



18 April 2013

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

Email: corporations.joint@aph.gov.au

Re: Corporations Amendment (Simple Corporate Bonds and Other Measures) Bill 2013 – Schedule 2

Dear Secretary

The Financial Planning Association of Australia (FPA)¹ welcomes the opportunity to provide comments on the Corporations Amendment (Simple Corporate Bonds and Other Measures) Bill. The FPA's submission relates to Schedule 2 of the Bill only, which provides that the use of the terms 'financial planner' and 'financial adviser' are restricted to those with licences to provide advice on designated financial products.

Why this measure is important

The term financial planner is increasingly being used in marketing and promotional material by persons who provide non-traditional ancillary services, such as realtors, stockbrokers, financial counsellors, life insurance agents, mortgage brokers, property brokers, sales agents of various investment vehicles and unlicensed advisers, increasing the risk for consumers to be misled.

A lack of restriction on the use of the term 'financial planner' is, among other things, a significant gap in consumer protection. It leaves trusting consumers open to influence by unprofessional and inappropriately qualified individuals portraying to provide advice, especially unsolicited advice from people with whom consumers may or may not have a relationship.

¹ The FPA is the peak professional body for financial planning in Australia. The 8,000 individual professional members of the FPA have an enforceable Code of Professional Practice, including the Client First principle. 5,700 of our members have achieved CFP certification, which is the global standard of excellence in financial planning. FPA practitioner members manage the financial affairs of more than 5 million Australians whose investments are valued at \$630 billion.



Schedule 2 of the Bill will strengthen consumer protection by:

- Providing consumers with a legal definition and hence a better understanding of who and what a 'financial planner' or a 'financial adviser' is, and the role they can be expected to play.
- Supporting and protecting consumers who need and want to get financial advice from a trusted participant in the industry and hence reducing the risk of them being misled by unlicensed or scrupulous individuals.
- Ensuring "truth in labelling" when it comes to the provision of financial planning advice as it has a profound impact on an individual's and the community's financial well-being.
- Supporting the FOFA reforms by empowering consumers of financial services to identify genuine providers of financial advice.

If passed the Bill will also serve to strengthen economic efficiencies and build confidence in the industry by:

- Reducing government and judicial involvement or compensation to victims of unlicensed financial advice.
- Improving confidence and trust in the financial advice profession resulting in more Australians seeking financial advice, potentially preparing more Australians to become self-funded in retirement and/or delaying the period in which they need to access the age pension.
- Targeting unlicensed individuals marketing themselves to consumers as a 'financial planner' or a 'financial adviser'.
- Encouraging individual financial advice providers to complete higher education and training and to voluntarily join a professional body and abide by professional standards.
- Enhancing the professionalism and reputation of the industry.

Wide reaching industry support

The FPA is confident that there is strong support from the broader financial services industry and consumer representatives for the proposed legislative amendments.

The FPA² has strongly argued that the terms 'financial planner' and 'financial adviser' must be protected or "enshrined" in the Corporations Law and an industry-wide report prepared by Investment Trends in 2011 indicated that 88%³ of financial planners also support this measure.

² The Financial Planning Association (FPA) represents more than 10,000 members and affiliates of whom 7,500 are practising financial planners and 5,500 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- We banned commissions and conflicted remuneration on investments and superannuation for our members in 2009 – years ahead of FOFA.



Further evidence of broad industry backing for this measure was provided through the Treasury consultation process for the Exposure Draft Bill with the following industry institutions citing their support:

- Association of Financial Advisers (AFA);
- Australian Financial Markets Association (AFMA);
- Australian Institute of Superannuation Trustees (AIST);
- CPA Australia and the Institute of Chartered Accountants Australia (ICAA);
- Deloitte Touche Tohmatsu;
- Financial Service Council (FSC);
- Industry Super Network (ISN); and
- Suncorp

A number of the concerns raised by the above organisations in relation to the Exposure Draft were addressed by Treasury prior to the Bill being tabled in Parliament. (See the Table 1: Submissions to The Treasury on exposure draft, attached.)

Precedent for restricting terms

There is precedent in the restriction of the use of terms, with stockbroker, futures broker, insurance broker, general insurance broker, and life insurance broker already restricted under s923B of the Corporations Act 2001.

