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Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

Submission to Inquiry into Financial Products and Services in Australia ("Ripoll Inquiry")

Millennium3 Financial Services Pty Ltd ("Millennium3") appreciates the opportunity to comment on recent market participants' collapses, provide our view on the existing financial services regulatory regime and offer our suggestions for required legislative and regulatory changes.

Millennium3[1], which is part of the ING Group, is one of Australia's largest financial advice groups. As a national brand, and one of Australia's fastest growing Licensees, Millennium3 has over 800 authorised representatives who collectively manage more than $6 billion and have over $200 million in-force risk premium. As a large advice group with a strong retail focus, we feel that we can appropriately represent both our clients' and representatives' perspectives as well as appreciate the broader consumer, commercial and policy issues.

As a Licensee with considerable experience in retail financial services, we believe that although many Australians would significantly benefit from receiving professional financial advice, relatively few do so. It is problematic that perceived issues of cost, complexity, confidence and conflicts often discourage consumers from obtaining the advice that would help them to achieve their financial and lifestyle goals.

[1] Millennium3 Financial Services Pty Ltd, AFSL No. 244252.

Further, the proliferation of lost members, worrisome levels of underinsurance and the sheer number of people unnecessarily vulnerable to market volatility (together with those unlikely to "achieve even a modest standard of living in retirement"[1]) reinforce the importance of, and the critical need for, accessible and affordable advice services. We also believe that regulatory refinement is necessary to ensure consumers must become more informed about, and more actively engaged in, the management of their financial affairs.

We endorse moves for the increased scrutiny of financial product construction and marketing, and for greater consideration of Licensee governance and structure. While refinements are welcome we believe care must be taken to ensure that any proposed changes are consistent with the original intent of the Financial Services Reform Act to deliver certainty, greater efficiency, increased consumer confidence and the promotion of professional practice.

In our view, restoring investor confidence, promoting their informed participation in the market and, crucially, allowing participants "to keep pace with the international and domestic developments in the financial services sector and [provide] a level playing field between … competitors"[2] should be key objectives of this Inquiry.

Australia's excellent regulatory and legislative regime has insulated retail investors from the full impact of the current global financial crisis; it has also generally well protected these retail investors from predatory, undercapitalised or poorly governed financial services participants. Our suggestions for refinement are not inconsistent with our considered view that the current regulatory regime provides Australia with an exceptional opportunity to become a global financial hub. We believe that the current regulatory regime has, in fact, facilitated the development of a vibrant, responsible and internationally competitive financial services market.

We admit our strong interest in the Inquiry and its focus on advice, product construction and investor engagement. We also reiterate our strong support for the existing principle based regulatory regime and its flexible but responsible approach to remuneration, business structure and individual choice. We would like commend the

[1] CLARE, Ross "Are retirement savings on track" ASFA Research and Resource Centre, June 2007
[2] LUCY, J "The impact of FSR on the regulatory culture of ASIC", a speech by the then ASIC Deputy Chairman, Jeffrey Lucy, ASIC, 5 September 2003, p 3.

Inquiry on its intention to rigorously examine the specific reasons for recent events and company collapses. It is common practice for media to reduce complex problems to simple, more easily understandable issues. While simplification is often desirable, it can often lead to over-simplification, false conclusions and a confusion of correlation and causation.

Although Millennium3 cannot comment on the specific nature of the Opes Prime, Westpoint and Storm Financial collapses we do, nevertheless, believe that there are general conclusions that can be drawn from these incidents, their coverage and their impact. We did not consider Westpoint an appropriate product to add to our Approved Product List or to recommend to our retail clients. Likewise, we take a conservative approach to margin lending and gearing.

While the press has focussed on the role of financial planners in promoting (and inappropriately recommending) schemes such as Timbercorp and Great Southern, we would suggest that Accountants had a far greater involvement in the promotion of these tax advantaged schemes than has currently been recognised. The role of accountants in providing financial advice, or product recommendations under their legislative exemption, is a matter which we suggest needs to be rigorously pursued by the Inquiry.

We also believe that “product commission” payments played a less significant role in the named corporate collapses than is popularly recognised. While ineffective management of commercial tensions and poor remuneration models may have contributed to these failures, we believe that an objective analysis may identify poor governance structures, flawed financial models and ineffective product design as more relevant issues. We do not prescribe a particular remuneration model for our advisers because we, like the FPA, recognise that “remuneration is only a minor component of professionalism and is not by itself any indicator of professional practice”[3].

