AMP

Submission to the Parliamentary Joint Commission Inquiry into the Corporations Amendment (Future of Financial Advice) Bill 2011 and Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011

AMP Group

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SUMMARY

AMP welcomes the opportunity to make comments to the Parliamentary Joint Committee on Corporations and Financial Services (the “PJC”) inquiry of the Corporations Amendment (Future of Financial Advice) Bill 2011 and Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 (the “Bills”) as introduced into Parliament.

AMP has consistently supported the principles underpinning the proposed Future of Financial Advice (“FoFA”) reforms aimed at increasing the professionalism of financial advisers and enhancing consumer confidence in the industry.

AMP has played a leading role in the industry in moving away from paying upfront and ongoing commissions for advisers on new superannuation, pension and investment business from 1 July 2010 and we are committed to working with the Government and the industry to achieve the right outcomes for our customers and advisers.

In addition, we have provided regular contributions to the consultation on the proposed FoFA reforms for the financial services industry and have publicly advocated the principles underpinning the reforms of improving the quality of financial advice; and expanding the availability of more affordable forms of advice.

However, we now have significant concerns that the legislation to bring these FoFA reforms into effect may undermine the stated policy intent.

RECOMMENDATIONS

There are numerous problems with the drafting of the FoFA legislation. However, AMP's key recommendations are:

Transitional issues

1. The financial services industry must be given the ability to review the complete FoFA and Stronger Super legislative packages (including supporting Regulations) in their entirety, sufficiently prior to the legislation coming into effect, in order to fully understand how all the components will interact.

2. The legislation should include an FSR-style phased introduction to the reforms with mandatory compliance by July 2014 (assuming a 1 July 2012 start date), providing the industry and advisers with sufficient time to make the necessary changes to comply with this legislation.

Opt-in renewal of ongoing advice fees

3. We do not believe that the opt-in renewal obligation is necessary. However, if introduced, the renewal period should be extended to a minimum three year period in order to minimise the cost and regulatory burden on licensees, representatives and consumers.

4. A full Regulatory Impact Statement should be completed before the legislation is debated in the Parliament to enable decision makers to be fully aware of the impact the legislation will have on consumers, small business' and the industry as a whole.

Ongoing fee disclosure statements

5. The requirement for an annual disclosure statement is unnecessary and should be replaced by a mandatory "opt-out" disclosure in all relevant disclosure documents provided to a client throughout the advice process and product reporting cycle.

6. All proposed FoFA reforms should apply on a prospective basis only, consistent with previous Government announcements and stated policy intentions.

Anti-Avoidance Provision

7. The anti avoidance provisions should be no more onerous than similar legislation such as the Tax Act. The anti avoidance provisions should be amended to capture the following three types of schemes:

- a scheme to avoid the best interests duties,;
- a scheme to avoid the opt-in requirements,
- a scheme to avoid the bans on particular types of remuneration that have the potential to conflict advice

Best Interests Duty

8. The best interests duty is intended to operate *at the time of the advice* and not afterwards. To this end, we recommend that section 961B(1) be changed from applying "in relation to the advice" to "at the time of the advice". This allows the duty to apply at a point in time and provides certainty of when the timing for the duty has been completed. The EM is consistent with the approach when it uses the same expression "at the time of the advice" in paragraph 1.43.

9. In order to achieve consistency and certainty and provide the true safe harbour announced by the Government, section 961B(2)(G) of the Bill which requires advisers to have 'taken any other reasonable steps' should be either deleted altogether or redrafted so that the adviser has "taken any other *reasonable* step *at the time of the advice* that would reasonably be regarded as being in the best interests of the client, given the client's relevant circumstances".

Scaled Advice

10. Paragraph 1.33 of the Explanatory Memorandum should be amended to remove the requirement to do a full fact find before scoping advice. That is, this should only require an adviser to "take into account the client's relevant circumstances" rather than the "overall circumstances" so that the adviser only takes information into account that it is relevant to the advice sought by the client and agreed with the adviser.

11. Given that the advice must be in the best interests of the client, be appropriate; and give priority to the interests of the client, then a client and an adviser should be free to agree the scope of advice.

Conflicted Remuneration

12. The ban on conflicted remuneration should not apply to benefits calculated by reference to:
    - benefits not caught by the ban on conflicted remuneration;
    - benefits caught but specifically excluded from the ban on conflicted remuneration; and
    - benefits that are grandfathered from arrangements existing prior to the introduction of the reforms.

    Volume related benefits calculated on permissible remuneration should not be caught as conflicted remuneration

13. Section 963B(1)(b) should be amended in order to only prohibit the payment of benefits relating to insurance in default superannuation. References to group or individual policies should be removed

14. Section 963B(1)(d) should be amended in order to allow the facilitation of payment of advice fees by a product issuer on behalf of the client.

15. Section 963D should be amended in order to align the ability of licensees and representatives to receive an exempted benefit for work carried out in relation to a general insurance and basic banking product.

16. Section 963C(d) should be amended to allow licensees to provide IT support and services to their authorised representative to the extent the benefit is related to the provision of financial produce advice to persons as retail clients. Currently, sub-paragraph (d)(ii) only applies to product issuers.

17. The proposed professional development requirements to be included in the regulations should not be limited to Australia or New Zealand. The legitimacy of professional development or genuine education or training should be determined by content rather than location.

18. The purchase and sale of financial planning businesses between a licensee and its authorised representatives should be specifically exempt from the ban on conflicted remuneration obligations.

19. The Bill should be re-drafted to provide the “grandfathering’ of existing remuneration arrangements, consistent with the Government’s stated policy and intent, prior to the commencement of the FoFA obligations.

20. The legislation should be amended to remove the stated ban on volume-based shelf space fees. Instead the ban on volume-based benefits that is part of the ban on conflicted remuneration in s963L of the Bill is sufficient to achieve the policy objective.

21. The Government should limit the ban on conflicted remuneration to situations where the remuneration relates to personal advice.

INTRODUCTORY COMMENTS

AMP supports the introduction of a number of the proposed reforms as outlined by the Minister for Financial Services and Superannuation in the "Future of Financial Advice Information Pack" (the "Information Pack") released in April 2011. In particular, we believe the introduction of an appropriately proportionate 'best interest duty' and improved powers for ASIC are positive reforms that will assist in increasing the professionalism of the industry and improve consumer confidence in seeking financial advice.

