

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

Email: [futureofadvice@treasury.gov.au](mailto:futureofadvice@treasury.gov.au)

19 October 2011

Dear Sir/Madam,

## **Exposure Draft – Corporations Amendment Bill 2011**

We appreciate the opportunity to provide comments on the Exposure Draft – Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011.

Deloitte is supportive of the provisions relating to conflicting remuneration including the proposed ban on commissions and other volume-based payments to the licensee or their authorised representative. We consider however that sections 963H and 964(1) require qualifications to make it clear that this proposed ban is only intended to apply to financial product advice given to retail clients under an AFSL.

Our specific comments are set out below.

### **Proposed qualifications to sections 964(1) and 963H:**

*Section 964: Product Issuer must not give monetary or non-monetary benefit to financial services licensee or representative*

*(1) An issuer or seller of a financial product must not give any monetary or non-monetary benefit to a financial services licensee, or a representative of a financial services licensee, who provides financial product advice to retail clients.*

We support the proposed ban on product issuers giving monetary or non-monetary benefits to AFSL holders or representatives that may influence financial product advice given to retail clients. However, we consider that section 964(1) as currently drafted is ambiguous and may have unintended consequences for multidisciplinary firms such as Deloitte, which has licensed entities, and whose partners provide both financial product advice to retail clients as well as other services that are not financial product advice. Section 964(1) would preclude an issuer from providing a representative of a financial service licensee any monetary or non-monetary benefit, even if that benefit does not relate to the provision of financial product advice to retail clients.



We therefore suggest qualifying section 964 (1) so that it is clear that the ban only applies to issuers giving monetary or non-monetary benefits to AFSL holders and their representatives, when such benefits relate to the provision of financial product advice to retail clients.

Section 963H: Employer must not pay employees conflicted remuneration:

*An employer of a financial services licensee, or a representative of a financial services licensee, must not give the licensee or representative conflicted remuneration for work carried out, or to be carried out, by the licensee or representative as an employee of the employer.*

We also consider section 963H as currently drafted may have unintended consequences for firms with licensed entities whose employees provide both financial product advice and other services that are not financial product advice.

For the same reasons outlined above, we suggest section 963H is also clarified so that the ban specifically applies to remuneration for work carried out by the licensee, or representatives, in the provision of financial product advice to retail clients under an AFSL.

We would be pleased to discuss our comments with either yourself or other members of your team. If you wish to do so, please do not hesitate to contact me on (03) 9671 7934.

Yours sincerely

Deloitte Touche Tohmatsu

A handwritten signature in black ink that reads "Heather Park". The signature is written in a cursive, flowing style.

Heather Park

Partner