



19 February 2014

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

Dear General Manager,

**Comment on the draft legislation, draft regulations and explanatory material pertaining to amendments to the Future of Financial Advice (FOFA) legislation**

Thank you for the invitation to make this submission. I do so as a member of the School of Banking and Finance at the University of New South Wales. I am solely responsible for its contents.

In this submission I address the need to preserve fee arrangements in the provision of financial planning advice that complement measures being undertaken elsewhere to encourage the professionalization of the Australian financial planning industry. In this brief submission I deal with proposals to remove from the legislation and regulations provisions for (1) obtaining the client's written informed consent to the fee arrangements; (2) making an annual disclosure of fees collected and any significant variation from previously advised fees; and (3) obtaining written consent from the client on a biennial basis to continue the previously agreed fee arrangements. I argue that the proposed changes are retrogressive in relation to advances being made in sections of the Australian financial planning industry. Finally, I highlight positive aspects of the proposed amendments.

*1. Raison d'être for the proposed changes*

The proposed legislative and regulatory changes are intended to save an estimated \$90 million in implementation costs and reduce annual compliance burdens by an average of approximately \$190 million per year, according to media releases citing the responsible Minister. I submit that relative to the size of the investment industry in terms of assets

under management, these savings are indeed significant. However, what appears lacking is a comparison of the estimated costs with the dead weight costs that would be incurred by inattentive investors whose fee arrangements become redundant but are perpetuated in the absence of periodic opt-in arrangements. Also not counted is the benefit that accrues from investors being compelled to revisit their fee arrangements with financial planners periodically in that this event is an opportunity for inattentive investors to also rethink their instructions to financial planners.

## *2. Incongruence with professionalization of financial planning*

The dangers to the credibility of the financial planning profession posed by asset based fees are well-known. It is my submission that, instead of preserving such fee arrangements in any form, the proposed legislative and regulatory amendments should instead aim at a phased introduction of a fee-for service regime in the Australian financial planning industry. This would bring the financial planning profession in line with other professionalized undertakings such as accountancy. Such changes would also complement the amendments to the financial planner education requirements currently under proposal by the Australian Superannuation and Investments Commission.<sup>1</sup> Should financial planners be required to have better qualifications as a result of the ASIC proposals, an opportunity would be lost if such advisors were to then practice under conflicted fee arrangements.

## *3. Best practice in sections of the financial planning industry*

It is my opinion that the rest of the Australian financial planning industry stands to gain by emulating the example set by the Accounting Professional & Ethical Standards Board (APESB), which recently issued the standard APES 230 Financial Planning Services. Under APES 230, fee for service is the preferred financial planner remuneration method on the basis that it effectively circumvents conflicted remuneration practices. That significant sections of the financial planning industry are voluntarily adopting the fee-for-service model demonstrates that there is capacity in the rest of the industry for greater professionalization, starting with fee arrangements.

## *4. Positive aspects of the proposed changes*

Finally, the scaled advice amendments are to be commended. However, for the concept of financial planners and clients agreeing on the scale of advice to be in line with the spirit of a professional approach to financial adviser compensation, separate fees need to be agreed by planners and

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<sup>1</sup> See ASIC CP 212 Licensing: Training of financial product advisers – Updates to RG 146.

clients for such advice, with the agreement renewed periodically for repeated advice.

Yours sincerely

**Associate Professor Jerry Parwada**

Head of School

School of Banking and Finance