

BFPFG

Boutique Financial Planning Principals Group Inc.

Submission to the Parliamentary Joint
Committee on Corporations and
Financial Services

re

Corporations Amendment (Future of Financial
Advice) Bill 2011

and

Corporations Amendment (Further Future of
Financial Advice Measures) Bill 2011

Contents

Statutory Best Interest Duty	4
The Opt in Arrangements	5
Enhancement to ASIC's Powers	6
Volume Rebates	7
Corporate Superannuation	8
Improved Disclosure	9
Use of the Term "Financial Planner"	10
The Boutique Financial Planning Principals Group	11
The Author	12
Contact Details	12

Summary

The Boutique Financial Planning Principals Group (BFPPG) recognises that the Future of Financial Advice (FOFA) reforms are a step in the right direction but they do little to address the problems that instigated the first Parliamentary Joint Committee (PJC) Review in 2009. In addition, they do not yet address the significant remaining issues of disclosure and the differences between the provision of advice and the sale of a product.

The PJC Review in 2009 was established to enquire into specific failings (Storm, Westpoint etc.) and recommend how to protect the consumer going forward. The statutory best interest duty may have prevented Storm advisers from providing the type of advice that proved to be inappropriate. It is hard to see how the other FOFA reforms would have prevented those failings.

Rather than encourage a level playing field where the consumer can exercise choice with confidence, the FOFA reforms may entrench an uneven approach that does not distinguish between the provision of advice and the sale of a product.

The recommendations in this submission will strengthen the FOFA reforms and provide an improved financial planning environment for all stakeholders.

Statutory Best Interest Duty

The BFPPG strongly supports a statutory best interest duty since acting in the client's best interest is a condition of membership of the BFPPG and it is essential if consumers are to have any confidence that they are receiving quality advice.

To ensure that the reform is not watered down, or circumvented by sections of the financial services industry, the legislation will have to be codified in a very clear manner.

The BFPPG is concerned that there may be times when it is difficult for an adviser with institutional links or with remuneration arrangements to give advice that is in the client's best interests. How, for example, will an adviser handle a situation where it is clearly not in the client's best interest to remain in, say, a super fund that is the adviser's employer?

We note that the Information Pack that accompanied FOFA stated:

A person giving personal advice will not be required to broke the entire market or a subset of the market of all available financial products to find the best possible product for the client, unless this service is offered by the adviser or requested by the client and subsequently agreed to by both parties.

Is this meant to limit the requirement to act in the client's best interest to "act in the client's best interest within an institution's limitations?" If that is the case, how will consumers be made aware that the advice may be limited by an adviser's inability to consider alternatives that may include going outside the institution?

The client's best interest duty is an important worthwhile reform that will work best if there are no exceptions.

Opt-in Arrangements

The BFPPG proposes that opt-in should only be applicable in cases where the client has no ability to opt-out.

Financial planners have close relationships with their clients that involve regular contact. The relationships are based on the mutual understanding that financial planning advice has a long-term focus and the simple business principle that a client who is well looked after is a valuable asset. A standard business practice is to have a client service agreement or contract that stipulates the services to be provided, the applicable fees, the method of payment and how either party can terminate the agreement. Financial planning clients have a clear understanding of their entitlements and their obligations; they are not disengaged.

A suitable form of wording can be added to a client service agreement or to a review document to confirm the services and fees. That would meet Government's objective of having a client renew the fee mandate on a regular basis. A separate opt-in arrangement, however, will add no additional benefit to the relationship except an unnecessary layer of cost.

There is wide-spread opposition to opt-in amongst financial planning professionals because it is an unnecessary distraction with costs that must be passed on to consumers. It is an ineffective and costly solution to a non-existent problem and it does nothing to improve either the quality of advice or access to low cost simple advice.

A separate opt-in exercise will encourage a short-term focus from clients. Instead of thinking about investing for their retirement, clients will be thinking about the next year or so. It could encourage clients to stop paying for advice at the first sign of a market downturn which may well be the time when they should be staying the course.

