

20th July 2009

**Submission to the Parliamentary Joint Committee on Corporations
and Financial Services
Inquiry into Financial Products and Services**

**By Symes Warne & Associates Limited
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About Symes Warne & Associates

Symes Warne & Associates is a privately owned Financial Planning Practice that has been in operation since 1982. This submission represents the opinion of Symes Warne & Associates and its Financial Planner Representatives.

We believe that the recommendations made in our submission will provide a solution to some of the current problems facing the industry in an attempt to better protect the Australian consumer and restore confidence in the Financial Services sector.

We hope you will consider our recommendations and should you require any further clarification or assistance please feel free to contact us.

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EXECUTIVE SUMMARY

Symes Warne & Associates and its Financial Planners want to see changes made to Financial Services laws for the protection of consumers and to restore trust in the Financial Planning sector. Australians have the right to be able to feel confident to seek and obtain appropriate financial advice in relation to their life savings.

The main problems we believe need to be addressed in order to better protect and inform consumers in relation to Financial Products and Services are summarised as follows:

1. A significantly higher risk exists that financial products and advice will be inappropriately sold to consumers whilst ever product manufacturers continue to be allowed to remunerate third parties for the sale of their products.
2. The lack of effective regulation around the disclosure of ownership of Financial Planning Licensees by product manufacturers means that consumers are unable to easily identify a significant conflict of interest when seeking financial advice from institutionally owned Financial Planners who are recommending in-house products;
3. There is no central mechanism that establishes or enforces minimum professional standards and requirements from individuals calling themselves Financial Planners;
4. The minimum education and experience requirements currently legislated for individuals to be able give financial advice are set too low; and
5. The terms Financial Planner and Financial Adviser are not restricted under legislation and can therefore be used by anyone.

We have suggested a solution to address each of the five major issues identified in our submission summarised as the following recommendations:

1. We recommend the introduction of legislation to prohibit product providers from paying any remuneration to any third parties that is directly or indirectly associated with product placement.
2. Introduce legislation that specifically prescribes appropriate disclosure for those Financial Planners who are licensed through an organisation that is either partly or fully owned by a product manufacturer
3. A Professional Standards Board (PSB) should be established to set the standards of behaviour, ethics and conduct of the profession. All financial planners would be registered to the board as individuals and would be required to adhere to its standards
4. Increase the minimum education and experience standards for Financial Planners
5. Define and restrict the use of the term Financial Planner under legislation

On the following pages we outline further details of our recommendations.

RECOMMENDATION 1

We recommend the introduction of legislation to prohibit product providers from paying any remuneration to any third parties that is directly or indirectly associated with product placement.

Common among most of the recent product and advice failures is the payment of (usually high) commissions for product placement.

Until these types of payments are banned, there is an increased likelihood, regardless of any other changes made as a result of this enquiry, that consumers will have inappropriate investments or strategies (eg. such as Storm gearing), recommended to them by advice givers.

This recommendation would involve the ultimate banning of all commissions, “volume rebates”, and soft dollar remuneration to all third parties. Third parties should include but should not be limited to Financial Planning Licensees and companies associated with Financial Planning Licensees.

Implicit in this would be a requirement that all Financial Planning Licensees and their Representatives set their remuneration arrangements for Financial Planning Advice directly with their clients.

Commissions that are currently bundled into products costs should be unbundled by product manufacturers by a certain specified date. At this time or some later time the consumer should be given the right to cease the commission being paid to the Financial Planner if they do not want to pay for Financial Planning Services.

Further, it is essential that the practice of volume related payments (“rebates”, “volume rebates”, “volume bonuses”) from product manufacturers to third parties is banned in full. There are three extremely vital and significant reasons that these arrangements should be banned:

1. **Reduced Product Fees** – Volume payments result in superannuation, pension, and managed fund fees being significantly higher than what would otherwise be the case. The bonuses being paid to Licensees (or other 3rd parties) for funds placed can be up to 40 basis points on top of the standard commission that is already built in to the financial product fee;
2. **Reduced Conflicts of Interest** – Volume payments create significant conflicts of interest, making it impossible to act in the best interest of the client unless they are able to be directly rebated back to the client (in most cases this is not a viable option as volume payments are based on total funds placed into a product by a Licensee or group of Licensees); and
3. **More level playing field for consumers seeking financial advice** – Volume payments create an unlevel playing field. Consumers that seek advice from larger Licensees receive advice that is “subsidised” by product manufacturer volume rebates. This advice subsidy is essentially being funded by higher product fees applicable to **all** investors. Those investors who seek advice from

small Licensees not eligible to receive volume rebates do not receive this benefit.

