

Good Morning,

I am hoping you could clarify a few queries on the Draft Legislation released on Monday for the FoFA reforms.

I believe there are, what appear to be a few typos in (as per the first case) the exposure draft and (in the second case) the explanatory memorandum.

They appear:

Division 3—Charging ongoing fees to clients

962 Application of this Division

- (1) This Division applies in a case where:
 - (a) a financial services licensee, or an authorised representative of a financial services licensee, enters into an ongoing fee arrangement with another person (the *client*); and
 - (b) the arrangement has not been terminated for any reason.
- (2) This Division also applies in a case where:
 - (a) the rights of a financial services licensee, or an authorised representative, under an ongoing fee arrangement are assigned to another person; and
 - (b) the arrangement has not been terminated for any reason.
- (3) However, this Division only applies where:
 - (a) the client has not been provided with financial product advice as a retail client by the financial services licensee or the authorised representative before the commencing day; and
 - (b) the client enters into the ongoing fee arrangement on or after the commencing day.
- (4) In this section, the *commencing day* is the day on which this Part commences.

QUERY: In cases 1 & 2 it says 'This Division Applies' however in 3 it says 'However, this only applies' - is 1 & 2 supposed to show where the Division 'does not' apply? Or is 3 worded incorrectly?

Application and transitional provisions

2.39 Division 3 (charging ongoing fees to clients) applies only to ongoing fee arrangements entered into on or after the commencing day and where the client has not received financial advice from the client prior to the commencing day [Item 13, division 3, section 962(3)].

2.40 This essentially means that Division 3 will only apply to new clients.

QUERY: As underlined, is the second 'client' meant to read 'fee recipient'?

Many Thanks

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