Chapter 6

Volume based fees and anti-avoidance provisions and soft-dollar exceptions

6.1 A number of submitters expressed concern that some industry players have moved to vertical integration structures to avoid the bans on volume-based payments. This chapter discusses these views and the proposed anti-avoidance provisions contained in the Corporations Amendment (Future of Financial Advice) Bill 2011 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 designed to address these activities.

6.2 The bans on soft-dollar benefits will also be discussed, including concerns that some legitimate forms of professional development will be banned. Submitters' views on the proposal to limit professional development benefits to within Australian and New Zealand are also canvassed.

Volume-based shelf-space fees

6.3 Currently, employers can pay incentives to advisers to sell a certain type or a certain volume of products. The Bill proposes to prohibit:

- volume-based shelf-space fees paid by funds managers to platform operators; and
- volume payments from platform operators to financial advice dealer groups.[1]

6.4 The Explanatory Memorandum (EM) outlines that volume-based incentives deemed to be conflicted remuneration include benefits which are dependent on the value of financial products of a particular class recommended or required and the number of financial products of a particular class recommended or acquired.[2] The EM states:

> In an industry as complex and fast-evolving as the financial services industry, there are and will always be a wide range of remuneration arrangements. However, volume-based payments of the kind described in section 963L appear on the face of it to be inherently conflicted, since the financial adviser will have a financial incentive to maximise the value of

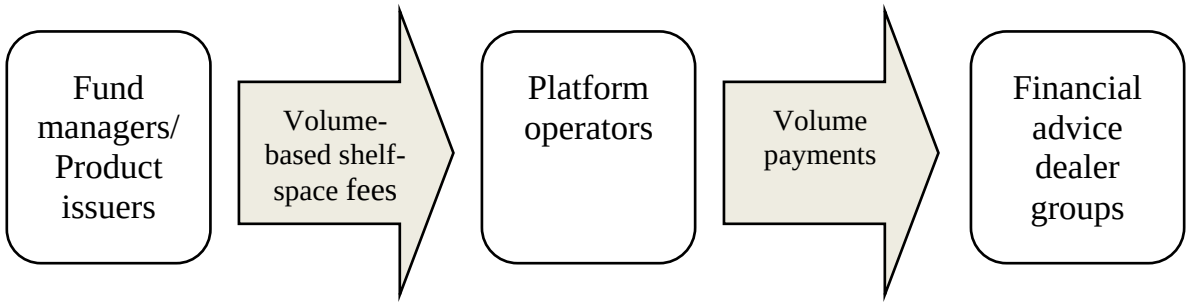
1 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, pp 7, 25.

2 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 27.

> the payments irrespective of the suitability of the products or investments for the client.[3]

6.5 Diagram 6.1conceptualises the interactions between product issuers, platform operators and financial advice dealer groups. It demonstrates, in a simplified form, the benefits offered, and received, between these parties.

Diagram 6.1: current structure of volume-based rebates



Source: Committee secretariat, adapted from *Explanatory Memorandum*, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, pp 7, 25; Treasury, *Submission 22*, pp 8–9; Jennifer McDermott, 'What's that: Shelf-space fees', *The Australian*, 9 June 2010.

6.6 The term 'shelf-space fees' is derived from the retail grocery industry where a manufacturer may pay more for its product to receive greater prominence in a store. In the context of financial products, shelf-space fees refer to the levies paid by manufacturers (typically managed funds) to have preferential treatment for their product when listed on a menu of products accessed by financial advisers on behalf of their clients.

6.7 The lists of products are generated by platform operators (or investor directed portfolio services) which 'can also be thought of as a one-stop shop or virtual supermarket for managed funds and other financial instruments'.[4] Treasury defines a platform operator as:

> ...a financial services licensee or RSE licensee (as defined in the *Superannuation Industry (Supervision) Act 1993* ('SIS Act')) that offers to be the provider of a custodial arrangement. 'Custodial arrangement' is defined in the existing section 1012IA of the Corporations Act; broadly, it is an arrangement where the client may instruct the platform to acquire certain financial products, and the products are then either held on trust for the client, or the client retains some interest in the product. Under this definition, it is taken to include arrangements where the client may direct the platform to follow an investment strategy of the kind mentioned in the SIS Act.[5]

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3 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 27.

