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Committee Secretary, Parliamentary Joint Committee on Corporations and Financial Services

Department of the Senate

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Dear Committee,

Good advice or good luck ?

Imagine a world where your Doctor has completed a 3 week course in medicine but is able to prescribe life changing medicines, as long as they are manufactured by the drug company he or she works for ?

Such is the world of financial planning in Australia. Minimally qualified individuals dispensing life changing financial products to a public who trust the advice and products they are sold, almost without reservation.

With the greatest respect to previous Ministers and bureaucrats that have preceded the present administration, this is a systemic problem that can only be addressed by a fundamental change in the underlying structure of the industry.

Change needs to occur in the structure of how advice is dispensed along with the standards of those giving advice.

Background.

I am a financial planner of some twenty years. I hold my own AFSL having in the past, worked as an adviser for AMP and AMP's financial planning arm Hillross Pty Ltd.

I am a former Director of the FPA.

I am a former examiner for Deacon University having marked “cap-stone” financial plans for some 5 years. I was the co-author of the Diploma in Financial planning Unit 1 re-write.

I am the former chair of the Curtin University Financial Planning Advisory Council having been involved in the development of Under and Post Graduate degrees in Financial Planning at that institution. I am a former lecturer and unit controller at Curtin University.

I am a former “Money Management Financial Planner of the year”.

I am presently a personal finance journalist, currently freelancing for The West Australian newspaper and in the past, for The Age and the Sydney Morning Herald. I currently appear on ABC local radio WA & Fairfax Radio 6 PR as a regular contributor.

Product Distributors.

In essence, Australia has a large number of financial product manufacturers who simply see their respective financial planning arms as a means of product distribution or retention, generating revenue through management fees.

Many of the submissions to date appear to seek to maintain that model and in my view, an alternate method of delivery needs to be investigated.

Thanks to a reasonably robust regulatory system, there really is minimal differentiation between the products used by the majority of Australians even though the marketing messages vary considerably. For some, its a pricing message, for others, the need to get advice, supported by a complicated tax, superannuation and welfare system. Either way, the “end game” is attracting or retaining funds under management which equates to a larger share of the fee revenue that’s generated.

The advisory AFSLs that have been established under the present regime operate under a regulatory system which is systemically reactive to problems rather than pro-actively identifying them before and as they are developing. No doubt due to resourcing issues, licensees are almost free to “do their own thing” and only come under the microscope when things go wrong.

There is no doubt that there are many, many individuals dispensing advice who were “massaged through” the old PS146 requirements. Quite simply, it was because they generated large amounts of funds inflow. Common sense dictates that a firm whose

main objective is to secure funds under management would not want to see these “producers” go on a minor issue of technical incompetence.

One current method of controlling the “problem” is to concentrate technical knowledge and make use of para-planning arrangements. This arrangement equates to your Doctor shipping off his or her observations to a “real Doctor” at another location to diagnose and prescribe the treatment regime. Of course, the quality of the data collection will determine the accuracy of the diagnosis and treatment. What becomes relevant information to be used in developing the plan is partially dictated by the data collection process but prioritisation will be influenced by the data collector’s own level of expertise. In itself, a risky proposition.

Knowing what question to ask is sometimes more important than the answer.

Advisory firm differentiation.

Government needs to recognise that a business model where financial products are distributed by a manufacturer is valid and should be supported, Nonetheless, the public should clearly understand that in such an arrangement, a bias will exist.

One simple remedy is to permit the term “independent” or some other differentiating title to be used by those advisory firms which have no ownership link to any financial product manufacturer. In the past, the regulator has only permitted the use of these terms where remuneration emanates from the client alone and not via the product. In my view, this in itself would not solve the problem (A fund manager could go down this path but only permit advisers to use certain products) and the existing improved remuneration disclosure leaves the client under no misunderstanding about payment.

Adviser Standards

There is no doubt that many of the newer advisers are more suitably qualified than those who have been around for many years. Sadly though, experience does not equate to competence.

The after effects of advice can be positive or catastrophic as has been proven with the Storm debacle, Westpoint and the Managed Investment Schemes. Why is it that some advisers never used any of these products or “sales techniques”? It makes sense to ensure that the standards imposed on the general public’s first point of contact for advice are as high as can practically be expected given the type of advice they are about to receive - particularly if the regulatory regime is resource limited.

Of significant importance is the need to instil the understanding of the fiduciary relationship that must always exist between the adviser and client. Just as “Caveat

Emptor” can never work with medical advice, nor can it work with financial products – the environment is just too complicated for the vast majority of consumers.

Similarly, accountability to an AFSL internal compliance process is limited by the efficiency and strength of that process and culture which may well be influenced by business pressures imposed by the AFSL. Ideally, advisers would be directly accountable to ASIC rather than to the internal compliance process and thus, submit to direct licensing by ASIC.

Whilst this may seem resource intensive and add to direct costs, technology would facilitate the lodgement and the greater direct supervision would no doubt improve standards, resulting in reduced errors in advice and ultimately flow through to reduced Professional Indemnity costs.

Relatively Simple solutions.

Structure.

As outlined above, codified differentiation of advice based on ownership links of an advisory AFSL coupled with much improved adviser standards would go some way to breaking the influence of the product manufacturers.

Equally, direct licensing of the higher standard advisers would no doubt lift standards generally. The public would soon seek out those providing a higher standard of advice and others would in turn gravitate to the more popular advice model.

Market forces, by virtue of the “independence” aspect, would no doubt see pricing levels of the fund managers forced down as advisers genuinely seek the best outcomes for clients in turn, benefitting consumers.

Standards.

It seems unlikely that a person completing a two or three week full-time course would have the depth of knowledge in economics, law, finance, social security and accounting to provide even basic useful financial advice on the products they distribute.

In the long term, a tertiary qualification in commerce or similar at degree level or better should be a minimum standard to provide the “independent” level of advice. At least with that level of provider and assessment, there has been some form of public assessment of knowledge.

As an interim measure, a model similar to the CASA flight crew examination system might be appropriate. CASA have a web based delivery model through an external

contractor where candidates attend a supervised examination centre to sit a web based, 2 or 3 hour multi choice exam. Depending on the level of license sought with flight crews, there is either one or seven separate examinations.

Applying this to financial advice, a single level assessment could be done for advice linked to a product distributor under say the “intra fund advice” model.

Independent level advisers would be required to sit individual assessments in say, Law, Finance, Economic theory, Accounting, Ethics, Financial Products and Risk (pure).

Existing Authorised Representatives would be asked to sit the examination(s) over a two year transition period to accommodate the numbers required to be examined.

There is no doubt that those who genuinely possess the necessary skills and knowledge could pass an appropriate level of assessment. ASIC accreditation of tertiary courses would be dependent on those competencies being adequately assessed.

I trust the enquiry finds these observations and suggestions beneficial. At the end of the day, it is the consumer’s interest that needs to be protected.

Yours sincerely

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