

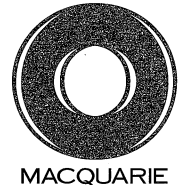
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4 January 2012

Mr T. Bryant
Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
P.O. Box 6100
Parliament House
Canberra ACT 2600



Email: corporations.joint@aph.gov.au

Dear Mr Bryant

INQUIRY INTO THE FUTURE OF FINANCIAL ADVICE REFORMS

Macquarie welcomes the opportunity to comment on aspects of the Future of Financial Advice ("FOFA") legislative reforms as part of the Committee's review of the relevant legislation.

Macquarie has been involved in the development of the submission of the Financial Services Council and supports the views it is putting to the Committee in relation to the ongoing operation of FOFA provisions on ASIC powers, opt-in renewal obligations, best interests duty, remuneration of platforms and superannuation fund trustees, intra-fund advice and application of conflicted remuneration provisions to general advice and monetary and non-monetary benefit carve-outs.

Macquarie has also been involved in the development of the part of the submission of the Australian Bankers Association relating to the operation of the FOFA conflicted remuneration provisions on employee remuneration and supports the views it is putting to the Committee on that issue.

Macquarie also raises by way of direct submission the issue of the scope for independent (non-vertically integrated) operators to provide cost effective products and services to superannuation fund members and other end consumers. We consider that outcomes on this issue will have an important impact on the efficiency and competitiveness of the financial services industry. In our view, the following points are critical to achieving this outcome.

The need to ensure volume-based discounts are passed through to end consumers

In Macquarie's view one of the basic principles which needs to be supported in both FOFA and related superannuation legislation is the ability for any discounting of fees for products and services to be passed through to the end consumer. In our view this principle holds even where the discounting is volume-based provided the whole of the benefit of the discounting is received by the end client: in these circumstances no business intermediary retains a conflicted benefit.

While the principle is relatively straightforward, currently it is not clear to us that it will be adequately supported in the contexts outlined below.

Trustee administration services & superannuation law: Under current law, members of a large superannuation fund may receive the benefit of any volume-based discounting of the fund's administration fees by various means, including by means of passing on any rebate paid by the platform to a dealership or adviser which may then be passed on to the relevant fund member. The Future of Financial Advice ('FOFA') legislative reforms are intended to prevent a dealership or adviser from retaining any such volume-based benefit but, as we understand it, the reforms are not intended to prevent a discount in the cost of trusteeship and administration services from being negotiated with a dealership on the basis that the discount is passed directly on to the fund member.

In Macquarie's view the ability to pass volume-based discounting of administration fees to fund members is a positive and essential feature of the tabled FOFA provisions and it needs to be supported by consequential amendments to the *Superannuation Industry (Supervision) Act 1993* ("SIS Act"). We consider that the ability to provide such discounts to fund members on this basis is essential for independent providers to be able to continue to compete with vertically integrated providers which will inevitably have flexibility in the pricing of their administration services (and greater flexibility in terms of profit sharing / cost subsidisation with their in-house advice arms). Macquarie believes that it is critical for the continued existence of a healthy independent advisory sector for there to be scope to charge different administration costs for different members depending on the dealership/adviser through which they have received advice in relation to their membership of the fund.

In the absence of the capacity to charge differential administration fees to fund members who are advised by different advisory firms, the only means by which independent providers are likely to be able to compete with vertically integrated arrangements is by means of establishing a separate superannuation fund for each advisory firm, a process which inevitably adds inefficiencies and runs counter to one of the key thrusts of the Super System Review recommendations: scale and efficiency.

Such differential pricing is somewhat similar to that which occurs in relation to members of a corporate master fund who have joined the fund as employees of

different employers, where different administration charges apply to employee members of different employers. However, we consider that it is necessary for the SIS Act to be amended to accommodate differential administrative charges on the basis described. We recognise that constraints are proposed in relation to charges imposed for MySuper accounts, and that there may be a need to ensure such amendments do not produce unintended consequences for MySuper accounts. However, we consider that that should be able to be dealt with in a relatively straightforward manner, given that none of the arrangements with which we are concerned involve MySuper accounts.

Fund manager discounts: Development of conflicted remuneration provisions relating to payments between fund managers and other providers requires careful consideration of a range of factors to ensure that exemptions apply in relation to appropriate, non-conflicted benefit payments. In Macquarie's view one of the more straightforward aspects of this issue relates to discounts received by end clients. Once again, if a fund manager reduces its fees and the reduction is passed through to the end client in full, then we consider the provision of the benefit should be permitted under FOFA legislation.

If you have any queries or comments in relation to this submission please feel free to contact me or alternatively Trevor Burns, Division Director, Central Executive Group

Yours sincerely

David Shirlow
Executive Director
Head of Government Relations – Banking and Financial Services