4 Jennifer McDermott, 'What's that: Shelf-space fees', *The Australian*, 9 June 2010.

5 Treasury, *Submission 22*, pp 8–9.

Vertically integrated models

6.8 A number of submitters voiced concerns that some adviser groups will move to vertically integrated models to avoid the bans on volume-based payments. Professional Investment Services (PIS) suggested that the ban on volume-based remuneration creates an anti-competitive environment as the provision targets non-vertically integrated models and overlooks vertically integrated models including in-house or proprietary products. PIS commented that in this scenario the profit may pass over the adviser/licensee, yet is still retained within the broader group of associated companies. There is, therefore, still the capacity for conflicted advice:

> The revenue, and source of profits, may sit in different entities however the capacity to influence financial product advice is arguably far greater in a vertically integrated model.
>
> A non-vertically integrated model may have a much broader range of products and platforms to choose from, than vertically integrated models. In such an environment, where there is broad product choice, and the adviser receives no benefit from recommending one product over another, where does the conflict arise? In an environment where there is a narrow APL filled with proprietary product, which is associated with the Licensee or the Licensee's parent company, and the adviser has an extremely limited product choice to recommend from, how great is the capacity to conflict advice?[6]

6.9 Associated Advisory Practices (AAP) offers compliance and business development services to independently owned Australian Financial Services License (AFSL) holders. AAP were concerned similarly that volume rebates will result in an anti-competitive environment and argued that leading banks will hold considerable advantage over smaller players:

> Banks and institutions operate vertically integrated business models [and] therefore have considerable scale and distribution advantages, and the advent of FoFA will see an expansion of these advantages. While views on the impact of these proposals diverge, the reality for independents, boutiques and smaller dealer groups is that these measures will increase the cost of providing financial advice and reduce their capacity to operate profitable planning practices – at least on a level footing with the large players.[7]
>
> It should be emphasised that whilst we support the reforms to the extent that it aims to improve the trust and confidence of Australian retail investors in the financial planning sector, we are concerned that the uneven playing field under its proposed delivery will not only push many small

6 Professional Investment Services, *Supplementary Submission 17*, p. 9.

7 Associated Advisory Practices, *Supplementary Submission 20*, p. 2.

> players out, but may also result in pricing an important consumer segment out of the market- and it will ultimately be consumers who will suffer.[8]

6.10 PIS recommended that the prohibition against volume rebates from platform providers to licensees be reconsidered in recognition that potential conflicts can be effectively managed without the ban.[9] AMP Financial Services agreed that the broad ban on conflicted remuneration would be sufficient to ensure that shelf space payments would 'only be banned when they could reasonably influence the advice provided to retail clients'.[10]

Permissible volume-based rebates should pass on to consumers

6.11 The Industry Super Network (ISN) also acknowledged the propensity the ban creates for dealer groups to restructure and become de facto platform or product providers. The ISN argued, however, that volume-based rebates should be completely banned to address this issue, or only permitted in circumstances where the rebate is required to be passed through to the end consumer:[11]

> We also strongly disagree with the permissive treatment of volume rebates, which are in effect a wholesale commission paid to incentivise product recommendations. While notionally justified on the basis that they enable a platform to realise scale benefits, the proposed regulatory setting does not ensure that the end consumer benefits from the payment of a rebate. ISN submits that volume rebates should have either been completely banned, or that they should have been permitted only if required to be passed through to the end consumer. As predicted, there will be a number of dealer groups which develop creative structures to become de facto platform or product providers to retain volume based payments.[12]

6.12 Vanguard Investments Australia has also submitted that there is a need for a requirement to pass any volume-based benefits platforms received through to the end investor:

> ...even rebates that are considered by platforms and fund managers to reflect reasonable scale efficiencies may influence the product options that an adviser gets access to through platforms unless the cost benefit is delivered through to the end investor.[13]

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8 Associated Advisory Practices, *Supplementary Submission 20*, p. 3.

9 Professional Investment Services, *Supplementary Submission 17*, p. 10.

10 AMP Financial Services, *Submission 43*, p. 25.

11 A benefit is presumed not to be a volume-based shelf-space fee if it is proved that all or part of the remuneration is a fee for service or a discount that does not exceed the reasonable value of scale efficiencies (see Treasury, *Submission 22*, p. 9).

