Delivering Better Financial Outcomes - Reducing red tape and other measures.

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ASSOCIATION OF INDEPENDENTLY OWNED FINANCIAL PROFESSIONALS

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EXECUTIVE SUMMARY

The AIOFP Board and Members are acutely disappointed by the TRANCHE 1 proposed Laws recently released by Treasury.

Considering all market stakeholders priority should be to ***Act in the Best Interests of Consumers,*** this document [like many before it] falls well short of this essential objective. It seems the phrase ***'at all times'*** should accompany this statement to ensure Consumers are protected in perpetuity and not just at the whim of some.

Although this key priority may eventually be partially met with the release of future policy Tranches, the ongoing financial cost to consumers to fund the unnecessary red tape compliance nonsense is around $2500 pa per client of an Adviser. In other words, the cost to Consumers from the last Federal election in May 2022 to May 2025 will be in the order of $7500 per family whilst they wait for pre - election promises to be honoured.

The other cost is the millions of orphaned clients of Advisers who cannot afford the current cost of advice will be further sidelined and those who have modest financial resources [therefore arguably need advice more than the well - heeled] will continue to miss out on professional help.

This scenario should be totally unacceptable to a Government that purports to look after the 'battlers' in society.

The other critical issue is the departure of battle weary, mentally tired Advisers who have endured 9 years of brutal torment from the previous Government are leaving the industry, our nation cannot afford this to happen at this critical juncture in time.

It seems the authors of this Tranche document are completely tone deaf to what has transpired over the past 9 years. How many more suicides, broken marriages, lost life savings and widespread mental health problems does Canberra want?

Do we need to remind everyone that the reason why Comm Hayne recommended the additional compliance/consent form measures was to curtail the Banks/Institutions from their repugnant fee for no service behaviour?

It had absolutely nothing to do with the conduct of Advisers, it was Bank management and presumably Trustees who approved the activity and of course no person has ever been prosecuted over these events.

This ignominy was instigated by Institutional Management/Trustees where they have largely departed the Advice industry in disgrace leaving consumers and Advisers with unnecessary and expensive compliance impositions to deal with.

This Tranche document now inexplicably/bizarrely wants to give the Trustees of some of these Institutions total power with deciding whether an Advisers fees are suitable or not for an Advisers client. Many of these Trustees are not trained in financial advice applications, how can they make decisions on a family's circumstances and the appropriateness of a fee if they have never met the family or analysed their circumstances? ***This defies common sense and provides just another layer of quasi regulation and costs Consumers will ultimately have to pay for.***

Mysteriously, this Tranche document gives immense power back to many of the conflicted Institutions and their Trustees who are at the core of why Comm Hayne acted in the first place***. This preposterous overreach by Government must end, allow Financial Advisers to use professional judgement when dealing with a consumer and leave it up to AFCA or the Courts to decide on conduct with the facts at their direct disposal.***

<u>Part 1. Deduction of adviser fees from Superannuation.</u>

The AIOFP supports the idea that fees are not a taxable benefit to members and furthermore supports the objective that legal certainty is provided to superannuation Trustees that fees can be paid to a financial adviser from the member's superannuation account.

However, AIOFP notes that the proposed legislation falls short of reducing red tape in that a fee could be declined to be paid at the discretion of the trustee.

It appears that at the sole discretion of the trustee, certain types of fees may be reduced or apportioned if, in the opinion of the trustee, such fees being charged are not solely about the member's interests in the fund.

This is restrictive in that a trustee could consider advice such as; investment advice, spouse contributions, excess contributions, and death benefit payments and co-contributions to be matters not solely related to the member's interests in the fund.

AIOFP is concerned that there are no guidelines for trustees and such trustees may be reluctant to implement the fee direction from the member. It is clear in s62 of the Superannuation Industry (Supervision) Act 1993 (SIS), which established the "sole purpose test," that the powers of the trustee are not considered to be narrow in definition; s62 (1) (a)(b) SIS. Hence, the trustee should not arbitrarily exercise its refusal to pay advice fees, or modify or apportion those advice fees, as directed by the member.
Furthermore, AIOFP is concerned about the additional and unnecessary burdens being placed on superannuation trustees to make financial planning fees decisions on behalf of members in the absence of their training, experience and qualifications to do so.