[3] Financial Planning Association of Australia Limited, “Consultation Paper on Financial Planning Remuneration”, April 2009, Page 3

Our submission will reflect our view of these incidents, the environment and will generally consider:

1. The role of financial advisers
2. The general regulatory environment for financial products and services
3. Conflict management, adviser remuneration, disclosure and training
4. The need for legislative and regulatory refinements

1. THE ROLE OF FINANCIAL ADVISERS

Despite the recent focus on financial planning commission, the reality, confirmed by ASIC's own research, is that only a small percentage of investors actually seek advice before making their decisions[4]. We would further suggest that the high levels of investor directed investment in Westpoint and Australian Capital Reserve support recent industry research which found that, without advice, investors are more likely to achieve sub-optimal outcomes.[5]

As consumers continue to recognise the importance of effective wealth management, wealth protection and retirement planning their need for advice is only likely to increase. While some consumers can confidently assume responsibility for their own financial security and objectives, the complexity of the rules around superannuation strategies and products, for example, means that accessibility to advice is, and will continue to be, a key public policy issue.

Inarguably product complexity exacerbates this need but we believe that it is important to recognise the quantifiable and qualitative benefit of appropriate advice. We also believe that it is equally important to properly define advice.

While the legal definition provides a measure of clarity and demarcation, the reality is that consumer expectations of advice seldom correspond with the legal definition[6]. In fact, the definition seems predicated on the basis that financial advice must involve a financial product and that a product recommendation is financial advice. In our view, both these presumptions are false. More importantly, they have hindered the

[4] "Australian Investors at a glance" ASIC Report 121 (MR 08-85) dated April 2008
[5] QUT Financial Literacy Research (2008) cited in [5] "Treasury Consultation Paper – Simple advice on Choices within an existing superannuation account", Association of Superannuation Funds of Australia, 31 July 2008
[6] S766B(1) Corporations Act 2001 (Cth)

emergence of a financial planning profession and allowed product manufacturers and distributors to masquerade as advice professionals.

In our opinion, advice is not simply a recommendation or statement of opinion about a financial product or class of financial product: Instead, advice should be characterised as a tailored professional opinion on specific issues based on an objective consideration of the individual circumstances, available alternatives and the clients' interest. It must be explicitly underpinned by a duty to act with reasonable care, diligence, transparency and loyalty.

Financial advice consistent with this definition is not dependant on the remuneration the adviser receives but rather the motivations of the adviser and the limits of their inquiry. Likewise, the existence of conflicts of interests does not necessarily preclude the provision of appropriate advice if sufficient emphasis is placed on the management of these tensions. Again, the focus on remuneration mechanisms too often obscures these issues or, more worryingly, is substituted for these issues to support an assertion that commission is not compatible with professional advice. In our opinion this assertion is ludicrous; being remunerated by product commission does not reduce an adviser's competency or professionalism any more than charging fees improves the quality of the advice or the appropriateness of the recommendation.

2. THE GENERAL REGULATORY ENVIRONMENT FOR FINANCIAL PRODUCTS AND SERVICES

Millennium3 endorses the recent introduction of new legislation to address margin lending and credit products and we welcome the Government's broader consideration of financial services and financial advice. We note that the Inquiry recently used the analogy of a buffet restaurant to highlight the limitations of commission disclosure. The Chair asked "How do you get a choice in an environment where your choice is limited by what is presented to you? You turn up at a buffet and there is a lot to choose from but it is all the same."[7] Pursuing this argument to its logical conclusion presents a compelling argument for refining advice definitions and

[7] Proof Committee Hansard Joint Committee on Corporations and Financial Services, Wednesday 24 June 2009, CFS38

preventing Product Manufacturers and Fund Trustees from providing “advice”. Extending the analogy to intra-fund advice - “You turn up at a buffet … and there is only one dish” – highlights clear consumer protection issues. In our view, although Trustees and Product Manufacturers can help to address investor needs by providing accessible information it is disingenuous to present their services as advice because there is often no consideration of, or reference to, alternatives available to the consumer.

Likewise, those Licensees that only offer Group product, that exclusively manage their “advisers” by sales targets, conversion rates and league tables, do not provide financial advice to their clients. At best, they only provide product information or intra-product recommendations and these services should not be confused with, or misrepresented as, advice.

Again, in our view, this lack of transparency and objectivity and the implicit prioritisation of the Trustee’s interest is much more problematic than the remuneration model.

