Dear Senators & Members,

I've been advised that there has been an extension to submissions in relation to the Life Insurance Framework (LIF) and related legislation.

I don't propose to bombard you with a form letter. Rather I simply ask that the Committee Members consider whether they actually have an understanding of what the much discussed 'churn' problem is, how it's been defined and reported by insurers, and the actual prevalence of 'churn' in the financial advice industry. After all, 'churn' and 'poor' advice was the basis of the flawed ASIC report into the life insurance industry.

Before both sides of parliament change the operating landscape so dramatically, wouldn't you think it would be wise to quantify how much 'churn' there actually is in the industry. And I don't mean policies that are:

- simply cancelled by clients,
    - When they no longer need the cover due to paying off debt or receiving an inheritance
    - When they no longer have a job and cannot afford the premiums
    - When they join a new employer who offers employer paid group insurance policies
- nor one's that cease when a client hits an insurer imposed expiry age (such as age 65 for TPD cover),
- nor one's where the client refuses an annual indexation,
- nor a policy that ceases upon the payment of a life, TPD or Trauma claim.
- nor many of the other 'triggers' that the insurers use and throw into the box of 'policy cancellation' which somehow becomes 'churn'.

In many cases the reporting systems used by insurers simply don't differentiate between a policy that is 'cancelled' under any of the above scenarios versus a policy that is replaced by a new policy written with a different insurer. And unfortunately, it is these flawed statistics that are being used as a catalyst for this legislation.

Let's only target advisers who are 'churning'.

Instead of using the proverbial sledgehammer to crack the nut approach, why isn't the parliament crafting legislation that addresses the problem? What we currently have is a situation that will penalise all advisers under all instances when a policy is cancelled, including some of the scenarios highlighted above. Is this fair? I don't think so. My view is that 'churn' is an adviser re-writing a policy of an existing client to generate additional upfront revenue for their business. Moving them each year from AMP to AIA to BT to TAL and so on.

If churn is the real target of this legislation than why is it that the legislation doesn't target those advisers that are churning? That's assuming you are trying to stamp out what I have defined as churn. Is it appropriate that the adviser who puts a policy in place for a client is the one to suffer the 'clawback' if they aren't the one that is instigating the replacement policy? What about this scenario:

- A client takes out a policy on the advice of Adviser A today
- He is subsequently referred to Adviser B by his accountant 3 months later.
- Adviser B recommends the client switches from AMP to Comminsure. Exactly same sums insured, same policy types.
- Adviser B gets paid a full commission
- Adviser A gets a full clawback.
- Who is the Adviser doing the churn? Adviser B.
- Who is the Adviser that receives the benefit of the churn? Adviser B
- Who provided advice in good faith and ends up wearing the cost of the time expended for no financial reward? Adviser A
- Will this stop churning of this type? Absolutely not. Why would it? The churner is still rewarded for churning.

Is there a better way?

Whenever a new policy is written, one of the first questions asked is 'Do you hold or are applying for any other life policies?' and 'Are you proposing to replace these existing policies? Y/N'.

Instead of 2 year clawbacks for all advisers, wouldn’t it be simpler to require the commencement date of the existing policy be advised as well? Proof of policy inception date from the existing insurer must be attached with all replacement policy business. No proof of the existing policy's commencement date and its automatically assumed to be within the last 12 or 24 months and subject to a reduction in the level of commission paid to the adviser replacing the policy. That way the adviser DOING THE REPLACEMENT POLICY is the one that is penalised as they only receive a reduced amount of revenue or potentially no revenue at all. The other adviser who wrote the business in good faith and who wasn’t a party to the churn isn’t the one who gets penalised.

Is Advised Insurance really the Issue?

Recent reports from both FOS and ASIC (Report 498) show that the Advised Insurance channel has the lowest level of complaints going to FOS and the best outcomes at claim time compared to the Direct and Group channels.

It's interesting that consumers consulting an adviser for Advised Insurance can receive:

- personalised advice,
- better levels of sum insured,
- with better policy definitions,
- less complaints to FOS,
- better outcomes at claim time (as reported by ASIC),
- and at a lower comparative premium cost than either the Direct or Group channels.

But it is only one area that is being attacked by these changes and that is the Advised channel. Curious that...isn't it....

Do we really need more legislation?
The impacts of FOFA and the Best Interests Duty are still flowing through to the system following the implementation of this legislation. There is a need for advisers to show that they are making changes that are in the clients Best Interest and that the changes recommended will actually do that. This should go a long way to stopping or reducing the incidence of genuine churn. But then laws are only there to stop people who want to do the right thing. If someone is intending to do the wrong thing, no amount of legislation and red tape that impacts one the law abiding section of the community will do anything to change that.

ASIC via their initial (flawed) report into insurance specifically targeted those advisers that where known to write high levels of replacement advice. The intelligence was gathered from the insurers and the AFSL's where these advisers were licensed. Why wouldn't ASIC simply use its existing powers at its disposal to collate and investigate the advisers that are the perpetrators of churn?

What are other countries doing?
It's interesting that the NZ Financial Services regulator recently completed a similar review into its' insurance industry and found that while there were some instances of misalignment of client-adviser interests due to commissions, they were of an insufficient impact to change the entire structure of the industry. It's worth noting that the insurers in NZ actually pay higher commissions than we receive in Australia.

In the UK, they went through a similar review to what we are having and this resulted in commissions being repealed in full. Which is something that is being proposed here by some quarters. Subsequently, the UK regulator has reversed this approach following a significant decline in the level of insurance business being taken out by consumers who wouldn't pay a fee for insurance advice. They also reported significant increases in their instance of under-insurance which was shifting the burden of death and disability from the individual and insurers across to the government and the taxpayer through higher levels of people moving onto social services benefit payments.

Conclusion
Hopefully your committee and the broader parliament will consider these points and rethink the broad brush / sledgehammer approach that is the LIF in its current form. If the existing legislation needs to be changed, let's do it in a way that actually targets the churners, not the innocent advisers. Let's have ASIC enforce the existing legislation at its disposal to target advisers who write a large level of replacement business. Let's allow good financial planner and risk advisers to continue to provide valuable outcomes to their clients.

When people are at their lowest point following the death or disability of a loved one. When everyone else is coming at them with bills and requests for payment. Good financial planners and risk advisers are coming to these everyday Australians with Care, Compassion and most of all Cash. And while the cash won't replace the one they have lost or fix all that may be wrong with them, it goes a long way to stopping a bad situation worse. That's the power that good advice, good policies and appropriate sums insured can have for ordinary people.

Kind regards,

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