Part 2. Ongoing Fee Arrangements.

The intention to consolidate annual fee consents into a single document is welcomed.

For clarity, the draft legislation only refers to two such documents rather than the three that currently exists. These are; Annual Fee Consent Forms, Annual Fee Disclosure Statements, and Annual Opt-In Forms. It has been the position of

the Association that such annual forms are not necessary and fails any reasonable test on the basis of consumer protections or information. These forms merely add to the increased costs of advice. Collectively, they should all be abolished.

It is noted that the form is not mandatory, not universal, and product providers may, on the basis of their definition of flexibility, impose additional policies, caps, deletions or constraints at their discretion. This lack of standardization will only serve to impede efficiency and will result in additional cost to the consumer.

The AIOFP is not in support of the requirement that the client receive written termination within 10 days and also that a civil penalty should not apply for failure to do so. This will be an ASIC Reportable Breach. Furthermore, the administrative requirement to advise all investors, if more than one, of termination, is expensive and time consuming.

Part 3. Flexibility for FSG requirements.

The Association observes that new clients do not request an FSG. Existing clients are also usually unaware of FSG requirements. The draft legislation pre-supposes that a client has an option to request or decline an FSG. This is contradicted in that a new civil penalty will now apply if a FSG is not supplied within 10 days. This is again not necessary and is too restrictive and severe.
Whilst it may appear easier and simplistic to update and access the FSG on the website, the penalties proposed would act as a deterrent and clients would generally be given a FSG with a written record of delivery and acceptance of such a document.

Part 4. Conflicted remuneration.

The AIOFP welcomes the removal of redundant provisions. This includes the exceptions for agents and employees of Australian ADI's.

Part 5. Standard consent requirements for certain insurance commissions.

Whilst the AIOFP advocates for the abolition of Consent Forms, as a compromise, in the first instance, is that a one - off Fee Consent Form, for the duration of the policy, is acceptable. The Association notes that the Statement

of Advice would contain at least all of the information required in the draft legislation. This Consent Form merely duplicates the information supplied and

already agreed to by the client. There is no consumer benefit, only an additional cost and an additional administrative burden.
The AIOFP notes that there is a vagueness in record keeping and advice of the Consent by the client. There is a vagueness and contradiction as to not only how the Consent is recorded but also the manner by which it is communicated to the client. The professional financial adviser will have the client sign a form acknowledging the informed Consent and keep a record in the client file.

No AIOFP professional adviser would merely record the consent in an email, as suggested in the draft legislation, and forward that conversation to the client as a record of such Consent.
The Association is concerned that there is no prescribed form of that Consent and this contradicts the requirements in Part 2.
AIOFP also cautions against the disclosure of monetary benefit as a percentage of the policy cost and the lack of disclosure in dollar terms. This is inconsistent with the disclosures required in the Corporations Act and does not serve the cause of being totally transparent to the consumer and ensuring that consumers are fully informed."

SUMMARY

It is time for all Politicians and Canberra Bureaucrats to commence treating the Financial Advice community with the respect it richly deserves, we are now officially classified as a Profession and demand to be treated no differently to any other comparable entity. The overreach by Government over the past 10 years into Advice is like no other jurisdiction on earth.

The mere title of the submission raises the notion of an oxymoronic like document. There is no hint of a reduction in red tape in fact the application of a consent form to Risk Advice actually increases the load of an expensive and hated procedure that exists nowhere else on earth.

The sardonic consequences of the past unnecessary brutal Government treatment are Consumers literally paying for the compliance impositions via higher advice fees or being unable to afford the fees and getting no advice.

The authors of Tranche 1 must understand that even clients are complaining about the duplication, red tape and direct costs involved – unfortunately this document addresses no reduction but actually wants to increase it with Risk advice consent forms.

The Advice community has been regularly the 'scape goat' for the incompetence of other stakeholders over the decades and on this occasion Commissioner Hayne put in place compliance provisions to kerb the Institutions 'fee for no service' fiasco. Institutions have now departed the industry leaving Consumers to pay for their outrageous folly – this must end.

We find it very difficult to understand why Canberra cannot grasp this fundamental intellection and finally do something about it.