12 Industry Super Network, *Supplementary Submission 12*, p. 4.

13 Vanguard Investments Australia Ltd, *Submission 60*, p. 2.

6.13 Vanguard noted that some platforms currently do pass the benefit on to the consumer and that the Bill creates a risk that these practices may cease.[14]

6.14 In Macquarie Bank's view, the Bill *will* allow for volume-based payments to be passed on to the end consumer. Macquarie Bank believed that this activity is essential for a competitive environment between independent providers and vertically integrated suppliers:

> In Macquarie's view the ability to pass volume-based discounting of administration fees to fund members is a positive and essential feature of the tabled FOFA provisions...We consider that the ability to provide such discounts to fund members on this basis is essential for independent providers to be able to continue to compete with vertically integrated providers which will inevitably have flexibility in the pricing of their administration services.[15]

6.15 The Financial Services Council (FSC) recommended that section 964A (Platform operator must not accept volume-based shelf-space fees) be amended to exempt any benefit that is passed on in full to the end investor to be permissible:

> That is, any volume related benefit payment that flows from a fund manager via a product provider licensee such as a custodial arrangement, superannuation fund or managed investment scheme should be permitted if passed in full to the retail investor without having to prove the benefit met s963A(3)(b) scale efficiency test.[16]

6.16 The Superannuation Committee of the Law Council of Australia noted that some large superannuation funds negotiate favourable rebates that will exceed efficiency savings, and that these should be allowed, especially as 'superannuation trustees are required by law to hold all rebates for the benefit of their members and cannot retain those rebates for their personal benefit'. It recommended that trustees of superannuation funds should therefore be excluded from the definition of platform operators or an additional exception should be applied that allows for volume-based fees that are received for the benefit of the retail client. [17]

6.17 Treasury responded to a written question on notice from the committee which sought to clarify whether volume-based benefits could be passed on to the end consumer. Treasury stated that '[t]he Bill does not prohibit volume-based fee rebates that are not otherwise banned from being passed from the platform provider to the end consumer'.[18]

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14 Vanguard Investments Australia Ltd, *Submission 60*, p. 2.

15 Macquarie Bank Limited, *Submission 65*, p. 2.

16 Financial Services Council, *Submission 58*, p. 66.

17 Law Council of Australia, *Submission 55*, p. 12.

18 Treasury, answer to question on notice, 24 January 2012, (received 10 February 2012), p. 2.

6.18 The Australian Securities and Investments Commission (ASIC) acknowledged that the concept of volume-based shelf-space fees has not previously been considered by the courts, and will provide further guidance on how the provision will be interpreted in 2012. ASIC commented that it:

> ...will need to assess the effectiveness of these new provisions over time and in light of regulatory experience. However, to assist industry in adopting measures to comply with the FoFA reforms, ASIC will provide guidance on how we interpret this provision in 2012.[19]

Anti-avoidance provisions

6.19 The government is cognisant of the fact that some industry players intend to avoid various measures, in particular the ban on volume-based payments from platform providers to dealer groups.[20] The Boutique Financial Planning Principals Group (BFPPG) commented:

> A ban on volume rebates alone will not be effective and we have already seen larger dealer groups moving to protect their revenue base by becoming their own Responsible Entity and recommending their own products to retain the income that they would have received from volume rebates and that will now be banned.[21]

6.20 In response, the first tranche[22] of the FOFA reforms includes anti-avoidance provisions which 'prevents a person from entering into a scheme if the sole or dominant purpose of doing so was to avoid the application of any provision in Part 7.7A' (Best interests obligations and remuneration). Contravention of the anti-avoidance provision is subject to the standard maximum penalty of $200,000 for an individual and $1 million for a body corporate:

> If a fee recipient continues to knowingly or recklessly charge a client an ongoing fee after the termination of the relevant ongoing fee arrangement, the Court can make an order for the fee recipient to refund the fees to the client. However, a Court may only order the payment of a refund if it is reasonable in all the circumstances to do so. The Court may make the order on its own initiative, on application by ASIC or the client.[23]

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19 Australian Securities and Investments Commission, *Supplementary Submission 28*, p. 20.