However, AMP believes that the condensed drafting process and the proposed implementation timetable could lead to the very real possibility that the reforms will not achieve the Government's stated objective of ensuring financial advice is affordable and accessible to all Australians[1].

1. TRANSITIONAL ISSUES

AMP acknowledges that the development of the FoFA legislation has evolved over a considerable timeframe and we have actively participated throughout the consultation process. We also understand the Government's ambitious agenda and timetable outlined by Minister Shorten in dealing with the FoFA and Stronger Super reforms, and the commitment to provide certainty for industry stakeholders as soon as reasonably possible.

There is a significant risk though that in the process of seeking the quick passage of this legislative package, the full ramifications and consequences of the legislation may not be fully understood.

Further, we have concerns about the time pressures for the industry in trying to implement the reforms proposed by the Government by the stated commencement date.

1.1 Ability to review complete legislative package

The FoFA legislation is being released via a number of tranches (expected to be three in total), with two tranches having been introduced into Parliament and the third yet to be released. Individually each tranche contains a series of significant reforms with substantial ramifications for the financial services industry – from financial advisers (small business owners) through to product providers. Collectively, there is substantial connectedness between reforms that is yet to be fully revealed.

All stakeholders need to properly understand the level of interaction between the individual components of the FoFA reforms so that they can fully assess the impacts of reforms and design and build a compliant response to the legislation. The 'devil-in-the-detail' of the legislation has the potential to cost the industry, and ultimately consumers', substantial amounts of money.

Further, there are elements within the FoFA legislation that are inextricably linked with other legislative reforms, such as the Stronger Super reforms. The ban on commissions on superannuation and insurance products under the FoFA regime dovetails directly into the design of new superannuation products under the MySuper proposals.

However, there is a mismatch in timing, with commissions being required to be removed under FoFA by 1 July 2012, yet the MySuper obligations do not commence until 1 July 2013. Without final legislative guidelines as to the design of a MySuper product, the industry cannot make the investment in a new superannuation product on the hope that it will comply with the MySuper legislation in 12 months time.

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[1] The Future of Financial Advice Information Pack - Monday 26 April 2010, page 2.

Thus, it is absolutely critical that the industry is given the opportunity to review the complete legislative package (all tranches of the FoFA and Stronger Super legislation, including supporting Regulations) in order to design the most efficient, cost effective compliance response as possible.

Recommendation
The financial services industry must be given the ability to review the complete FoFA and Stronger Super legislative packages (including supporting Regulations) in their entirety, sufficiently prior to the legislation coming into effect, in order to fully understand how all the components will interact.

1.2 Ability to comply with legislative obligations

On the Government's own timetable, both Bills are unlikely to have passed through Parliament until the end of the first quarter of 2012 at the absolute earliest (more probably June 2012), with compliance with all obligations expected from 1 July 2012. This means that the industry will have only 3 months from receiving the final legislative obligations to ensure they are in a position to comply. Supporting Regulations and/or Regulator Guidance is necessary to clarify some elements of the legislation, yet these have not yet been released for public consultation to date.

Whilst some obligations may inherently have a deferred commencement date (eg: opt-in renewal notice), systems and processes must still be in place by 1 July 2012 to ensure that information is able to be recorded in order to meet the legislative obligation at the time it is required to be presented to the client.

This timeframe is extremely challenging given successful implementation of these reforms requires changes to technology, processes and education and training of advisers (3,300 advisers alone for AMP) who are located across the nation as well as fundamental changes to product systems and remuneration arrangements.

Based on past experience we believe training of this magnitude will take upwards of 6 – 9 months to go from design phase to national rollout. Obviously, the rollout of such training can not commence until such point that the details of the new legislative obligations for advisers are concrete. In addition, it is highly cost prohibitive to roll out national training of advisers on a topic by topic basis.

Accordingly, AMP would want to have a clear understanding of all of the key regulatory obligations the FoFA package of reforms will impose on planners in order to best manage the implementation of the reforms. With parts of the package yet to be revealed, this is a challenge we are unable to meet at this stage of the legislative process.

We have conducted a detailed internal analysis on the systems, process and procedural changes required for the major reforms and these are significant. For example, the introduction of a "best interests" duty for advisers alone will require:

- systems and documentation changes to our Statement of Advice and Financial Services Guide templates and systems;
- fundamental changes to our training and compliance manuals to include the general duty as well as specific steps;
- design of a training programme that adequately informs advisers and their staff of their new obligations, including changes to processes, procedures and documentation as a result of these new obligations

- delivery of a training programme for more than 3300 representatives and their support staff (nationally);
- updates to our monitoring and supervision processes and systems to support and embed these changes.

In addition, the implementation of the proposed 'opt-in ', conflicted remuneration, banned remuneration and soft-dollar reforms will require extensive changes to our IT systems and administration processes to monitor and record the details of every client's portfolio to ensure we comply with the legislation.

Combined with the other reforms proposed both by FoFA and Stronger Super we strongly believe that it will be very difficult, if not impossible, to implement a suitable solution that will comply with the new obligations for advisers by the proposed start date of 1 July 2012.

ASIC statement on compliance

ASIC have recently announced their recognition of the task ahead of providers to comply with the FoFA legislative reforms. In their announcement they have proposed a period of "facilitative compliance" for up to 12 months, whereby providing reasonable endeavours are undertaken to comply with the obligations, they will not impose a strict penalty regime where they detect instances of non-compliance.

While this approach provides some comfort for industry participants in relation to regulatory action, it also adds a new layer of uncertainty. This is because banned payments and benefits will still be illegal and therefore unenforceable. Breaches of the new regime will also still be subject to civil action. Trustees in particular will be duty bound not to pay amounts out of the trust unless it is lawful to do so. New arrangements will still have to be compliant, and industry and other stakeholders will not have had the necessary time required to understand how this is to be done. Non-compliant arrangements entered into within the "facilitative compliance" period will also still be subject to regulatory or civil action after the facilitative compliance period is over.

AMP considers a two year phased introduction for the proposed reforms (similar to the introduction of the Financial Services Reform regime) should be incorporated into the Bills to allow the industry sufficient time to implement and achieve full compliance with the new obligations.

Recommendation

The legislation should include an FSR-style phased introduction to the reforms with mandatory compliance by July 2014 (assuming a 1 July 2012 start date), providing the industry and advisers with sufficient time to make the necessary changes to comply with this legislation.

