



**REIA SUBMISSION TO THE PARLIAMENTARY JOINT COMMITTEE ON
CORPORATIONS AND FINANCIAL SERVICES INQUIRY INTO THE
STRUCTURE AND OPERATION OF THE SUPERANNUATION INDUSTRY**

PROPOSAL

1. The Real Estate Institute of Australia (REIA) proposes that:
 - a. All persons or entities providing general investment advice, including in respect of superannuation, should provide this advice having regard for *all* potential investment options, including direct property.
 - b. To ensure all investment classes are fully considered, licenced investment advisors should move from a commission based, to a 'fee for service', remuneration model.

BACKGROUND

2. The Joint Committee on Corporations and Financial Services has invited submissions to an *Inquiry into the Structure and Operation of the Superannuation Industry (Supervision) Act 1993*. The Act makes provision for the supervision of the superannuation industry to ensure that it provides an efficient, effective and safe regulatory structure for the management of superannuation funds.
3. The REIA is the peak national professional association for the real estate industry in Australia. The REIA has eight members, comprised of the State and Territory Real Estate Institutes, through which about 80% of real estate agencies are collectively represented. The REIA is keenly interested in the provision of investment advice relating to property and alternative investment classes.

PURPOSE

4. The REIA's submission addresses item four of the Inquiry's Terms of Reference: *The role of advice in superannuation*.

ISSUES

The Regulation of Investment Classes

5. The two major Australian investment classes, direct property and financial products, are separately regulated. Dealing in financial products, including providing financial services or advice, is regulated under the *Corporations Act 2001* and administered by the Australian Securities and Investment Commission (ASIC). Notwithstanding specific exemptions or ASIC Class Orders that may apply, persons or entities providing financial services or advice relating to products such as equities, loans, insurances or superannuation are required to hold an AFSL or become an authorised representative of an AFSL holder.

6. Direct property is specifically excluded from the scope of the Corporations Act. Provided that persons do not compare likely returns on property with a *regulated* investment class, persons may provide advice on investment property without holding an AFSL or being authorised by an AFSL holder.

7. The sale and management (and in some cases, purchase) of property by one person on behalf of another (i.e. by an agent) is regulated on a State and Territory basis in all eight Australian jurisdictions. Persons acting as an agent of another to sell or manage a property on their behalf must obtain, and maintain, a qualification and approval to do so in the jurisdiction in which they are operating.

8. While these regulatory regimes have been put in place with the aim of providing a reasonable level of professional competency and consumer protection, they do not necessarily guarantee that *investment advice* provided by licenced professionals covers the full range of potential investments or is entirely impartial.

The Provision of Investment Advice

9. A licenced real estate agent is typically engaged by a client to sell or manage a property on the client's behalf. The agent acts in the client's best interest and attracts a fee, usually a commission, payable by the client in respect of a successful transaction.

10. Persons or entities providing *financial advice* to a client, typically also attract commissions in respect of successful transactions (i.e. purchase of a financial product by the client). However, these commissions are not paid by the client, rather, they are set and paid by the provider of the particular financial product that is purchased by the client on the financial advisor's recommendation (or referral). As such, the payment of commissions occurs only where a commission is offered by the financial product provider.

11. The amount of commission (or other benefits) paid by the financial product provider to the financial advisor must be disclosed to the client receiving the financial advice. However, as the level of commission offered may vary between different products in the market place, there is a strong incentive for the financial advisor to recommend products attracting the highest rate of commission, rather than those necessarily offering the best possible rate of return for the investor.

12. This contrasts strongly with the situation where a licenced real estate agent sells a property on behalf of a client. In this circumstance, both parties will share proportionally in the benefits of obtaining a higher final sale price (or return) for the client, and the agent cannot 'shop around' for a better rate of return.

13. Investment classes such as direct property which do not pay a commission to a financial advisor are therefore unlikely to be recommended by professional investment advisors in most circumstances. From the perspective of the potential investor, the payment of commissions, whether disclosed or not, greatly affects the range of potential investments that are likely to be recommended.

Fee for Service Model

14. The REIA is aware that, in an effort to reduce bias, some financial advisors have moved away from commission based remuneration in favour of an up-front fee for service. This model removes the inherent incentive for financial advisors to recommend investments that provide higher commissions for themselves, and potentially broadens the scope for financial advisors to provide fair and impartial advice on a much wider range of investment products, including those that do not pay a commission, such as direct property.

15. The REIA supports this transition and recommends that, in the interests of consumers seeking investment advice, all financial advisors should provide advice on a fee for service basis, including those providing advice on superannuation products.

SUMMARY

16. All persons or entities providing general investment advice, including in respect of superannuation, should provide this advice having regard for *all* potential investment options, including direct property.

17. To ensure all investment classes are fully considered, licenced investment advisors should move from a commission based, to a 'fee for service', remuneration model.

Prepared by:

Secretariat
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