20 The Treasury, *Future of Financial Advice: Frequently Asked Questions*, 'What happens to consumers who sign up to products between now and 1 July 2012 (commencement date of reforms)?' http://futureofadvice.treasury.gov.au/content/Content.aspx?doc=faq.htm (accessed 3 February 2012).

21 Boutique Financial Planning Principals Group, *Submission 48*, p. 7.

22 Corporations Amendment (Future of Financial Advice) Bill 2011.

23 Explanatory Memorandum, Corporations Amendment (Future of Financial Advice) Bill 2011, p. 16.

6.21 The second tranche[24] of the FOFA reforms amends the new anti-avoidance provisions to capture a broader range of schemes designed to avoid the application of the FOFA reforms. The amendment changes the determination of what constitutes an avoidance scheme from whether 'the sole or dominant purpose' of the scheme is avoidance, to whether avoidance is the sole or a non-incidental purpose of the scheme.[25]

6.22 The Law Council has recommended that the anti-avoidance provision be further amended to expressly state that the provision does not apply if the scheme was entered into on before a specified date. The Law Council is concerned that the provision would not apply just to a scheme entered into on or after 1 July 2012, but any scheme before that date also.[26]

Committee view

6.23 The committee believes that the anti-avoidance provisions of the future of financial advice reforms are adequate to address moves from advice dealer groups to use vertically integrated models to continue receiving volume-based shelf-space fees. The committee acknowledges that ASIC has undertaken to provide further guidance on how the provision will be interpreted and the committee await with interest this guidance.

Soft-dollar benefits

6.24 Soft-dollar benefits are non-monetary benefits within the definition of conflicted remuneration that could 'reasonably be expected to influence financial product advice'.[27]

6.25 The Bill provides exceptions for the ban on conflicted remuneration for soft-dollar benefits under the amount prescribed by regulation (proposed to be $300). It also provides an exception for soft-dollar benefits with an education or training purpose and soft-dollar benefits that provide information technology software or support.[28]

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24 Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011.

25 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 38.

26 Law Council of Australia, *Submission 55*, p. 13.

27 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 30.

28 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 24.

Claims that legitimate forms of professional development will be banned

6.26 The Financial Planning Association of Australia (FPA) and Westpac submitted that the provisions do not consider the importance of educational services that go beyond financial product advice such as practice management, general economic information and client relationship skills.[29] Westpac recommended that the exemption needs to be broadened to 'allow for legitimate education and training which does not influence advisers to recommend a particular product'.[30]

6.27 The ABA also raised concerns in relation to the Bill's reference to professional development being relevant to subparagraph 963C(c)(ii), the provision of 'financial product advice'. It argued that this provision will lead to uncertainty regarding the range of topics that could be covered at professional development events and that financial advisers engage in activities beyond simply 'giving financial product advice', such as dealing and administrative activities including marketing, accounting, business strategy, and OH&S.[31]

6.28 FSC argued that the relevance test in subparagraph 963C(c)(ii) should be omitted and that the requirement for the benefit to have a genuine education or training purpose and to comply with the regulations would be sufficient. FSC suggested that any concerns about particular types of training should be addressed in regulations:[32]

> Financial advisers are engaged in a range of activities which extend beyond giving advice. Not only do they engage in dealing activities such as arranging for investments to be made and for trades to be placed, they also undertake administrative activities for clients. Furthermore, there is a range of training that may be relevant to the business of a financial adviser but which would not be obviously 'relevant to the provision of financial advice' such as training relating to equal opportunity, occupational health and safety training, running a (small) business and marketing.
>
> Nor would it permit the development of soft skills like client servicing/client relationship training which we understand from discussions from ASIC pre the issue of Consultation Paper 153, are areas ASIC is interested in seeing advisers improve. Courses on these types of topics are clearly for a genuine education or training purpose but could be prohibited by s963B(c)(ii). We are concerned that by requiring the training to be "relevant to the provision of financial advice" uncertainty may arise regarding the range of topics that can be covered at a conference.[33]

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29 The Westpac Group, *Submission 64*, p. 27; Financial Planning Association, *Submission 62*, p. 22.