2. OPT-IN RENEWAL OF ADVICE

AMP has consistently opposed the Government's proposed legislated obligation for financial advisers to send a renewal ('opt-in') notice every two years to new clients. We believe that the nature of the relationship between an adviser and their client should be able to be negotiated directly.

With the introduction of a best interests duty as well as the existing ability for a client to opt-out of most ongoing fee arrangements, we believe a specific obligation to expressly renew ongoing advice arrangements on a two year basis is inefficient and adds unnecessary cost to the industry.

Elements of the FoFA reforms proposed will impose significant costs on the financial services industry. A number of these costs will ultimately need to flow through to end-users by way of the cost of products and services delivered by this industry. This will be the case regardless of whether they are provided by 'for-profit' or 'not-for-profit' operators within the market.

Treasury has admitted that due process has not been followed in the development of the FoFA legislation and as a result they are in breach of the Government's own best practice guidelines. During questioning at a recent Senate Estimates committee meeting it was revealed that the Treasury had not completed a full regulatory impact statement for the legislation that is currently under review by the PJC[2].

Recommendation
We do not believe that the opt-in renewal obligation is necessary. However, if introduced, the renewal period should be extended to a minimum three year period in order to minimise the cost and regulatory burden on licensees, representatives and consumers.

Recommendation
A full Regulatory Impact Statement should be completed before the legislation is debated in the Parliament to enable decision makers to be fully aware of the impact the legislation will have on consumers, small business' and the industry as a whole.

[2] Hansard – Transcript of Senate Economics Legislation Committee meeting, 19 October 2011, page 102.

3. ONGOING FEE DISCLOSURE STATEMENTS

One of the most costly individual reforms within FoFA is the proposed requirement for an annual disclosure statement to be provided to all clients who have an ongoing fee arrangement with their adviser.

There are two main elements that give rise to this cost burden:

1. the level of prescription regarding the content of the statement; and
2. the retrospective application of the fee disclosure document to all existing clients with an ongoing fee arrangement.

3.1 Content of disclosure statement and existing disclosure obligations

As currently drafted, the legislation regarding fee disclosure statements requires that the statement includes the details of the fees paid and services received in the last 12 months and expected fees and services for the coming 12 month period.

The above information is excessively onerous and in most instances, is already provided to the client, often on multiple occasions. AMP considers it is unnecessary and superfluous to introduce a measure that duplicates existing information, and in some instances regulatory obligations, at an excessive cost to the industry, and ultimately, consumers without a clear benefit in return.

An analysis of the advice process and of the existing level of disclosure provided in Product Disclosure Statements (PDSs), Financial Services Guides (FSGs), Statements of Advice (SoA) and periodic statements have been attached at Appendix 1.

3.2 Cost of implementation of fee disclosure statements

Treasury has referred to research conducted by Rice Warner actuaries in relation to the cost on the industry of implementing the “opt-in” reforms. Based on their conservative estimates, they are still predicting that the opt-in reforms alone will introduce an additional $46 million of cost to implement, with ongoing expenditure of $22 million per annum. Over the next 5 years, this would equate to over $130 million of additional paperwork for the industry.

It is impossible with a reform of the magnitude of FoFA for costs not to be passed to the client through the advice process. Whilst the cost of the opt-in reform may only equate to a handful of dollars per client per year, this is but one reform. On a per client basis, the cost of implementing all FoFA reforms is far in excess of the $11 per client as estimated in the Rice Warner research.

Significantly, the Treasury at a Senate Estimates hearing estimated the cost of annual opt-in at$100 per customer.

We understand the Government’s belief that these reforms will ultimately enable more Australians access to more affordable parcels of advice, thus broadening the cost-base over which these reforms can be spread. However, the short to medium term cost of these reforms will result in this

generation of advice-seekers effectively subsidising future generations in the hope that these reforms do actually achieve the Government's stated intention.

3.3. Mandatory disclosure in existing regulated documents

We do not believe that the provision of an additional piece of paper to a client should be seen as the solution to the purported lack of interest by the community in dealing with financial products and services.

When looking at the purpose of a fee disclosure statement, it is clear that the intention is to provide clients with an opportunity to assess whether they are receiving services from an adviser that is commensurate with the ongoing fee paid.

In light of the number of disclosure documents already required to be provided to a client under existing financial services legislation, it would be more efficient to incorporate the content of this disclosure in existing documents rather than to introduce additional documentation.

Introducing a mandatory obligation for all legislated documentation to contain a statement that ongoing advice fees are able to be opted out of at any time by the client would be a more efficient approach to tackling the problem Government is seeking to address.

FSGs, SoAs, PDSs and periodic statements would all contain a mandatory disclosure that the client is able to notify their adviser at any point should they wish to cease an ongoing fee arrangement. On an ongoing basis, periodic statements setting out the quantum of any fees paid in relation to ongoing advice would also contain the statement that a client is able to cease making these payments at any stage.

Recommendation
The requirement for an annual fee disclosure statement is unnecessary and should be replaced by a mandatory "opt-out" disclosure in all relevant disclosure documents provided to a client throughout the advice process and product reporting cycle.

3.4 Obligations should apply on a prospective basis only.

The FoFA legislation, as introduced into Parliament included a new and very significant change to the application of the reforms on a prospective basis only.

The Government's stated policy is that the application of the opt-in provisions should only apply prospectively[3]. However, in the legislation introduced, the obligation to provide a fee disclosure statement applies to all clients with which an adviser has an ongoing fee arrangement. This is regardless of whether that fee arrangement is in itself grandfathered under the conflicted remuneration obligations, as currently proposed in Tranche 2 of the FoFA reforms.

This extension of the opt-in obligations was not part of the consultation process prior to introduction and represents a significant departure from stated policy.

The proposed ban on conflicted remuneration (including commission payments) is to apply on a prospective basis only. This is appropriate given the contractual arrangements of products entered

[3] The Future of Financial Advice Information Pack (28 April 2011), page 9

into by clients with an adviser would most likely require compensation (under the Constitution) should they be overturned by government-introduced legislative obligations.

However, the requirement to provide an annual fee disclosure statement is inconsistent in that it applies on a retrospective basis. That is, it is required to be provided to all clients, rather than only new clients, with which the adviser has an ongoing fee arrangement.

Recommendation
All proposed FoFA reforms should apply on a prospective basis only, consistent with previous Government announcements and stated policy intentions.

