GUARDIAN
Financial Planning

Guardianfp Ltd
ABN 40 003 677 334
AFSL number 237641

Level 10, 321 Kent Street
Sydney NSW 2000

Telephone: 1800 687 620

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

Dear Sir/Madam

Thank you for the opportunity to present our submission to the Parliamentary Joint Committee on Corporations and Financial Services. In this paper we address the nine Terms of Reference relating to your inquiry into financial products and services in Australia.

By way of background, Guardian Financial Planning (Guardian) is a large, boutique style advice network that looks after the financial needs of more than 130,000 clients with over 160 Authorised Representatives.

Established in 2001, Guardian operates under Australian Financial Services Licence 237641 and is a principal member of the Financial Planning Association of Australia. Guardian is part of the Suncorp Group of companies.

While our licence offers Guardian Authorised Representatives the opportunity to advise on all aspects of financial planning, our main focus is on financial protection. We currently have a 55% weighting to Life Risk business.

At Guardian Financial Planning we've adopted a remuneration model that includes a combination of fees for service and product-based commission. Importantly, once fees are explained to the client, it is left up to them whether they wish to pay upfront or via commission, or a combination of both.

We feel it's important in our submission to emphasise the immense value of financial advice, and trust that this will be a strong underlying theme when the Committee considers potential changes to the industry's framework. We acknowledge that the industry has suffered from heavy criticism recently, due to a combination of declining investment markets, corporate collapses and poor quality advice, but feel that the valuable role it performs cannot be ignored.

What we must strive for as a result of this inquiry is a significant improvement in:

- Education (of advisers and consumers);
- Disclosure (of fees and terms);
- Supervision (of advice models and the titles of Financial Planner and Financial Adviser)
- Consistency (of advice documentation, risk profiling, professional development, etc).

We believe it's more appropriate to fine-tune existing regulation and supervision, than increase it as a matter of course.

Yours sincerely

Steven Browning
Executive Manager, Guardian Financial Planning

1. Exec Summary

The financial advice industry is still relatively young and there is clearly room for improvement, but it serves a vital role in the community. Access to financial advice allows consumers to select investments, superannuation funds and insurance policies that are appropriate for their circumstances and enables them to build and protect wealth over the long term.

Overall, there's little doubt that financial advisers perform a valued and necessary function, including but not limited to the following:

- Consumer and client education
- Enabling Australians to grow and protect their wealth
- Enhancing their clients' retirement funds, which takes pressure off the tax system
- Improving peace of mind
- Better debt and risk management
- Providing financial security

Unfortunately the industry's reputation has been badly affected by recent corporate failures (Storm, Opes Prime, Lift Capital), but we don't feel that's due to systemic issues within the profession/industry.

Factors influencing this situation have included:

1. Inappropriate advice, with what appears to be almost a 'one size fits all' approach to financial advice from some Licence holders.
2. A lack of prudential regulation, without a system of ongoing review of AFS Licensees to ensure processes, policies and financials are robust
3. A conflict of interest between some advisers/AFS Licensees and product manufacturers, with remuneration largely driven off the large, upfront fee model.

More could be done in these areas, but we feel the answer is more about simplification and clarification of regulation and documentation, rather than a straight increase in regulation and disclosure. In other words, it's imperative that change is not introduced just for the sake of change, particularly if that will lead to lengthier, more complex advice documentation.

Likewise, refinements to the regulatory system should not drive up costs or reduce access to financial advice, products or services.

As it stands, FSR legislation has the essential ingredients required to improve the industry. By all accounts it is working reasonably well and, rather than reinventing, we should focus on enhancing and strengthening the current legislation.

In everything we do, from the provision of information and advice to the supervision of Licensees and advisers, we need to work towards a simple, plain-English approach that is easily understood and implemented. If we continue to speak a language that our clients can't understand, the reputation of our industry will never recover.

We also feel it important to discuss the way in which advisers are remunerated. It is important to note that commissions did not play a factor in the collapse of Storm. The Storm adviser remuneration model was based on an upfront fee.

Guardian maintains a flexible remuneration arrangement, with the client ultimately deciding how they will pay. Guardian advisers discuss fees with their clients and give them the choice of a fee for service or product commission, or a combination of both. We believe that it is important for advisers to be able to articulate, discuss and agree the fees with their clients. This is clearly in the client's best interest and gives clients control over how they pay for their advice.

Any implementation of a change in the way in which advisers are remunerated should be done in consultation with the industry and advisers. Consideration should be given to existing fee client arrangements in the form of grandfathering those existing arrangements and a stage implementation to allow advisers, predominately small businesses, to transition their business and their clients towards any new remuneration models.