Please note the following important disclosure:

Symes Warne & Associates currently receive volume bonuses from some product providers on our Approved Product List. Due to the structure of these payments it is impossible to rebate them directly back to our clients. These volume bonuses have allowed us to keep our clients direct fees lower than what would ordinarily be the case.

Despite the above we wish to see these types of payments banned so that product manufacturers are forced to reduce their product fees for the direct benefit of all consumers.

We have included in our recommendation the suggestion that payments to *any* third party are banned. The reason we have worded our recommendation in this manner is because we are aware of some Financial Planning Licensees and groups of Licensees that set up separate companies of which they are shareholders, in order to accept volume bonuses from product providers, in an attempt to circumvent the current disclosure rules. Elimination of this type of creativity is critical when formulating policy moving forward.

Until remuneration linked to sales of products is banned in all forms we will continue to have inappropriate product sales by organisations and individuals.

RECOMMENDATION 2

Introduce legislation that specifically prescribes appropriate disclosure for those Financial Planners who are licensed through an organisation that is either partly or fully owned by a product manufacturer

Currently consumers do not have the ability to distinguish easily between Financial Planners who are independently owned and those whom are owned or partly owned by institutions that distribute financial products.

Ownership of Financial Planning Licensees (often referred to as “distribution channels” by those involved) is an undisputable and significant Conflict of Interest in the Financial Planning Profession. Regulations should be put in place so that consumers can clearly identify Financial Planners whom are licensed through a Licensee owned by a product manufacturer, as opposed to those whom are independently owned.

RECOMMENDATION 3

A Professional Standards Board (PSB) should be established to set the standards of behaviour, ethics and conduct of the profession. All financial planners would be registered to the board as individuals and would be required to adhere to its standards.

Professional obligations currently only exist for financial planners whom are currently a voluntary member of a professional body such as the Financial Planning Association. A Professional Standards Board should be established and all Financial Planners as defined should be required to be a member by law.

The PSB should have their functions prescribed by the Regulator. One of the principles of the PSB should be the adherence of all members to the principle of “client first”.

RECOMMENDATION 4

Increase the minimum education and experience standards for Financial Planners

Currently a person can qualify to be a Financial Planner by doing a two or three week course. This is an unacceptable minimum entry level into a profession that provides advice on a significant portion of the national wealth of individuals.

Completion of a relevant Commerce related Degree (undergraduate or postgraduate) should be a minimum education entry requirement into the profession.

Minimum experience requirements to become a Financial Planner should also be legislated. For example, completion of academic requirements should be complimented with a minimum 2 years experience (whilst under the supervision of a senior Financial Planner), before an individual can qualify to be a Financial Planner.

Those who have qualified to give financial advice under existing RG146 requirements should have a specified time period in which to undertake and complete a relevant Degree (eg 5-7 years). This will serve to ensure the education level across recent entrants (since the introduction of the Financial Services Reform Act on 11th March 2002) whom are currently able to give financial planning advice is lifted to an acceptable level within a reasonable timeframe.

RECOMMENDATION 5

Define and restrict the use of the term Financial Planner under legislation

Currently under Corporations Law there is no constraint on anyone calling themselves a financial planner or financial adviser. This puts consumers at significant risk of receiving poor advice from incompetent persons.

The terms “Financial Planner” and “Financial Adviser” should be defined and restricted under legislation.

It is important that the investing public be able to easily identify individuals who have the relevant qualifications and experience to look after their financial future.

Financial Planners as defined should:

- a) Meet the minimum qualifications and experience levels (refer Recommendation 4); and
- b) Be registered to the Professional Standards Board (refer Recommendation 3)