3.4.1 Legacy products

AMP, as with many older financial product providers in Australia has a number of products it no longer sells or makes available to clients. These products are typically referred to as 'legacy' products.

Many of these legacy products have had sales commission built into the design of the product and clients are unable to 'opt out' of paying the commission due to this. These products were sold within a completely different regulatory regime whereby the commission represented the cost of distribution. The cost across the industry of making system changes to support the removal of commissions on such legacy products is highly cost-prohibitive, largely due to the age of the IT systems on which these products are administered.

Our experience is that for every dollar we would spend on making a system change to a contemporary system, it would cost us $2.50 to make the same change to a legacy product system. For a system that is in the process of being decommissioned, by virtue of it no longer administering products from which we expect to derive new business, this is a highly inefficient and unnecessarily expensive regulatory outcome.

Therefore, it is imperative that all proposed FoFA reforms uniformly apply on a prospective basis only.

4. ANTI-AVOIDANCE PROVISIONS

The anti-avoidance provisions in the Tranche 1 Bill have been expanded from the version that was provided for public consultation as part of Tranche 2. However, the timing of the introduction of Tranche 1 to Parliament did not allow sufficient time to permit the industry's feedback to be incorporated into the revised provisions, nor have the provisions been referred back to the industry for further consultation.

The anti-avoidance provision is intended to ensure that the obligations of Part 7.7A of the Corporations Act 2001 are not avoided by artificial structuring.

We support this aim. However, as currently drafted, the anti avoidance provisions are more onerous than those that apply in other legislation, such as the Income Tax Administration Act.

The provision should be directed towards 'doing something' under Part 7.7A by entering into a scheme that is designed to avoid the relevant obligations.

Anti-avoidance provisions should apply only where:

- one or more persons engage in an activity to which the obligations of Part 7.7A are intended to apply
- there is a scheme in relation to that activity
- the sole or dominant purpose of the scheme is to avoid the application of those obligations to that activity
- the person participates in the scheme knowing that the scheme has that purpose
- the scheme began after commencement of the relevant obligation .

However, the proposed anti-avoidance provisions:

- do not require any positive activity – merely refraining from an activity is enough. For example, if a person refrains from giving personal advice, this could be a scheme to avoid the application of the best interests duty.
- do not require a positive activity to which the obligations were intended to apply – for example, making a payment that is exempt from the ban on conflicted remuneration could be a scheme for avoiding the obligation. For example, continuing to rely on grandfathered arrangement could be a scheme for avoiding the relevant obligations.
- apply even if the scheme does not have the sole or dominant purpose of avoiding the relevant obligation – it is sufficient if the scheme (or any part of the scheme) has any such purpose
- apply to people who participate in or facilitate the scheme even if they are unaware of the scheme or its purpose, and even if they did not know that the obligations under Part 7.7A could apply
- may capture legitimate, and legally binding, arrangements already entered into prior to commencement of the legislation.

The anti avoidance provisions should not apply to:

- an arrangement that is grandfathered or falls within a full or partial carve out from Part 7.7A (including under regulations or ASIC relief);
- a person who is not aware of the scheme or its purpose.

However, the proposed anti-avoidance provisions within the FoFA legislation do not require any positive activity, nor any type of benefit to be derived in relation to the scheme. This is not

consistent with the threshold conditions typically required before an anti-avoidance provision will apply.

The anti avoidance provisions should be amended to capture the following three types of schemes:

- **a scheme to avoid the best interests duties**, being a scheme in relation to the provision of personal advice to retail clients with the sole or dominant purpose of avoiding the application of Division 2 of Part 7.7A in relation to the personal advice;
- **a scheme to avoid the opt-in requirements**, being a scheme in relation to charging ongoing fees for financial advice with the sole or dominant purpose of avoiding the application of Division 3 of Part 7.7A in relation to charging ongoing fees;
- **a scheme to avoid the bans on particular types of remuneration that have the potential to conflict advice**, being a scheme in relation to remuneration that is likely to conflict personal advice to a retail client with the sole or dominant purpose of avoiding the application of Divisions 4 and/or 5 of Part 7.7A in relation to the remuneration.

Recommendation

The anti avoidance provisions should be no more onerous than similar legislation such as the Tax Act. The anti avoidance provisions should be amended to capture the following three types of schemes:

- a scheme to avoid the best interests duties,;
- a scheme to avoid the opt-in requirements,
- a scheme to avoid the bans on particular types of remuneration that have the potential to conflict advice

5. BEST INTERESTS DUTY

The legislation setting out the best interest duty does not achieve the Ministers' stated policy in both the April 2010 and April 2011 announcements.

Minister Bowen in his announcements on FoFA in April 2010, clearly articulated that:

> "the duty will include a 'reasonable steps' qualification so that advisers and authorised representatives must take 'reasonable steps' to discharge the duty…"

Further, the FoFA announcements in April 2011 stated:

> "the duty would include a reasonable steps qualification, so that advisers are only required to take reasonable steps to discharge the duty"

In contrast, the legislation introduced to Parliament regarding the adviser's duty to act in the best interests of a client is drafted without an effective reasonable steps or 'safe harbour' defence. Completion of the steps outlined in section 961B(2) of the Bill will not provide assurance that the duty has been met.

Specifically, the drafting of the final step (s.961B(2)(g)) which requires an adviser to "take any other steps" is too subjective to allow the provider to design an efficient process for delivering advice under a best interests obligation.

AMP's preference is for this step to be removed from the Bill in order to achieve the Government's stated policy objective, as articulated above. However, based on discussions held to date, we recognise there are concerns about this, and thus, we are able to offer an alternative solution that we believe will deliver a suitable compromise to both parties.

The requirement to have "taken any other step"[4] opens the provider to an infinite number of possible actions, coupled with no clarity as to the period this obligation is applicable (ie: does the obligations cease once the advice is provided or does it continue should an ongoing advice fee arrangement be entered into?).

The Bill should require the provider to have "taken any other reasonable step" in order to minimise the potential for future vexatious claims and provide sensible boundaries so providers are able to deliver advice under the best interest duty as efficiently and effectively as possible.

The Explanatory Memorandum (EM) to the Corporations Amendment (Further Future of Financial Advice) Bill 2011 (the "Legislation") contains wording that has not been replicated within the legislation. AMP believes that synchronisation of the wording between the EM and the Legislation will provide sufficient clarity so as to enable licensees to design an efficient and effective advice process in order to comply with the best interests duty, as well as providing ASIC with the flexibility it requires to effectively supervise the industry.

