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Email transmission

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
CANBERRA ACT 2600

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Dear Sir or Madam

Future of Financial Advice reforms - submission

We refer to the *Corporations Amendment (Future of Financial Advice) Bill 2011* (Cth) (**First Bill**) and *Corporations Amendment (Further Future of Financial Advice) Bill 2011* (Cth) (**Second Bill**).

We thank you for the opportunity to provide feedback on the proposed reforms.

Advising the client

1 The statutory based best interest duty requires further clarification. Though the requirement to consider other 'subject matters' in the provision of personal advice given to clients has been removed since the Exposure Draft, there is no clarity around the meaning of the requirement to '*take any other step that would reasonably be regarded as being in the best interests of the client*'.

2 In particular, where an adviser only recommends a single product or products of a single issuer, the Second Bill should clarify that, provided the adviser considers its product meets the client's objectives, the adviser is not required to consider other products (for example, products of the issuer's competitors). In this circumstance, in order to discharge its duty to act in the best interest of the client, the adviser should be required to appropriately disclose in the statement of advice that no other financial products have been considered because the adviser only recommends a single product or the products of a single issuer.

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Small value exemption for non-monetary benefits

3 We submit that the proposed threshold for 'one-off' non-monetary benefits should be $1,000 rather than $300. A soft dollar benefit of $1,000 is unlikely to influence the choice of financial product recommended by a licensee or representative or otherwise influence the financial product advice given.

4 The proposed $300 limit is not sufficient to cover the cost of reasonable soft dollar benefits which may typically be given to a licensee or representative such as an iPad, laptop, holiday or travel vouchers, etc. Such items, provided they are not given frequently or regularly, would not be considered by most retail clients to impact the advice or recommendations given by a representative or licensee.

Professional development criteria

5 The additional requirements proposed for the professional development exemption from the conflicted remuneration provisions as set out in the explanatory memorandum are unreasonable. The explanatory memorandum proposes that any travel costs, accommodation and entertainment outside of the professional development activity must be paid for by the participant or their employer or licensee.

6 Professional development activities for genuine educational or training purposes are crucial to maintaining the quality of the advice given to retail clients and the skills and competencies of financial advisers, particularly concerning knowledge of the products they recommend. We submit that the 'expenses' criteria should only require entertainment outside of the professional development activity be paid for by the participant or their employer or licensee.

7 It is appropriate for reasonable travel and accommodation costs relating to the professional development activity (for example, the cost of accommodation for the duration of the professional development activity) to be paid by the provider of the activity. Further, the cost of professional development activities is often subsidised with conference, travel and accommodation costs paid by the participant, or their licensee or employer, in part and the balance paid for by the training or education provider.

8 Given the proposed restriction that the professional development must be conducted in Australia and New Zealand and at least 75% of the time of a standard eight hour day spent on professional development, we believe those requirements will ensure the professional development activity is for genuine training or education purposes and there is no need to prohibit the training or education provider from meeting or subsidising the reasonable costs of travel and accommodation.

Availability of records of exempt non-monetary benefits

9 Paragraphs 2.36 and 2.37 of the explanatory memorandum to the Second Bill, indicates that records of non-monetary benefits, which are professional development activities, administrative IT services or infrequent or irregular benefits under $300, should be made available to a person who request such records. Given the explanatory memorandum acknowledges that such non-monetary benefits are not conflicted remuneration as they are unlikely to influence the products being recommended or advice given to retail clients, we believe it is inappropriate for records of such items to be made available to retail clients.

10 We submit that the existing disclosure obligations of such benefits as highlighted in the explanatory memorandum are sufficient and no further information should be required to be provided to retail clients. To do so will impose an unreasonable administrative burden on licensees and representatives in circumstances where such information will not be relevant to retail clients.

Please contact me if you wish to discuss our submission further.

Yours sincerely

Tim Wiedman
Partner