (eg invoices, regular reports).

We note the Assistant Treasurer's reported comments regarding other areas in relation to the provision of financial advice which may be reviewed in due course and welcome an opportunity to be involved in those discussions.

However, we recognise the imperative of firstly implementing the government's election commitments, and so have chosen not to use this submission as a forum to canvas our views on other financial service industry matters.



Best Interest Obligations

- Removal of the catch all provision.
The BFP supports the removal of this provision for the reasons provided in the draft Explanatory Memorandum (EM).
- Facilitating Scaled Advice.
The BFP supports the proposed amendments.
- Reduced Best Interests Obligation – Basic Banking Products and General Insurance.
The BFP supports the proposed amendments.



Ongoing Fee Arrangements

- Removal of the “opt in” requirement.
The BFP supports the removal of this requirement for the reasons provided in the draft Explanatory Memorandum (EM).
- Changes to Fee Disclosure Statements (FDS).
The BFP supports the proposal to make FDS’s prospective from 1 July 2013.

BFP Proposed Further Changes

The Explanatory Memorandum for the Corporations Amendment (Future of Financial Advice) Bill 2011 stated:

(1) In Section 2.4 on page 19;

“ in some situations clients of advisers that pay ongoing fees for financial advice receive little or no service. Of the clients that do receive a service for the fees they are paying, some are unaware of the precise magnitude of those fees....”

And

(2) In Section 2.6 on page 20;

“... initial disclosure requirement alone is not a guaranteed safeguard for clients that become disengaged after a number of years of ‘passively’ paying ongoing advice fees.”

The BFP agrees that clients should not be charged for services not rendered, and should be informed of the fees they are paying.

However, surely a client that is invoiced for those services, and pays the fee after receipt of that invoice, does not fall into the category of being “unaware of the magnitude of those fees”, or “disengaged”. In these circumstances a Fee Disclosure Statement is an un-necessary doubling up of information already provided.



Similarly, we note the government's intention to clarify that fees paid by the client via another party (eg via a platform operator), at the clear direction of the client and with the client's clear consent, are exempt from the ban on conflicted remuneration.

ASIC Regulatory Guide 148 requires platform operators to provide quarterly reports to clients which contain information about "all transactions during the quarter" and "the revenue and expenses of the investor", (RG148.118), as well as an audited Annual Report, and as a result these reports provide investors regular information about the quantum of fees paid to their adviser. Once again, an additional annual Fee Disclosure Statement provides no useful additional information assuming the platform operator continues to hold a "clear direction" from the client.

We acknowledge that in some cases clients may have interests in multiple platforms, making it more difficult to establish the total of adviser fees being paid (or the total of administration, transaction or other fees). In these cases some materiality threshold could be applied, either as a percentage or \$ figure to ensure that if a substantial majority of the fees being paid have been disclosed in one report then no Fee Disclosure Statement is required.

Section 962G (2) provides that "The Regulations may provide that subsection (1) does not apply in a particular situation."

We therefore propose the situations described above be included in Regulation 7.7A.10 as arrangements that are not ongoing fee arrangements.



Conflicted Remuneration and Other Banned Remuneration

- General Advice.
The BFP supports the removal of this provision for the reasons provided in the draft Explanatory Memorandum (EM).
- Exemption for life risk insurance benefits.
The BFP supports the proposed amendments.
- Execution Only Exemption
The BFP supports the proposed amendments.
- Education and Training Exemption.
The BFP supports the proposed amendments.
- Basic Banking Exemption.
The BFP supports the proposed amendments.
- Ban on volume-based shelf space fees
The BFP supports the proposed amendments.
- Client-pays exemption.
The BFP supports the proposed amendments.
- “Mixed” Benefits.
The BFP supports the proposed amendments.

Corporations Amendment (Streamlining of Future of Financial Advice) Regulation 2014

The BFP supports the proposed amendments to the regulations, with the addition of the changes regarding exemptions from providing Fee Disclosure Statements referred to above.



The Boutique Financial Planning Principals Group

The BFP is a national, non profit association of like-minded, independently owned financial planning practices. The BFPPG was incorporated on 26th April 2002 which formalised a monthly study meeting of boutique financial planners going back to 1996. The BFP now has around 85 principal members, with members in every state.

Members of the BFP must:

- Have their own licence to provide financial advice;
- Be providing ethical and professional financial planning advice i.e. advice which puts the client's interests first;
- Be independent and independently-owned, as defined in the BFP Constitution;
- Be practitioner members of the Financial Planning Association of Australia (FPA); and
- Have 20 or less Authorised Representatives.

The Mission of the BFPPG is to use our collective strength to improve financial planning for clients and financial planners by:

1. Sharing ideas and information between members — helping members in all areas of financial planning with emphasis on the particular vulnerabilities of small businesses in an industry where the majority are large businesses.
2. Fostering friendship between members and providing support to financial planning representatives seeking their own licence.
3. Communicating with the FPA — providing a united and strong boutique voice to the FPA and working with the FPA to promote the specific interests of boutique financial planners.
4. Communicating with regulators and government — providing a united and strong voice to regulators and government about matters that are consistent with the provision of client-focused as distinct from product-focused financial planning advice to the Australian public.
5. Promoting awareness and recognition — promoting the significant differences between boutique financial planners and institutionally aligned financial planners and the differences between “advice businesses” and “product sales businesses” to regulators, politicians and to the public.



The Author

This submission was prepared by the Executive of the BFPPG with input from, and on behalf of, the members and represents the collective view of the BFPPG.

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