



Australasian  
**Compliance**  
Institute

May 31, 2011

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

Dear Sue,

### **Future Of Financial Advice – Soft Dollar Benefits May 2011**

The Australasian Compliance Institute (ACI) would like to take this opportunity to thank the Australian Treasury for providing an opportunity for ACI to make comment upon its proposed restrictions on soft-dollar benefits for the financial advising profession.

ACI is the peak industry body for the practice of compliance, risk and governance in Australasia. Our members are professionals actively engaged in the private, professional services and Government sectors within Australia, New Zealand, Singapore, Thailand and Hong Kong.

While there are a number of issues still being considered by Treasury as part of the FOFA reforms, we will concentrate our comments upon the proposed soft-dollar restrictions.

ACI is aware that the government is committed to the banning of soft-dollar commissions, due to the concern that they can potentially impact upon the product advice being provided to the clients of financial advisers in a manner that is not transparent.

However, ACI is concerned that the current proposal creates exceptions and opens up a number of options for people to attempt to circumvent the proposed reform (we are happy to provide examples verbally at some future date). From both a compliance and enforcement perspective, the current proposal also raises a number of issues that in broad terms would translate to overly complex compliance systems and a regime that is difficult to effectively enforce, to no added benefit for organisations, government or consumers.

Looking specifically at the exempt criteria around professional development for a moment, ACI would question the need for a carve out for the proposed ban given the requirements financial advisers have under PS146 to maintain their status via the completion of CPD or PD activities. Expenditure on these CPD activities is also tax deductible. The benefit of singling out "professional development" as requiring special dispensation under the proposed restrictions is unclear, especially at the base amount suggested, given the current market pricing for these kind of event and education offerings.

### **Principal Members**





We would also be concerned that once exemptions are created for a legislative/regulatory requirement, then ambiguity or individual interpretation is introduced into the subsequent decision making process. This will not only produce opportunities for those firms/individuals to circumvent the ban should they want to, but compliance policies and record keeping become more complex and expensive, and enforcement is also made more difficult.

ACI would recommend that if the Minister sees fit to ban soft-dollar commissions, he does so in a wholesale manner that makes the policy position clear for all parties. In the case of professional development, once attendance at the professional development event is paid for or provided by a party other than the individual or the organisation they work for, then this is considered a soft-dollar commission and as such should be considered illegal.

Once again ACI would like to thank Treasury for providing this opportunity to comment upon the proposed FOFA reforms. Should you require any additional information or seek clarification on the comments that appear in this submission, the please do not hesitate to contact ACI on (02) 9292 1788.

Yours sincerely

**Martin Tolar**  
**Chief Executive Officer**

*Please note that the views expressed in this submission represent those of the collective ACI membership. Consequently, individual members and organisations may hold a different perspective on some of the points raised and therefore reserve the right to make comment in their own right.*