While some manufacturers hope to conceal their compromises and conflicts beneath a cloak of “best interests”, the reality is that the client’s interest is only considered to the extent that it can be satisfied within the Manufacturer’s product or suite of products. We acknowledge that there are practical reasons to allow these models to operate but would recommend that their services are not misrepresented as financial advice. Whether they charge fees or receive commissions their inability to recommend, or even consider, alternative solutions should require them to be identified and promoted as able to provide “product sales” or “intra-product recommendations.” In any event, we believe that the consumer interest demands that the clear limitations on their services must be transparently disclosed in a manner reasonably likely to be understood. For example

> “*I can only discuss with you products manufactured by Financial Services Group Pty Ltd. There may be more appropriate products available elsewhere and there may be more beneficial financial strategies than those I can discuss with you. You need to make your own decision or seek financial advice from an appropriate professional.”*

Objective, loyal and diligent financial advisers can have a profoundly positive impact on their clients, their client's behaviours and their lives. Financial advice is not transactional but is instead an ongoing professional relationship that assists, guides and engages clients to realise their objectives and help them to cope with the vicissitudes of life. We submit that the value proposition of financial advisers is well understood by their clients who appreciate that their fiduciary-like duties are well observed regardless which remuneration model they employ.

As an Australian Financial Services Licensee, we have a very strong interest in ensuring the appropriateness of the advice our representatives provide to their clients. We also acknowledge the need for advisers to transparently present their costs and clearly articulate the value of their advice and the ongoing advice relationship. Notwithstanding the regulatory requirement, merely appropriate advice should not be the goal of professional advisers. Nor should the appropriateness of the advice be determined by reference to the remuneration mechanism. We believe that the real indicator of professional advice is the way in which the advice engages, informs and satisfies the client.

Good advice delivers value by seamlessly reconciling consumer needs and client expectations with legal, ethical and professional obligations; great advice consistently exceeds these standards and improves both the client's current situation and the quality of their life.

Again, in our view, the focus of future refinements should be on the "value" of the advice and the benefits to the client rather than simply focussing on the "cost" of the advice or the remuneration method chosen by the adviser. "Affordable" advice provided by a manufacturer or distributor may ultimately prove more costly to the client because of the alternative strategies and products not considered by the manufacturer's advice channel or distributor.

3. CONFLICT MANAGEMENT, ADVISER REMUNERATION, AND DISCLOSURE

3.1 CONFLICT MANAGEMENT

We note the significant media attention on conflicts of interests in the financial services industry. As the Inquiry would acknowledge, conflicts of interest can exist in any professional or commercial relationship.

While some commentators focus on commissions or association as particular problems for our industry they are not the obstacle to the provision of professional advice that they are presented as being. In fact, ASIC, like the Courts, clearly acknowledges that there are conflicts and inherent tensions in every commercial relationship[8].

Arguably, the current requirement to "act efficiently, honestly and fairly" provides a solid base on which to construct the framework of obligations which confirms that

> "[The adviser's] … duty is to furnish the client with all the relevant knowledge which the adviser possesses, concealing nothing that might reasonably be regarded as relevant to the making of the investment decision including the identity of the buyer or seller of the investment when the identity is relevant, to give the best advice which the adviser could give if he did not have but a third party did have a financial interest in the investment to be offered, to reveal fully the adviser's financial interest, and to obtain for the client the best terms which the client would obtain from a third party if the adviser were to exercise due diligence on behalf of his client in such a transaction."[9]

Clients should expect (and the Law should confirm) that their financial adviser will, at all times, demonstrate due care and diligence, transparency and an uncompromising kind of loyalty[10].

Even in the absence of expansive disclosure and detailed disclaimers clients should be confident that their adviser will avoid instances "where .. self-interest might conflict with the honest and impartial giving of advice."[11]

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[8] ASIC Regulatory Guide 181 Licensing: Managing Conflicts of Interest ("RG181")
[9] BRENNAN J, *Daly v Sydney Stock Exchange Ltd* [1986] HCA 25 at 8
[10] DAWSON and TOOHEY JJ Breen 22

In our opinion, where an adviser materially and demonstrably fails to give priority to their client's interests they have failed to discharge their professional duties and there should be significant penalties for this contravention.

Our call for refinement is based on our recognition that many of these elements are already iterated in the Corporations Act[12], the ASIC Act and ASIC Regulatory Guides[13]. In our consideration, a legislative requirement to provide "financial product advice in the best interests of a client" would be unclear, impractical and imprecise. In some respects it will simply allow some manufacturers to paternalistically conceal their own commercial interests.

