



**Submission – Inquiry into the provisions of the  
Corporations Amendment (Streamlining of  
Future of Financial Advice) Bill 2014**

**April 2014**



**IPA** INSTITUTE OF PUBLIC  
ACCOUNTANTS  
*Partnership beyond numbers*

## Introduction

The Institute of Public Accountants (IPA) welcomes the opportunity to present our submission to the Senate Economics Legislation Committee with respect to the ongoing developments of the Future of Financial Advice (FoFA) reforms, which were announced initially in April 2010.

The IPA is one of the three professional accounting bodies in Australia, representing over 26,000 accountants, business advisers, academics and students throughout Australia and in 57 countries worldwide. The IPA prides itself in not only representing the interests of accountants but small business and their advisers.

The IPA takes an active role in the promotion of policies to assist the small business and SME sectors, reflecting the fact that two-thirds of our members work in these sectors or are trusted advisers to small business and SMEs. The IPA also pursues fundamental reforms which will result in easing the disproportionate regulatory and compliance burden placed on small businesses.

The IPA has been actively involved with the FoFA reforms since the initial announcement. As part of the Joint Accounting Bodies (with CPA Australia and the Institute of Chartered Accountants), the IPA has strongly advocated for an equitable outcome on behalf of our Members, the accounting profession and in the public interest.

We welcome the opportunity to discuss our submission in more detail if required with the Committee. Please address all further enquires to Vicki Stylianou, Executive General Manager, Public Affairs.

Yours faithfully

Andrew Conway FIPA  
Chief Executive Officer  
Institute of Public Accountants

### **Removing the need for clients to renew their ongoing fee arrangement with their adviser every two years (known as ‘opt-in’)**

The IPA’s Members are not generally impacted by the opt-in provisions as they undertake their work based on client instructions and engagement and are required professionally and ethically to state the terms of engagement with their clients for each engagement (APES 305).

Accountants generally charge on a fee-for-service basis with the scope of the engagement and related details set out in the letter of engagement or similar document.

We appreciate that some financial service providers may need to change their systems to accommodate the need for clients to ‘opt-in’ and this will involve time and in some cases, substantial cost. However, the IPA believes that from a client perspective, it may be preferable to have a regular reminder about the services being provided and to be afforded the opportunity to become involved, even if to just actively ‘opt-out’. While for some clients this may be a nuisance; for others it may be an opportunity to improve their financial literacy and become more involved in shaping their financial future.

We are aware, anecdotally, that many financial service providers have already changed their systems to accommodate the ‘opt-in’ changes; and others have regarded this as a competitive advantage and seek to engage with their clients on a regular basis. The information being provided to clients should include what fees they are paying, have paid and for what services. The IPA believes this is an essential part of fulfilling the FoFA objectives of providing accessible and affordable financial advice to consumers. Measures and activities which promote the benefits of competent financial advice and improve financial literacy are in the interests of all Australian consumers and the Australian economy and should be adopted.

### **Making the requirement for advisers to provide a fee disclosure statement only applicable to clients who entered into their arrangement after 1 July 2013**

From a legislative and policy perspective the IPA agrees that any legislation or regulatory requirement which imposes a burden on those impacted, should be prospective and not retrospective. Apart from the practical difficulties which this imposes, we strongly believe that legislation should not be retrospective unless it benefits consumers/taxpayers. This was a long standing legislative approach and we are not aware of any sound reason to diverge from this approach.

### **Removing paragraph 961B(2)(g), the ‘catch-all’ provision, from the list of steps an advice provider may take in order to satisfy the best interests obligation**

The IPA is in general agreement with this proposed amendment. It was difficult to reconcile the provision of scaled advice with a best interests duty which was essentially as broad as that which applies to holistic advice. We believe that the adviser’s duty to act in the client’s best interests is not diminished by simply limiting it to the scope of advice which is being provided.

In practical terms, the more holistic seven step process to comply with the best interests duty would require more time and effort to be spent on behalf of the client for work which has not necessarily been approved or requested by the client. This would make the provision of advice more expensive than is necessary and it is unlikely that clients will agree to pay for work which they have not requested. In turn, this would be against the policy objective of FoFA which is to provide affordable and accessible financial advice to consumers. One of the main advantages of the FoFA reforms is to enable scaled advice which makes financial advice more affordable for consumers. Insisting on a ‘catch all’ in order to satisfy the best interests duty would undermine this policy objective.

The IPA firmly believes that the best interests duty will not be diminished by limiting the duty to the scope of advice being provided. It is also critical that competent financial advice be made available to consumers who are not considered high net wealth individuals. For this reason, the cost of providing advice must be reasonable if this sector of the market is to be adequately serviced. The IPA has consulted widely with Members over the last four years and it has been a frequent comment that Members often find it difficult to refer 'mum and dad' clients for financial advice.

### **Better facilitating the provision of scaled advice**

We refer to the response to the above with respect to the best interests duty. We also agree that provision for scaled advice should be explicit in the legislation with appropriate guidance from ASIC.

Further, while the IPA strongly believes in the concept of providing scaled advice, the practical implementation should be monitored by ASIC, industry and the profession (by bodies such as the IPA) to ensure that the policy objectives of consumer protection and the provision of competent, affordable and accessible advice to all consumer sectors, are fulfilled.

We note that the FoFA reforms are to be reviewed in three years and we encourage the Government to ensure that a review is undertaken. At this stage, we believe that the implementation of the legislation enabling scaled advice, in practical terms, will rely as much on the use of technology and financially literate consumers as it will on legislative requirements and design.

### **Providing a targeted exemption for general advice from the ban on conflicted remuneration in certain circumstances.**

The IPA is able to appreciate both sides of this proposal. On the one hand, consumers who have done research and simply wish to purchase a product should be able to do so without having to pay for expensive or unnecessary (holistic) financial advice. This is part of scaled advice or making financial advice more affordable. On the other hand, some consumers may benefit from this advice, even though they may not wish to pay for it. This could lead to consumers purchasing the wrong products or being up-sold or cross-sold products, which arguably defeats the intention of the FoFA reforms.

In addition, giving an exemption to ADIs would provide them with an advantage and create an unlevel playing field. However, extending the exemption could undermine the objective of FoFA of removing the potential for conflicted remuneration.

The IPA is aware that this proposed amendment has caused controversy and debate continues in the financial media on almost a daily basis. At this stage, our tendency is to disagree with the proposed amendment; however, we believe that more discussion and consultation is warranted on this particular issue.

## Contact

### IPA Head Office

Level 6, 555 Lonsdale Street  
Melbourne Victoria 3000  
Australia

**Tel:** 61 3 8665 3100

**Fax:** 61 3 8665 3130

**Email:** [headoffice@publicaccountants.org.au](mailto:headoffice@publicaccountants.org.au)

**Website:** [www.publicaccountants.org.au/](http://www.publicaccountants.org.au/)

IPA Divisional Offices are located in the following cities:

Melbourne  
Sydney  
Brisbane  
Adelaide  
Hobart  
Perth  
Canberra

The IPA has secretariats in:

Kuala Lumpur  
Beijing

For enquiries within Australia call **1800 625 625** or your nearest Divisional Office. International enquiries can be directed in the first instance to IPA Head Office.