Many advisory practices are small businesses employing staff that range from financial planners through to administration and accounting support. We need to ensure that any changes to the industry that they operate within are not detrimental to those businesses and destroy the assets, jobs and livelihoods of thousands of Australians.

2. The Role of Financial Advisers

At its best, financial advice can provide consumers with opportunities, peace of mind, security, direction, and ultimately, a future free from financial worry.

At its worst, it can put consumers in a vulnerable, even dangerous position, and potentially lead to what we've seen far too recently of late – major financial loss.

This worst case scenario is, of course, exacerbated in a declining market. In strong investment markets, bad advice can still result in positive returns, but in bad markets even good advice can look deficient.

Poor advice is commonly a factor of either:

- Unscrupulous, unprofessional behaviour by a financial adviser;
- A poor business model that leads to inappropriate advice;
- Poor risk profiling and/or a lack of ongoing service by the adviser; or
- A combination of any of these factors.

Ours is a young industry and we are still all learning, as we've discovered over the past 18 months, but that's no excuse for putting consumers in a dangerous position. If we are to shake off the widespread perceptions of inadequacy, we need to make urgent improvements to the regulation of advice models and documentation; disclosure of fees and risks; and both adviser and consumer education.

Unfortunately, too many sales people are taking on the title of Financial Planner or Financial Adviser without appropriate accreditation, qualifications or experience. This was particularly evident in the collapse of some Agri Business companies, with Financial Planners (sometimes qualified accountants) taking advantage of the high upfront commissions to encourage their clients to invest.

At Guardian it is important to note that we recognised the potential for adverse reaction to high upfront commissions on MIS should one collapse at a point in the future (notwithstanding the low average sale size so dollar commission is small) In 2006 we introduced a standard capped maximum fee of 5% or $5,000 whichever was lower, in the absence of specific approval based on the complexity of advice service offered.

There's an urgent need to upgrade financial adviser accreditation and make it clear to clients exactly what an adviser is authorised and qualified to give advice on.

Risk profiling can also be a problem area, and there is a need for greater consistency across the industry. Risk profiles vary from licensee to licensee, which can cause confusion among consumers and lead to inappropriate product recommendations that may leave them either short of funds or at risk of panic selling.

We need to continue working toward the 'best case' scenario, where every single financial adviser in the industry has the knowledge, tools, regulatory framework and commitment to:

- Build a deep understanding of the clients' goals, objectives and risk appetite
- Provide quality advice that is appropriate to the client's situation
- Provide advice on complex legislative and technical matters, rather than simply select products
- Maximise wealth creation and protection within the complex legislative framework.
- Improve client education
- Support clients during downturns in the market
- Help clients through the insurance claims process

As an industry, we've reached a point where due to the actions of a few (minority) advisers we must clean up the industry if we are ever to be perceived as an essential, professional service.

3. The general Regulatory Environment for these products and services

Introduction of FSR legislation in 2001 saw a move towards a more professional and regulated environment. Most financial advisory firms embraced the move to greater professionalism and accountability, and the quality of advice greatly improved as a result.

The industry has been severely tested during the global financial crisis, but ultimately it's proven to be robust. We have seen only a small increase in client complaints, but they've mainly been a result of concerns about falling markets rather than issues with advice quality.

Unfortunately, most of the negativity centres on recent company failings, which most likely could have been avoided with more diligent, regular monitoring. Storm Financial and other licensees had business models that fostered inappropriate advice (seemingly based on 'one size fits all') and conflicts of interest due to high upfront fee payments.

An obvious solution is to increase the level of supervision of licensees by government, consumer and industry groups. Standard criteria need to be established and adopted across the industry, with regular monitoring and reporting of licensees and advisers that fail to meet those criteria.

With the right supervision, all licensees will be more likely to focus on providing advice that is appropriate to the client's situation, not the adviser's bottom line. Ultimately, we should aim for a regime that differentiates those involved in selling products from those providing advice.

Another area that may benefit from tighter regulation is around the granting of an AFSL. Currently the barriers to having a licence, particularly in terms of capital requirements, are low (for example, in relation to trustees and product issuers). It's simply too easy for applicants to be granted a licence and often they lack the robust framework and professional standards that are essential to meeting industry requirements.

For this reason, advisers tend to be better off in more substantial, established dealer groups that have the experience, expertise and resources to provide the tools and support advisers need to perform their role. Advisers should always have easy access to resources and ongoing technical, systems and product training to ensure they can meet the various needs of clients, plus the ongoing monitoring and compliance checks that a licensee can provide.