Likewise, we do not believe that association or institutional ownership should be discouraged or prohibited to maintain the autonomy of the associated financial advisers. Nor do we believe that there is a compelling case for abandoning the current Licensee structure in favour of having advisers individually licensed.

3.2 ADVISER REMUNERATION

The provision of financial advice is a professional, fiduciary-like service provided on commercial terms. As a Licensee, we neither prescribe a particular business model for our representatives nor do we mandate a particular remuneration model. We do not accept that a commission based remuneration model necessarily creates more significant conflicts than a fee based model.

Fundamentally, we believe that costs should be transparent and generally reflective of the complexity of the advice, the skill and experience of the adviser and the value of the service.

The cost of financial advice, like the cost of legal advice, is ultimately determined by the market, the reputation of the adviser and the client's willingness to pay for the cost of the service. While cost is important the client's desire to minimize fees and costs is only one factor that a professional adviser should consider when contemplating their recommendation. In our experience, clients are often more concerned with the value of the advice and how it benefits them then whether the

[11] BRENNAN J, Daly, op cit, at 7
[12] Corporations Act 2001 (cth) section 945A
[13] ASIC Regulatory Guide 175, ASIC Regulatory Guide 181

adviser is remunerated from the product or from the manufacturer directly. It is our view that consumers should be able to negotiate advice fees and choose how those fees are paid according to their preferences, their circumstances and the taxation consequences of their choice.

We also consider that the focus on remuneration models not only misses the critical issues but confuses cost with value; prohibiting commission based advice models will, rather than making advice more accessible and more affordable, deliver significantly adverse consumer outcomes by restricting the availability of advice. We note that recent industry research[14] identified "cost, affordability and expense" as the main reasons why respondents did not seek financial advice.

Critically, any analysis of remuneration should also acknowledge that the nature of commission is fundamentally different between investment and insurance products; while the former often reduces both returns and the ultimate benefit provided to the investor, the latter does not affect the ultimate payment to the beneficiary or their estate. For life insurance products, insurance companies pay commission out of their own revenue stream, which, in effect, is a form of discounting their own product margin. This is not a direct cost paid by the insured and, more importantly, the commission paid to the adviser has no effect on the amount paid in the event of a claim under the policy. In reality the commission paid by insurers effectively subsidises the cost of the insurance advice and ensures that many consumers, who could not otherwise pay for expert risk management advice, can access affordable financial advice.

We acknowledge the common perception that greater transparency of remuneration structures may increase consumer confidence but we also recognise that if four years of "clear, concise and effective disclosure" has not promoted adequate transparency to date then perhaps enhanced disclosure is an inadequate solution.

3.3 DISCLOSURE

As a retail advice business we note the proliferation of complex products, aggressive leveraging strategies and sophisticated structures, wraps and platforms with some

[14] ANOP Research Services Pty Ltd "2007 National Survey of 25-69 Year Olds in the Workforce: Report on attitudes to Superannuation in late 2007". Prepared for the Association of Superannuation Funds of Australia ("ASFA"), November 2007, Summary table 7.3

concern. However, as an advice business, we do not believe that financial products are central to financial advice nor do we believe that product characteristics should determine the financial strategy recommended. While we acknowledge that inappropriate recommendations can have a profound impact on investors, we would caution against classifying specific products or strategies as being “outside the flags”. It is seldom the product or strategy itself that is the cause of loss or damage but more that the strategy or product is inappropriate for the client’s needs or circumstances.

Even aggressive strategies – such as those that expose clients to a higher risk of volatility and an increased risk of capital loss – may be the appropriate strategy where the client clearly understands the recommendation, its consequences and implications, and provides informed consent.

Consumers seem to generally understand that all investment involves risk. Likewise they appear to understand the relationship between risk and return. Nevertheless, it does appear that complaints alleging “inappropriate advice” increase as market returns decline. As a Licensee, we have observed that informed consent is seldom a problem in a bull market. This is not to suggest that inappropriate advice may not have been provided during such times but simply identifies the practical reality that consistent positive returns can effectively conceal potential issues.

Product Disclosure Documents are generally so detailed and so dense that we suspect that many investors neither read nor understand their content. In the same way that a 105 page Statement of Advice can provide all relevant information and still frustrate a client’s capacity to provide informed consent, a PDS can meet the legislative requirements without providing reasonably comprehensible information about the product characteristics and risks.

