**Submission to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into financial products and services in Australia**

**Submission by:**

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**Terms of Reference (ex-Additional term of reference)**

1. The role of financial advisers;
2. The general regulatory environment for these products and services;
3. The role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers;
4. The role played by marketing and advertising campaigns;
5. the adequacy of licensing arrangements for those who sold the products and services;
6. The appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served;
7. Consumer education and understanding of these financial products and services;
8. The adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers; and
9. The need for any legislative or regulatory change.

**Relevant background information**

I am a financial adviser and a founding partner of a medium-sized independently-owned AFS Licencee based in Brisbane. Our firm specialises in strategic investment, taxation, retirement planning and superannuation advice and we utilise a large number of products in the market from a wide range of product providers.

I am also a non-executive director of both a not-for-profit organisation, and of greater relevance, a Chartered Accounting firm.

As a member of what may be described as a younger-generation in the advice industry, I have tertiary qualifications at Masters level and I am a Certified Financial Planner member (CFP) of the Financial Planning Association of Australia. I am also a Fellow of the Financial Services Institute of Australasia and a Graduate Member of the Australian Institute of Company Directors.

**Response to Terms of Reference**

A number of items outlined in the terms of reference have no strong resonance with me however for those that do, I have outlined my response under each heading below.

1. The role of financial advisers

The role of a quality financial adviser is absolutely unique in the Australian market and fills a basic requirement for advice which is not fulfilled by the Accounting, Law or other representatives in the finance sector.

A financial adviser brings together the ability to strategically and proactively plan the development of clients' financial affairs, whilst combining this with a firm understanding of:

1. The operation of financial markets and financial market theory
2. Economic fundamentals and principals
3. The Australian taxation system
4. Legislation surrounding superannuation and retirement income streams
5. Centrelink benefits and eligibility criteria
6. Risk as it pertains to investments in the form of volatility, and pure risks
7. The range of financial products available in the market
8. The limitation of anyone to provide such arduously researched and constructed advice without adequate compensation.

Clients of quality financial advisers benefit from theoretically sound, logical and personally tailored advice which provides the benefits of:

1. More efficient and responsible use of cash flow
2. A higher net worth
3. Increased retirement savings
4. Lower risk
5. Increased peace of mind
6. Regularly reviewed financial arrangements to ensure the above are maintained through changing personal circumstances and market conditions

2. The general regulatory environment for these products and services

As a member of an independently-owned Australian Financial Services Licensee I am among the least-affected by certain unscrupulous practices that pervade our industry at the Licencee or 'Dealer group' level.

Nothing is more sick, and corrupting in the financial advice industry, than the legislative structure of the industry itself.

I believe that the legislative framework whereby financial advisers are nothing but representatives of corporate licensees impedes the elevation of the profession beyond that of the insurance salesmen of old.

This is true regardless of the morality and ethical awareness of the financial advisers operating within this system, where the licencee itself sets the parameters and entrenches bias into the practices of their representatives.

As with the accounting industry, I strongly believe that financial advisers should be individually licensed in much the same way as the Tax Agents' Board registers those accountants adequately qualified and experienced to act in that capacity.

In adopting this framework, the Federal Government would successfully achieve the following:

I. Removal of untenable 'tied distribution' arrangements which pervade the industry from almost every superannuation, investment and insurance product provider in the Australian market.
II. Place responsibility for financial advisers own ethical behaviour at their own feet, rather than at the level of the overriding licencee company.
III. Removal of the conflicts of interest that arise through higher remuneration, or other non-financial rewards, for compliant adherence to the recommendation of a licensee's preferred products or product providers.
IV. A physical and philosophical separation of the financial adviser from the product provider.

The issuing of licences to faceless organisations with no stake in the actual advice process leads to a loss of focus on the client and their needs, and rather a focus on the organisation's success independent of the client, and the financial adviser.

3. The role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers.

The requirement for appropriate and full disclosure is adequately entrenched in law and all advisers operating within the law are presently fulfilling this requirement.

As a director of a Chartered Accounting practice and a close associate of many legal practitioners, I am very familiar with the benefits and disadvantages of various billing methods chosen by the more established professions, as well as those of financial advisers.

I have never known anyone to be elated at the prospect of paying a fee regardless of the manner in which it is charged. As far as fees are concerned clients simply demand the right to know how the fees are charged and have an expectation that they be charged accurately in accordance with that model.

Time billing in many professions is the predominant billing method, however those that understand the inner-workings of these industries know very well that like most businesses, they will simply charge as much as they feel a client is prepared to pay. The concept of 'write-ons' is endemic throughout all industries in which time billing is practiced and an awareness of this fact is sufficient evidence that such a method should not ever be considered the pinnacle of professional practice.

Transactional based billing, as is commonly used by stockbrokers and those practicing in most areas of medicine, also provides obvious tendencies to 'over-service' for the sake of revenue generation.

Having gained insight into the practices of other professions and a large number of financial advisory practices, the only model in which I feel a financial adviser can appropriately charge is through a model based on a percentage of funds under advice. The advantages of this model are outlined as follows:

1. As a relationship-based profession, if clients are watching the clock and are reluctant to spend time building a rapport with an adviser, that adviser loses the ability to properly assess their needs, objectives, goals, fears, likes and dislikes (which is often found through seemingly irrelevant conversation). In this event it is impossible for an adviser to accurately assess the suitability of various strategies, products and services. In addition time billing creates a reluctance to attend regular review meetings which are vital to ensure that past recommendations remain appropriate in relation to changing markets and changing client circumstances.
2. It aligns clients' interests with those of the financial adviser. Should a client's portfolio perform well, the adviser is duly rewarded. If adequate risk controls aren't set in place and the portfolio performs poorly, an adviser's fee is reduced according to the lower asset values.
3. It helps to maintain client longevity. If a client were compelled to physically pay an invoice (rather than authorise the payment passively through their investments) human nature dictates that they would be likely to terminate their adviser relationship at precisely the time where an adviser is needed most to temper fear and to encourage a long term view.

## 4. The adequacy of licensing arrangements for those who sold the products and services

In order to increase the quality of advice and professionalism of financial advisers, the following standards ought to be required for their Licence to be granted:

1. A bachelor degree minimum educational requirement (which a major in financial planning, finance, accounting, economics, or similar)
2. A minimum period of tutelage under a licensed financial adviser (ideally, one licensed under the model similar to tax agents as outlined earlier in this submission)
3. Membership of an accredited professional body with an ethics based Code of Conduct and perhaps the insistence of an additional industry-specific education program (as is the case for tax agents through their required membership of the ICAA, CPA or NIA).

5. The need for any legislative or regulatory change

The financial advice industry has been undergoing continuous change for the past 20 years and has become as refined as is possible under the current regulatory environment.

Any legislative change introduced in an attempt to force changes to commercial business practices, especially as it relates to fees and conflicts of interest will either be crude and cause the inevitable closure of many quality advice firms, or alternately, they will be completely ineffective and do little to enhance the standards, nor the public perception of the industry.

For legislative change to be effective in genuinely enhancing the quality of financial advice, it should address the following:

1. Removal of the AFSL structure and replacement with an individually licensed adviser regime.
2. An increase in the educational requirements to be registered as a financial adviser/planner.
3. The requirement to belong to a professional body (e.g. Financial Planning Association of Australia (FPA), Association of Financial Advisers (AFA), or Association of Independently-Owned Financial Planners (AIOFP))
4. Flexibility in the method by which fees are calculated and charged, but with the requirement that a client is fully aware and authorises that method of calculation and collection.