Paragraph 1.43 of the EM clarifies that the final step of the best interests duty requires the provider to take any step "that would reasonably be regarded as being in the best interests of the client, given the client's relevant circumstances at the time of the advice". However, the drafting of section 961B(2)(g) does not include the phrase "at the time of the advice". The addition of this wording to the legislation would provide the assurance that the government has given throughout the consultation period that "the focus of the duty should be on how a person acted in providing the advice rather than the outcome of that action"[5].

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[4] Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, section 961B(2)(g)

Recommendation
The best interests duty is intended to operate *at the time of the advice* and not afterwards. To this end, we recommend that section 961B(1) be changed from applying "in relation to the advice" to "at the time of the advice". This allows the duty to apply at a point in time and provides certainty of when the timing for the duty has been completed. The EM is consistent with the approach when it uses the same expression "at the time of the advice" in paragraph 1.43.

A key policy objectives for the FOFA reforms, was to increase the access to advice for more Australians. The current drafting of the best interests duty without our suggested edits puts into jeopardy the ability of the reforms to deliver this key objective.

Recommendation
In order to achieve consistency and certainty and provide the true safe harbour announced by the Government, section 961B(2)(G) of the Bill which requires advisers to have 'taken any other reasonable steps' should be either deleted altogether or redrafted so that the adviser has "taken any other *reasonable* step *at the time of the advice* that would reasonably be regarded as being in the best interests of the client, given the client's relevant circumstances".

5.1 Ability to provide scaled advice

The "best interests" duty legislation must be amended in order to ensure that advisers are able to offer scaled advice to consumers, as the Government intends. Based on the current drafting, the ability to provide efficient scaled advice to consumers is not possible. Given that existing provisions of the Corporations Act 2001 allow scaled advice to be provided, this would be a retrograde step for the financial advice industry and the objectives of the Government.

The Explanatory Memorandum must be amended to require an adviser to "take into account the client's relevant circumstances[6]" rather than the "overall circumstances" so that the adviser only takes information into account that it is relevant to the advice sought by the client and agreed with the adviser. This would be consistent with statements made by ASIC on its website on the 13 December to the effect that enquiries could be scaled according to what is relevant for the scope of the advice.

Based on the current drafting of the "best interests" duty in the Bills[7], advisers will be required to undertake steps that would require additional information to be sought even where such additional information is not relevant to the subject matter of the advice. Taking into account the "overall" circumstances would require a full fact find of all relevant details about a client and their situation. This takes time and requires client participation. If a client wants advice on a limited topic, they are unlikely to wish to undertake a full fact finding process and provide information on matters that are personal but do not relate to the subject matter of the advice being sought.

In addition, the current proposals do not allow a client and adviser to agree on the full limit or scope of the advice to be provided. Agreement between the client and the adviser as to the scope of

[5] The Future of Financial Advice Information Pack (28 April 2011), page 12
[6] Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 Explanatory Memorandum, paragraph 1.33
[7] Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, section 961B

advice should be permissible provided the adviser acts reasonably in the circumstances.

In this regard if an adviser and client agree on a scope of advice, the adviser is agreeing in the context that any advice provided must:

- be in the best interests of the client
- be appropriate; and
- give priority to the interests of the client.

With such strong protections, it is difficult to see a justification for not allowing a client and adviser to agree the scope of advice.

Ultimately, these extra steps will not result in encouraging more Australians to seek more financial advice, more affordably.

Recommendation

Paragraph 1.33 of the Explanatory Memorandum should be amended to remove the requirement to do a full fact find before scoping advice. That is, this should only require an adviser to "take into account the client's relevant circumstances" rather than the "overall circumstances" so that the adviser only takes information into account that it is relevant to the advice sought by the client and agreed with the adviser

Recommendation

Given that the advice must be in the best interests of the client, be appropriate and give priority to the interests of the client, then a client and an adviser should be free to agree the scope of advice.

6. CONFLICTED REMUNERATION

The conflicted remuneration provisions are generally in line with stated government policy and amendments to the draft legislation have improved the ability of the industry to be able to provide advice to clients that gives priority to the interests of the client. However, there are several unintended consequences arising from the drafting of the legislation that need to be resolved prior to commencement of the conflicted remuneration obligations.

6.1 General principle of conflicted remuneration

The breadth of the conflicted remuneration provisions is extensive and the ramifications for businesses are substantial and complex. Hence it is important that general principles are clearly articulated to provide an appropriate level of guidance within the legislation. The following principles should be clearly established within the legislation so that any ambiguity within following provisions is minimised.

- Benefits that depend on or are calculated by reference to benefits or other factors that are not caught by the ban on conflicted remuneration. This could arise because the underlying benefits are:
  - not caught,
  - caught but exempt, or
  - caught but grandfathered.

  For example, fee for service amounts paid by the client based on funds under advice is not caught by the prohibition (nor should it be). However, a bonus scheme paid by the licensee or employer that was based on the aggregate of such fee for service revenues generated by the adviser would be banned because it depends in part on funds under advice.

- Any benefits/payments given wholly within a corporate group. Corporate structure and efficiency has commercial and other drivers. Conglomerates should be considered as a group for the purposes of these proposals not be adversely affected by structure.

- Benefits paid under a genuine fee for service arrangement at market value.

Recommendation
That the ban on conflicted remuneration should not apply to benefits calculated by reference to:

- benefits not caught by the ban on conflicted remuneration;
- benefits caught but specifically excluded from the ban on conflicted remuneration; and
- benefits that are grandfathered from arrangements existing prior to the introduction of the reforms.

Volume related benefits calculated on permissible remuneration should not be caught as conflicted remuneration.

6.2 Definitions relating to life insurance

The payment of a benefit in relation to a group life policy or a life policy for a member of a default superannuation fund risk insurance is deemed to be conflicted remuneration.

6.2.1 Definition of a group risk policy

Within the Bills, a "group life policy" is ill-defined. The current drafting focuses on the structure of the policy rather than the how the cover is provided to the member (individually advised or not), which means the vast majority of life insurance cover provided across the industry will be regarded as conflicted remuneration where a subsequent benefit is given to a licensee or representative.