In this respect, we believe DCJ McGill’s observation in Brannelly identifies the limitations of focussing too intently on disclosure as a consumer protection mechanism. As McGill noted

> “The difficulty .. is that although the [disclosure document] referred to a large number of risk factors, they were referred to in very general terms, in terms which suggested that what was being spoken about were essentially theoretical risk factors … they extended to matters such as “employment levels, government policies, and the

general state of the Australian or local economy." Saying this sort of thing to an unsophisticated potential investor is essentially meaningless."[15]

5. THE NEED FOR LEGISLATIVE AND REGULATORY REFINEMENT

We anticipate that many submissions will highlight the clear benefits enjoyed by clients of institutionally backed advice businesses; security, stability and reassurance. We also anticipate that many submissions will address the current economic environment, the fundamental soundness of the Australian regulatory system and the negative and unanticipated impact of recent regulatory reforms[16]. In our view, none of these factors disprove the need for further regulatory refinement.

We have already proposed a redefinition of financial advice which will more rigorously focus on the nature of the service, the intent of the provider and the adviser's consideration of a range of alternative strategies and options. In our opinion, where the service is transactional, limited to one product or a single manufacturer's product or where the provider is principally motivated by interests other than those of the client the service is not financial advice but is instead a "product sale" or an "intra-product recommendation".

Recognising "Financial Advisers/Financial Planners/Risk Advisers" as a formally defined, restricted and regulated Licensee category (with distinct obligations, rights and duties) will provide consumers with increased clarity about the service they will receive without imposing significant new costs on existing or new Licensees.

We acknowledge the calls for enhanced disclosure and further regulation as possible solutions to current problems. We would, however, suggest that, as recognised in *Brannelly*, disclosure does not necessarily deliver informed consent.

In fact, full compliance with the detailed obligations of the law, regulations and policy has enabled some providers to conceal the fundamental flaws and failings of their advice and process. Further, an over-reliance on disclosure directly disadvantages

[15] *Evans & Ors v Brannelly & Ors* [2008] QDC 269 McGILL DCJ at 171
[16] McCarthy, J "*Taking a closer look at the deposit guarantee*", Money Management, 2 April 2009; Bartholomeusz, S **"***Beyond the guarantees*", Business Spectator, 21 July 2009

consumers by reducing the clarity of the written advice they receive[17] and contributed to the increasing length of regulated documents which, in turn, increases the cost of the advice they receive.

In our view, there is a compelling need to reduce the focus on formal detailed disclosure in favour of an increased focus on the reasonableness of the advice itself; while costs, consequences and implications should continue to be emphasised, written disclosure should only be required for material issues. In our view, the fundamental aim of professional advice is to "present consumers with choices that they understand and value."[18]

Materiality for this purpose would be contextual but the adviser would be required to have a reasonable basis for not disclosing matters particularly those that would have been fundamental to the client's decision. A less prescriptive and more principle based approached to this issue would, if supported by additional refinements, facilitate the emergence of a more flexible and responsive advice profession. Such refinements would also limit the capacity for some Licensees to frustrate informed consent by formally complying with the law.

It is our view that one of the key impediments to the development of scaled advice and shorter advice documents is industry apprehension around the risks of pursuing innovations to achieve these ends. We note that the Association of Superannuation Funds of Australia[19] recently proposed to Treasury that, in addition to refining s945A to clarify relevance, it was necessary to introduce a "safe harbour" for advisers and Licensees who, despite acting diligently and appropriately, contravene s945A.

We agree with their assessment and endorse their suggestion for regulatory refinement.

[17] FEAR, J "*Choice Overload: Australians coping with financial decisions*", The Australia Institute Discussion Paper 99, May 2009, p 9-10
[18] FEAR, J "*Choice Overload: Australians coping with financial decisions*", The Australia Institute Discussion Paper 99, May 2009 p vii
[19] "Treasury Consultation Paper – Simple advice on Choices within an existing superannuation account", Association of Superannuation Funds of Australia, 31 July 2008

Even inadvertent contraventions of s945A[20] can attract criminal sanctions and this potential risk prevents many Licensees from implementing structural and procedural changes in their businesses. ASFA proposed a refinement that would allow Licensees and advisers to use reasonable and appropriate due diligence as a defence against potential criminal charges.

Similar to the requirements of s1041E(1)(c)[21], criminal sanctions would only be applicable where a Licensee or their representative is reckless, grossly negligent or engages in deliberate non-compliance.