It's also apparent that current legislation tends to be about product, not advice. This creates complexity and the potential for confusion, with opportunities for advisers to avoid disclosure on the advice they provide.

4. The role played by commission arrangements relating to product sales & advice including potential conflicts of interest, the need for appropriate disclosures and remuneration models for financial advisers

This has been, and continues to be, a major sticking point in the quest for independent advice. Different dealer groups have their own reasons for their particular remuneration model and will argue the rationale, but we feel it is more about the client's involvement than the model itself.

Guardian maintains a flexible remuneration arrangement, with the client ultimately deciding how they will pay. Guardian advisers discuss fees with their clients and give them the choice of a fee for service or product commission, or a combination of both.

The provision of financial advice is an expensive business, due largely to the complexity of legislation and regulation and the need for research and technical expertise, compliance, administration, education, and the general expenses of operating a business.

Obviously this advice needs to be paid for, and there is a strong argument that a fee for service arrangement should be the only offer available. However, we need to be careful that we're not left with a situation in which people simply cannot afford financial advice, particularly as the expectation is that workers will set aside funds to at least partly fund the cost of retirement.

We agree with the FPA's stance on fees being that advisers must articulate the value of their services, however, consider that financial planners should offer clients a choice in remuneration (either a fee, commission or both) and that remuneration should comply with their 'Principles to Manage Conflicts of Interest'.

Ultimately, the most important consideration in the fees debate is the need for discussion and agreement between the client and their adviser.

This approach applies equally to insurance advice. With Guardian's focus on risk insurance, we have a good understanding of the capacity of consumers to pay for insurance, and it's important that all Australians can access comprehensive, ongoing risk advice at relatively low cost.

The underinsurance problem in Australia is significant, in part because it is a grudge purchase with no immediate benefit. If consumers are expected to pay a substantial upfront fee for their financial protections, it becomes even less likely that they will buy.

This may turn more consumers toward direct insurance models, which may suit a purpose but are not the ideal model for protecting the wealth and security of Australian families.

By comparison, personalised insurance advice offers the following benefits:

- Selecting most appropriate sum insured and premium level
- Ensuring comprehensive cover for death, disablement, illness and trauma
- Ensuring client understanding of the implications of beneficiary-selection
- Researching and comparing the various product options available to meet clients specific needs
- Underwriting may allow at-risk clients to still be covered, perhaps with a loading
- Regular reviews of cover to ensure it continues to meet the client's needs
- Assistance at claim time which is a emotional and stressful time for most clients

<u>Ongoing remuneration</u>
In relation to ongoing (trail) commission, we feel that this is an efficient form of remuneration but every adviser will need to have a documented agreement with clients, detailing the cost of advice, how long that advice will continue (including an annual review process) and what level of service/interaction they can expect. This should also include a list of relevant services and fees.

If the customer is not receiving ongoing advice or service, then clearly they should be given the opportunity to ‘turn off’ any ongoing trail commission paid by the product provider to the adviser, and be reimbursed for commissions paid. In this way it is up to the adviser to make sure that they look after each client and provide a level of service that justifies the fees they charge.

Again we note that any implementation of a change in the way in which adviser's are remunerated should be done in consultation with the industry and advisers. Consideration should be given to existing fee client arrangements in the form of grandfathering those existing arrangements and a stage implementation to allow advisers, predominately small businesses, to transition their business and their clients towards any new remuneration models.

Product bias

There’s a long-held belief that charging commission fosters bias in product recommendations. We believe any potential bias can be overcome by the quality of a licence holder’s Approved Product List (APL), providing the licensee’s parent company does not offer additional volume bonuses to encourage new business.

At Guardian our advisers have access to a comprehensive, diverse APL that is founded on careful research and includes some of the industry’s most recognised funds and platforms. They also benefit from an open Risk APL and an open Super APL for client’s existing super arrangements.

Of course, every client’s situation is different and we provide a flexible approach, based on the same strict assessment criteria, to reviewing and approving products that are not on our Approved Product List.

For strategic advice, perhaps around Centrelink access, budgeting, savings plans, debt management and the like, Guardian advisers would typically come to a fee for service arrangement with the client. For a combination of strategic advice and product recommendations, again the adviser would give the choice of fees for service or commission payments, or a combination of both.

5. The role played by marketing and advertising campaigns

For those with little or no experience, the world of investing can be a daunting place. The huge array of investment products and services, combined with an endless supply of information, can make it seem impossible for anyone but seasoned professionals to succeed.