It will introduce a whole new set of problems that will be expensive to solve. Clients often misplace documents, waste time, go on holidays etc. Chasing up clients will be an expensive, frustrating activity for advisers and annoying for clients and it may result in legal problems for both clients and advisers.

It has been a long-standing part of the Australian culture that we pay for the services we receive, we complain if the service is poor and we refuse to pay for services we do not receive. There is no need to make a fairly common arrangement between a client and adviser more complex and more expensive for no additional benefit.

Enhancements to ASIC's Powers

The BFPPG supports the enhancements to ASIC's licensing and banning powers.

Further the BFPPG proposes that all advisers be registered at the individual level. This will give ASIC the ability to keep a track on those negligent or dishonest advisers who, having been found out by their AFS licence provider, simply move on to another AFS licence holder. It would also enable financial planners to have an additional check on prospective financial planning employees. It is in everyone's interest to have rogue advisers swiftly and completely removed from the profession.

Volume Rebates

The BFPPG supports the complementary banning of all volume payments and of cross subsidies from institutions to their advice arms. The two very separate activities of (a) product manufacture (or ownership) and distribution and (b) the provision of advice, must be kept apart.

A ban on volume rebates alone will not be effective and we have already seen larger dealer groups moving to protect their revenue base by becoming their own Responsible Entity and recommending their own products to retain the income that they would have received from volume rebates and that will now be banned.

We recognise that there are arrangements where large dealer groups generate a significant income stream from rebates and volume bonuses. The effect of this has been to largely negate any pressure to reduce platform fees paid by clients. Platforms have been part of the financial planning landscape for twelve years but their fees have remained largely unchanged. The BFPPG believes that platform fees are inflated and rebates and bonuses based on volume effectively remove the incentive to reduce fees.

It could be argued that the BFPPG is opposed to volume rebates because the members are small AFSLs and, individually, are unable to generate sufficiently large volumes to earn rebates. It would be more relevant, however, to argue that the clients of small AFSLs should not be cross subsidising larger dealers, just as the members of super funds should not be cross subsidising the provision of in-house advice to other members.

The BFPPG strongly believes that financial advice must be in the client's best interest and distortions to remuneration that misalign the interests of the client and the financial planner are to be avoided.

The BFPPG position recognises that there should be a sufficient period of grace to allow those who receive volume rebates to restructure.

Corporate Superannuation

The BFPPG believes that removing the ability of corporate superannuation specialist advisers to be remunerated via platform fees will effectively remove their ability to be paid. This goes directly against Government's stated aim of promoting choice and enabling access to quality advice at a low cost.

Unlike the receipt of trail commissions, the advice and services provided by corporate super specialists have a value and the most efficient, cost effective way of being remunerated is through platform fees.

The author has experience in this area: several thousand members in corporate super funds totalling more than \$100 million with an average balance around \$30,000. Currently, the fee charged is a percentage of the assets negotiated directly with the client. The average cost per member is around \$90 to \$100 per annum. It should be remembered that these fees relate to general advice which is available to all members. Fees for any personal financial planning advice provided to an individual member are paid by that member.

The services provided include:

- A dedicated corporate super adviser who helps the employers meet their super obligations by keeping them up to date and assisting their HR and payroll staff with implementation. The adviser sits on the fund's Policy Committee Meeting to guide the committee members through their responsibilities.
- Member seminars that cover fund updates and are educational by nature.
- Member access to face to face individual member consultations on site.
- A toll free line that gives members access to a qualified financial planner and administration support person who, more often than not, does what the fund administrator is supposed to do but does not.
- Assistance to members and their families when making a insurance claim.

Corporate super specialists represent the employer and the members not the administrator.

Removing that ability to be remunerated will result in an inability to service clients, members will be predominantly invested in the fund's default option, with little or no understanding of their super, little or no opportunity to salary sacrifice, unaware of co-contributions or transition to retirement strategies and with no inclination or interest in investing more into their super since there will be no one to advise them.