Insurance policies issued through superannuation (regardless of whether they are for a default superannuation fund or a choice fund) are issued by the insurer to the trustee of the superannuation fund. Under the definition in the Bill, this would mean that most insurance issued through super would not be exempted from the conflicted remuneration provisions. This contrasts with the Government's policy intention of not exempting default insurance for superannuation members.

Directly linked to the practical application of this legislation is the operation and design of a MySuper product under the Government's Stronger Super reforms. The MySuper product design as set out in the legislation (yet to pass through Parliament) will only allow default insurance arrangements to be offered to its members. For ease, it is possible that the conflicted remuneration exemption be redrafted to apply to insurance arrangements within super so long as those arrangements are not issued through a MySuper product.

6.2.2 Life policy for a member of a default superannuation fund

It is unusual for the trustee of contemporary superannuation funds - whether retail, industry, corporate or public sector funds – to own an individual life policy for a particular member. For retail funds, owning an individual policy for a particular member is a feature of legacy superannuation products.

Notwithstanding this point, the definition as drafted causes difficulties as there is no legislated concept of a 'default superannuation fund'. The Superannuation Guarantee legislation refers to a "chosen fund" as a different super fund to which an employee wants employer contributions to be made.

If the employee/member decides to remain in the fund to which the employer nominated them (commonly called the 'default fund') but exercises choice in relation to investment or insurance (that is, they become a 'choice member'), the definition has the effect that any benefit relating to that choice is conflicted remuneration. In other words, a 'choice member' in what is their 'default fund' can never have a benefit pass to their adviser.

In order to achieve the Government's policy aims, it is unnecessary and very confusing, to refer to the type of policy contract which a superannuation fund trustee holds in order to provide life insurance cover to its members and to refer to the definition of an "investment risk insurance product".

The conflicted remuneration exemption in relation to life insurance needs to be re-drafted to apply to cover provided within super so long as the cover is not provided through a MySuper product. The underlying infrastructure of whether the cover is issued from an individual or a group policy is irrelevant to the payment of remuneration for the cover issued.

Recommendation
Section 963B(1)(b) should be amended in order to only prohibit the payment of benefits relating to insurance in default superannuation. References to group or individual policies should be removed:

6.3 Facilitating advice payments through products

Facilitation of the payment of advice fees through a product is standard practice by many product issuers throughout the industry. In relation to advice on superannuation and insurance bonds, it is particularly beneficial for clients to have any advice fees deducted from their account balance for tax purposes. Further, in accumulation superannuation, unless the advice fee is paid as an expense of the trustee or administrator, the issue of paying preserved benefits from the fund will arise.

However, based on the drafting of the Bill, the ability to continue to offer this functionality and benefits to clients is at risk. Monetary benefits exempted from the conflicted remuneration provisions set out in section 963B have inadvertently restricted the ability of a product issuer to facilitate advice fees out of a product on behalf of the product holder (client). The EM at paragraph 2.26 shows a clear intention for payments to be able to be deducted from a product:
"…paid by the retail client, whether the benefit is given directly by the retail client or is given by another party at the direction, or with the clear consent, of the retail client". This wording does not align with the very limited wording of "by the retail client" in section 963B(d).

Recommendation
Section 963B(1)(d) should be amended in order to allow the facilitation of payment of advice fees by a product issuer on behalf of the client.

6.4 Simple banking product exemption

The Government's attempt to reflect existing exemptions within the Corporations Act for simple banking products within the Bills is to be commended. However, the effectiveness of this exemption under the conflicted remuneration obligations has been diminished and will result in some unsatisfactory outcomes for both consumers and advisers.

The EM to the Bills indicates that basic banking products and general insurance are recognised as being simple in nature and more widely understood by consumers. This means there is lower risk of consumer detriment in relation to the provision of advice on these products[8]. However, this position is inconsistent with the drafting of the legislation, and as a consequence, inadvertently imposes overly onerous obligations on advisers and creates a distortion between the effective treatment of general insurance and basic banking products within the legislation.

The basic banking products exemption from conflicted remuneration is available to a "licensee or representative as an agent or an employee of an Australian ADI, or in otherwise acting by arrangement with an Australian ADI[9]". The deficiency of this drafting is that it can only allow advisers to achieve the exemption from the conflicted remuneration provision if they are appointed as representatives of the ADI.

The simplicity of the product and the advice should not be complicated by who is giving advice. The same standard and benefits should apply to whoever is the advice giver.

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[8] Explanatory Memorandum to the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, paragraph 1.53.
[9] Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, section 963D(a)

Practically, for those that do not operate in a branch banking environment (the majority of the industry) this would require that each adviser is individually authorised by each ADI in order to be remunerated by the issuer of the recommended product.

Authorising advisers individually is an extremely cumbersome and inefficient regulatory process that can easily be avoided through minor redrafting of the relevant section to include reference to representatives which do not provide the product under the name of the ADI. This would help to ensure that advisers are able to continue to look across to breadth of basic banking product providers without being pressured to sign to a few major institutions in order to minimise their regulatory burden. In addition, those institutions with relatively small branch networks (such as the Mutuals and direct or online access banks) will continue to be able to have their products distributed by advisers without having to incur the regulatory compliance costs and associated risks.

The exemption from conflicted remuneration for basic banking products is a more onerous test than the one that applies for general insurance by virtue of the requirement that the licensee or representative does not give any other financial product advice in addition to the advice on the basic banking product[10].

The exemption for remuneration in relation to a general insurance product does not require that no other advice is provided at the same time – rather the test requires that the benefit given to the licensee or representative is solely in relation to a general insurance product. The same test should apply to basic banking products.

Specifically the legislation needs to be amended as follows:

Section 963D (a) to be amended:
"the benefit is remuneration for work carried out, or to be carried out, by the licensee or representative as an agent*, representative* or an employee of an Australian ADI, or in otherwise acting by arrangement with an Australian ADI; and

Section 963D (c) to be deleted and replaced with wording consistent with that of section 963B(1)(a):
"*the benefit is given to the licensee or representative solely in relation to a basic banking product*".

Recommendation
Section 963D should be amended as follows in order to align the ability of licensees and representatives to receive an exempted benefit for work carried out in relation to a general insurance and basic banking product.