30 The Westpac Group, *Submission 64*, p. 27.

31 Australian Bankers' Association, *Submission 67*, p. 38.

32 Financial Services Council, *Submission 58*, p. 82.

33 Financial Services Council, *Submission 58*, pp 82–83.

6.29 FSC recommended that subparagraph 963C(c)(ii) be omitted or redrafted to read 'the benefit is relevant to the provision of financial services or to the conduct of a financial services business'.[34]

Information technology software and support

6.30 Subparagraph 963C(c)(ii) also applies to non-monetary benefits in the form of IT support and software 'that are related to the provision of financial product advice and that comply with any other requirements detailed in the regulations'.[35]

6.31 The Joint Consumer Groups (JCG) argued that the carve-out for IT software or support is too broad, and should be limited:

> It covers software or support services that are 'related' to advice in relation to the product provider's products. 'Related' is a very broad concept and, therefore, as currently drafted, the carve-out might allow the provision to financial advisers of, for example, Microsoft Office, expensive practice management and advice expert software like COIN which is not product or platform specific.[36]

6.32 The JCG suggested that the Bill and EM be amended to specify that the carve-out does not apply to standard IT software and only to software relevant to a specific financial product:

> The carve-out for information technology software or support provided by product providers, in s963C(d), should be modified so that s963C(d)(ii) reads 'the benefit is essential to the provision of financial product advice in relation to the financial products issued or sold by the benefit provider.' The Explanatory Memorandum should further explain that this carve-out does not allow the provision of standard information technology software and support necessary for the operation of any financial advice business but, instead, is intended to allow the provision of information technology software and support that is essential to allow sales of, or advice in relation to, a specific product.[37]

6.33 Treasury have provided the following table that outlines when commercial software is intended to be banned.

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34 Financial Services Council, *Submission 58*, pp 82–83.

35 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 30.

36 Joint Consumer Groups, *Supplementary Submission 25*, p. 6.

37 Joint Consumer Groups, *Supplementary Submission 25*, p. 8.

Table 6.2: Some examples of the operation of the ban (not exhaustive)

Issue	Banned?	Why?
Free or subsidised business equipment or services, such as computer hardware, office rental and commercial software, over $300.	Yes	These benefits have the potential to influence product selection and decision making.
Access to administrative information technology services, such as software to access a platform or access to a website to place orders.	No	So long as it can be shown that the administrative information technology services is relevant and tangible to the licensee's business, this is a benefit that will be permitted as it facilitates access to advice.

Source: Adapted from Treasury, Future of Financial Advice Frequently Asked Questions, 'Why has the Government decided to ban soft-dollar benefits and what is included in the ban?', http://futureofadvice.treasury.gov.au/content/Content.aspx?doc=faq.htm#Q3_2 (accessed 10 February 2012).

Committee view

6.34 The committee recognises that subparagraph 963C(c)(ii) creates potential for some legitimate forms of education to be considered as conflicted remuneration under the provisions of the Bill. However, the committee also recognises the counter argument, that if the carve-out for soft-dollar benefits were to be broadened, it could include non product or platform specific support such as the Microsoft suite. To overcome this concern, the committee considers that further explanation of legitimate forms of education should be provided.

Recommendation 9

6.35 The committee recommends that further material be provided in the Explanatory Memorandum to the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 to outline examples of legitimate training, such as practice management or client relationship skills. Legitimate forms of training should also be provided in the regulations.

Dollar limit

6.36 The EM outlines that 'benefits under the amount prescribed by regulations (proposed to be $300), [will not be regarded as conflicted remuneration] so long as those benefits are not identical or similar and provided on a frequent or regular basis'.[38]

38 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 31.

6.37 The FSC and the ABA are concerned that there is uncertainty in determining when a benefit is provided on a 'frequent or regular' basis and recommended that this be clarified in the EM.[39] FSC argued:

> While we do not believe it is appropriate to define these terms in the legislation. We recommend that the EM should be amended to include examples of what is and is not deemed to be "frequent or regular" for clarity purposes.
>
> For example, we would determine that taking a representative out to lunch once a year would not be "frequent or regular", but acknowledge other interpretations may exist and seek confirmation via an amendment to the EM that this example is not frequent or regular.
>
> Conversely, we acknowledge that taking a representative out to lunch once a month is likely to be interpreted as both frequent and regular.[40]

6.38 The committee agrees that there is a need for greater clarity in relation to this matter.

Recommendation 10

6.39 The committee recommends that the Explanatory Memorandum for the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 be amended to provide clarity on the application of the $300 limit for soft-dollar benefits. Further, the committee recommends that examples of what is and is not deemed to be 'frequent or regular' should be stated in the Explanatory Memorandum and the regulations.

