bongiornowealth**management**
financial planning

level 2, 431 st kilda rd
melbourne, victoria 3004

t: +613 9863 3111
f: +613 9866 4960
www.bongiorno.com.au

bongiorno & partners fp pty ltd
acn 126 077 567
authorised representative

bongiorno wealth management pty ltd
acn 133 111 369
afs licence no. 345313

FPA
FINANCIAL PLANNING ASSOCIATION OF AUSTRALIA
PRINCIPAL MEMBER

16 September 2011

The General Manager
Retail Investor Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: futureofadvice@treasury.gov.au

Dear Sir/Madam
Exposure Draft Corporations Amendment (Future of Financial Advice) Bill 2011

We appreciate the opportunity to comment on this exposure draft and the key measures contained in the draft legislation.

Best Interest Obligation

In principle we commend this initiative and the guidance provided. However it would be useful to have greater guidance from Treasury on how advisers can discharge their duty to give priority to client's interests under paragraphs 1.25 to 1.27 especially when providing scaled or limited advice as described in 1.29. The provision of examples of '*reasonably apparent*' and '*reasonable investigation*' would be useful.

Charging ongoing fees to clients

To meet the two separate obligations advisers will be required to provide an '*annual disclosure of fees and services*' for the previous and forthcoming 12 months. We note that such disclosures will be best estimates only. As the disclosure is to be provided at least 30 days before the relevant disclosure day for the previous 12 months it will only be an estimate, unless it is a fixed fee. Likewise the disclosure for the forthcoming 12 months will only be an estimate, unless the fee is a fixed amount.

It appears the disclosure obligations apply to clients who enter into an ongoing fee arrangement after 30 June 2012. Additional guidance would be useful to accommodate situations where advice is provided to an existing client (pre 30 June 2012) however to a new related entity of an existing client. It would be helpful if the definition of 'person' or 'retail client' could be extended to include related entities of a 'person' or 'retail client' who may not have previously received retail advice.

Without extending the definition to include related parties, we foresee situations where a client may have some entities captured under the new obligations and others not. This could be very confusing.

We look forward to the release of Tranche 2 of the FOFA reforms. The following comments are based on the Assistant Treasurers media release of 29 August 2011 and in particular the grandfathering of existing arrangements.

We understand that a ***ban will not*** apply to existing contractual rights of an adviser to receive ongoing product commissions after 1 July 2012.

However it is proposed ***to ban*** conflicted remuneration, including volume payments from platform operators to licensees, dealer groups or their representatives in respect of new investments through a platform after 1 July 2012.

The 29 August 2011 media release states "in short, this will mean that the level of volume bonus payments from platform providers to licensees will 'crystallise' and should not increase in size after the commencement of the reforms on 1st July 2012".

We believe where a licensee, dealer group or adviser has an existing arrangement in place as at 26 April 2010 to receive payments from a platform beyond 1 July 2012 these arrangements should be allowed to continue until that existing arrangement expires irrespective of it being commission, volume related or any other form of conflicted remuneration.

Thank you for considering our comments and we would be pleased to answer any questions.

Yours faithfully

Margaret Mote
Chief Operating Officer