

## **Submission to the Parliamentary Joint Committee On Corporations and Financial Services**

**29<sup>th</sup> May 2009**

### **Parliamentary Enquiry into Financial Products and Services**

**This submission specifically addresses the issue of remuneration for financial services licensees and financial advisers. It represents the views of Tupicoffs Pty Ltd (AFSL 302670), a boutique financial planning practice.**



## 1. Background

### a. The Practice

Tupicoffs has existed in various forms since 1970. Originally it was formed as a life insurance agency of National Mutual, and it sold insurance exclusively for that agency on a commission only basis.

Tupicoffs evolved to give financial planning advice under a license owned by National Mutual's successor, AXA. This advice was initially also provided on a commission only basis, but a decision was taken in 2002 to move to a fee only remuneration model.

In 2006 Tupicoffs successfully applied for its own financial planning licence and operates on invoiced fee-for-service model. It has no ownership or special arrangements in place with any financial service provider, nor does it accept soft dollar arrangements.

Tupicoffs has moved from the extreme of commission only life insurance sales, to a pure fee only financial planning service.

### b. The Writer

This submission has been prepared by Neil Kendall, managing director of Tupicoffs Pty Ltd. Neil has worked in various administration, management and sales roles in a number of large financial institutions.

Prior to joining Tupicoffs he was general manager for licensee owned by National Australia Bank, with 120 financial advisers. He now runs Tupicoffs, a boutique advisory firm with five authorised representatives. Neil has a bachelor of business degree and has completed the diploma of financial planning. He is a certified financial planner and a member of the Australian Institute of Company Directors.

Neil is recognised as a leading fee-for-service planner, having won numerous FPA Value of Advice Awards, Adviser of the Year, and spoken around Australia and New Zealand, and in the US, on moving to fee-for-service planning.



## Objective

The objective of this submission is to provide the committee with some workable suggestions as to how the financial services industry can be reformed to provide commercially realistic, consumer friendly outcomes.

## 2. Assumptions

- a. Consumers are not in the main financially skilled and require a certain level of legislative protection. If consumers were in fact financially skilled they would probably not require financial planners.
- b. Any solution proposed needs to take into account the current situation and how migration can be achieved.
- c. There is rising consumer and regulatory pressure for financial planners to move away from commission.
- d. There is a fundamental conflict where advice givers are remunerated preferentially for specific advice. Specifically where additional remuneration in the form of commission is paid for larger investments or investments directed into particular areas. The ongoing payment of commission is a significant barrier to financial planning becoming a profession.
- e. A move from commissions to fees will not solve all the industry problems. There is no solution that will eliminate dishonesty or incompetence completely.
- f. It is important to be clear that a charge based on the amount invested in a product is a commission. Many advisers have elected to refer to asset based charges as fees, when by any definition they are a commission. All references here to fees refer to dollar amounts charged to the client, not based on a percentage charge of assets invested.

## 3. Proposals

### a. Commissions for selling financial products should be banned.

It is our view that commissions for selling financial products cause many inappropriate behaviours. Advisers are rewarded for investing money in managed funds, and rewarded the more they invest. This encourages the use of managed funds as well as maximising investments in that vehicle. The Storm Financial Planning model is an extreme example of how a higher rate of commission can influence behaviour that is not ultimately in the client's best interest.

Commission based on a percentage of assets invested does not reflect the time and effort, or expertise, required by the financial planner to prepare, manage, and monitor the advice or the value added.

Our experience would suggest that some implementation time frame is required, and we would suggest that 2 years would be more than sufficient for those committed to genuine change.

We believe that the banning of commissions on compulsory superannuation contributions should be implemented immediately, and this could be part of a transition towards a complete elimination of financial product commissions.



**b. That soft dollar arrangements for selling financial products should be banned.**

These incentives do nothing to improve the reputation or behaviour of practising financial planners. They are a blatant and inappropriate attempt to influence the recommendations of financial planners towards specific products. Despite industry body attempts to eliminate these, the evidence suggests they have been repackaged or disguised but are still widely used.

It is our view these should be banned immediately and that regulation should fall to ASIC as the self-regulation regime has not been successful.