Similarly, removing the ability to receive a commission for group life cover within superannuation will result in an inability for corporate super specialists to be remunerated and therefore an inability to service clients. The responsibility will fall back on the trustees who will have to increase admin fees to obtain cover for their members and there will be no cost saving.

The BFPPG strongly believes that corporate super specialists have a very important role in delivering good financial outcomes to super fund members and we urge Government to rethink the question of remuneration.

Improved Disclosure

The BFPPG believes that the consumer will be better served when there are clear, legal definitions that make the distinction between (a) product sales driven advice and (b) strategically focussed advice.

Under current arrangements, it is very difficult for consumers to identify whether they are dealing with a product salesperson or a financial planner committed to putting their interests first. There is ample evidence that some financial product salespeople hold themselves out to be independent in a misleading manner so as to make it easier to make a sale.

The BFPPG accepts that the sale of financial product is not, of itself, a problem. It is the sale of the product under the guise of independent advice by a salesperson with a vested interest in the sale that is the problem. Consumers should be able to ask the question ‘Why am I being sold these products – Is it because the financial planner is putting me first or is he putting himself first?’ and the answers should be clear and obvious.

The objective is clear but achieving it will require a commitment on the part of all stakeholders, or failing that, direction from Government. Clearly there are financial planning practices that are independently owned at one end of the spectrum and there are those practices wholly owned by institutions at the other end. There is a very large part of the industry, however, that falls between the two where there is part ownership by institutions and an in-built bias to recommend the institution’s products.

Financial planners have to work out if they are in the advice business and should be remunerated for providing advice or if they are in the product sales business and should be remunerated for selling product.

The BFPPG accepts that there are different business models but consumers should have confidence in their decision to go with one model over another. A client may prefer to deal with an institutionally owned practice because he values the corporate strength behind the practice and is prepared to accept some level of product bias for that corporate strength. Another client may prefer to deal with an independently owned financial planner because he considers product bias to be more of a problem. Both types of client ought to be able to make their decisions on the basis of a fully informed position about ownership relationships.

The Term “Financial Planner”

The term “financial planner” should be restricted to those financial planners who are members of a professional body and who are committed to a code of practice and ethical standards and the restriction should be expanded to include other terms that may suggest a professional obligation.

As the financial planning industry moves to a profession, those seeking advice should be able to distinguish between advisers who have the qualifications, experience, and commitment to looking after them financially over the long-term from those who do not.

Currently anyone can call themselves a financial planner. Anyone who is RG146 compliant, (which can be obtained with a minimum of effort and in a very short time) can give advice to retail clients. The BFPPG believes that this minimum requirement is insufficient for financial planners to be taken seriously as professionals.

There are, however, too many individuals holding themselves out to be financial planners who meet the barest minimum training or ethical requirements. In most cases these people are associated with single product advice or advice that is focussed strongly into one type of asset class or investment type.

All stakeholders in financial planning industry have an interest and a duty in seeing that people are properly identified. The BFPPG is committed to the principle that the public should be able to readily identify who is and who is not a genuine financial planner.

The Boutique Financial Planning Principals Group

The BFPPG 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 BFPPG now has around 85 principal members, with members in every state.

Members of the BFPPG must:

- Have their own licence to deal and/or advise in securities;
- 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 BFPPG Constitution;
- Have significant membership in the Financial Planning Association of Australia (FPA); and
- Have 15 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 owned 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 Claude Santucci, President of the BFPPG and the executive with input from, and on behalf of, the members and represents the collective view of the BFPPG.

Claude has more than 45 years experience in finance and banking in Australia and in the key financial centres of Europe, North America and Asia. He has been a financial planner for over 21 years and has an active involvement in the profession.

Contact Details

Boutique Financial Planning Principals Group

The Secretary

Suite 4, Grange Place, 15 Grange Road, GRANGE QLD 4051

Phone: (07) 3356 9933 Fax: (07) 3856 2622