The term 'financial planner' (or a similar like term) is restricted (or being debated) by the respective laws governing Malaysia, Canada, New Zealand and the United Kingdom. In deed, the Financial Planning Standards Board⁴, a member of The International Organisation of Securities Commissions⁵, is seeking to have the term 'financial planner' as a restricted term internationally.

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- We have an independent conduct review panel, Chaired by Professor Dimity Kingsford Smith, dealing with investigations and complaints against our members for breaches of our professional rules.
 - The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 24 member countries and the 132,000 CFP practitioners that make up the FPSB globally.
 - We have built a curriculum with 17 Australian Universities for degrees in financial planning. As at the 1st July 2013 all new members of the FPA will be required to hold, as a minimum, an approved undergraduate degree.
 - CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
 - We are recognised as a professional body by the Tax Practitioners Board

³ Investment Trends Pty Ltd, December 2011 Retirement Planner Report, based on responses from 1,027 financial planners, including non-FPA members and FPA members

⁴ Financial Planning Standards Board Ltd. (FPSB) is a nonprofit association that manages, develops and operates certification, education and related programs for financial planning organizations so that they may benefit the global community by establishing, upholding and promoting worldwide professional standards in financial planning. - See more at: <http://www.fpsb.org/about.html#sthash.5EJ8AvDs.dpuf>

⁵ The International Organisation of Securities Commissions (IOSCO) is an association of organisations that regulate the world's securities and futures markets. Members are typically the Securities Commission or the main financial regulator from each country. IOSCO has members from over 100 different countries, who regulate more than 90 percent of the world's securities markets. The organisations role is to assist its members to promote high standards of regulation and act as a forum for national regulators to cooperate with each other and other international organisations.



FPA recommendation

The FPA strongly believes this Bill needs to be supported in its current form with no amendments.

It is an important measure that will enhance consumer protection, improve consumer trust and confidence in the industry, it will not add additional cost on industry or consumers and it will benefit all industry participants irrespective of membership, employment or licensee.

The FPA hopes the findings of the PJC inquiry acknowledge that the Bill will strengthen consumer protection, has wide industry support and the backing of consumer representatives, and there will be no costs involved in implementing the measure.

If you would like further information please do not hesitate to contact me or my colleague Dante De Gori, General Manager Policy and Standards

Yours sincerely,

Mark Rantall
Chief Executive Officer

Table 1: Submissions to The Treasury on the Exposure Draft Bill to restrict the use of ‘financial planner’ and ‘financial adviser’

	Who	Support	Oppose	Issues raised	Treasury action
1.	Association of Financial Advisers (AFA)	Yes	No	Sought clarification of the use of the expressions in advertising material, business listings and communications, particularly in respect to when an adviser changes licensee.	Clarification provided
2.	Australian Financial Markets Association	Yes	No	The unintentional exclusion of advisers who advise wholesale clients from the ability to use the terms ‘financial planner’ or ‘financial adviser’ (the restricted expressions).	The draft Bill was amended to address this issue
3.	Australian Institute of Superannuation Trustees (AIST)	Yes	No	AIST would support strengthening this measure so that those professionals who are both able and authorised to provide personal financial advice to retail clients can <u>only</u> use the terms ‘financial planner’ or ‘financial adviser’. And that advisers be required to publicly display the title ‘financial planner’ or ‘financial adviser’, regardless of what internal title the adviser works under in their organisation.	No action taken at this stage
4.	CPA Australia and the Institute of Chartered Accountants Australia	Yes	No	Support the restriction of ‘financial planner’ but not ‘financial adviser’ under draft wording	Treasury maintained the restriction of both terms.
5.	Deloitte Touche Tohmatsu	Yes	No	Support the restriction of ‘financial planner’ but not ‘financial adviser’ under draft wording	Treasury maintained the restriction of both terms.
6.	Financial Service Council (FSC)	Yes	No	Technical drafting amendments requested. Due to consequences of drafting issues, transition period of 12 months requested.	Drafting changes made to address concerns raised No transition period given
7.	Industry Super Network (ISN)	Yes	No	The legislation should include regulation making powers to provide flexibility in the future to identify additional requirements which would need to be met in order to make use of the restricted terms. Ensure it extends to the use of the terms when providing advice with online tools	No action taken at this stage
8.	Suncorp	Yes	No	The use ‘of like import’ to the term ‘adviser’ generally.	Drafting changes made to address concerns raised