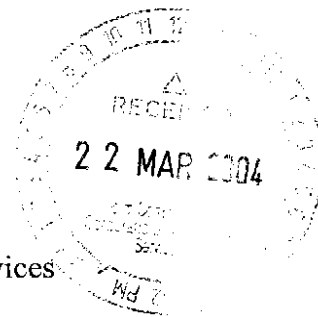


19 March 2004

Dr Kathleen Dermody
Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Parliament House
CANBERRA ACT 2600



Dear Dr Dermody

Financial Services Reform Act — Requests for ‘carve-outs’

AMP is a leading provider of wealth management products and services in Australia. Through AMP Financial Services, AMP has strong market share positions in a range of superannuation, pension, risk insurance and traditional life insurance products. With over 1,600 financial planners, both salaried and self-employed, AMP has one of the largest financial planning businesses in Australia. AMP also has 10 AFS licences across the Australian business.

I appreciate the opportunity to make a submission to you in relation to Draft Regulations Corporate Amendment Regulations 2003-04 (Batch 7). AMP wishes to comment on amended Regulation 7.1.29A.

AMP is concerned at reports to the effect that special interest groups continue to seek exclusion from the FSR consumer protection regime, citing various grounds as to why they should not have to be licensed in the same way as other operators. In particular, I understand that the accounting bodies have returned to seek an even broader licensing exclusion than the one obtained for accountants in February 2004. I understand that accountants want an exemption to make a recommendation on all superannuation fund structures, rather than just Self-Managed Superannuation Funds (SMSF) which they have been granted exemption on.

In addition, the legal profession is also seeking an exemption under the same rulings as the accounting profession.

AMP is concerned at such a possibility and for this reason would appreciate being given an opportunity to discuss the matter at the public hearings scheduled for 24 March 2004.

AMP's concerns are as follows:

1 *Integrity of the FSR consumer protection regime*

AMP is strongly of the view that further carve-outs from the FSR licensing requirements would be damaging to the integrity of the consumer protection regime as a whole, particularly where such carve-outs relate to the provision of retail consumer advice in the area of superannuation and pensions. According to the Accounting Bodies' submission dated 26 February 2004, accountants should be able to make comparisons between different superannuation funds and make recommendations to their client about which one is best, all without an AFS licence. In our view, any extension of the recently announced carve-out for accountants advising on superannuation funds would seriously undermine the Government's reforms, as devised and implemented over the past six years. It would also create an un-level playing field in the provision of financial advice across the various professional bodies.

Licensing is the first line of protection for consumers and should be required for all parties providing financial advice or recommendations of any kind to retail consumers, including small business proprietors.

2 *Independence of advice*

The Accounting Bodies argue in their submission that a consumer is better protected by receiving "independent" advice on superannuation fund structures from a "recognised" (but unlicensed) accountant than from a licensed financial planner.

AMP strongly dispute this view. Our financial planners and dealer groups, being either the holders of an AFS licence or the authorised representatives of AFS licensees, are subject to the strict FSR consumer protection provisions under the Corporations Act.

Importantly, we have a duty of care to our clients to only recommend financial products that will meet their needs, objectives and financial situation, otherwise the recommendation cannot be made. All benefits that planners receive that could be considered to influence their advice or their services is fully disclosed to clients.

Accordingly, the Accounting Bodies' argument should not form a basis to exempt accountants from the FSR licensing regime in respect of superannuation products.

3 *Professional, education and ethical requirements as consumer protection measures*

The Accounting Bodies' also argue in their submission that consumer protection is enhanced in their case by strict professional, educational and ethical requirements the Accounting Bodies impose upon their members. AMP notes however, that their financial planners also:

- meet minimum education standards;
- undergo structured continuous professional development each year;
- are covered by professional indemnity insurance;
- are subject to quality assurance audits;
- are subject to investigation and disciplinary procedures;
- are subject to high standards of ethical and professional behavior.

If the Accounting Bodies are arguing the above measures as a point of differentiation between themselves and licensed financial planners, AMP disagrees.

4 *Risk to consumers*

In our view, the recently announced amendment, for the purpose of providing an exemption from FSR for recognised accountants making a recommendation that a person acquire or dispose of a self-managed superannuation fund (SMSF) product, presents real risks to retail consumers, especially in light of the fact that the SMSF sector is by far the fastest growing area of superannuation savings – it attracts many small business owners who, notwithstanding their entrepreneurial and financial skills, are often quite vulnerable when it comes to the complexities of the superannuation environment.

Superannuation advice that influences a person's investment and retirement decisions will significantly impact that person's economic future. Given this, care should be taken in providing exemptions from the consumer protection provisions of the FSR regime in the area of superannuation.

While AMP recognises that SMSF are used as a tool to implement FSRA-exempted advice given by accountants, such as business structuring advice and taxation advice, any further exemption for accountants would not, in our view, be in keeping with the policy objective of regulating the provision of retail product advice under FSRA.

Should you wish to discuss any of the matters raised in this letter, please do not hesitate to call me on 02 9257 5817.

Yours sincerely

Steven Helmich
Director Advice Based Distribution
AMP Financial Services