6.5 Additional or expanded exclusions for non-monetary benefits

Paragraph 2.39 of the EM confirms the intention of the government to permit licensees to provide non-monetary benefits to authorised representatives for the purposes of those authorised representatives providing financial services. Some of the drafting for the exclusions to the overall ban on non-monetary benefits does not fully reflect the intention expressed in paragraph 2.39 of the EM.

In 963C(d) IT Software and support - the use of the expression "financial products issued or sold by the benefit provider" in sub-paragraph (d)(ii) unnecessarily limits the exemption to product issuers and does not include the licensee of a financial planner unless they also happen to issue products. Licensees who provide financial planning often do not issue products or "sell" them. The most common scenario is for these licensees to be authorised to advise on, and arrange for a client to

[10] Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, section 963D(c).

deal in financial product. The paragraph would allow advice licensees to provide IT Support and services to their authorised representatives, if the wording of sub-paragraph (d)(ii) was amended to read: "the benefit is related to the provision of financial product advice to persons as retail clients".

Recommendation
Section 963C(d) should be amended to allow licensees to provide IT support and services to their authorised representative to the extent the benefit is related to the provision of financial product advice to persons as retail clients.

6.6 Professional development exemption

AMP supports the nature of the exemption provided in s963B(c) to allow the provision of genuine education or training. This is essential for licensees to meet their licence obligations to have representatives appropriately trained and competent[11]. The training is also essential to keep abreast of industry developments both in Australia and, to the extent we can learn from other jurisdictions, overseas.

AMP supports the criteria suggested in the Explanatory Memorandum requiring minimum hours for education content and the expenses of attendance being paid for by the representative or their licensee. However, we suggest that the criteria to determine whether professional development is genuine should not be defined by geography. The content should determine whether the activity is genuine.

To limit the location to Australia or New Zealand would imply that conferences in other jurisdictions would not be genuine professional development. For example, the Financial Planning Association in the United States of America (USA) has a regular conference which can be extremely beneficial for advisers to attend. Industry insights, the opportunity to learn from others and to understand industry trends can be obtained from attending such a conference. For Australia to be a financial services hub, it needs to effectively compete with other jurisdictions. To limit professional development to only Australia and New Zealand unnecessarily limits our opportunities as an industry.

[11] Corporations Act 2001, sections 912A(ca); s912A(e); s912A(f)

Recommendation
The proposed professional development requirements to be included in the regulations should not be limited to Australia or New Zealand. The legitimacy of professional development or genuine education or training should be determined by content rather than location.

6.7 Purchase and sale of financial planning businesses

It is common for licensees of authorised representatives who provide financial planning services, to offer to purchase the business of an adviser when that adviser retires, becomes permanently disabled, leaves the financial planning industry (permanently) or dies. The licensee may then on-sell that business in whole or in parts to other advisers in its network. This is to ensure that clients continue to receive their ongoing financial services and the authorised representative is able to achieve a sale of their business, if such a sale has not been possible on the open market.

While the sale of a business is the sale of an asset, that asset includes a register of clients and their product holdings. The valuation therefore has a connection with the number of products held by those clients, simply by virtue of the very nature of the business. Such connection should be divorced from application of the definition of conflicted remuneration by way of a specific exemption. An adviser should be free to sell their business to their licensee without that sale and any subsequent sale by that licensee, being considered conflicted remuneration simply because the nature of the business involves financial products.

Recommendation
The purchase and sale of financial planning businesses as between licensee and its authorised representatives should be specifically exempt from the ban on conflicted remuneration.

6.8 Grandfathering of existing remuneration arrangements

The proposed bans on conflicted remuneration have always been articulated to be a prospective ban on new arrangements from 1 July 2012. Both of the FoFA Information Packs (April 2010 and April 2011) have made clear statements that existing arrangements would be able to continue.

In the Minister's Second Reading Speech introducing the Bills to Parliament, the Minister stated that "existing trail commission books will be 'grandfathered'. This means that commissions from business entered into prior to the reforms can continue".

However, the legislation as currently drafted does not effectively 'grandfather' all existing remuneration arrangements contemplated by the Minister. The uncertainty this puts on the industry is fundamentally detrimental and must be explicitly rectified within the Bills (rather than by way of Regulation) prior to the commencement of the FoFA obligations.

Recommendation
The Bill should be re-drafted to provide the "grandfathering' of existing remuneration arrangements, consistent with the Government's stated policy and intent, prior to the commencement of the FoFA obligations.

6.9 Volume based shelf space fees

The current drafting of the ban on volume based shelf space fees is drafted using a problematic reference within the Corporations Act 2001 that has been the subject of substantial refinement and regulatory guidance over many years. As a result, the ban articulated in the Bills is also problematic.

Different platforms have different structures and value propositions to their clients. For example:

- some platforms are "open architecture", which means that the platform provider will include products if they meet certain operational and basic "hygiene" requirements and there is likely to be sufficient client demand to justify the cost of inclusion and maintenance. These platforms typically have multiple investment options and the decision as to which investments to choose is left to clients and/or their advisers. The inclusion of a product is not a recommendation or endorsement of that product and is unlikely to influence a client to choose that product - the product provider merely passes on information about the product obtained from the underlying issuer or funds manager. The value proposition offered to clients by these platforms is consolidated administration and reporting, access to a wider range of investments, and/or lower fees.

- Other platforms explicitly limit the number of products available to a chosen few, or expressly recommend or endorse the products on the platform to clients. That advice and selection is positioned to clients as part of the platform's value proposition.

- Other platforms that offer clients a range of investment options that are offered and managed by or on behalf of the platform provider. In these cases, the platform provider can replace the underlying products or funds managers at any time without client consent.

In our view, the ban on volume-based shelf space payments should only apply in the second and third cases. In these cases, payments by funds managers to the platform operators may indirectly influence the client investment choices by influencing the decisions and recommendations of the platform provider.

However, because the current definition of platform focuses on "custodial arrangement" as defined in s1012IA, the ban applies to the first two cases, but not the third. In fact, the third category is where payments from funds managers to the platform provider will create the greatest potential for a conflict of interest to arise because it is the platform provider that receives the payment and chooses the funds manager on the client's behalf.

Further, the ban should only apply to the extent that the payments relate to products or options that are held by retail clients. As with conflicted remuneration, wholesale clients do not require this kind of consumer protection.

In our view, the simplest solution is to remove the ban on volume-based shelf space payments and allow the ban on conflicted remuneration to apply. This would mean that shelf space payments would only be banned when they could reasonably influence the advice provided to retail clients of the platform.