That’s why financial advice and education is so important – it allows consumers to take advantage of the available investment opportunities to build wealth and achieve their financial and lifestyle goals.

Unfortunately, it seems that the industry as a whole is not doing enough to convince the public of the value of advice or educate them on the benefits of saving and investing.

The results of a recent Suncorp survey showed that Australians are worried about their super – and 69 per cent are getting more worried they won't have enough money for retirement.

The survey found that almost half of Australians surveyed believe super is too complicated and two in five don't feel super is their own money. One in three know they won't have enough to retire on but don't know what to do about it.

The problem is, since the dawn of compulsory superannuation contributions we haven’t adapted to the vastly different customer base. Now, superannuation effectively represents the future financial health of Australian families yet many are disillusioned due to a lack of understanding, lack of communication from super funds, and dwindling fund balances.

The industry clearly has a long way to go to help customers feel they are in the driver's seat when it comes to one of the biggest investments they will make in their lifetime.

This points to a need for a renewed focus on financial literacy in marketing and advertising campaigns, rather than simply product promotion based on features such as past performance, service or cost.

We need to improve our marketing and communicate in a language and style that consumers understand, otherwise we risk endangering our industry’s reputation further by placing clients in product that they don’t understand and asking them to pay for advice in a way that confuses.

6. The adequacy of licensing arrangements for those who sold the products and services

Professional Development

Most AFS licensees are competent and diligent in training and supervising their Authorised Representatives. However, the combination of minimal barriers to entry and basic educational requirements has attracted some less than desirable licensees. We need to tighten requirements around ongoing training so that advisers have the tools and knowledge they need to keep abreast of the constant changes within our industry.

Guardian's rigorous process for maintaining and supervising our affiliated advisers includes Professional Development Days that cover a range of topics including practice development, marketing and sales skills, technical and compliance issues, and economic and investment updates. Ongoing training is facilitated via either online training tools or face-to-face training sessions.

Monitoring and supervision function

It's clear that AFS Licensees need to be held more accountable for the proper training and supervision of their representatives. Currently, the industry's low entry requirements have created a situation where consumers are at significant risk of poor advice, and must rely on the competence and integrity of the licensee.

For this reason we believe consumers are better placed if their adviser is part of an established financial advice network, rather than having their own licence and compliance process.

Research function

All AFS Licensees should provide a comprehensive Approved Product List that includes recognised platforms and funds.

Guardian's Approved Product List is developed by a rigorous, structured process involving:

- Platform review (of the major wraps, master trusts and mini-master trusts).
- Sector review (the key investment sectors offered on platforms are reviewed against their peers).
- Review of other opportunities (traditional retail products, annuities, gearing facilities, agribusiness products and approved share brokers).

With thorough research, hopefully we can reduce the attraction of product offers that appear too good to be true (eg. Westpoint).

Removal of BOLR bias

AFS Licensees should work with their representatives to develop a managed succession plan and assist advisers that choose to transition out of the business. However, a biased Buyer of Last Resort policy is not an appropriate transition option because of the financial incentive to advisers based on the level of business held through any particular product provider.

Guardian offers advisers a Buyer of First and Last Option, based on an independent market valuation. Whilst Guardian has the option to offer market value, the adviser has the option to take their business to the market and attempt to secure a higher purchase price.

The benefit of this approach is that Advisers have the security of knowing that the minimum price they will receive for their business is market value.

Manufacturer bias

There's a widespread opinion that AFS Licensees owned by product manufacturers create an immediate conflict of interest. This doesn't need to be the case, providing once again that the licensee maintains an APL with access to a wide selection of products and platforms.

Interestingly, the companies that failed recently (eg. Storm, Opes Prime and Lift Capital) were not owned by manufacturers. The issue in those cases was that most of their remuneration was driven off the large upfront fee model, which is far more likely to create a conflict of interest than the firm's ownership structure.

The solution in all scenarios is transparency on ownership, with effective management and educative disclosure of any relationship or arrangement that may be perceived as a conflict of interest.

One way in which Guardian addresses this issue is its volume bonus arrangements. Rather than allocate bonuses to advisers directly from the product manufacturers, all volume bonuses are placed in a pool and shared between advisers based on their service standards and size of their business.

7. The appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served

Consumers generally don't have a strong grasp of financial services, particularly their superannuation.

The industry is characterised by complex terminology and jargon, and confusing, ever-changing legislation. The Government can't expect consumers to read and understand every piece of information given to them, nor can we expect them to have the interest or expertise to make sound financial decisions based on that information.