Overseas professional development

6.40 As part of the non-monetary conflicted remuneration measures, it is proposed that professional development and training will be restricted to that which is conducted within Australia and New Zealand. This includes a 'majority time requirement' where 75 per cent of the time during a standard 8 hour day is spent on professional development. Further, that any travel costs, accommodation and entertainment outside the professional development activity be paid for by participants.[41]

6.41 While the majority of submitters are in support of the measures to allow genuine education or training as a form of remuneration, many submitters did not

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39 Financial Services Council, *Submission 58*, p. 82; Australian Bankers Association, *Submission 67*, p. 38.

40 Financial Services Council, *Submission 58*, p. 82.

41 Explanatory Memorandum, Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, p. 31.

agree with the domestic requirement.[42] PIS argued that this measure will 'seriously undermine professional development' of advisers and the industry as a whole.[43] PIS went on to state:

> Such a prohibition will considerably restrict Australian financial services professional's cross-jurisdictional education, and development as well as significantly hampering domestic innovation and development. From an educational and content perspective, it is also important to highlight the rationale for holding conferences on an international basis is often driven by increasing exposure to highly regarded international speakers which are not available domestically. Given the geographical distance and separation between Australia and the U.S or Europe, access to international speakers is often not attainable unless conferences are arranged internationally.
>
> Limiting the professional development exemption to domestic basis will significantly undermine Australia's international financial services exposure and is inconsistent with the government's objectives of promoting Australia as a financial services hub.[44]

6.42 IOOF Holdings suggested that the domestic requirement restriction be extended to the Asia-Pacific region. It also highlighted that many larger licensees will have overseas commitments for professional development activities planned at least 18-24 months in advance. These activities may include potential liabilities if participants withdraw from contractual arrangements. IOOF Holdings submitted that in the event that the domestic requirement is passed by the parliament a minimum 2 year transition period apply.[45]

6.43 AMP Financial Services recommended that the criteria to determine whether professional development is genuine should be defined by the activity, rather than geography.[46] The EM notes that 'it is envisaged that there will be further consultation on the regulations' in relation to professional development and the domestic requirement.

Committee view

6.44 The committee considers that provisions restricting professional development benefits to Australia and New Zealand are too stringent and that professional development benefits should be based on the activity rather than its location.

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42 Australian Institute of Superannuation Trustees, *Supplementary Submission 18*, p. 4; IOOF Holdings Limited, *Submission 19*, p. 6; Associated Advisory Practices, *Submission 20*, p. 8; AMP Financial Services, *Submission 43*, p. 23; Financial Services Council, *Submission 58*, p. 83; Financial Planning Association, *Submission 62*, p. 23; Association of Financial Advisers Ltd, *Submission 66*, p. 15; Australian Bankers' Association, *Submission 67*, p. 39.

43 Professional Investment Services, *Supplementary Submission 17*, p. 3.

44 Professional Investment Services, *Supplementary Submission 17*, p. 14

45 IOOF Holdings Limited, *Submission 19*, p. 7.

46 AMP Financial Services, *Submission 43*, p. 23.

Recommendation 11

6.45 The committee recommends that the proposed consultations on the regulations for the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 include consideration of the potential impact of restricting soft-dollar benefits of professional development to within Australia and New Zealand.

6.46 The committee recommends that no geographical restriction be placed on professional development where it is professional development focussed on education and training.

Scrutiny of Bills

6.47 The Senate Standing Committee for the Scrutiny of Bills noted that subsection 963C(3) of the Bill allows for an exception for non-monetary benefits when 'the benefit complies with regulations made for the purposes of this subparagraph'. It also noted the types of regulations that will be included (as discussed above) are outlined in the EM (pages 31 and 32).

6.48 It has highlighted this subsection as part of its role to report to the Senate when it considers a Bill has 'inappropriately delegate[d] legislative powers'.[47] It suggests that the Senate consider whether this delegation of legislative power is appropriate.[48]

47 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 1 of 2012*, 8 February 2012, p iii.

48 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 1 of 2012*, 8 February 2012, pp 7–8.