In our opinion, although no Licensee or Representative has been charged for contravening this section, the irrational fear of criminal sanctions is inhibiting innovation and contributing to sub-optimal consumer outcomes. We recommend that the Inquiry consider refining s945A to address regulatory uncertainty and industry concerns.

For your convenience, ASFA's proposed refinement follows:

> "945A(1A) [**Defences in proceedings**] In any proceedings against the provider of financial product advice for an offence based on subsection (1), it is a defence if
>
> - Considering the nature and complexity of the advice provided, the provider made reasonable steps to confirm the accuracy, appropriateness or reasonableness of the advice provided; and
>
> - The provider did not know, or could not reasonably have known, that the advice was inaccurate, inappropriate or unreasonable.
>
> Note: A defendant bears an evidential burden in relation to the matters in subsection 1a. See subsection 13.3(3) of the Criminal Code."

[20] Failure to comply with s945A of the Corporations Act 2001 (Requirement to have a reasonable basis for the advice) is an offence. See subsection 1311(1).

[21] **CORPORATIONS ACT 2001 - SECT 1041E**
False or misleading statements
(1) A person must not (whether in this jurisdiction or elsewhere) make a statement, or disseminate information, if:
(a) the statement or information is false in a material particular or is materially misleading; and
(b) the statement or information is likely:
(i) to induce persons in this jurisdiction to apply for financial products; or
(ii) to induce persons in this jurisdiction to dispose of or acquire financial products; or
(iii) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in financial products on a financial market operated in this jurisdiction; and
(c) when the person makes the statement, or disseminates the information:
(i) the person does not care whether the statement or information is true or false; or
(ii) the person knows, or ought reasonably to have known, that the statement or information is false in a material particular or is materially misleading.

Millennium3 believes that it is in all our interests for the financial services industry to be overseen by a well resourced, efficient, honest and fair regulator. With this aim in mind we would like to recommend that ASIC develop and implement the following:

1. A risk based, integrated and proactive approach to monitoring and supervision; and
2. A Compliance Plan.

We anticipate that some submissions will recommend that ASIC review their approach to the surveillance of Licensees and their representatives; a few may even propose that ASIC implement a risk based and integrated approach. We endorse this suggestion and confirm that these principles underpin Millennium3's compliance framework. Simply, the type and frequency of our reviews of any of our representatives varies according to our risk assessment of that representative. This assessment explicitly considers a range of factors including

- their rate of growth;
- their geographical location;
- their scope of activities;
- their internal resources, systems and competencies;
- the results of their previous reviews; and
- their complaint history.

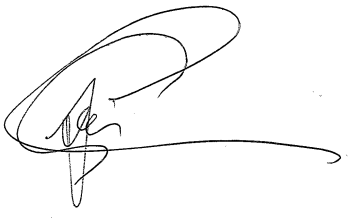
A similar risk based approach (including a consideration of marketing activity, seminars and industry intelligence) may assist ASIC to more clearly identify risks and allocate resources.

We recently noted that ASIC, unlike the Australian Taxation Office, do not have a formal, publicly available Compliance Program that articulates how ASIC will "go about achieving high levels of voluntary compliance"[22]. In our opinion ASIC's adoption of a similar approach is likely to improve their internal governance, accountability and transparency. Further, it would provide consumers and industry participants with increased confidence in their approach and effectiveness.

[22] Michael D'Ascenzo, Commissioner of Taxation Introduction to 2007-8 Compliance Program

If you would like to discuss any of the issues raised in this submission please contact me directly on 02 9321 4950 or by email sgraham@millennium3.com.au.

Regards



Sean Graham
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Millennium3 Financial Services Pty Ltd

In summary Millennium3 recommends that:

1. The financial advice definition is refined to
    a. separate advice from product recommendations and
    b. recognise “financial advice” as a tailored professional opinion on specific issues based on an objective consideration of the individual circumstances, available alternatives and the clients’ interest;
2. The Inquiry recognise a distinction between “financial advice” and “intra product recommendations”;
3. “Financial advice providers” be recognised as a distinct Licensee category with specific rights, obligations and duties;
4. The disclosure obligations be refined to place more focus on the reasonableness of the advice and the materiality of relevant considerations;
5. The cost of advice, and the means by which the adviser is remunerated, should be transparent and determined by the market and informed consumer choices;
6. A “safe harbour” based on reasonable care and diligence should be introduced as a defence for contraventions of s945A;
7. ASIC develop and implement a risk based, integrated and proactive approach to the monitoring and supervision of Licensees; and
8. ASIC develop and implement a publicly available Compliance Program.