The current economic environment has made it even more imperative that our industry modernises, and simplifies, every point of consumer interaction to ensure we can communicate in a meaningful way.

Guardian's parent company, Suncorp, has made inroads in this area with the recent launch of WealthSmart, a new customer-friendly superannuation platform that feature a simplified PDS and writing style that is used as the basis of every customer interaction.

The other main points of product and service information are the SOA and other advice documentation (review documents, compliance documents, etc), which contain large amounts of disclosure and generic information. This makes it difficult for the licensee to clearly articulate client advice, and providing disclosure in its current form is not ensuring that consumers understand it.

Despite many good intentions, this documentation has continued to grow over the years and is difficult for consumers to understand. There's a strong need to introduce a simplified advice document regime with industry standards.

8. Consumer education and understanding of these financial products and services

AFS Licensees have a vital role to play in improving financial literacy by educating consumers about investment principles, products and services.

Some of the opportunities available to facilitate learning include:

- client letters and brochures
- educational booklets and guides
- website calculators, tools and games
- seminar presentations
- newspaper/magazine editorials
- speaking at investment/money expos
- speaking opportunities at local community events and clubs

At Guardian we are also committed to the ongoing education of our current clients. We provide information and tools to keep them up-to-date with the latest investment, insurance and legislative opportunities.

Better financial literacy will benefit not just consumers, who will be better placed to make informed investment decisions and less susceptible to accepting advice about financial matters they don't understand, but also the industry. With greater financial awareness and knowledge, consumers will be more involved in decision-making and more likely to understand things like investment risk, volatility and appropriateness of specific investments to their long-term goals.

Importantly, financial education should be provided with no expectation of immediate financial reward. If licensees and product manufacturers focus on providing useful information and tools, gradually consumers will develop a greater sense of trust and respect for that firm and new business is the obvious result.

9. The adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers

We feel there is room for improvement in this area because, while traditional professional indemnity (PI) insurance protects the adviser's business, it offers little in terms of consumer protection.

Existing PI insurance arrangements are probably adequate for advisers who provide consistently good advice, but inadequate for advisers who provide consistently poor advice.

We are also concerned about the higher claim limits for the Financial Ombudsman Service and feel that they will lead to an increase in the costs of advice because people are able to make larger claims, at no cost to them.

Many consumers will claim simply because they can, with perhaps the hope, rather than an expectation, that something will come out of it.

Licensees need to have some form of redress for vexatious claimants, or at least the right to negotiate the outcome of the case rather than be required to accept FOS's decision.

10. The need for any legislative or regulatory change

Guardian would like to see change in the following areas:

Education
- Improve current RG146 requirements, with a minimum entry requirement of an undergraduate degree and a further requirement to undertake the CFP accreditation.
- Advanced Diploma should be the minimum requirement for advisers who advise on superannuation and investment.

Professional title
- The establishment of a professional body with authority to register people as approved Financial Advisers and supervise their behaviour.
- Only advisers who have met certain industry standards (including qualifications, experience, and membership of professional organisation) should be registered.
- This would need to be combined with a marketing campaign to ensure consumers understand the difference and what they should look for in a financial adviser.

Remuneration
- Maintain a policy of flexible remuneration, with fees discussed and agreed on between the client and adviser.

Advice documentation
- Simplification of advice documentation, including PDS and SOAs.
- A move to plain-English communication that consumers can understand.
- Standardised risk profiling to ensure consistency between licensees.

Supervision
- Introduce a system of ongoing review of licensees to ensure processes, policies and financials are robust.
- Reduce the claim limits for FOS or give licensees the opportunity to negotiate claim settlements.

Client protection
- Increase PI insurance cover so that clients can be covered for poor advice or misrepresentation.
- Improve financial literacy and the way in which licensees and product manufacturers communicate with clients.

Lastly, we'd like to reiterate the need to refrain from introducing more, or more complex, regulation to address perceived inadequacies within industry. There is no need to undermine the value of advice and service provided by professional and ethical advisers because of the failings of a few fringe operators.

Ultimately we consider that client should be in a position to be able to discuss and negotiate how they will pay for the service provided by the adviser. This is clearly in the client's best interest and gives clients control over how they pay for their advice.

Any implementation of a change in the way in which advisers are remunerated should be done in consultation with the industry and advisers. Consideration should be given to existing fee client arrangements in the form of grandfathering those existing arrangements and a stage implementation to allow advisers, predominately small businesses, to transition their business and their clients towards any new remuneration models.