Recommendation
The legislation should be amended to remove the stated ban on volume-based shelf space fees. Instead the ban on volume-based benefits that is part of the ban on conflicted remuneration in s963L of the Bill is sufficient to achieve the policy objective.

6.10 Limit the ban on conflicted remuneration to personal advice

Personal advice

On current drafting of section 963, the ban on conflicted remuneration applies in the context of both general and personal advice. None of the issues or reports referred to paragraphs 1.1 to 1.7 of the Explanatory Memorandum relate to general advice. General advice, by its very nature, can be cast widely and not have a connection to particular products being issued or remuneration. We submit that it is in the area of personal advice where remuneration could have the potential to influence product recommendations or the advice given to a retail client.

Application to general advice

General advice is advice that does not take into account any personal circumstances of the client. General advice must be accompanied by a general advice warning to the effect that the advice does not consider the client's personal circumstances, and that therefore the client should consider their personal circumstances and the PDS before making a decision.

General advice is included in broadcasts and media advertising, newsletters, websites, seminars, product brochures, call centres operations and billboards. General advice may also include advice that is not product specific or which has an educational or informative purpose.

Accordingly, we submit that general advice:

- is far less influential on the decision of a retail client than personal advice;
- is not the context in which the issues and concerns referred to in the Explanatory Memorandum arise
- is given in far wider range of circumstances than personal advice and is therefore likely to apply to a far wider range of situations than is necessary or intended.

Therefore, the ban on conflicted remuneration should apply only to licensees and representatives that provide personal advice. However, even though not a recommended outcome, if the ban was to apply to general advice, there would need to be significant exclusions. These exclusions are necessary to avoid unintended consequences. For example general advice in broadcasts and media advertising, newsletters, websites, seminars, product brochures and billboards is cast widely without necessarily being linked to a product being issued.

If the ban is to include general advice, there is a need to connect the general advice to a particular product being issued and, as a result, some form of conflicted remuneration is received. An example may be where a product application is obtained during a meeting in which general advice (and not any personal advice) is given. This could be a face to face meeting or by telephone. General advice that is available to the public at large, should be excluded. Only general advice in a meeting or a telephone call should be caught.

The ban on conflicted remuneration should apply only to situation where licensees and representatives are providing personal advice. If the ban is to include general advice, there is a need to connect the general advice to a particular product being issued and, as a result, some form of conflicted remuneration is received. An example may be where a product application is obtained during a meeting in which general advice (and not any personal advice) is given.

Recommendation
The Government should limit the ban on conflicted remuneration to situations where the remuneration relates to personal advice.

APPENDIX 1: EXAMPLE DISCLOSURE DOCUMENTS CURRENTLY PROVIDED TO CLIENTS

Following is a summary of the disclosure process typically followed when advisers meet with a client. Each of these documents are required to be provided to the client at various stages throughout the advice process.

The content of each document is set out in the Corporations Act 2001, supporting Regulations, as well as specific regulatory guidance from the Australian Securities and Investment Commission (ASIC). Regulatory Guides (RGs) such as RG 168 – Product Disclosure Statements (and other disclosure obligations); and RG 182 – Dollar Disclosure; provide mandatory guidance as to the nature of the information required to be provided to clients and how associated costs are required to be disclosed.

For example, the dollar disclosure provisions require "various costs, fees, charges, expenses, benefits and interests to be stated as amounts in dollars in Statements of Advice (SOAs), Product Disclosure Statements (PDSs) and periodic statements. The dollar disclosure provisions are designed to help consumers better understand information about costs, fees, charges, expenses, benefits and interests by expressly requiring certain information to be presented in dollar terms"[12].

The various disclosure documents and information provided throughout the advice process are set out below. Extracts of each of the documents discussed below are able to be provided should this be of interest to the PJC.

The Financial Services Guide (FSG) – required by law

In the first interview, the client will be given a generic FSG. The FSG document highlights the services an adviser can provide and the fees that they could charge.

The fees included are usually generic and often provided in a range. The actual fees will normally be determined by the adviser after the fact finding process is completed.

The Statement of Advice (SoA) – required by law

Once the fact finding is completed, the adviser will then prepare an SoA which details the actual recommended strategy(s) and the associated initial advice fee as well as any ongoing advice and product fees.

The SoA includes details of an advisers initial advice fees for providing the advice and initial product fees for implementing the product recommendations contained in the SoA. The SoA must also contain the list of services the adviser will provide over the next period (usually yearly) and the cost of this ongoing advice. It will also highlight the ongoing product cost.

Product Disclosure Statements (PDSs) – required by law

Should the advice provided include recommendations to acquire a financial product, a PDS will be provided to the client either as a separate document or electronically. This document is required to

[12] The Australian Securities and Investment Commission (ASIC) Regulatory Guide 182 – Dollar Disclosure, sections RG182.1 and RG182.2, June 2008.

set out all the relevant information one would reasonably expect a client should be made aware of prior to acquiring the product.

This includes information in relation to the cost of the product, as well as whether any ongoing advice fees are able to be paid to an adviser out of the product. Whilst the actual ongoing advice fees will be set out in the SoA, the PDS provides an indication of the fees that could be charged, including whether the product has any mandatory cap on the amount of fees able to be paid to an adviser out of the product.

Periodic Product Statements – required by Corporations Act 2001

Clients will also receive regular product statements which include details of the actual fees paid for the prior 12 month period. Ongoing advice fees paid out of the product or platform are explicitly disclosed as a dollar amount.

Statements are provided in accordance with the PDS. Many products (such as platforms) provide online disclosure where fees paid are able to be viewed by the client on a continual basis throughout a financial year. For those without online access for clients, a mandatory statement is provided at least annually. This statements also explicitly sets out the amount of any fees paid to an adviser (whether an ongoing fee or deferred upfront fee arrangement).

Ongoing disclosure

Once the strategy and recommended products are in place, advisers can use a range of documents to detail any advice given in subsequent client reviews. After a period, which is usually agreed in the original SoA, a review will take place with the client. Depending on the nature of the discussion, this review will usually result in some type of documentation being provided to the client, such as a new SoA, a Record of Advice (RoA) or a file note.

This document will usually summarise the performance of the recommended strategy over the last 12 months and the fees paid. It will also outline the ongoing advice and product fees, and the services that will be provided over the next 12 months in the same manner as the original SoA.