

Hayden Financial Services Pty Ltd

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Statutory Compensation Review
PO Box 6295
Kingston, ACT, 2604

Submission: Review of compensation arrangements for consumers of financial services

This submission requests that the recommendations from the Review should not make it harder to provide quality financial advice by increasing the costs or the complexities.

Consumers of traditional products should not pay the compensation required by consumers of complex non-transparent products. Please note that consumers ultimately pay the extra costs.

The Review is only concerned with the misconduct of Licensees and not for losses that result from the failure of a financial product. This is an important difference and I request that the Review provide direction to differentiate on these two causes of losses. Importantly Advisers should not cover the cost of product failure that is beyond their control.

Practitioners that provide uncomplicated but valuable financial planning advice should not have to pay for the protection of consumers that have received complicated advice incorporating non-transparent products.

For the remainder of this submission I recommend advisers are segregated into two categories - UBV Advisers (providing uncomplicated but valuable advice) and Other Advisers. UBV Advisers provide advice on investments (eg in super funds) and only advise on ADI products and Products with no/minimal chance of permanent loss of capital covering traditional Asset Sectors. Other Advisers provide advice on alternative asset sectors, sophisticated products; internally geared investments; insufficiently diversified products etc.

I recommend the reduction of the cross-subsidisation of PI premiums and other compensation fund costs between UBV Advisers and Other Advisers. This will provide an incentive for more Advisers to provide UBV advice which will reduce the losses generated by complex products. It will also improve the education outcomes of Consumers (see Prevention section below).

The areas to provide compensation for Investors are listed below. The Review addresses all these with the focus on the resultant need for the Compensation Scheme:

- Prevention
- Internal Dispute Resolution Scheme
- External Dispute Resolution Scheme
- PI Cover
- Capital Adequacy
- A Proposed Last Resort Statutory Compensation Scheme

My comments on these are:

Prevention

Ideally UBV Advisers would be Individually Licensed. Their restricted range of advice would minimise the probability of unforeseen losses. Investors will be protected by selecting UBV Advisers and their education needs will be more achievable as they will not need to understand complex, sophisticated, non-transparent products.

Internal Dispute Resolution Scheme & External Dispute Resolution Schemes

We need to get a Body of Knowledge, eg a body of cases or case law to clearly segment unacceptable advice. This can be argued and reasoned by industry professionals and specialist consumer representatives and achieve a line in the sand – to one side is unacceptable investment mixes for a specified set of investor's goals. For instance a suitably diversified portfolio of Australian Shares is not poor advice if the Consumer has an acceptable time-frame (eg super fund investments) and had indicated an acceptable understanding of volatility.

PI Cover

Specific cover can be structured for UBV Advisers. The Cover can address those areas where a loss may be generated and the premiums can reflect the pooling of these risks.

Capital Adequacy

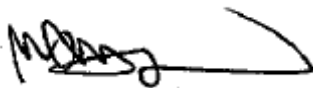
Australians do not expect Medical Practitioners to hold large amounts of capital but we do expect they hold large levels of PI cover. If capital adequacy is seen as a cure-all it will suit Businesses rather than Practitioners. Capital Adequacy is not necessary for UBV Advisers with effective PI Cover. Capital Adequacy should not prevent suitably qualified and skilled Advisers from providing an uncomplicated but valuable service.

If Advisers are both seen, and act, as Practitioners rather than businessmen that will be a win for consumers. A businessman must think of his business needs and related services whereas a Practitioner is engaged in a profession and focuses on consumer care (eg along the lines that Medical Practitioners focus on patient care). Excessive compliance requirements reduce the time available for an Adviser to spend on Practitioner related matters.

In summary, Advisers (and, indirectly, consumers) should pay into a pool to reimburse losses from the misconduct of Licensees. However they should not pay excessive premiums for PI cover nor high membership costs for External Dispute Resolution Schemes nor high costs/levies for Compensation Schemes.

Please call or email me to discuss any aspect of this submission.

Yours Sincerely



MARK HAYDEN
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Certified Financial Planner
Director

Hayden Financial Services Pty Limited ('HFS') holds an Australian Financial Services Licence (AFSL 239062).

Background on the Author - Mark Hayden

Mark Hayden started in the industry in 1979 working for a large Insurer and undertaking actuarial studies. He later changed to obtain an Economics Degree and worked in Corporate Super before leaving the Insurer in 1995 to commence Financial Planning. The goal was to be independent (not influenced by a Fund Manager) and to cover more than just super (incorporate other client needs). He advised under a small and then a large Licensee before getting his (his company's) Dealers Licence in July 1999 and AFSL in November 2003. He has set-up and unwound two joint ventures with Accountants and is convinced his model of staying small (ie one Adviser plus one support staff member) is the best for him and his clients. His goal is to provide uncomplicated but valuable financial planning advice. He sees his role as a Practitioner rather than as a Businessman.