**c. That “platform rebates” to licensees and advisers be banned.**

These rebates are a direct cost to the consumer and are passed as secret commissions, or disclosed in such an obscure manner as to be completely unintelligible to most consumers. Many licensees argue they do not need to be disclosed as they are not paid to the adviser but to the licensee. The introduction of these hidden incentives is the most backward step in the financial planning industry since exit fee products were invented. They are very substantial in dollar terms and a major influence on investment dollar flows. Elimination of these alone could see up to a 40% reduction in the cost of platforms to consumers.

**d. Disclosure of conflicts of interest/ownership should be in a prescribed form.**

It is our experience that the current disclosure of conflicts and ownership is completely ineffectual. Consumers are almost never aware of these issues. Inspection of marketing material, letterheads, business cards and Statements of Advice indicate that in many cases significant effort has gone into technically meeting the requirements, without making the disclosure clear and obvious to consumers. We infer from this that those with the conflicts would prefer not to advertise them as it is also their view that consumers are not attracted to conflicted advice.

We therefore conclude that the only way to make this obvious to consumers is to use a prescribed form that does not allow the marketing and legal gurus to disguise the information given.

**e. Consumers should be charged a fee for the service of the financial planner and this should be separately identified from all other costs.**

Financial services fees are currently ridiculously complex. The combination of fund manager, life insurance, licensee and financial planner fees are beyond the grasp of almost all consumers. Additionally the practice in many institutions of disclosing that employed financial planners receive salary and bonuses is deceptive when that bonus is in fact a commission based on sales success.

It is our view that financial planners should quote a fee for the work that they do, either per job, or per time period. This can then be agreed and paid by the consumer. Using this methodology there is no need to regulate amounts as consumers will make a conscious purchase decision, and payment decision thereby eliminating overpriced models.



Advisers should be free to use any model they like to establish their fee, provided the fee is given to the client in dollars and the client either pays or authorises payment in dollars. i.e. An adviser may choose to calculate their fees as a percentage of some assets in particular investments but this then needs to be converted to dollars, invoiced to the client, and payment agreed by the client. This process needs to be repeated at least annually where payment is automatically deducted from a bank account or investment product. There is no reason this could not be implemented with a 12 month lead-in time.

#### **4. Education and supervision requirements need to be significantly lifted.**

Current industry required training is incredibly low for the amount of responsibility given to financial planners. It is difficult to believe that a person can qualify to be a financial planner legally after a two or three week course when a three or four-year apprenticeship is required for any trade. Degree qualifications would not be an inappropriate minimum standard for financial planners.

All professions and trades require that people complete both theoretical and practical training. In professions and trades, no one is expected after completing a theoretical course to begin practicing in their own right, unsupervised. In financial planning many new entrants who have completed only theoretical training are thrown in to become financial planners with minimal or no hands on supervision or training.

Financial planners are generally well paid by community standards and should accept there is a minimum training skilling requirement in line with their higher than average earning capacity.

This failure to mentor and develop new entrants has meant that there has been little or no long-term increase in industry skill levels. Many advisers NEVER see another adviser interact with clients and must make all the basic mistakes themselves.

We would propose that mandatory training standards be increased, and that an “apprenticeship” program be developed for financial planners. This would need to specify minimum levels of observation of senior planners, and hands on supervision by senior planners.

#### **5. Summary**

The global financial crisis has brought to a head many unsustainable or inappropriate practices around the world, and with that the opportunity to remedy them. It is not appropriate for financial planners to be paid by commission for the sale of managed funds. This was always an evolutionary rather than planned outcome and now is the time to remedy this situation.

There is enough evidence with the collapse of high commission products, and high commission advisers to justify a firm regulatory stance on this.

The financial services industry, not unlike any other, is reluctant to embrace the necessary changes, and therefore requires a regulatory nudge in the right direction. Inevitably some advisers will not survive, but we would argue this is in fact a good outcome.



Most financial planners operate ethically and with a genuine desire to help their clients but they are forced to operate in a system that has structural flaws . An overhaul of the financial planning regime in Australia based on the suggestions in this submission would help eliminate some of the structural flaws.

Financial planners who can demonstrate value for money to their clients will not only survive, but thrive in this environment, benefiting both their clients and the community generally.

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